

**D-1**

**GAME AND FISH COMMISSION**

Title 12, Chapter 4, Article 4, Live Wildlife

**Amend:** R12-4-401, R12-4-403, R12-4-405, R12-4-406, R12-4-407, R12-4-409, R12-4-410,  
R12-4-411, R12-4-413, R12-4-414, R12-4-417, R12-4-418, R12-4-420, R12-4-421,  
R12-4-422, R12-4-423, R12-4-424, R12-4-425, R12-4-427, R12-4-428, R12-4-430



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - REGULAR RULEMAKING

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**MEETING DATE:** February 2, 2021

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** January 11, 2021

**SUBJECT: GAME AND FISH COMMISSION**  
Title 12, Chapter 4, Article 4, Live Wildlife

**Amend:** R12-4-401, R12-4-403, R12-4-405, R12-4-406, R12-4-407, R12-4-409,  
R12-4-410, R12-4-411, R12-4-413, R12-4-414, R12-4-417, R12-4-418,  
R12-4-420, R12-4-421, R12-4-422, R12-4-423 R12-4-424, R12-4-425,  
R12-4-427, R12-4-428, R12-4-430

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### **Summary:**

This regular rulemaking from the Arizona Game and Fish Commission (Commission) seeks to amend 21 rules in Title 12, Chapter 4, Article 4 related to live wildlife. Specifically, the Commission seeks to enact amendments developed during the preceding Five-Year Review Report (5YRR) approved by this Council on June 4, 2019. The Commission states the amendments are designed to clarify current rule language; protect public health and safety; facilitate job growth and economic development; support the tenets of the North American Model of Wildlife Conservation; enable the Department to provide better customer service; and reduce regulatory and administrative burdens wherever possible.

1. **Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?**

The Commission cites both general and specific statutory authority for these rules.

**2. Do the rules establish a new fee or contain a fee increase?**

The Commission indicates this rulemaking does not establish a new fee or contain a fee increase.

**3. Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely upon?**

The Commission did not review or rely on any study in conducting this rulemaking.

**4. Summary of the agency's economic impact analysis:**

The Commission's intent in proposing these amendments is to protect native wildlife and their habitats in many ways, including preventing the spread of disease, reducing the risk of released animals competing with native wildlife, discouraging illegal trade of native wildlife, and avoiding conflict between humans and wildlife which may threaten public health or safety. The Commission anticipates the majority of the rulemaking is intended to benefit persons regulated by the rule, members of the public, and the Department by clarifying rule language, creating consistency among existing Commission rules, reducing the burden on persons regulated by the rule where practical, and allowing the Department additional oversight where necessary. The Commission anticipates the rulemaking will result in an overall benefit to persons regulated by the rule, members of the public, and the Department. The Commission anticipates the rulemaking will result in little or no impact to political subdivisions of this state; private and public employment in businesses, agencies or political subdivisions; or state revenues.

**5. Has the agency analyzed the costs and benefits of the rulemaking and determined that the rules impose the least burden and costs to those who are regulated?**

The Commission has determined that there are no less intrusive or costly alternative methods of achieving the purpose of the rulemaking. Other than the regular cost of rulemaking, the Department will expend resources necessary to implement the rules. The Commission has determined that the benefits of the rulemaking outweigh any costs.

**6. What are the economic impacts on stakeholders?**

Stakeholders are identified as the Commission and the general public.

Overall, the Commission anticipates the proposed amendments will have little or no impact on the Department or other agencies directly affected by the implementation and enforcement of the proposed rulemaking. The Commission anticipates the implementation of the rulemaking will have no measurable impact on Department operations, as the Department has been fully engaged in addressing live wildlife concerns. The Commission believes the proposed rulemaking will enhance the Department's ability to protect the public health, safety, and welfare and native wildlife and wildlife habitat. Although additional opportunities are created, the Commission does not anticipate the Department will incur additional costs associated with

regulating these changes. The Commission has determined the rulemaking will not require any new full-time employees. The Commission believes the benefits of the rulemaking outweigh any costs.

The Commission anticipates the proposed amendments will have little or no impact on political subdivisions of this state directly affected by the implementation and enforcement of the proposed rulemaking.

The Commission's intent in the proposed rulemaking is to promote public health, safety, and welfare, and allow the Department the management authority necessary to protect and manage wildlife and wildlife habitat. Many of the amendments will not affect businesses, their revenues, or their payroll expenditures. Of those that do or may have an impact, the Commission does not anticipate the impact will be significant. The Commission believes the benefits of the rulemaking outweigh any costs.

Overall, the Commission believes the amendments proposed in this rulemaking result in rules that are either less burdensome or have no significant impact on the regulated community. The Commission believes the general public and the Department benefit from the proposed rulemaking through clarification of rule language governing the lawful possession of live wildlife.

7. **Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

The Commission indicates that it made the following changes to its rules between its Notice of Proposed Rulemaking and Notice of Final Rulemaking before the Council:

- R12-4-407. Exemptions from Special License Requirements for Restricted Live Wildlife: Under subsection (B)(b), references to "who" and "donate the desert tortoise" were removed to make the rule more concise. Subsection (B)(11) was revised to clarify a transporter license issued by the Department of Agriculture is required when transporting tilapia to a restaurant or fish market. This revision clarifies the requirements that are already in place and necessary to meet the special license exemption.
- R12-4-410. Aquatic Wildlife Stocking License; Restocking License: Replaced the reference to "State government agency" with "political subdivision of the state" as the intent of the amendment is to allow the issuance of a 365-day license to local and state agencies, as previously indicated in the preamble.

It is Council staff's position that neither of these revisions constitute a substantial change as defined in A.R.S. § 41-1025.

**8. Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

The Commission received four written comments related to this rulemaking which are summarized in Section 11 of the Notice of Final Rulemaking along with the Commission's responses. Copies of the written comments have also been provided with this rulemaking package for your consideration. It is Council staff's position that the Commission adequately addressed the comments related to the proposed amendments.

**9. Do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

Pursuant to A.R.S. § 41-1037(A), "[i]f an agency proposes...an amendment to an existing rule that requires the issuance of a regulatory permit, license or agency authorization, the agency shall use a general permit..." unless certain limited exceptions apply. The Commission indicates that the following licenses are required by the rules:

- The Aquatic Wildlife Stocking License
- The Live Bait Dealer's License
- The Private Game Farm License
- The Game Bird License
- The Wildlife Holding License
- The Scientific Collecting License
- The Zoo License
- The Wildlife Service License
- The Sport Falconry License
- The Wildlife Rehabilitation License
- The White Amur Stocking and Holding License

The Commission states that all the above-referenced licenses fall within the definition of a "general permit" as defined by A.R.S. § 41-1001(11). Therefore, the Commission is in compliance with A.R.S. § 41-1037.

**10. Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

The Commission indicates that the following rules have corresponding federal laws:

- R12-4-413: Federal law, 50 C.F.R. 21.13 (Permit exceptions for captive reared mallard duck), establishes the conditions, restrictions, and requirements that allow captive-reared and properly marked mallard ducks to be possessed without a federal permit. The Department has determined the rule is not more stringent than the federal law.
- R12-4-422: Federal law, 50 C.F.R. 10.13 (list of migratory birds), is applicable to the subject of the rule. The Department has determined the rule is not more stringent than the federal law.

- R12-4-422: Federal law, 50 C.F.R. 21 (migratory bird permits) and 22 (eagle permits), are applicable to the subject of the rule. The Department has determined the rule is more restrictive than the federal law in requiring a re-inspection when a licensed falconer changes address and the Department cannot verify the facility at the new location is similar to the one approved during a prior inspection. A re-inspection is also proposed when a falconer acquires additional raptors and the previous inspection does not indicate the facilities can accommodate a new species or additional raptors. 50 C.F.R. 21.29(b)(1)(iii) (falconry standards and falconry permitting) states, "State, tribal, or territorial laws may be more restrictive than these Federal standards but may not be less restrictive." In addition, A.R.S. § 17-231(A)(1) authorizes the Commission to "[a]dopt rules and establish services it deems necessary to carry out the provisions and purposes of this title" and A.R.S. § 17-235 states, the Commission "may shorten or modify seasons, bag and possession limits and other regulations on migratory birds as it deems necessary." It is important to note, under 50 C.F.R. 21.29 (falconry standards and falconry permitting) a state is required to submit their laws, rules, processes, and forms to USFWS for compliance review and certification whenever any one of the four items listed above are substantially amended. The Department's rules, processes, and forms were certified as meeting the standards under 50 C.F.R. 21.29; see 77 FR 66406 - 66408, November 5, 2012.

The Commission indicates, for all other rules included in this rulemaking, federal law is not directly applicable to the subject of the rules. The rules are based on state law.

## **11. Conclusion**

The Commission seeks to amend 21 rules in Title 12, Chapter 4, Article 4 related to live wildlife to enact amendments developed during the preceding Five-Year Review Report (5YRR) approved by this Council on June 4, 2019. The Commission states the amendments are designed to clarify current rule language; protect public health and safety; facilitate job growth and economic development; support the tenets of the North American Model of Wildlife Conservation; enable the Department to provide better customer service; and reduce regulatory and administrative burdens wherever possible.

The Commission is seeking a delayed effective date of July 1, 2021. The Commission indicates this delayed effective date will allow the Department the time needed to ensure necessary programmatic changes occur and all affected publications, licenses, applications, permits, tags, and Internet pages are revised before rulemaking becomes effective. Pursuant to A.R.S. § 41-1032(B), an agency may specify an effective date more than sixty days after the filing of the rule in the office of the secretary of state if the agency determines that good cause exists for and the public interest will not be harmed by the later date. It is Council staff's position that the Commission has shown good cause for an effective date more than sixty days after the filing of the rule with the Secretary of State's office and the public interest will not be harmed by that later date.

Council staff recommends approval of this rulemaking.



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**December 7, 2020**

**VIA EMAIL: [grrc@azdoa.gov](mailto:grrc@azdoa.gov)**

Nicole Sornsin, Chair  
Governor's Regulatory Review Council  
100 North 15th Avenue, Suite 305  
Phoenix, Arizona 85007

**RE: Arizona Game and Fish Department, 12 A.A.C. 4, Article 4. Live  
Wildlife, Regular Rulemaking**

Dear Nicole Sornsin:

1. **The close of record date:** December 4, 2020
2. **Does the rulemaking activity relate to a Five Year Review Report:** Yes
  - a. **If yes, the date the Council approved the Five Year Review Report:** June 4, 2019
3. **Does the rule establish a new fee:** No
  - a. **If yes, what statute authorizes the fee:** Not applicable
4. **Does the rule contain a fee increase:** No
5. **Is an immediate effective date requested pursuant to A.R.S. 41-1032:** No

The Arizona Game and Fish Department certifies that the preamble discloses a reference to any study relevant to the rule that the agency reviewed. The Arizona Game and Fish Department certifies that the preamble states it did not rely on any study relevant to the rule in the Department's evaluation of or justification for the rule.

The Arizona Game and Fish Department certifies that the preparer of the economic, small business, and consumer impact statement has notified the Joint Legislative Budget Committee of the number of new full-time employees necessary to implement and enforce the rule (none).

The following documents are enclosed:

1. **Notice of Final Rulemaking, including the preamble, table of contents, and text of each rule;**
2. **An economic, small business, and consumer impact statement that contains the information required by A.R.S. 41-1055;**

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**[azgfd.gov](http://azgfd.gov) | 602.942.3000**

**5000 W. CAREFREE HIGHWAY, PHOENIX AZ 85086**

**GOVERNOR:** DOUGLAS A. DUCEY **COMMISSIONERS:** CHAIRMAN, ERIC S. SPARKS, TUCSON | KURT R. DAVIS, PHOENIX | LELAND S. "BILL" BRAKE, ELGIN  
JAMES E. GOUGHNOUR, PAYSON | TODD G. GEILER, PRESCOTT **DIRECTOR:** TY E. GRAY **DEPUTY DIRECTOR:** TOM P. FINLEY



3. **If applicable:** The written comments received by the agency concerning the proposed rule and a written record, transcript, or minutes of any testimony received if the agency maintains a written record, transcript or minutes;
4. **If applicable:** Material incorporated by reference;
5. General and specific statutes authorizing the rules, including relevant statutory definitions; and
6. **If applicable:** If a term is defined in the rule by referring to another rule or a statute other than the general and specific statutes authorizing the rule, the statute or other rule referred to in the definition.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tom P. Finley".

Ty E. Gray, Director

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**azgfd.gov | 602.942.3000**

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**NOTICE OF FINAL RULEMAKING**  
**TITLE 12. NATURAL RESOURCES**  
**CHAPTER 4. GAME AND FISH COMMISSION**

**PREAMBLE**

- | <b><u>1. Article, Part, or Section Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
|---|---------------------------------|
| R12-4-401   | Amend                           |
| R12-4-403   | Amend                           |
| R12-4-405   | Amend                           |
| R12-4-406   | Amend                           |
| R12-4-407   | Amend                           |
| R12-4-409   | Amend                           |
| R12-4-410   | Amend                           |
| R12-4-411   | Amend                           |
| R12-4-413   | Amend                           |
| R12-4-414   | Amend                           |
| R12-4-417   | Amend                           |
| R12-4-418   | Amend                           |
| R12-4-420   | Amend                           |
| R12-4-421   | Amend                           |
| R12-4-422   | Amend                           |
| R12-4-423   | Amend                           |
| R12-4-424   | Amend                           |
| R12-4-425   | Amend                           |
| R12-4-427   | Amend                           |
| R12-4-428   | Amend                           |
| R12-4-430   | Amend                           |
- 2. Citations to the agency’s statutory authority to include the authorizing statute (general) and the implementing statute (specific):**
- Authorizing statute: A.R.S. § 17-231(A)(1)
- Implementing statute: A.R.S. §§ 3-1205, 17-101, 17-102, 17-211, 17-231, 17-234, 17-235, 17-236, 17-238, 17-239, 17-240, 17-250, 17-255, 17-255.02, 17-301, 17-306, 17-307, 17-309, 17-314, 17-317, 17-318, 17-331, 17-332, 17-333, 17-371, 25-320, and 41-1005
- 3. The effective date of the rules:**
- a. If the agency selected a date earlier than the 60 days effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as**

**provided in A.R.S. § 41-1032(A)(1) through (5):**

Not applicable

**b. If the agency selected a date later than the 60 days effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(B):**

The Commission requests the rulemaking become effective on July 1, 2021. This delayed effective date will allow the Department the time needed to ensure necessary programmatic changes occur and all affected publications, licenses, applications, permits, tags, and Internet pages are revised before rulemaking becomes effective.

**4. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the proposed rule:**

Notice of Rulemaking Docket Opening: 26 A.A.R. 1850, September 4, 2020

Notice of Proposed Rulemaking: 26 A.A.R. 1791, September 4, 2020

**5. The agency's contact person who can answer questions about the rulemaking:**

Name: Celeste Cook, Rules and Policy Manager

Address: Arizona Game and Fish Department

5000 W. Carefree Highway

Phoenix, AZ 85086

Telephone: (623) 236-7390

Fax: (623) 236-7677

E-mail: CCook@azgfd.gov

Please visit the AZGFD website to track the progress of this rule; view the regulatory agenda and all previous Five-year Review Reports; and learn about any other agency rulemaking matters at <https://www.azgfd.com/agency/rulemaking/>.

**6. An agency's justification and reason why the rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**

The Arizona Game and Fish Commission (Commission) proposes to amend its Article 4 rules, addressing live wildlife to enact amendments developed during the preceding Five-year Review Report. The amendments proposed in the five-year review report are designed to clarify current rule language; protect public health and safety; facilitate job growth and economic development; support the tenets of the North American Model of Wildlife Conservation; enable the Department to provide better customer service; and reduce regulatory and administrative burdens wherever possible. After evaluating the scope and effectiveness of the proposed amendments specified in the review, the Commission proposes additional amendments to further implement the original proposals.

Arizona's great abundance and diversity of native wildlife can be attributed to careful management and the important role of the conservation programs developed by the Arizona Game and Fish Department. The Department's management of both game and nongame species as a public resource depends on sound science and

active management. As trustee, the state has no power to delegate its trust duties and no freedom to transfer trust ownership or management of assets to private establishments. Without strict agency oversight and management, the fate of many of our native species would be in jeopardy. Wildlife can be owned by no individual and is held by the state in trust for all the people.

An exemption from Executive Order 2019-01 was provided for this rulemaking by Hunter Moore, Natural Resource Policy Advisor, Governor's Office, in an email dated September 23, 2019.

In addition to the specific amendments described below, the Commission proposes to make the following amendments to all rules contained within Article 4 (live wildlife), where applicable:

Make minor grammatical and formatting changes to make the rules more concise.

Remove the Department website Uniform Resource Location (url) and simply reference "Department's website" to ensure the rule remains concise in the event the Department's url should change.

Replaces references to the url "www.gpoaccess.gov" with "[www.gpo.gov](http://www.gpo.gov)" to make the rule more concise.

Reference the most recent edition of federal regulations incorporated by reference.

Allow a special license applicant to provide a physical address or general location and remove the requirement that an applicant provide the Universal Transverse Mercator coordinates to reduce the costs and burdens on persons regulated by the rule. This change is proposed as a result of customer comments received by the Department.

Repeal the Federal Tax Identification Number (FTIN) requirement because the Department has determined the anticipated benefits of requiring an applicant to provide their FTIN and, when applicable, their wildlife supplier's FTIN has not been realized. This change is proposed as a result of customer comments received by the Department.

Replace all references to "White Amur Stocking and Holding License" with "White Amur Stocking License" to reflect amendments made to R12-4-424 (white amur stocking and holding license).

Replace all references to "Scientific Collecting License" with "Scientific Activity License" to reflect amendments made to R12-4-418 (scientific collecting license).

Extend the time in which a special license is valid from a period of up to one year to a period up to three years to reduce costs and burdens to the Department and persons regulated by the rule, excepting those licenses for which an authorized activity requires a shorter time-frame. The Department will continue to maintain oversight throughout the licensing period through the required inspections and reports.

Remove the requirement that an applicant submit a separate application for each location where the applicant proposes to use wildlife because the Department intends to implement an online special license application and reporting system. These changes are proposed to reduce the burdens and costs to persons regulated by the rule and the Department.

Each license holder is required to maintain records associated with the license and make them available to the Department for inspection upon request, this includes veterinary care records. The Commission proposes to amend the rules to require a license holder to maintain and make available for inspection all records maintained by the special license holder for a period of five-years.

In addition to the general amendments listed above, the Commission proposes the following amendments:

**R12-4-401. Live Wildlife Definitions:** The objective of the rule is to establish definitions that assist the regulated community and members of the public in understanding the unique terms that are used throughout Article 4.

The Commission proposes to amend the definition of “educational display” to remove rule language that prevents a person from recouping costs for the educational display. This change is consistent with the sport falconry license and allows wildlife holding and scientific activity license holders to educate the public about wildlife conservation and wildlife habitat by providing an opportunity for the public at little or no cost to the license holder.

The Department is aware confusion exists in regards to the definition of "game farm." The Commission proposes to amend the rule to remove references to "terrestrial wildlife or the parts of terrestrial wildlife" from the definition of "game farm" to reflect changes made to R12-4-413 (game farm license) to make the rule more concise and increase consistency between Commission rules.

The Department is aware confusion exists as to which medical professionals have the authority to complete a health certificate. The current definition of "health certificate" means a certificate of examination by a licensed veterinarian. The Commission proposes to amend the rule to clarify that a health certificate may also be completed by a federal or state certified inspector to reduce costs and burdens to persons regulated by the rule and to make the rule more concise.

The Commission also proposes to amend the rule to exclude the definition of "hybrid" as defined under the Migratory Bird Treaty Act (MBTA) under 50 C.F.R. 21.3 (definitions), revised October 1, 2019 to make the rule more concise.

**R12-4-403. Escaped or Released Live Wildlife:** The objective of the rule is to establish the Department’s authority to take possession of any escaped or released wildlife that poses an actual or potential threat to native wildlife, wildlife habitat, or to the safety, health, and welfare of the public.

The current rule uses the term "possessing," which has resulted in some confusion. The Commission proposes to amend the rule to clarify it is the person who releases or allows wildlife to escape that is responsible for all costs incurred by the Department associated with seizing or quarantining that wildlife to make the rule more understandable.

**R12-4-405. Importing, Purchasing, and Transporting Live Wildlife Without an Arizona License or Permit:** The objective of the rule is to establish lawful activities and limitations for a person importing, purchasing, or transporting wildlife or the offspring of wildlife taken without a Department-issued license or permit to prevent harm to native wildlife of this state or to endanger public safety.

Subsection (E) of the rule references wildlife taken under an Arizona hunting or fishing license. This information was added in an effort to make the rule more concise, but has resulted in some confusion because the rule establishes lawful activities and limitations for wildlife possessed *without* a Department-issued license or permit. The Commission proposes to repeal subsection (E) to make the rule more concise.

**R12-4-406. Restricted Live Wildlife:** The objective of the rule is to establish a list of live wildlife for which

a special license is required in order to possess the wildlife and/or to engage in activities that may be prohibited under A.R.S. § 17-306 and R12-4-402 (live wildlife; unlawful acts). When adding or removing a species from the restricted wildlife list, the Department bases its decision on the following factors: protection of public health and safety; biological impact on species and ecosystems; consistency with federal, state, and county regulatory agencies; and potential economic impact.

The Department is aware of some confusion as to whether the offspring of a restricted wildlife species and non-restricted wildlife species is also restricted wildlife. The Commission proposes to amend the rule to specify hybrid wildlife is considered restricted when one parent wildlife species is listed as restricted live wildlife.

In a recent rulemaking, Article 11 (aquatic invasive species) was renumbered to Article 9. Subsection (A) references R12-4-1102 (aquatic invasive species; prohibitions; inspections; decontamination protocols); The Commission proposes to amend the rule to replace the reference to R12-4-1102 with R12-4-902 to make the rule more concise.

The Department is aware of some confusion in regards to which hedgehogs are considered restricted live wildlife and which are legal to possess as a pet. The European hedgehog, *Erinaceus europaeus* species and other wild hedgehogs are still considered restricted. Hedgehog species that are not restricted include *Atelerix albiventris*, *A. algirus*, *Hemiechinus auritus*, *H. collaris*, and any hybrids resulting from these three species. The Commission proposes to amend the rule to clarify which hedgehogs are not restricted; and indicate those species that pose a risk to native wildlife and habitat are restricted.

The Department is aware of some confusion as to transgenic species that are created using scientific methods such as genetic engineering. The confusion results from the statement, "a transgenic animal is considered wildlife if the animal is the offspring of at least one wildlife species." This statement does not account for genetically engineered animals. The Commission proposes to amend the rule to specify a transgenic animal is considered wildlife if the animal's genetic material originated from a restricted wildlife species to proactively address the possession of genetically engineered wildlife.

Because the Department is no longer conducting Masked Bobwhite quail, *Colinus virginianus*, reintroduction efforts in game management unit 34A, the Commission proposes to amend the rule to allow Masked Bobwhite quail to be held under a private game farm license in game management unit 34A.

The Department is aware confusion exists because turkeys are listed as a restricted species, when many species of turkey are readily available for purchase at local pet and feed stores. The Commission proposes to amend the rule to specify which species of turkeys are restricted.

The Department is aware there are discrepancies between when the italicization of scientific names should occur. The Commission proposes to amend the rule to italicize all mentions of Genus and below, with no italics above Genus to be consistent with scientific naming standards. In addition, the Commission also proposes to amend the rule to place the listed wildlife in alphabetical order and provide additional common names for certain species to make the rule more concise.

**R12-4-407. Exemptions from Special License Requirements for Restricted Live Wildlife:** The objective of the rule is to establish the types of scenarios when a person may lawfully possess restricted live wildlife without

a special license.

In 1990, the Mojave population of desert tortoise was listed as threatened by the U.S. Fish and Wildlife Service (USFWS) and Arizona law has prohibited the removal of desert tortoises from the wild since 1988. Lawfully obtained desert tortoises may be privately adopted, but desert tortoise adoption in Arizona is subject to specific rules. The Department is aware that confusion exists in regards to under what circumstances a person may lawfully possess or export a desert tortoise out-of-state. The Commission proposes to amend the rule to clarify the circumstances that would allow a person to lawfully export a desert tortoise out-of-state. The proposed rule will prohibit a person from taking a live desert tortoise out-of-state unless authorized by the Department. In the alternative, the person may gift the tortoise to an Arizona resident or donate the tortoise to the Department's Tortoise Adoption Program. The Department's Desert Tortoise Application clearly states that custodians of adopted tortoises may not remove them from Arizona and must return the tortoise to an approved Arizona adoption facility if they plan to relocate to another state. These amendments are proposed due to the amount of time and resources required of the Department and USFWS when a desert tortoise is found outside of its natural range. USFWS considers all desert tortoises found outside of the combined range of Sonoran and Mojave desert tortoises to be the federally-protected Mojave desert tortoise by similarity of appearance. USFWS and the state wildlife agency collaborate to try to determine the origin of the tortoise (Arizona, California, Nevada, or Utah). If it is determined the person possesses a Mojave desert tortoise, the person is cited for possessing a federally-listed species; USFWS and the state wildlife agency then return the tortoise back to the state from which it was exported. Because there is such a high probability the tortoise will be returned to Arizona, tortoises should not be removed from Arizona in the first place. For these reasons, the Commission proposes to amend the rule to clarify a person may only export a desert tortoise to an education or research institution or zoo located in another state; and require a person who possesses a desert tortoise and is moving out-of-state to gift the desert tortoise to another person who resides in Arizona or donate it to the Department's Tortoise Adoption Program.

The Department may allow a person to export a desert tortoise to an education or research facility or a zoo when authorized in writing by the Department. To effect a more efficient process, the Commission proposes to amend the rule to specify a person who wishes to export a desert tortoise to an education or research facility or a zoo in another state must contact their special license administrator in order to obtain that written authorization.

Under A.R.S. 17-306(A) and R12-4-402 (live wildlife; unlawful acts), a person is prohibited from releasing wildlife into the wild without written authorization from the Department. During the past several decades, a deadly bacterial infection, Upper Respiratory Tract Disease, is appearing more frequently among wild tortoises and is likely due to the release of infected captive tortoises into the wild. This bacterial infection attacks the tortoise's respiratory system and can be transmitted through sharing of burrows, or through the human handling of tortoises when a person handles a sick tortoise and then unwittingly transmits the disease to a healthy animal. The Commission proposes to amend the rule to specify a desert tortoise cannot be released into the wild to protect wildlife and wildlife habitat and to increase consistency between Commission laws and rules.

Under Commission Order 43 (reptiles), a person may lawfully possess one desert tortoise per person and the progeny of any lawfully held desert tortoise may be held in captivity for twenty-four months from date of

hatching. Before or upon reaching twenty-four months of age, such progeny must be disposed of by gift to another person or as directed by the Department. The Department is aware of confusion regarding the number of desert tortoises a person may possess; some persons believe that they can lawfully possess as many as they like. The Commission proposes to amend the rule to reference the Commission Order in which the possession limit for desert tortoise is established to make the rule more concise.

In order to meet the exemption that allows a person to transport restricted aquatic wildlife to a restaurant or fish market without having to first obtain a special license, a person must possess a valid transporter license issued by the Department of Agriculture under R3-2-1007. The Commission proposes to amend the rule to clarify this requirement.

In addition, the Commission proposes to clarify the exemptions listed under the rule do not authorize the take of wildlife from the wild. This change is proposed as a result of customer comments received by the Department.

**R12-4-409. General Provisions and Penalties for Special Licenses:** The objective of the rule is to establish general provisions and administrative compliance applicable to all special licenses, as well as regulatory actions that may be taken when a special license holder is convicted of an offense involving cruelty to animals, fails to remedy a noticed condition, or fails to comply with requirements of the rule governing the applicable special license or this rule.

Under A.R.S. § 17-102, wildlife, both resident and migratory, native or introduced, found in this state, except fish and bullfrogs impounded in private ponds or tanks or wildlife and birds reared or held in captivity under permit or license from the Commission, are property of the state and may be taken at such times, in such places, in such manner and with such devices as provided by law or rule of the Commission. The purpose of the special license program is to enable wildlife management and provide information valuable to the maintenance of wild populations, education, the advancement of science, or the promotion of public health. A special license is required when a person, typically a business or educational entity, wants to possess, process, or handle a species listed on the Commission's Restricted Live Wildlife list.

The current rule only allows the Department to place additional stipulations on a special license at the time of issuance or renewal. With this rulemaking, the Commission proposes to increase the length of time in which special licenses are valid to three years. The Department has documented cases where special license holders either illegally conducted surgical operations on wildlife without a veterinary license or did not seek appropriate veterinary care as required by the humane treatment standards established under R12-4-428 (captivity standards). Because the Department is responsible for all wildlife held in this State, the Commission proposes to amend the rule to allow the Department to add or remove stipulations to a special license during the license period to ensure humane care and treatment of wildlife.

Upon determining a disease or other emergency condition exists that poses an immediate threat to the public or the welfare of any wildlife, the Department may immediately order a cessation of operations under the special license and require the special license holder to ensure any contaminated or affected wildlife is tested for the presence of diseases or pathogens. Currently, only those persons possessing nonhuman primates and cervids are required to submit the results of any required testing to the Department. Because this information is necessary

and aids the Department in determining what future actions are necessary to prevent the introduction and proliferation of wildlife diseases and protect public health or safety, the Commission proposes to amend the rule to require all special license holders to submit the results of any required testing to the Department.

Each license holder is required to maintain all records associated with the license and make them available to the Department for inspection upon request. The Commission proposes to amend the rule to require a license holder to maintain and make available for inspection all records maintained by the special license holder for a period of five-years.

When a special license holder elects to terminate activities authorized by their special license, they are required to dispose of all wildlife held under the license in the manner directed by the Department, which may include export from this state, transfer to another eligible special license holder, or transfer to a medical or scientific research facility. To ensure wildlife held under the license is properly disposed of and any required administrative processes are completed, the Department must be notified when a special license holder no longer wishes to conduct activities authorized under the special license prior to the cessation of those activities. The Commission proposes to amend the rule to establish a requirement that a special license holder notify the Department at least 30 days prior to ceasing wildlife activities authorized under the special license.

In all but six states and for most federal wildlife permits, an applicant must be at least 18 years of age in order to be eligible for a permit to possess live wildlife. The Commission proposes to amend the rule to require an applicant to be at least 18 years of age; however, this restriction will not apply to the Game Bird Dog Training and Sport Falconry licenses.

The rule requires a license holder to comply with the standards established under R12-4-428 (captivity standards), or as otherwise required under this Article. In other rules within Article 4, the Commission is proposing to exempt aquatic wildlife stocking, sport falconry, and white amur stocking license holders from the standards established under R12-4-428. The Commission also proposes to amend this rule to specifically exempt aquatic wildlife stocking, sport falconry, and white amur stocking license holders from the standards established under R12-4-428 to reflect changes made to R12-4-410, R12-4-411, R12-4-422, and R12-4-424 to increase consistency between rules within Article 4. This change is proposed as a result of customer comments received by the Department.

**R12-4-410. Aquatic Wildlife Stocking License:** The objective of the rule is to establish requirements that allow a person to import, possess, purchase, stock, and transport any restricted aquatic species designated on the license at the location specified on the license, including authorized activities, administrative compliance, and the restrictions and prohibitions necessary to protect existing aquatic wildlife and wildlife habitat.

The Department is currently working with various government agencies to allow them to stock, hold, and use endangered Gila Topminnow (*Poeciliopsis occidentalis*) for vector control instead of nonnative mosquitofish. Currently, Pima and Pinal Counties are the only government agencies stocking Gila Topminnow for vector control. Because these agencies need to hold and stock Gila Topminnow year-round and the aquatic stocking license is only valid for a period of 20 consecutive days, they have to apply for up to 18 licenses each year. The Commission proposes to amend the rule to allow the issuance of an annual Aquatic Wildlife Stocking to political

subdivision of the state for the purpose of stocking Gila Topminnow or other approved species for vector control to reduce burdens and costs to persons regulated by the rule.

The Commission proposes to replace the reference to the “On-Line Environmental Review Tool” with “Online Environmental Review Tool” to reflect current terminology used by the Department.

The standards established under R12-4-428 are designed to ensure the humane and ethical treatment of wildlife, but when applied specifically to fish facilities it becomes apparent that they are difficult to put into practice and unnecessarily restrictive for the humane and ethical treatment of aquatic wildlife. For these reasons, the Commission proposes to amend the rule to exempt aquatic wildlife stocking license holders from the requirements of R12-4-428. This change is proposed as a result of customer comments received by the Department.

**R12-4-411. Live Bait Dealer's License:** The objective of the rule is to establish the requirements necessary to allow a person to conduct a commercial live bait retail sales operation; to include authorized activities, permitted species, administrative compliance, and the restrictions and prohibitions necessary to protect existing aquatic wildlife and aquatic wildlife habitat.

The Department evaluated the potential to minimize the risk and threats to native aquatic species, while continuing to maintain live bait use opportunities that have social and economic importance to the angling community. The Western Mosquitofish (*Gambusia affinis*) is native throughout the Mississippi River and its tributary waters. In Arizona, Mosquitofish have been directly linked to the local extirpation of at least three historical Gila Topminnow populations within a few years of introduction. Threadfin Shad (*Dorosoma petenense*) are native to watersheds of the Gulf Coast, including the Ohio, Illinois, Indiana, and Mississippi River drainages. Threadfin Shad are very sensitive to changes in temperature and dissolved oxygen, and die-offs are frequent in late summer and fall. Therefore, bait dealers usually do not hold and sell this species and anglers are able to collect these species from wild populations to use as bait. The Commission proposes to amend the rule to remove mosquito fish and threadfin shad from the list of authorized aquatic live wildlife a bait dealer may lawfully sell. The Commission also proposes to amend the rule to allow the following native species to the list of authorized aquatic live wildlife a bait dealer may lawfully sell: Longfin Dace, Speckled Dace (*Rhinichthys osculus*), Sonora Sucker, and Desert Sucker (*Catostomas clarkii*).

The standards established under R12-4-428 are designed to ensure the humane and ethical treatment of wildlife, but when applied specifically to fish facilities it becomes apparent that they are difficult to put into practice and unnecessarily restrictive for the humane and ethical treatment of aquatic wildlife. For these reasons, the Commission proposes to amend the rule to exempt live bait dealer's license holders from the requirements of R12-4-428. This change is proposed as a result of customer comments received by the Department.

**R12-4-413. Private Game Farm License:** The objective of the rule is to establish the requirements necessary to allow a person to conduct the commercial farming, use, and sale of game species; to include authorized activities, permitted wildlife, administrative compliance, and the restrictions and prohibitions necessary to protect native wildlife and wildlife habitat.

While the rule is intended to authorize the issuance of a game farm license for the purpose of raising and

propagating game species (principally game birds and, formerly, deer) it also authorizes the possession, sale, and use of mammals listed as restricted live wildlife under R12-4-406 (restricted live wildlife), including anteaters, armadillos, moose, primates (apes, baboons, chimpanzees, gibbons, gorillas, lorises, macaques, orangutans, spider monkeys, and tamarins), shrews, sloths, weasels, wild cats (including jaguars, leopards, lions, lynx, ocelots, servals, and tigers), and woodchucks. Allowing a person to possess these mammals for game farm purposes was not the intent of this rule. As a result, the Department receives private game farm license applications for armadillos, lemurs, and servals. These are not native game species and pose a public health and safety risk and a risk to native wildlife and wildlife habitat if illegally released or allowed to escape. In addition, many of these species require complex dietary, territorial, social, physical, and psychological needs that the general public is incapable of providing; often these animals are kept in deprived and inappropriate environments. It is not uncommon for the public to surrender unwanted restricted species to the Department. As a result, the Department must expend its resources to provide species appropriate feeding, facilities, handling, and veterinary care as well as find a willing wildlife sanctuary to accept the animal.

The Commission proposes to amend the rule to align it with Commission guidance, which indicates that private game farms for mammals is not the intent of the Game Farm rule. Commission Policy A1.12 calls for the restriction and prohibition of commercial uses of live wildlife that may adversely affect Arizona wildlife populations and habitats, or pose risks to public health and safety. This amendment will only affect new game farm applicants; the proposed change will not impact the three (3) currently licensed private game farms that authorized to possess other species of wildlife as they will be able to renew their license for the wildlife currently held under the license under subsection (E) of this rule.

Because the Department is no longer conducting Masked Bobwhite quail reintroduction efforts in game management unit 34A, the Commission proposes to amend the rule to allow Masked Bobwhite quail to be held under a private game farm license in game management unit 34A.

Under A.R.S. §17-250, a person who is in possession of wildlife or who maintains wildlife under a license issued by the Department is required to submit the wildlife or parts of the wildlife for disease testing. The Commission proposes to amend the rule to require a person to immediately report to the Department any mortality event that results in the loss of 10% or more of the adult wildlife held on the facility and allow the Department to collect samples from the affected wildlife for disease testing purposes. This standard is chosen because it is the common standard for the livestock and pet trade industries and it signifies an event outside of acceptable parameters and is indicative of a potential disease outbreak.

In 2002, as a result of concerns over the spread of Chronic Wasting Disease (CWD), the Commission amended the rule to prohibit the possession of cervids under a private game farm license. Subsection (E) was adopted to provide a mechanism to allow a person who was previously authorized to possess cervids under the rule to renew the license, provided certain criteria are met. The Commission proposes to amend the rule to allow a person who currently possesses mammals under this rule to continue to renew the private game farm license, provided the license holder is in compliance with all applicable requirements under R12-4-409 (general provisions and penalties for special licenses), R12-4-428 (captivity standards), R12-4-430 (importation, handling, and

possession of cervids), and this rule.

The Commission proposes to amend the rule to clearly state that the location information required under subsection (I)(4) is the location physical address or general location where the applicant proposes to conduct activities. This change is proposed as a result of customer comments received by the Department.

The Commission proposes to amend the rule to authorize the possession of Mallard ducks and Mountain Quail to expand opportunities for private game farm license holders.

**R12-4-414. Game Bird License:** The objective of the rule is to establish the requirements that allow a person to possess, release, and take pen-reared game birds; to include authorized activities, permitted game bird species that may be held under the license, administrative compliance, and the restrictions and prohibitions necessary to protect existing habitat and wildlife resources.

The Commission proposes to amend the rule to restrict a game bird hobby license holder to gift wildlife lawfully held under the license to a person who is authorized to possess the wildlife. The intent of the proposed amendment is to prevent persons from unknowingly violating the rule. Often, persons who are gifted wildlife do not possess an appropriate special license prior to accepting the wildlife.

Because the Department is no longer conducting Masked Bobwhite quail reintroduction efforts in game management unit 34A, there is no need to restrict Masked Bobwhite quail reintroduction efforts in game management unit 34A. The Commission proposes to amend the rule to allow Masked Bobwhite quail to be held under a game bird license in game management unit 34A.

Under A.R.S. §17-250, a person who is in possession of wildlife or who maintains wildlife under a license issued by the Department is required to submit the wildlife or parts of the wildlife for disease testing. The Commission proposes to amend the rule to require a person who possesses a game bird shooting preserve or hobby license to immediately report to the Department any mortality event that results in the loss of 10% or more of the adult wildlife held on the facility and allow the Department to collect samples from the affected wildlife for disease testing purposes. This standard is chosen because it is the common standard for the livestock and pet trade industries; an event resulting in a loss of 10% or more of the total number of adult animals is outside of normal parameters and is indicative of a potential disease outbreak. This requirement will not apply to persons who hold game bird field trial events or conduct game bird field training because these license holders typically possess captive pen-reared game birds on a temporary basis.

The current live game bird license is valid for a period of up to one year depending on the date of issue; The Commission proposes to amend the rule to extend the time in which the license is valid from a period of up to one year to a period up to three years, except for the field trial license. This change is proposed to reduce the burdens and costs to persons regulated by the rule and the Department. The Department will continue to maintain oversight throughout the licensing period through the required inspections and reports.

Field trials are connected to the sport of hunting; they support the maintaining of hunting breeds of dogs which add not only to the sport of hunting, but also the conservation of our wildlife resources by facilitating more efficient game harvest. Field trials specifically involve dogs, horses, and game birds in an organized and judged event. They are outdoor competitions designed to mimic an actual hunt in the wild, with a focus on honing

hunting instincts in domestic dogs. These events judge dogs on their field performance during particular events, thus an annual license is not warranted. The Game Bird Field Trial license applicant will continue to be required to submit a separate application for each date and location where a competition will occur.

**R12-4-417. Wildlife Holding License:** The objective of the rule is to establish the requirements that allow a person to possess and care for restricted live wildlife lawfully taken under a valid hunting or fishing license, scientific collecting license, or wildlife rehabilitation license; to include authorized activities, permitted wildlife species that may be held under the license, administrative compliance, and the restrictions necessary to protect wildlife and wildlife habitat.

Throughout the rule, the terms "restricted" and "non-restricted" are used somewhat indiscriminately. The Commission proposes to amend the rule to increase consistency between when and where these terms should apply.

Under subsection (C)(2)(a), a wildlife holding license holder may permanently hold wildlife that is unable to meet its own needs in the wild; but the rule does not establish who is qualified to make this determination. The Commission proposes to amend the rule to specify that only a licensed veterinarian may determine whether or not an animal is suitable for release.

The Department receives applications for a wildlife holding license from persons asking to possess wildlife that poses a danger to public health and safety if the wildlife they were to escape or be released or come into contact with members of the public, such as bears, nonhuman primates, tigers, etc. This is not in keeping with the intent of the rule. The Commission proposes to amend the rule to allow the Department to deny a wildlife holding license when it is in the best interest of public health and safety.

The Department allows an agent to assist, or act on behalf of, the license holder. Because an agent is allowed to conduct the same activities as the license holder, the Commission proposes to amend the rule to clarify the agent's role and responsibilities to make the rule more concise.

**R12-4-418. Scientific Collecting License:** The objective of the rule is to establish the requirements that allow a person to use live wildlife for purposes related to the advancement of conservation, education, science, and wildlife management; to include authorized activities, permitted wildlife species that may be held under the license, administrative compliance, and the restrictions and prohibitions necessary to protect public health and safety and existing wildlife habitat and resources.

The Commission proposes to amend the name of the license to Scientific Activity License to more accurately reflect the purpose of the license and reduce confusion.

While the definition of "take" includes pursuing, shooting, hunting, fishing, trapping, killing, capturing, snaring or netting wildlife or placing or using any net or other device or trap in a manner that may result in capturing or killing wildlife; there is still some confusion about certain activities involving wildlife. The Commission proposes to amend the rule to include other types of activities to reflect activities already considered lawful in an effort to clarify the rule.

Because the license allows a person to collect dead wildlife, the Commission proposes to amend the rule to remove the reference to "live" to clarify the rule.

The Commission proposes to amend the rule to further refine the license types by removing the consultant type and adding academic institution, non-governmental organization, and nonprofit organization to the license types currently prescribed in rule for statistical purposes.

The Department allows an agent to assist, or act on behalf of, the license holder. Because an agent is allowed to conduct the same activities as the license holder, the Commission proposes to amend the rule to clarify the agent's role and responsibilities to make the rule more concise.

Currently, an applicant for a scientific collecting license is required to submit a separate written proposal providing information about the applicant's proposed activities and abilities. The Commission proposes to amend the rule to incorporate the information required in the proposal into the application to reduce burdens and costs to persons regulated by the rule.

The Commission proposes to amend the rule to allow the Department to deny a scientific activity license when the issuance of the license will adversely impact other wildlife or their habitat in this state or when it is in the best interest of public health and safety to better protect native wildlife and wildlife habitat.

**R12-4-420. Zoo License:** The objective of the rule is to establish the requirements that allow a person to use captive live wildlife in a commercial facility where the principal business is exhibiting wildlife to the public and for purposes related to the advancement of science, conservation, education, or wildlife management; to include authorized activities, permitted wildlife species that may be held under the license, administrative compliance, and the restrictions and prohibitions necessary to protect public health and safety and existing wildlife habitat and resources.

Public comments received by the Department indicate there is some confusion regarding whether a private person is eligible to apply for a zoo license. In addition, the rule as currently written appears to be in conflict with the Legislature's definition of "zoo" as defined under A.R.S. § 17-101(A)(26) because the rule does not make it clear that a zoo license is issued only to a commercial facility for the purpose of public exhibition of wildlife. The Commission proposes to amend the rule to increase consistency between the rule and statute by specifying that a zoo license may only be issued to a facility that is open to the public and where the principal business is holding wildlife in captivity for exhibition purposes.

The current zoo license is valid for a period of up to one year depending on the date of issue; the Commission proposes to amend the rule to extend the time in which the zoo license is valid from a period of up to one year to a period up to three years. The Department will continue to maintain oversight throughout the licensing period through the required inspections and reports.

**R12-4-421. Wildlife Service License:** The objective of the rule is to establish the requirements that allow a person to facilitate the removal of wildlife that causes property damage, poses a threat to public health or safety, or when the health or well-being of the wildlife is threatened by its immediate environment; to include authorized activities, permitted wildlife species, administrative compliance, and the restrictions and prohibitions necessary to protect public health and safety and existing wildlife habitat and resources.

Under A.R.S. § 17-102, wildlife, both resident and migratory, native or introduced, found in this state, except fish and bullfrogs impounded in private ponds or tanks or wildlife and birds reared or held in captivity under

permit or license from the commission, are property of the state and may be taken at such times, in such places, in such manner and with such devices as provided by law or rule of the Commission. Subsection (B) identifies which species of animal do not require a wildlife service license and may be removed under a Pest Management license issued by the Arizona Department of Agriculture. Because most doves are considered to be migratory birds, there is some confusion as to whether Rock pigeons (*Columba livia*) are protected under the Migratory Bird Treaty Act (MBTA). The Commission proposes to amend the rule to add Rock pigeons, also known as Rock Doves, to subsection (B). This change is proposed as a result of customer comments received by the Department.

The rule references "peach-faced love birds." The Commission proposes to amend the rule to replace the term "peach-faced love birds" with "rose-colored lovebirds" to reflect current scientific terminology.

The current wildlife service license is valid for a period of up to one year depending on the date of issue; The Commission proposes to amend the rule to extend the time in which the license is valid from a period of up to one year to a period up to three years. The Department will continue to maintain oversight throughout the licensing period through the required inspections and reports. This change is proposed to reduce the burdens and costs to persons regulated by the rule and the Department.

**R12-4-422. Sport Falconry License:** The objective of the rule is to establish the requirements that allow a person to take and use raptors listed in the Migratory Bird Treaty Act (MBTA) for the sport of falconry; to include authorized activities, permitted raptor species, administrative compliance, and the restrictions and prohibitions necessary to protect existing wildlife habitat and resources.

In 2008, 50 C.F.R. 21.29 (falconry standards and falconry permitting) was amended to eliminate the dual permitting system and transfer falconry permitting administration to the individual states, provided the state's laws, rules, processes, and forms met the minimum standards under 50 C.F.R. 21.29. If a state failed to meet standards for certification, any persons possessing a Migratory Bird Treaty Act species (MBTA) raptor for falconry in that state would be required to permanently release into the wild, euthanize, or transfer their raptor to a licensed falconer in a certified state or jurisdiction, a captive propagation program, or the Department. In order to continue permitting sport falconry using MBTA raptors in Arizona, the rule must remain in place and continue to meet USFWS standards for certification. The Department's rules, processes, and forms were certified as meeting the standards under 50 C.F.R. 21.29; see 77 FR 66406 - 66408, November 5, 2012.

In 2012, the Commission amended R12-4-422 to comply with amendments made to the federal regulations, which included amending facility requirements. At that time, a decision was made to apply the captivity standards established under R12-4-428 (captivity standards) to falconry housing facilities. The standards established under R12-4-428 are designed to ensure the humane and ethical treatment of wildlife, but when applied specifically to falconry housing facilities it becomes apparent that they are difficult to put into practice and unnecessarily restrictive for the humane and ethical treatment of raptors. For these reasons, the Commission proposes to amend the rule to exempt licensed falconers from the requirements of R12-4-428. This change is proposed as a result of customer comments received by the Department.

The Commission proposes to incorporate federal housing facility standards to ensure compliance with requirements and standards for raptors housing facilities as prescribed under 50 C.F.R. 21.29 (falconry standards

and falconry permitting). The Commission also proposes to replace “facilities” with “housing facilities.” These changes are proposed as a result of customer comments received by the Department.

Under 50 C.F.R. 21.29 (falconry standards and falconry permitting), USFWS is required to maintain an electronic reporting system that allows persons conducting lawful activities with MBTA raptors to enter information regarding the acquisition and disposal (death, loss, purchase, sale, theft, transfer, etc.) of raptors they possess. Because states are supposed to have access to the online reporting system for administrative purposes, the rule was previously amended to no longer require the person to provide a copy of the Federal 3-186A form to the Department. Due to functionality issues with the electronic reporting system, the Department currently requires falconry license holders to provide a copy of the 3-186A form to the Department whenever a reportable activity occurs. Requiring a paper copy of the 3-186A form is authorized under 50 C.F.R. 21.29, regardless of whether the electronic reporting system is fully functional or not. Furthermore, under 50 C.F.R. 21.27 (special purpose permits) and 21.30 (raptor propagation permits) respectively, unless the state requires an abatement or propagation permit, a person need only possess a federal permit to conduct abatement activities with, or propagate, MBTA raptors. Both federal permits have liberal possession limits and raptors held under the federal permits do not count towards the falconers possession limit established in rule. Because the federal regulations allow a person to use any lawfully possessed falconry raptor for abatement activities or for propagation, a licensed falconer can transfer their falconry raptor to their federal permit for abatement or propagation purposes at any time, as applicable. Under 50 C.F.R. 21.17 and 21.30, a person is only required to notify the governing state agency of this transfer when that state requires notification. Again, because the Department believed it would be made aware of these transfers through the electronic reporting system the rule did not require persons to notify the Department when a raptor was transferred to the federal permit. For these reasons, the Commission proposes to amend the rule to require a person to submit a paper copy of the 3-186A form and the federal propagation report at the same time the person submits these forms (reports) to USFWS. In addition, the Commission proposes to amend the rule to replace the definition of "abatement services" with "abatement" to make the rule more concise.

A license wildlife rehabilitator is authorized to provide treatment and care to sick, injured, or orphaned wildlife with the goal of releasing the wildlife back to their natural habitats in the wild once they are capable of functioning in their natural habitats as normal members of their species. A licensed falconer may assist the wildlife rehabilitator in conditioning a raptor in preparation for releasing it back into the wild. Effective, appropriate conditioning is necessary to meet the unique physical and psychological needs of each raptor species. Because the rule does not restrict the falconer to the type of raptor they are authorized to possess, a falconer who has no experience with a particular raptor species may inadvertently harm the raptor or delay its release into the wild due to their inexperience. In addition, because effective, appropriate conditioning is required, the Department does not believe the average apprentice falconer possesses the necessary skills to provide effective and appropriate conditioning. For these reasons, the Commission proposes to amend the rule to limit the ability to assist a wildlife rehabilitator in conditioning a raptor to a general or master falconer and restrict the general and master falconer to only those raptor species they are authorized to possess under their sport falconry license to align the rule with the federal regulation, 50 C.F.R. 20.21.

The rule allows a licensed falconer to assist a licensed wildlife rehabilitator in conditioning a raptor in preparation for its release into the wild. Because only a federally licensed rehabilitator may possess migratory birds for the purpose of rehabilitation, the rule has resulted in some confusion. The Commission proposes to amend the rule to clarify that a licensed falconer may assist *any federally* licensed wildlife rehabilitator in conditioning a raptor in preparation for its release into the wild. This change is proposed as a result of customer comments received by the Department.

Under 50 C.F.R. 20.21(what hunting methods are illegal) and R12-4-422, a master falconer may conduct abatement activities with any raptor they possess for falconry, provided the falconer meets certain criteria. There is some concern about potential enforcement difficulties for State and federal law enforcement officers because the federal regulations do not allow falconry raptors held under a sport falconry license to be used for abatement and propagation activities and the potential exploitation of the liberal possession limits for master falconers under the falconry regulations. The Commission proposes to amend the rule to require a person to submit a properly completed 3-186A form to the Department when transferring a falconry raptor to the person's federal abatement or propagation permit. In addition, the Commission proposes to amend the rule to require a person to submit a paper copy of the federal propagation report at the same time the person submits the report to USFWS, as applicable.

Under subsection (M), a person is not required to tether an unflighted eyas. The Commission proposes to amend the rule to replace the term "unflighted eyas" with "nestling" as it is a common term and, thus, more easily understood.

Under subsection (H), an apprentice falconer is prohibited from possessing a raptor that has imprinted on a human. The Commission proposes to amend the rule to define "imprint" by incorporating the definition under 50 C.F.R. 21.3 (definitions) to make the rule more concise.

The rule defines "abatement services" to clarify subsection (W). The Commission proposes to amend the rule to repeal the definition of "abatement services" and define "abatement" to make the rule more concise.

In most cases where an examination is required, a person must submit an application before taking the examination. For the sport falconry license, the application is the last step in the process. The person must first pass the examination, then undergo a facilities inspection, and finally submit an application. Because this is not the typical process and there is some confusion, the Commission proposes to amend the rule to clarify the licensing process.

A person is required to report information regarding the capture of any raptor displaying a federal Bird Banding Laboratory (BBL) aluminum research band or tag to BBL by calling a telephone number. Since the rule was last amended, BBL has implemented an online reporting system. The Commission proposes to amend the rule to replace the reference to the telephone number with a reference to the BBL website to make the rule more concise.

The National Eagle Repository (Repository) is managed and operated the USFWS; its purpose is to provide a central location for the receipt, storage, and distribution of bald and golden eagle carcasses and parts of carcasses throughout the U.S. The eagle carcasses and their parts are shipped to Native Americans and Alaskan Natives

enrolled in federally recognized tribes for use in Indian religious ceremonies. The collection efforts of USFWS provides a legal means for Native Americans to acquire eagle feathers for religious purposes, which in turn, reduces the pressure to take birds from the wild and thereby protecting eagle populations. The distribution of bald and golden eagles and their parts to Native Americans is authorized by the Bald and Golden Eagle Protection Act and Regulations found in 50 CFR 22. The numbers of requests for eagle carcasses and parts of carcasses far exceeds the number of available eagle carcasses and parts of carcasses. For this reason, federal and state conservation agencies, zoological parks, federal rehabilitators, and others who may legally possess and transport carcasses and parts of carcasses are encouraged to send them to the Repository where they will be distributed to Native Americans. The Repository will not accept the carcass and parts of carcass of a raptor that is suspected or confirmed with West Nile Virus or poisoning, except for lead poisoning, and requires the person possessing such raptor to disposed of the carcass by incineration. The Commission proposes to clarify the actions required to dispose of a deceased eagle or other raptor.

**R12-4-423. Wildlife Rehabilitation License:** The objective of the rule is to establish the requirements that allow a person to rehabilitate and release live wildlife; to include authorized activities, permitted wildlife species, administrative compliance, and the restrictions and prohibitions necessary to protect existing wildlife habitat and resources. Wildlife Rehabilitation is defined as the treatment and temporary care of injured, diseased, and displaced native wildlife, and the subsequent release of healthy individuals to appropriate habitats in the wild.

Under subsection (L)(3), an applicant for a wildlife rehabilitation license must also submit an affidavit affirming either the applicant is a licensed veterinarian or that a licensed veterinarian is reasonably available to provide veterinary services as necessary to facilitate the rehabilitation of wildlife they may possess under the license. The intent behind this requirement is that any wildlife the applicant may possess will receive appropriate medical care from a licensed veterinarian whenever necessary. The Department recently became aware of a situation where a license holder who has no formal veterinary medical education performed medical procedures, including surgery, on wildlife held under that licensee. The Commission proposes to amend the rule to clarify the wildlife rehabilitation license does not authorize the license holder to conduct any activities defined as the practice of veterinary medicine under A.R.S. § 32-2231 whether or not a fee, compensation, or reward is offered, received, or accepted by the licensed rehabilitator.

Under subsection (L), an applicant for a wildlife rehabilitation license must provide proof of at least six months experience performing wildlife rehabilitative work with an average of at least eight hours each week. This requirement ensures the license holder has the minimum amount of experience required to satisfactorily provide rehabilitative care to wildlife in their possession. Under subsection (O), an agent may conduct rehabilitative activities on the wildlife license holder's behalf. Because an agent is authorized to conduct rehabilitative activities without direct supervision, the Department believes an agent should be held to the same standards under subsection (L)(1)(b). The Commission proposes to amend the rule to establish an agent for a wildlife rehabilitation license holder shall provide proof of at least six months experience performing wildlife rehabilitative work to protect Arizona's wildlife resources.

Under R12-4-422 (sport falconry license), a licensed falconer is required to conduct specific activities when

possessing the carcass or parts of a deceased MBTA raptor. Because a wildlife rehabilitation license holder may handle deceased MBTA raptors, the Commission proposes to amend the rule to specify the actions required to dispose of a deceased eagle or other raptor.

The Commission proposes to clarify a wildlife rehabilitation license holder may lawfully possess and care for wildlife received from the public.

Under subsection (J), an applicant must successfully complete an examination conducted by the Department before a wildlife rehabilitation license may be issued to the person. The Commission proposes to clarify the rule by establishing the applicant must correctly answer at least 80% of the questions on the Department administered examination to make the rule more concise.

A licensed wildlife rehabilitator may allow a licensed falconer to assist in conditioning a raptor in preparation for its release into the wild. Because only a federally licensed rehabilitator may possess migratory birds for the purpose of rehabilitation, the rule has resulted in some confusion. The Commission proposes to amend the rule to clarify that a licensed wildlife rehabilitator who also possesses a federal rehabilitator license may allow a licensed falconer to assist in conditioning a raptor in preparation for its release into the wild. This change is proposed as a result of customer comments received by the Department.

Under subsection (Y), a wildlife rehabilitation license holder may permanently hold wildlife determined to be unsuitable for release into the wild; however, the rule does not establish who is qualified to make this determination. The Commission proposes to amend the rule to specify that only a licensed veterinarian may determine whether or not an animal is suitable for release.

Under subsection (Z), a wildlife rehabilitation license holder is required to submit an annual report containing specific information to the Department by January 31 of each year. The license holder is required to provide the permit or license number of any federal permits or licenses that relate to any rehabilitative function performed by the license holder. A license holder may submit a copy of the rehabilitator's federal permit report of activities related to federally-protected wildlife in lieu of the federal permit or license numbers. The way the information is presented has contributed to some confusion because some license holders believe the copy of the federal permit report satisfies the Department's reporting requirement. The Commission proposes to amend the rule to clarify the Department considers the federal permit report to be proof of the applicant's federal permit or license number.

**R12-4-424. White Amur Stocking and Holding License:** The objective of the rule is to establish the requirements that allow a person to possess and transport white amur (*Ctenopharyngodon Idella*); to include authorized activities, administrative compliance, and the restrictions and prohibitions necessary to protect existing aquatic habitat and resources.

An overabundance of freshwater vegetation can result in dense mats of vegetation that interfere with navigation and recreational activities, clogged power generation and irrigation equipment, stagnant water (which provides a good breeding ground for mosquitoes), and degraded water quality due to rising pH levels, decreased oxygen, and increased temperature. White amur are used as a natural alternative to remove unwanted freshwater vegetation. They are stocked in a private or public pond until the desired effect has been achieved and then they are transported to another location where they can be of service. White amur are capable of fast growth and can

live for 10 to 15 years; when they reach maturity, their rate of weed consumption declines, and restocking of additional white amur is required every 5 to 6 years. Therefore, the Commission proposes to amend the rule to remove references to "holding."

The white amur stocking and holding license is valid for a period of 20 consecutive days. In most cases, due to the life expectancy of white amur, a person will not need another license for years, if at all. The Commission proposes to amend the rule to remove references pertaining to license renewal to make the rule more concise.

Scientific terminology is language used by scientists in the context of their professional activities. While studying nature, scientists often encounter or create new material or immaterial objects and concepts and are compelled to rename or redefine them. As a result, scientific terms and definitions continue to evolve over time. The Commission proposes to amend the definition of "triploid" to reflect scientific terminology used by modern fishery biologists.

The Department is aware of some confusion regarding the use of the terms "commercial" and "noncommercial" activity and how those terms apply to the white amur license. Under R12-4-401 (live wildlife definitions), "commercial purpose" means the bartering, buying, leasing, loaning, offering to sell, selling, trading, exporting or importing of wildlife or their parts for monetary gain. When viewed through this definition, the use of white amur by an applicant for vegetation control purposes cannot be viewed as a commercial purpose. In addition, an entity maintaining white amur for a commercial purpose as defined under R12-4-401 would be operating under an aquaculture (fish farm) license issued by the Department of Agriculture. Therefore, differentiating between "commercial" and "noncommercial" is not necessary. The Commission proposes to amend the rule to remove language pertaining to "commercial" and "noncommercial" purpose.

The Commission proposes to replace the reference to "On-Line Environmental Review Tool" with "Online Environmental Review Tool" to reflect current terminology.

In most cases, the costs incurred by the Department when processing a restocking license are anticipated to be less than an initial license because the Department believes the issuance of a white amur stocking license should take less time to review as there would be no need for the required inspection(s) and background or reference check(s). The Commission proposes to amend the rule to establish a restocking license.

The standards established under R12-4-428 are designed to ensure the humane and ethical treatment of wildlife, but when applied specifically to fish facilities it becomes apparent that they are difficult to put into practice and unnecessarily restrictive for the humane and ethical treatment of white amur. For these reasons, the Commission proposes to amend the rule to exempt white amur license holders from the requirements of R12-4-428.

**R12-4-425. Restricted Live Wildlife Lawfully Possessed without License or Permit Before the Effective Date of this Article:** The objective of the rule is to establish administrative compliance requirements for the continued possession and use of wildlife lawfully possessed before becoming classified as restricted live wildlife list under R12-4-406 (restricted live wildlife) without having to apply for and obtain a special license. The rule requires a person who lawfully possessed wildlife prior to being classified as restricted live wildlife to notify the Department of the possession and use of the wildlife. The Commission restricts certain wildlife species from

possession because they pose a threat to human health and safety, have a negative biological impact on species and ecosystems, have a negative economic impact, and to be consistent with federal, state, and county regulatory agencies. Notification is required so the Department can track and monitor these species.

Because the rule does not provide a time-frame for retaining this documentation and there is some confusion as to how long a person should retain documentation regarding the possession of restricted wildlife, the Department at times is unable to determine when the person obtained the restricted wildlife. The Commission proposes to amend the rule to establish a person shall retain documentation of compliance with the rule for as long as the person possesses said wildlife.

**R12-4-427. Exemptions from Requirements to Possess a Wildlife Rehabilitation License:** The objective of the rule is to establish criteria that allow a person to possess and care for specific live wildlife species without having to apply for and obtain a wildlife rehabilitation license, to include authorized activities, wildlife species that may be held without a wildlife rehabilitation license; to include the restrictions and prohibitions necessary to protect wildlife habitat and resources.

The Commission proposes to amend the rule to clarify the rule by referencing “non-Migratory Bird Treaty Act” when listing classifications that include both migratory and non-migratory species. This change is proposed as a result of customer comments received by the Department.

The Commission also proposes to amend the rule to reference the definition of migratory birds under R12-4-101 to make the rule more concise.

**R12-4-428. Captivity Standards:** The objective of the rule is to establish the minimum standards for living spaces, furnishings, equipment, dietary needs, veterinary care, and social groupings to ensure the humane treatment of wildlife possessed under a lawful exemption or special license issued by the Department. Wildlife requires specialized care to survive; without species appropriate feeding, facilities, handling, and veterinary care, wildlife may suffer or die.

The Commission proposes to amend the rule to make it more concise and easier to understand.

The rule requires a license holder to have each animal held for more than one year to be inspected by the attending veterinarian at least once every year. The Department is aware of some confusion as to what should be documented during the inspection. The Commission proposes to amend the rule to require the veterinary report to demonstrate the veterinarian inspected the health of the animal and the condition of its enclosure. This change is a result of customer comments received by the Department.

**R12-4-430. Importation, Handling, and Possession of Cervids:** The objective of the rule is to establish the requirements for the importation, handling, and possession of captive cervids necessary to prevent disease transmission from captive cervids to wildlife and domestic animals, and the restrictions and prohibitions necessary to protect existing habitat and wildlife resources.

The intent behind the rule is to protect native wildlife and their habitats from the introduction of disease carried by captive cervids and prevent the introduction of nonnative cervids in Arizona ecosystems. The economic costs associated with wildlife disease outbreaks and control can be severe. Costs of disease outbreaks are generally recurring and additive due to annual costs of monitoring and eradicating diseased animals. Outbreaks can lead to

significant decreases in license revenue sales due to decreased hunter participation. If wildlife diseases are introduced into Arizona and spread to native wildlife, the Department will have to divert resources to disease prevention and mitigation instead of wildlife management and habitat enhancement. Rural economies would also be adversely impacted.

The detection of CWD in new areas is expanding; at the time of the last rulemaking, eight additional states and a Canadian province became CWD positive. According to the most recent maps, 26 states and four Canadian provinces are now CWD positive. Since beginning surveillance more than 20 years ago, the Department has collected and tested 23,300 cervid samples (elk, mule deer, and white-tailed deer) and none have tested positive for CWD.

CWD has the potential to negatively impact deer herds wherever the disease occurs; it is always fatal and could have serious negative impacts on the state's deer population if it becomes established in Arizona (Almberg et al. 2011). CWD infection decreases deer survival odds and lowers total life expectancy (Miller et al. 2008). If a large percentage of the population were to become infected there could be negative impacts for the population, including: A decline in doe survival, which results in an overall reduced population (Gross and Miller 2001); Fewer older bucks, as male animals may be more likely to be infected due to specific male social and behavioral tendencies (Miller et al. 2008, Jennelle et al. 2014); and An overall decline in population (Gross and Miller 2001, Almberg et al. 2011), as exhibited in Colorado and Wyoming. In an area of Colorado with high CWD prevalence, mule deer numbers have plummeted by 45%, in spite of good habitat and protection from human hunting. In Wyoming a monitored infected population experienced a 10.4% annual decline, with CWD-positive animals having a higher mortality rate than non-infected deer (Edmunds et al 2016). Taking action to prevent the spread of CWD to new areas helps to slow the transmission of the disease between individuals. The Commission proposes to amend the rule to implement the following requirements necessary to the Department's monitoring and detecting diseases in cervids: require the holder of a private game farm license to mark each cervid they possess with an ear tag that identifies the farm of origin in a manner clearly visible from 100 feet; require a person possessing a cervid to report the death of any cervid to the Department within seven calendar days; include the results of chronic wasting disease testing for all cervids one year of age and older that dies during the current reporting period in the annual report; notify the Department within 72 hours of receiving a suspect or positive disease testing result; and require a person who possesses a cervid to maintain related records for a period of at least five years and make the records available for inspection to the Department upon request.

Under R12-4-425 (restricted live wildlife lawfully possessed without license or permit before the effective date of article 4 or any subsequent amendments) a person who lawfully possessed wildlife prior to being classified as restricted live wildlife to notify the Department of the possession and use of the wildlife. This notification is required so the Department is made aware of the location of the restricted wildlife for tracking and monitoring purposes. Cervids are listed as restricted live wildlife under R12-4-406 (restricted live wildlife), which means a person must have a lawful exemption or possess a special license in order to lawfully possess them in Arizona. Even though cervids have been listed as restricted live wildlife since 2002, the Department still encounters persons possessing cervids lawfully obtained prior to 2002 but who have not yet met the requirements of R12-4-425. The

Commission proposes to amend the rule to reference R12-4-425 to increase consistency between rules.

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

The agency did not rely on any study in its evaluation of or justification for the rule.

**8. A showing of good cause why the rulemaking 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

**9. A summary of the economic, small business, and consumer impact:**

The Commission's intent in proposing these amendments is to protect native wildlife and their habitats in many ways, including preventing the spread of disease, reducing the risk of released animals competing with native wildlife, discouraging illegal trade of native wildlife, and avoiding conflict between humans and wildlife which may threaten public health or safety. The Commission anticipates the majority of the rulemaking is intended to benefit persons regulated by the rule, members of the public, and the Department by clarifying rule language, creating consistency among existing Commission rules, reducing the burden on persons regulated by the rule where practical, and allowing the Department additional oversight where necessary. The Commission anticipates the rulemaking will result in an overall benefit to persons regulated by the rule, members of the public, and the Department. The Commission anticipates the rulemaking will result in little or no impact to political subdivisions of this state; private and public employment in businesses, agencies or political subdivisions; or state revenues. The Commission has determined that there are no less intrusive or costly alternative methods of achieving the purpose of the rulemaking. Other than the regular cost of rulemaking, the Department will expend resources to implement the rules. The Commission has determined that the benefits of the rulemaking outweigh any costs.

**10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**

For R12-4-407. Exemptions from Special License Requirements for Restricted Live Wildlife, under subsection (B)(b) references to "who" and "donate the desert tortoise" were removed to make the rule more concise. In addition, subsection (B)(11) was revised to clarify a transporter license issued by the Department of Agriculture is required when transporting tilapia to a restaurant or fish market. This revision clarifies the requirements that are already in place and necessary to meet the special license exemption.

For R12-4-410. Aquatic Wildlife Stocking License; Restocking License, replace the reference to "State government agency" with "political subdivision of the state" as the intent of the amendment is to allow the issuance of a 365-day license to local and state agencies, as previously indicated in the preamble.

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

The Department received the following public or stakeholder comments in response to the proposed rulemaking:

**Written Comment: September 16, 2020:** The Arizona Pest Professionals Organization discussed the proposed rulemaking at its last meeting and does not have any comments to provide.

**Agency Response:** The Department appreciates your support.

**Written Comment: September 22, 2020:** I noted the rules review process is open for changes to Commission rule regarding Article 4. Most of the changes seem to add clarity and are reasonable for what the Commission seems to be trying to accomplish in raising revenue.

**Agency Response:** The Department appreciates your support.

**Written Comment: September 30, 2020:** On behalf of Wildlife World Zoo and James Badman of J.K. Badman Exotics in response to the Department's Article 4 rulemaking, we have appreciated the Department's transparency and continued communication with all relevant stakeholders as these changes are thoughtfully discussed and structured in the best way for Arizona wildlife and the businesses that engage in the conservation, education, and industry of that wildlife. While we have been able to work to agreement on a number of issues, two matters continue to be of significant concern: I. Private Game Farm License. With few exceptions, in order to work with restricted wildlife in Arizona, you must have either a Private Game Farm License, or a Zoo License. The Department's proposal to limit the Private Game Farm License to captive pen-reared game birds gives our coalition of license holders and other focused industry stakeholders concern for those that currently (or hope to eventually) operate under a zoo license. We most strenuously and respectfully request the Department work with us to resolve these concerns before making modifications in rule that may put these license holders in a precarious position with no alternative in place. II. Desert Tortoise Restrictions. We have also raised concerns about the Department's intent to restrict desert tortoise owners from taking the tortoise out of state- even to another state that permits desert tortoises. While the Department cites time/resources as the primary reason behind this restriction, we were unable to get further information from the Department about the specific number of tortoises/cases that appear to be causing said hardship. Our coalition recognizes the need to protect the fragile desert tortoise population. However, it is known that captive desert tortoises are not returned into the wild, so we would note that this rule change does nothing to support a conservation goal and only contributes to the over population at the Department's wildlife center. We will continue to work with the Department to address these concerns moving forward.

**Written Comment: October 1, 2020:** I am the owner of local family-owned business, The Pet Shop, and I am concerned that the Article 4 rulemaking will affect our business directly. As a business owner, not having something in place as an alternative to the Private Game Farm license is concerning for the future. Regarding the desert tortoises' population, changing what has already been in place could be detrimental to the conservation of this species. The new proposed rule does not help with the over population at the Department's wildlife center.

This will continue to be a problem that could be a solution for the future.

**Agency Response:** While the Private Game Farm License is intended to authorize the raising and propagating of certain game species (principally game birds and, formerly, deer) it also authorizes the possession, sale, and use of mammals listed as restricted live wildlife under R12-4-406 (restricted live wildlife), including anteaters, armadillos, moose, primates (apes, baboons, chimpanzees, gibbons, gorillas, lorises, macaques, orangutans, spider monkeys, and tamarins), shrews, sloths, weasels, wild cats (including jaguars, leopards, lions, lynx, ocelots, servals, and tigers), and woodchucks. Allowing a person to possess these mammals for game farm purposes was not the intent of the rule. As a result, the Department receives applications for armadillos, lemurs, and servals. These are not native game species and pose a public health and safety risk and a risk to native wildlife and wildlife habitat if illegally released or allowed to escape. In addition, many of these species require complex dietary, territorial, social, physical, and psychological needs that the general public is incapable of providing; often these animals are kept in deprived and inappropriate environments. It is not uncommon for the public to surrender unwanted restricted species to the Department. As a result, the Department must expend its resources to provide species appropriate feeding, facilities, handling, and veterinary care as well as find a willing wildlife sanctuary to accept the animal. For more than ten years, the Department has denied Private Game Farm Licenses to applicants requesting permission to raise and propagate mammals, except for the one game farm applicant that is raising cervids and whose original license was issued prior to 2003 and two other game farm applicants raising domestic species for commercial purposes.

In addition, Commission Policy A1.12 Commercialization of Wildlife calls for the restriction and prohibition of commercial uses of live wildlife that may adversely affect Arizona wildlife populations and habitats, or pose risks to public health and safety. This amendment will only affect new game farm applicants; the proposed change will not impact the three (3) currently licensed private game farms that authorized to possess other species of wildlife as they will be able to renew their license for the wildlife currently held under the license under subsection (E) of this rule.

The Endangered Species Act protects endangered and threatened species and their habitats by prohibiting the “take” of listed animals and the interstate or international trade in listed plants and animals, including their parts and products, except under federal permit. Such permits generally are available for conservation and scientific purposes, such as captive breeding and habitat restoration permits.

Desert tortoises are native to the deserts of Arizona, California, Nevada and Utah. In 1990, the Mojave population of desert tortoise was listed as threatened by the U.S. Fish and Wildlife Service (USFWS) and Arizona law has prohibited the removal of desert tortoises from the wild since 1988. Arizona, California, Nevada and Utah all have laws in place that prohibit releasing desert tortoises into the wild and transporting desert tortoises to states outside of their natural range: Arizona Revised Statutes 17-306 and 17-309 and Arizona Administrative Code

R12-4-402; California Fish and Game Code, Division 5. Protected Reptiles and Amphibians, Article 1. Desert Tortoises 5000 – 500]; Nevada Revised Statute 501.100, and Nevada Administrative Code 503.080; Utah Administrative Rule R657-53.

Because captive desert tortoises cannot be released into the wild, each state has a desert tortoise adoption program in place for lawfully held desert tortoises. These programs allow a person to be the custodian of a captive desert tortoise; it is made clear at the time of adoption that they do not "own" the tortoise.

The Department's Desert Tortoise Application clearly states that custodians of adopted tortoises may not remove them from Arizona and must either return the tortoise to an approved Arizona adoption facility or gift the tortoise to another Arizona resident if they plan to relocate to another state. This is required due to the amount of time and resources expended by the Department, USFWS, and other state wildlife agency when a desert tortoise is found outside of its natural range. USFWS considers all desert tortoises found outside of the combined range of Sonoran and Mojave desert tortoises to be the federally-protected Mojave desert tortoise by similarity of appearance. USFWS and the state wildlife agency collaborate to try to determine the origin of the tortoise; how, where, and when it was acquired and when it was moved out of state (Arizona, California, Nevada, or Utah). The Department receives approximately two to three calls each year regarding tortoises found in Colorado, Georgia, Illinois, Michigan, Montana, New Jersey, and Texas. This typically happens when the owner realizes that desert tortoises are not well adapted to living outside of the Sonoran and Mojave deserts. These calls also come from animal rescue groups who had a desert tortoise surrendered to their organization. The Department receives approximately three to four calls each year from custodians asking to take an adopted desert tortoise with them to another state. If it is a Mojave desert tortoise, the Department contacts the species lead for FWS to discuss all of the information provided and determine if USFWS will conduct an investigation and create a legal case; individuals who knowingly take a listed species can be fined up to \$25,000 each violation and individuals who otherwise unknowingly take a species can be fined up to \$500 for each violation. If there is substantial evidence that Mojave desert tortoise was acquired before 1990, USFWS will not pursue a legal case or conduct an investigation. The Department will then contact zoos in the state where the tortoise was found to find out if they are interested in accessing the tortoise into their living collection for use as an exhibit animal. If no zoos are interested, USFWS and the state wildlife agency then return the tortoise back to the state from which it was exported and into an adoption program. When it is determined the tortoise came from California, there are additional hurdles to overcome because California has its own Endangered Species Act with very strict rules and regulations. If the Department cannot determine where the tortoise came from, or cannot return it to its state of origin, the Department works with the owner and the Wildlife Center to return the tortoise to Arizona and place it in the Department's adoption program. The owner is responsible for the costs of transporting the animal back to its state of origin. Each case requires approximately 40 to 60 hours of the Department's Turtle Project Coordinators time (time spent collecting information, coordinating with other state and federal biologists, reaching out to zoos and institutions in an effort to place the tortoise, etc.) and each case spans one to two months from discovery to

placement. Because there is a high probability the tortoise will be returned to Arizona, the Commission believes tortoises should not be removed from Arizona in the first place.

**12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

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

The rule complies with A.R.S. § 41-1037:

The Aquatic Wildlife Stocking License described in the rule falls within the definition of "general permit" as defined under A.R.S. § 41-1001(11).

The Live Bait Dealer's License described in the rule falls within the definition of "general permit" as defined under A.R.S. § 41-1001(11).

The Private Game Farm License described in the rule falls within the definition of "general permit" as defined under A.R.S. § 41-1001(11).

The Game Bird License described in the rule falls within the definition of "general permit" as defined under A.R.S. § 41-1001(11).

The Wildlife Holding License described in the rule falls within the definition of "general permit" as defined under A.R.S. § 41-1001(11).

The Scientific Collecting License described in the rule falls within the definition of "general permit" as defined under A.R.S. § 41-1001(11).

The Zoo License described in the rule falls within the definition of "general permit" as defined under A.R.S. § 41-1001(11).

The Wildlife Service License described in the rule falls within the definition of "general permit" as defined under A.R.S. § 41-1001(11).

The Sport Falconry License described in the rule falls within the definition of "general permit" as defined under A.R.S. § 41-1001(11).

The Wildlife Rehabilitation License described in the rule falls within the definition of "general permit" as defined under A.R.S. § 41-1001(11).

The White Amur Stocking and Holding License described in the rule falls within the definition of "general permit" as defined under A.R.S. § 41-1001(11).

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

For R12-4-413, Federal law, 50 C.F.R. 21.13 (Permit exceptions for captive reared mallard duck), establishes the conditions, restrictions, and requirements that allow captive-reared and properly marked mallard ducks to be possessed without a federal permit. The Department has determined the rule is not more stringent than the federal law.

For R12-4-422, federal law, 50 C.F.R. 10.13 (list of migratory birds), is applicable to the subject of the rule.

The Department has determined the rule is not more stringent than the federal law.

For R12-4-422, federal law, 50 C.F.R. 21 (migratory bird permits) and 22 (eagle permits), are applicable to the subject of the rule. The Department has determined the rule is more restrictive than the federal law in requiring a re-inspection when a licensed falconer changes address and the Department cannot verify the facility at the new location is similar to the one approved during a prior inspection. A re-inspection is also proposed when a falconer acquires additional raptors and the previous inspection does not indicate the facilities can accommodate a new species or additional raptors. 50 C.F.R. 21.29(b)(1)(iii) (falconry standards and falconry permitting) states, "State, tribal, or territorial laws may be more restrictive than these Federal standards but may not be less restrictive." In addition, A.R.S. § 17-231(A)(1) authorizes the Commission to "[a]dopt rules and establish services it deems necessary to carry out the provisions and purposes of this title" and A.R.S. § 17-235 states, the Commission "may shorten or modify seasons, bag and possession limits and other regulations on migratory birds as it deems necessary." It is important to note, under 50 C.F.R. 21.29 (falconry standards and falconry permitting) a state is required to submit their laws, rules, processes, and forms to USFWS for compliance review and certification whenever any one of the four items listed above are substantially amended. The Department's rules, processes, and forms were certified as meeting the standards under 50 C.F.R. 21.29; see 77 FR 66406 - 66408, November 5, 2012.

For all other rules included in this rulemaking, federal law is not directly applicable to the subject of the rules. The rules are based on state law.

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

The Department did not receive any analyses.

**13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

Under R12-4-401, 50 C.F.R. 17.11, revised October 1, 2019.

Under R12-4-401, 50 C.F.R. 10.13, revised October 10, 2019.

Under R12-4-406, 50 C.F.R. 10.13, revised October 1, 2019.

Under R12-4-407, 9 C.F.R. Subpart C 2.30, revised January 1, 2019.

Under R12-4-413, 50 C.F.R. 21.3, revised October 1, 2019.

Under R12-3-422, 50 C.F.R. 21.29, revised October 1, 2019.

**14. Whether the rule previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-4-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

The rule was not previously made, amended, or repealed as an emergency rule.

**15. The full text of the rules follows:**

**TITLE 12. NATURAL RESOURCES**  
**CHAPTER 4. GAME AND FISH COMMISSION**  
**ARTICLE 4. LIVE WILDLIFE**

Section

- R12-4-401. Live Wildlife Definitions
- R12-4-402. Live Wildlife: Unlawful Acts
- R12-4-403. Escaped or Released Live Wildlife
- R12-4-404. Possession of Live Wildlife Taken Under an Arizona Hunting or Fishing License
- R12-4-405. Importing, Purchasing, and Transporting Live Wildlife Without an Arizona License or Permit
- R12-4-406. Restricted Live Wildlife
- R12-4-407. Exemptions from Special License Requirements for Restricted Live Wildlife
- R12-4-408. Holding Wildlife for the Department
- R12-4-409. General Provisions and Penalties for Special Licenses
- R12-4-410. Aquatic Wildlife Stocking License; Restocking License
- R12-4-411. Live Bait Dealer's License
- R12-4-413. Private Game Farm License
- R12-4-414. Game Bird License
- R12-4-417. Wildlife Holding License
- R12-4-418. Scientific ~~Collecting~~ Activity License
- R12-4-420. Zoo License
- R12-4-421. Wildlife Service License
- R12-4-422. Sport Falconry License
- R12-4-423. Wildlife Rehabilitation License
- R12-4-424. White Amur Stocking ~~and Holding~~ License; Restocking License
- R12-4-425. Restricted Live Wildlife Lawfully Possessed without License or Permit Before the Effective Date of  
Article 4 or Any Subsequent Amendments
- R12-4-426. Possession of Nonhuman Primates
- R12-4-427. Exemptions from Requirements to Possess a Wildlife Rehabilitation License
- R12-4-428. Captivity Standards
- R12-4-430. Importation, Handling, and Possession of Cervids

**TITLE 12. NATURAL RESOURCES**  
**CHAPTER 4. GAME AND FISH COMMISSION**  
**ARTICLE 4. LIVE WILDLIFE**

**R12-4-401. Live Wildlife Definitions**

In addition to definitions provided under A.R.S. § 17-101, and for the purposes of this Article, the following definitions apply:

"Adoption" means the transfer of custody of live wildlife to a member of the public, initiated by either the Department or its authorized agent, when no special license is required.

"Agent" means the person identified on a special license and who assists a special license holder in performing activities authorized by the special license to achieve the objectives for which the license was issued. "Agent" has the same meaning as "sublicensee" and "subpermittee" as these terms are used for the purpose of federal permits.

"Aquarium trade" means the commercial industry and its customers who lawfully trade in aquatic live wildlife.

"Aversion training" means behavioral training in which an aversive stimulus is paired with an undesirable behavior in order to reduce or eliminate that behavior.

"Captive live wildlife" means live wildlife held in captivity, physically restrained, confined, impaired, or deterred to prevent it from escaping to the wild or moving freely in the wild.

"Captive-reared" means wildlife born, bred, raised, or held in captivity.

~~"Cervid" means a mammal classified as a Cervidae or member of the deer family found anywhere in the world, as defined in the taxonomic classification from the Integrated Taxonomic Information System, available online at [www.itis.gov](http://www.itis.gov).~~

"Circus" means a scheduled event where a variety of entertainment is the principal business, primary purpose, and attraction. "Circus" does not include animal displays or exhibits held as an attraction for a secondary commercial endeavor.

"Commercial purpose" means the bartering, buying, leasing, loaning, offering to sell, selling, trading, exporting or importing of wildlife or their parts for monetary gain.

"Domestic" means an animal species that does not exist in the wild, and includes animal species that have only become feral after they were released by humans who held them in captivity or individuals or populations that escaped from human captivity.

"Educational display" means a display of captive live wildlife to increase public understanding of wildlife biology, conservation, and management ~~without requiring or which may or may not include~~ soliciting payment from an audience or an event sponsor with the intent to recover costs incurred in providing the educational display. For the purposes of this Article, "to display for educational purposes" refers to display as part of an educational display.

"Educational institution" means any entity that provides instructional services or education-related services to persons.

"Endangered or threatened wildlife" means wildlife listed under 50 C.F.R. 17.11, revised October 1, ~~2013~~ 2019,

which is incorporated by reference. A copy of the list is available at any Department office, online at [www.gpoaccess.gov](http://www.gpoaccess.gov) [www.gpo.gov](http://www.gpo.gov), or may be ordered from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000. This incorporation by reference does not include any later amendments or editions of the incorporated material.

"Evidence of lawful possession" means any license or permit authorizing possession of a specific live wildlife species or individual, or other documentation establishing lawful possession. Other forms of documentation may include, but are not limited to, a statement issued by the country or state of origin verifying a license or permit for that specific live wildlife species or individual is not required.

"Exhibit" means to display captive live wildlife in public or to allow photography of captive live wildlife for any commercial purpose.

"Exotic" means wildlife or offspring of wildlife not native to North America.

"Fish farm" means a commercial operation designed and operated for propagating, rearing, or selling aquatic wildlife for any purpose.

"Game farm" means a commercial operation designed and operated for the purpose of propagating, rearing, or selling ~~terrestrial wildlife or the parts of terrestrial wildlife~~ for any purpose stated under R12-4-413.

"Health certificate" means a certificate of an inspection completed by a licensed veterinarian or federal- or state-certified inspector verifying the animal examined appears to be healthy and free of infectious, contagious, and communicable diseases.

"Hybrid wildlife" means an offspring from two different wildlife species or genera. Offspring from a wildlife species and a domestic animal species are not considered wildlife. This definition does not apply to bird hybrids as defined under the Migratory Bird Treaty Act, under 50 C.F.R. 21.3, revised October 1, 2019.

"Live baitfish" means any species of live freshwater fish designated by Commission Order as lawful for use in taking aquatic wildlife under R12-4-313 and ~~R12-4-317~~ R12-4-314.

"Live bait" means aquatic live wildlife used or intended for use in taking aquatic wildlife.

"Migratory birds" mean all species listed under 50 C.F.R. 10.13 revised October 1, ~~2014~~ 2019, and no later amendments or editions. The incorporated material is available from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000, and is on file with the Department.

"Noncommercial purpose" means the use of products or services developed using wildlife for which no compensation or monetary value is received.

"Nonhuman primate" means any nonhuman member of the order Primate of mammals including prosimians, monkeys, and apes.

"Nonnative" means wildlife or its offspring that did not occur naturally within the present boundaries of Arizona before European settlement.

~~"Person" has the same meaning as defined under A.R.S. § 1-215.~~

"Photography" means any process that creates durable images of wildlife or parts of wildlife by recording light or other electromagnetic radiation, either chemically by means of a light-sensitive material or electronically by means of an image sensor.

"Rehabilitated wildlife" means live wildlife that is injured, orphaned, sick, or otherwise debilitated and is provided care to restore it to a healthy condition suitable for release to the wild or for lawful captive use.

"Research facility" means any association, institution, organization, school, except an elementary or secondary school, or society that uses or intends to use live animals in research.

"Restricted live wildlife" means wildlife that cannot be imported, exported, or possessed without a special license or lawful exemption.

"Shooting preserve" means any operation where live wildlife is released for the purpose of hunting.

"Special license" means any license issued under this Article, including any additional stipulations placed on the license authorizing specific activities normally prohibited under A.R.S. § 17-306 and R12-4-402.

"Species of greatest conservation need" means any species listed in the Department's Arizona's State Wildlife Action Plan list Tier 1a and 1b published by the Arizona Game and Fish Department. The material is available for inspection at any Department office and online at [www.azgfd.gov](http://www.azgfd.gov) on the Department's website.

"Stock" and "stocking" means to release live aquatic wildlife into public or private waters other than the waters where taken.

"Taxa" means groups of animals within specific classes of wildlife occurring in the state with common characteristics that establish relatively similar requirements for habitat, food, and other ecological, genetic, or behavioral factors.

"Unique identifier" means a permanent marking made of alphanumeric characters that identifies an individual animal, which may include, but is not limited to, a tattoo or microchip.

"USFWS" means the United States Fish and Wildlife Service.

"Volunteer" means a person who:

- Assists a special license holder in conducting activities authorized under the special license,
- Is under the direct supervision of the license holder at the premises described on the license,
- Is not designated as an agent, and
- Receives no compensation.

"Wildlife disease" means any disease that poses a health risk to wildlife in Arizona.

"Zoo" means any facility licensed by the Arizona Game and Fish Department under R12-4-420 or, for facilities located outside of Arizona, licensed or recognized by the applicable governing agency.

"Zoonotic" means a disease that can be transmitted from animals to humans or, more specifically, a disease that normally exists in animals but that can infect humans.

#### **R12-4-403. Escaped or Released Live Wildlife**

- A. The Department may seize, quarantine, or euthanize any live wildlife that has been released, has escaped, or is likely to escape if the wildlife poses an actual or potential threat to:
1. Native wildlife;
  2. Wildlife habitat; or
  3. Public health, safety, or welfare; or

4. Property.

- B. A person shall not release live wildlife, unless specifically directed to do so by the Department or authorized under this Article.
- C. The person ~~possessing~~ releasing or allowing the escape of wildlife shall be responsible for all costs incurred by the Department associated with seizing or quarantining the wildlife.
- D. All special license holders shall be subject to the requirements of this Section.

**R12-4-405. Importing, Purchasing, and Transporting Live Wildlife Without an Arizona License or Permit**

- A. A person may import mammals, birds, amphibians, and reptiles not listed as restricted wildlife under R12-4-406 without a special license required under this Article, provided the animals are:
  - 1. Lawfully possessed under a:
    - a. Lawful exemption; or
    - b. Valid license, permit, or other form of authorization from another state, the United States, or another country; and
  - 2. Accompanied by the health certificate required under 3 A.A.C. 2, Article 6, and this Article, when applicable.
- B. A person may import live aquatic wildlife not listed as restricted wildlife under R12-4-406 without a special license under the following conditions:
  - 1. The aquatic wildlife is lawfully possessed under a lawful exemption, valid license, permit, or other form of authorization from another state, the United States, or another country; and
  - 2. The aquatic wildlife is used only for restaurants or markets that are licensed to sell food to the public and the wildlife is killed before it is transported from the restaurant or market, or, if transported alive from the market, is conveyed directly to its final destination for preparation as food; or
  - 3. The aquatic wildlife is used only for the aquarium trade or a fish farm and is accompanied by a valid license or permit issued by another state or the United States that allows the wildlife to be transported into this state.
    - a. A person in the aquarium trade shall:
      - i. Only use aquatic wildlife used in the aquarium trade as a pet or in an educational display, and
      - ii. Keep aquatic wildlife used in the aquarium trade in an aquarium or enclosed pond that does not allow the wildlife to leave the aquarium or pond and does not allow other live aquatic wildlife to enter the aquarium or pond.
    - b. A person in the aquarium trade shall not use or possess aquatic wildlife listed as restricted live wildlife under R12-4-406.
- C. A person shall obtain the appropriate special license listed under R12-4-409(A) before importing aquatic live wildlife for any purpose not stated under subsection (B), unless exempt under this Chapter.
- D. A person may purchase, possess, exhibit, transport, propagate, trade, rent, lease, give away, sell, offer for sale, export, or kill wildlife or aquatic wildlife or its offspring without an Arizona license or permit if the wildlife is lawfully imported and possessed as prescribed under subsections (A) or (B).
- ~~E. An individual shall use and dispose of wildlife that is taken under an Arizona hunting or fishing license as~~

~~prescribed by R12-4-404, or R12-4-417 and this Article, as applicable.~~

#### **R12-4-406. Restricted Live Wildlife**

- A.** In order to lawfully possess wildlife listed as restricted under this Section, for any activity prohibited under A.R.S. §§ 17-255.02, 17-306, ~~R12-4-402~~, R12-4-902, or this Article, a person shall possess:
1. All applicable federal licenses and permits; and
  2. The appropriate special license listed under R12-4-409(A); or
  3. Act under a lawful exemption authorized under A.R.S. § 17-255.04, ~~R12-4-316~~ R12-4-314, R12-4-404, R12-4-405, R12-4-407, R12-4-425, R12-4-427, and R12-4-430.
- B.** The Commission recognizes the online taxonomic classification from the Integrated Taxonomic Information System as the authority in determining the designations of restricted live mammals, birds, reptiles, amphibians, fish, crustaceans, and mollusks referenced under this Article. The Integrated Taxonomic Information System is available at any Department office and at [www.itis.gov](http://www.itis.gov).
- C.** All of the following are considered restricted live wildlife and are subject to the requirements of this Article, unless otherwise specified:
1. Hybrid wildlife, as defined under R12-4-401, resulting from the interbreeding of at least one parent species of wildlife that is listed as restricted under this Section, ~~and Hybrid wildlife that is the progeny of a restricted wildlife species and a nonrestricted wildlife species is considered restricted wildlife.~~ Hybrid wildlife that is the progeny of a restricted wildlife species and a nonrestricted wildlife species is considered restricted wildlife.
  2. Transgenic species, unless otherwise specified under this Article. For the purposes of this Section, "transgenic species" means any organism that has had genes from another organism put into its genome through direct human manipulation of that genome. Transgenic species do not include natural hybrids or individuals that have had their chromosome number altered to induce sterility. A transgenic animal is considered wildlife if ~~the animal is the offspring of at least one genetic material originated from a restricted~~ the animal is the offspring of at least one genetic material originated from a restricted wildlife species.
- D.** Domestic animals, as defined under R12-4-401, are not subject to restrictions under A.R.S. Title 17, 12 A.A.C. 4, or Commission Orders.
- E.** For subsections (F) through (M), the common names are provided as examples only and are not all-inclusive of the order, family, or genus.
- ~~E.~~F.** Unless otherwise specified, all mammals listed below are considered restricted live wildlife:
1. All species of the order *Afrosoricida*. Common names include: golden moles and tenrecs and ~~golden moles~~.
  2. All species of the following families of the order *Artiodactyla*. Common name: even-toed ungulates:
    - a. The family *Antilocapridae*. Common name: pronghorns.
    - b. The family *Bovidae*. Common names include: ~~cattle, buffalo, bison, oxen, duikers~~, antelopes, bison, buffalo, cattle, duikers, gazelles, goats, oxen, and sheep. Except the following genera which are not restricted:
      - i. The genus *Bubalus*. Common name: water buffalo.
      - ii. The genus *Bison*. Common name: ~~bison~~, American bison, bison, or buffalo.
    - c. The family *Cervidae*. Common names include: cervid, deer, elk, moose, red deer, and wapiti, ~~and red~~

~~deer.~~

- d. The family *Tayassuidae*. Common name: peccaries.
3. All species of the order *Carnivora*. Common names include: ~~carnivores, skunks, raccoons,~~ bears, foxes, ocelot, raccoons, servals, skunks, wolves, and weasels.
4. All species of the order *Chiroptera*. Common name: bats.
5. All species of the genus *Didelphis*. Common name: American opossums.
6. All species of the order *Erinaceomorpha*. Common names include: European hedgehogs, gymnures, and moonrats. Except members of the ~~family *Erinaceidae*~~ genus *Atelerix*, which are not restricted. Common name: longeared and pygmy hedgehogs.
7. All species of the order *Lagomorpha*. Common names include: hares, pikas, and rabbits, ~~and hares.~~ Except for members of the genus *Oryctolagus* containing domestic rabbits, which are not wildlife and are not restricted.
8. All nonhuman primates. Common names include: ~~orangutans,~~ chimpanzees, gorillas, macaques, orangutans, and spider monkeys.
9. All species of the following families of the order *Rodentia*. Common name: rodents:
  - a. The family *Capromyidae*. Common name: hutias.
  - b. The family *Castoridae*. Common name: beavers.
  - c. The family *Dipodidae*. Common name: jumping mouse.
  - ~~e.d.~~ The family *Echimyidae*. Common names include: coypus and nutrias.
  - ~~d.e.~~ The family *Erethizontidae*. Common name: new world porcupines.
  - ~~e.f.~~ The family *Geomyidae*. Common name: pocket gophers.
  - ~~f.g.~~ The family *Sciuridae*. Common names include: ~~squirrels,~~ chipmunks, marmots, prairie dogs, squirrels, and woodchucks, ~~and prairie dogs.~~
10. All species of the order *Soricomorpha*. Common names include: ~~shrews,~~ desmans, moles, shrews, and shrew-moles.
11. All species of the order *Xenarthra*. Common names include: anteaters, armadillos, and edentates; ~~or sloths, anteaters, and armadillos.~~

**F.G.** Birds listed below are considered restricted live wildlife:

1. The following species within the family *Phasianidae*. Common names: ~~partridges,~~ grouse, pheasants, partridges, turkeys, quail, and turkeys ~~and pheasants~~:
  - a. *Alectoris chukar*. Common name: chukar.
  - ~~a.b.~~ *Callipepla gambelii*. Common name: Gambel's quail.
  - ~~b.c.~~ *Callipepla squamata*. Common name: scaled quail.
  - ~~e.d.~~ *Colinus virginianus*. Common name: northern bobwhite. Restricted only in game management units 34A, 36A, 36B, and 36C as prescribed under R12-4-108.
  - ~~d.e.~~ *Cyrtonyx montezumae*. Common name: ~~Montezuma,~~ harlequin, ~~or~~ Mearn's, or Montezuma quail.
  - ~~e.f.~~ *Dendragapus obscurus*. Common name: dusky grouse.

g. *Mealagris gallopavo gallopavo*, *M. g. intermedia*, *M. g. merriami*, *M. g. mexicana*, *M. g. osceola*, *B. g. silvestris*, and *M. ocellata*. Common name: wild turkey.

2. All species listed under the Migratory Bird Treaty Act listed under 50 C.F.R. 10.13 revised October 1, ~~2014~~ 2019, and no later amendments or editions. The incorporated material is available from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000, and is on file with the Department.

**G.H.** Reptiles listed below are considered restricted live wildlife:

1. All species of the order *Crocodylia*. Common names include: ~~gavials, alligators,~~ caimans, crocodiles, and ~~alligators~~ gavials.
2. All species of the following families or genera of the order *Squamata*:
  - a. The family *Atractaspididae*. Common name: burrowing asps.
  - b. The following species and genera of the family *Colubridae*:
    - i. *Boiga irregularis*. Common name: brown tree snake.
    - ii. *Dispholidus typus*. Common name: boomslang.
    - iii. *Rhabdophis*. Common name: keelback.
    - iv. *Thelotornis kirtlandii*. Common names include: bird snake or twig snake.
  - c. The family *Elapidae*. Common names include: Australian elapids, cobras, coral snakes, kraits, mambas, ~~coral snakes, kraits, Australian elapids,~~ and sea snakes.
  - d. The family *Helodermatidae*. Common names include: Gila monster and Mexican beaded lizard.
  - e. The family *Viperidae*. Common names include: ~~true vipers and~~ pit and true vipers, including rattlesnakes.
3. The following species of the order *Testudines*:
  - a. All species of the family *Chelydridae*. Common name: snapping turtles.
  - b. All species of the genus *Gopherus*. Common names include: gopher tortoises, including the desert tortoise.

**H.I.** Amphibians listed below are considered restricted live wildlife. The following species within the order *Anura*, common names frogs and toads:

1. The species *Bufo horribilis*, *Bufo marinus*, *Bufo schneideri*. Common names include: giant or marine toads.
2. All species of the genus *Rana*. Common names include: bullfrogs and leopard frogs ~~and bullfrogs~~. Except bullfrogs possessed under A.R.S. § 17-102.
3. All species of the genus *Xenopus*. Common name: clawed frogs.

**I.J.** Fish listed below are considered restricted live wildlife:

1. All species of the family *Acipenseridae*. Common name: sturgeon.
2. The species *Amia calva*. Common name: bowfin.
3. The species *Aplodinotus grunniens*. Common name: freshwater drum.
4. The species *Arapaima gigas*. Common name: bony tongue.
5. All species of the genus *Astyanax*. Common name: tetra.

6. The species *Belonesox belizanus*. Common name: pike topminnow.
7. All species, both marine and freshwater, of the orders *Carcharhiniiformes*, *Heterodontiformes*, *Hexanchiformes*, *Lamniformes*, *Orectolobiformes*, *Pristiophoriformes*, *Squaliformes*, *Squatiniiformes*, and except for all species of the families *Brachaeluridae*, *Hemiscylliidae*, *Orectolobidae*, and *Triakidae*; genera of the family *Scyliorhinidae*, including *Aulohalaelurus*, *Halaelurus*, *Haploblepharus*, *Poroderma*, and *Scyliorhinus*; and genera of the family *Parascylliidae*, including *Cirrhoscyllium* and *Parascyllium*. Common name: sharks.
8. All species of the family *Centrarchidae*. Common name: sunfish.
9. All species of the family *Cetopsidae* and *Trichomycteridae*. Common name: South American catfish.
10. All species of the family *Channidae*. Common name: snakehead.
11. All of the species *Cirrhinus mrigala*, *Gibelion catla*, and *Labeo rohita*. Common name: Indian carp.
12. All species of the family *Clariidae*. Common names include: ~~labyrinth~~ or airbreathing catfish or labyrinth.
13. All species of the family *Clupeidae* except threadfin shad, species *Dorosoma petenense*. Common names include: herring and shad.
14. The species *Ctenopharyngodon idella*. Common names include: white amur or grass carp.
15. The species *Cyprinella lutrensis*. Common name: red shiner.
16. The species *Electrophorus electricus*. Common name: electric eel.
17. All species of the family *Esocidae*. Common names include: ~~pike and pickerels~~ and pike.
18. All species of the family *Hiodontidae*. Common names include: goldeye and mooneye.
19. The species *Hoplias malabaricus*. Common name: tiger fish.
20. The species *Hypophthalmichthys molitrix*. Common name: silver carp.
21. The species *Hypophthalmichthys nobilis*. Common name: bighead carp.
22. All species of the family *Ictaluridae*. Common name: catfish.
23. All species of the genus *Lates* and *Luciolates*. Common name: Nile perch.
24. All species of the family *Lepisosteidae*. Common name: gar.
25. The species *Leuciscus idus*. Common names include: ide and whitefish ~~and ide~~.
26. The species *Malapterurus electricus*. Common name: electric catfish.
27. All species of the family *Moronidae*. Common name: temperate bass.
28. The species *Mylopharyngodon piceus*. Common name: black carp.
29. All species of the family *Percidae*. Common names include: ~~walleye and pike~~ and walleye perches.
30. All species of the family *Petromyzontidae*. Common name: lamprey.
31. The species *Polyodon spathula*. Common name: American Paddlefish.
32. All species of the family *Potamotrygonidae*. Common name: stingray.
33. All species of the genera *Pygocentrus*, *Pygopristis*, and *Serrasalmus*. Common name: piranha.
34. All species of the family *Salmonidae*. Common names include: ~~trout and salmon~~ and trout.
35. The species *Scardinius erythrophthalmus*. Common name: rudd.
36. All species of the family *Serranidae*. Common name: bass.

37. The following species, and hybrid forms, of the Genus *Tilapia*: *O. aureus*, *O. mossambica*; *O. niloticus*, *O. urolepis hornorum* and *T. zilli*. Common name: tilapia.

38. The species *Thymallus arcticus*. Common name: Arctic grayling.

**J-K.** Crustaceans listed below are considered restricted live wildlife:

1. All freshwater species within the families *Astacidae*, *Cambaridae*, and *Parastacidae*. Common name: crayfish.
2. The species *Eriocheir sinensis*. Common name: Chinese mitten crab.

**K-L.** Mollusks listed below are considered restricted live wildlife:

1. The species *Corbicula fluminea*. Common name: Asian clam.
2. All species of the family *Dreissenidae*. Common names include: ~~zebra and~~ quagga and zebra mussel.
3. The species *Euglandina rosea*. Common name: rosy wolfsnail.
4. The species *Mytilopsis leucophaeata*. Common names include: Conrad's false dark mussel or false ~~dark~~ mussel.
5. All species of the genus *Pomacea*. Common names include: apple snail or Chinese mystery snail ~~or apple snail~~.
6. The species *Potamopyrgus antipodarum*. Common name: New Zealand mud snail.

**L-M.** All wildlife listed within Aquatic Invasive Species Director's Order #1.

#### **R12-4-407. Exemptions from Special License Requirements for Restricted Live Wildlife**

**A.** All live cervids may only be imported, possessed, or transported as authorized under R12-4-430.

**B.** A person is not required to possess a special license to lawfully possess restricted live wildlife under the following circumstances:

1. A person may possess, transport, or give away a desert tortoise (*Gopherus morafkai*) or the progeny of a desert tortoise provided the person lawfully possessed the desert tortoise prior to April 28, 1989 or obtained the tortoise through a Department authorized adoption program. A person who receives a desert tortoise that is given away under this Section is also exempt from special license requirements.

a. A person shall not:

i. Export a live desert tortoise from this state unless authorized in writing by the Department's special license administrator. A person may only export a live desert tortoise to an education or research institution or zoo located in another state.

~~a-ii.~~ Possess desert tortoise in excess of the bag limit established under Commission Order 43.

iii. Propagate lawfully possessed desert tortoises or their progeny unless authorized in writing by the Department's special license administrator.

vi. Release a desert tortoise into the wild.

~~b.~~ ~~Export a live desert tortoise from this state unless authorized in writing by the Department.~~

b. A person who possesses a desert tortoise and is moving out-of-state shall gift the desert tortoise to an Arizona resident or to the Department's Tortoise Adoption Program.

2. A licensed veterinarian may possess restricted wildlife while providing medical care to the wildlife and may release rehabilitated wildlife as directed in writing by the Department, provided:
  - a. The veterinarian keeps records of restricted live wildlife as required by the Veterinary Medical Examining Board, and makes the records available for inspection by the Department.
  - b. The Department assumes no financial responsibility for any care the veterinarian provides, except care that is specifically authorized by the Department.
3. A person may transport restricted live wildlife through this state provided the person:
  - a. Transports the wildlife through the state within 72 continuous and consecutive hours;
  - b. Ensures at least one person is continually present with, and accountable for, the wildlife while in this state;
  - c. Ensures the wildlife is neither transferred nor sold to another person;
  - d. Ensures the wildlife is accompanied by evidence of lawful possession, as defined under R12-4-401;
  - e. Ensures a health certificate required under this Article accompanies the wildlife described on the health certificate, when applicable; and
  - f. Ensures the carcasses of any wildlife that die while in transport through this state are disposed of only as directed by the Department.
4. A person may exhibit, export, import, possess, and transport restricted live wildlife for a circus, temporary animal exhibit, or government-authorized state or county fair, provided the person:
  - a. Possesses evidence of lawful possession as defined under R12-4-401, for the wildlife;
  - b. Ensures the evidence of lawful possession accompanies the wildlife described on that evidence;
  - c. Ensures a health certificate required under this Article accompanies the wildlife described on the health certificate, when applicable;
  - d. Ensures the wildlife does not come into physical contact with the public;
  - e. Keeps the wildlife under complete control by safe and humane means; and
  - f. Ensures the wildlife is not in this state for more than 60 consecutive days.
5. A person may export, import, possess, and transport restricted live wildlife for the purpose of commercial photography, provided the person:
  - a. Possesses evidence of lawful possession as defined under R12-4-401 for the wildlife;
  - b. Ensures the evidence of lawful possession accompanies the wildlife described on that evidence;
  - c. Ensures a health certificate required under this Article accompanies the wildlife described on the health certificate, when applicable;
  - d. Ensures the wildlife does not come into physical contact with the public;
  - e. Keeps the wildlife under complete control by safe and humane means; and
  - f. Ensures the wildlife is not in this state for more than 60 consecutive days.
6. A person may exhibit, import, possess, and transport restricted live wildlife for advertising purposes other than photography, provided the person:
  - a. Ensures the wildlife is accompanied by evidence of lawful possession as defined under R12-4-401;

- b. Ensures the evidence of lawful possession accompanies the wildlife described on that evidence;
  - c. Ensures a health certificate required under this Article accompanies the wildlife described on the health certificate, when applicable;
  - d. Maintains the wildlife under complete control by safe and humane means;
  - e. Prevents the wildlife from coming into contact with the public or being photographed with the public;
  - f. Does not charge the public a fee to view the wildlife; and
  - g. Exports the wildlife from the state within 10 days of importation.
7. A person may export restricted live wildlife, provided the person:
- a. Ensures the wildlife is accompanied by evidence of lawful possession as defined under R12-4-401;
  - b. Ensures the evidence of lawful possession accompanies the wildlife described on that evidence;
  - c. Maintains the wildlife under complete control by safe and humane means;
  - d. Prevents the wildlife from coming into contact with the public or being photographed with the public;
  - e. Does not charge the public a fee to view the wildlife; and
  - f. Exports the wildlife from the state within 10 days of importation.
8. A person may possess restricted live wildlife taken alive under R12-4-404, R12-4-405, and R12-4-427, provided the person possesses the wildlife in compliance with those Sections.
9. A person who holds a falconry license issued by another state or country is exempt from obtaining an Arizona Sport Falconry License under R12-4-422, unless remaining in this State for more than 180 consecutive days.
- a. The falconer licensed in another state or country shall present a copy of the out-of-state or out-of-country falconry license, or its equivalent, to the Department upon request.
  - b. A falconer licensed in another state or country and who remains in this State for more than the 180-day period shall apply for an Arizona Sport Falconry License in order to continue practicing sport falconry in this state.
10. A person may export, give away, import, kill, possess, propagate, purchase, trade, and transport restricted live wildlife provided the person is doing so for a medical or scientific research facility registered with the United States Department of Agriculture under 9 C.F.R. Subpart C 2.30 revised January 1, ~~2012~~ 2019, which is incorporated by reference in this Section. The incorporated material is available at any Department office, online at [www.gpoaccess.gov](http://www.gpoaccess.gov) [www.gpo.gov](http://www.gpo.gov), or may be ordered from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000. This incorporation by reference contains no future editions or amendments.
11. A person may import and transport restricted live game fish ~~and~~, crayfish, and the following species, and hybrid forms, of the Genus Tilapia, *O. aureus*, *O. mossambica*; *O. niloticus*, *O. urolepis hornorum* and *T. zilli* directly to restaurants or markets ~~that are~~ licensed to sell food to the public, when accompanied by a current valid transporter license issued under A.A.C. R3-2-1007.
12. A person operating a restaurant or market licensed to sell food to the public may exhibit, offer for sale, possess, and sell restricted live game fish or crayfish, provided the live game fish and crayfish are killed before being transported from the restaurant or market.

13. A person may export, giveaway, import, kill, possess, propagate, purchase, and trade transgenic animals provided the person is doing so for a medical or scientific research facility.
- C. An exemption granted under this Section is not valid for any wildlife protected by federal ~~statute or regulation~~ law nor does it allow the take of wildlife from the wild.

**R12-4-409. General Provisions and Penalties for Special Licenses**

- A. A special license is required when a person intends to conduct any activity using restricted live wildlife. Special licenses are listed as follows:
1. Aquatic wildlife stocking license, established under R12-4-410;
  2. Game bird license, established under R12-4-414;
  3. Live bait dealer's license, established under R12-4-411;
  4. Private game farm license, established under R12-4-413;
  5. Scientific ~~collecting~~ activity license, established under R12-4-418;
  6. Sport falconry license, established under R12-4-422;
  7. White amur stocking and ~~holding~~ restocking license, established under R12-4-424;
  8. Wildlife holding license, established under R12-4-417;
  9. Wildlife rehabilitation license, established under R12-4-423;
  10. Wildlife service license, established under R12-4-421; and
  11. Zoo license, established under R12-4-420.
- B. ~~A person applying~~ An applicant for a special license listed under subsection (A) shall:
- ~~a.~~1. Submit an application to the Department meeting the specific application requirements established under the applicable governing Section.
    - ~~i.~~a. Applications for special licenses are furnished by the Department and are available at any Department office and ~~online at~~ www.azgfd.gov on the Department's website.
    - ~~ii.~~b. An application is required upon initial application for a special license and when renewing a special license. A renewal application is appropriate where there are no changes to the:
      - i. Licensed facility location,
      - ii. Species of wildlife held under the special license, or
      - iii. Staff conducting the wildlife activities under the license.
  2. Be at least 18 years of age, unless applying for a Game Bird Field Training or Sport Falconry license.
  - ~~b.~~3. Pay all applicable fees required under R12-4-412.
- C. At the time of application, the person shall certify:
1. The information provided on the application is true and correct to the applicant's knowledge;
  2. The applicant shall comply with any municipal, county, state or federal code, ordinance, statute, regulation, or rule applicable to the license held; and
  3. The applicant's live wildlife privileges are not currently suspended or revoked in this state, any other state or territory, or by the United States.

- D.** A special license obtained by fraud or misrepresentation is invalid from the date of issuance.
- E.** The Department shall either grant or deny a special license within the applicable overall time-frame established for that special license under R12-4-106.
- F.** In addition to the criteria prescribed under the applicable governing Section, the Department shall deny a special license when:
1. When it is in the best interest of public health or safety or the welfare of the wildlife;
  - ~~2.~~ 2. The applicant's live wildlife privileges are revoked or suspended in this state, any other state, or by the United States;
  - ~~3.~~ 3. The applicant was convicted of illegally holding or possessing live wildlife within five years preceding the date of application for the special license; ~~or~~
  - ~~4.~~ 4. The applicant knowingly provides false information on an application;~~;~~
  - ~~5.~~ 5. The Department shall deny a license to a person who fails to meet the requirements established under the applicable governing Section or this Section. The Department shall provide a written notice to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.
- G.** A special license holder may only engage in activities using federally-protected wildlife when the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license. A special license issued by the Department does not:
1. Exempt the license holder from any municipal, county, state or federal code, ordinance, statute, regulation, or rule; or
  2. Authorize the license holder to engage in any activity using wildlife that is protected by federal regulation.
- H.** The Department may place additional stipulations on a special license ~~at the time of initial application or renewal~~ when whenever it is determined necessary to:
1. Conserve wildlife populations,
  2. Prevent the introduction and proliferation of wildlife diseases,
  3. Prevent wildlife from escaping, ~~or~~
  4. Protect public health or safety, or
  5. Ensure humane care and treatment of wildlife.
- I.** A special license holder shall keep live wildlife in a facility according to the captivity standards prescribed under R12-4-428 ~~or~~ and as otherwise required under this Article. The captivity standards prescribed under R12-4-428 are not applicable to a special license holder licensed under R12-4-410, R12-4-411, R12-4-422, and R12-4-424.
- ~~**J.** The Department may inspect a facility to verify compliance with all applicable requirements established under this Article.~~
- ~~**K.**~~ **J.** A special license holder shall keep records in compliance with the requirements established under the governing Section for a period of at least five years and shall make the records available for inspection to the Department upon request.

**L.K.** The Department may conduct an inspection of an applicant's or license holder's facility at any time before or during the license period to determine compliance with the requirements of this Article. The Department shall comply with A.R.S. § 41-1009 when conducting inspections at a license holder's facility.

**M.L.** Upon determining a disease or other emergency condition exists that poses an immediate threat to the public or the welfare of any wildlife, the Department may immediately order a cessation of operations under the special license and, if necessary, order the humane disposition or quarantine of any exposed, contaminated or affected wildlife.

1. When directed by the Department, a special license holder shall:
  - a. Perform disease testing,
  - b. Submit biological samples to the Department or its designee,
  - c. Surrender the wildlife to the Department;
  - d. Quarantine the wildlife, or
  - e. Humanely euthanize the wildlife.
2. The license holder shall:
  - a. Ensure any disease or other emergency condition under this subsection is diagnosed by a person professionally certified to make the diagnosis.
  - b. Be responsible for all costs associated with the testing and treatment of the contaminated and affected wildlife.

**N.M.** If a condition exists, including disease or any violation of this Article, that poses a threat to the public or the welfare of any wildlife, but the threat does not constitute an emergency, the Department may issue a written notice of the condition to the special license holder specifying a reasonable period of time for the license holder to remedy the noticed condition. The notice of condition shall be delivered to the special license holder by certified mail or personal service.

- ~~1.~~ Failure of the license holder to remedy the noticed condition within the time specified by the Department is a violation under subsection ~~(O)~~(N).
- ~~2.~~ ~~If a licensee receives three notices under this subsection for the same condition within a two-year period, the Department shall treat the third notice as a failure to remedy.~~

**O.N.** A special license holder shall not:

1. Violate any provision of the governing Section or this Section;
2. Violate any provision of the special license that the person possesses, including any stipulations specified on the special license;
3. Violate A.R.S. § 13-2908, relating to criminal nuisance;
4. Violate A.R.S. § 13-2910, relating to cruelty to animals; or
5. Refuse to allow the inspection of facilities, wildlife, or required records .

**P.O.** The Department may take one or more of the following actions when a special license holder is convicted of a criminal offense involving cruelty to animals, violates subsection (N), or fails to comply with any requirement established under the governing Section or this Section:

1. File criminal charges,
2. Suspend or revoke a special license,
3. Humanely dispose of the wildlife,
4. Seize or seize in place any wildlife held under a special license.
5. A person may appeal to the Commission any Department action listed under this subsection as prescribed under A.R.S. Title 41, Chapter 6, Article 10, except the filing of criminal charges.

**Q.P.** A special license holder who wishes to continue conducting activities authorized under the special license shall submit a renewal application to the Department on or before the special license expiration date.

1. The current license will remain valid until the Department grants or denies the new special license.
2. If the Department denies the renewal application and the license holder appeals the denial to the Commission as prescribed under subsection (F)(4), the license holder may continue to hold the wildlife until:
  - a. The date on which the Commission makes its final decision on the appeal, or
  - b. The final date on which a person may request judicial review of the decision.
3. A special license holder who fails to submit a renewal application to the Department before the date the license expires, cannot lawfully possess any live wildlife currently possessed under the license.

**Q.** A special license holder who no longer wishes to continue conducting activities authorized under the special license shall notify the Department in writing of this decision no less than 30 days prior to ceasing wildlife related activities. This notice shall include the proposed disposition of all wildlife held under the special license.

- R.** If required by the governing Section, a special license holder shall submit an annual report to the Department before January 31 of each year for the previous calendar year. The report form is furnished by the Department.
1. A report is required regardless of whether or not activities were performed during the previous year.
  2. The special license becomes invalid if the special license holder fails to submit the annual report by January 31 of each year.
  3. The Department will not process the special license holder's renewal application until the annual report is received by the Department.
  4. When the license holder is acting as a representative of an institution, organization, or agency for the purposes of the special license, the license holder shall submit the report required under subsection this Section:
    - a. By January 31 of each year the license holder is affiliated with the institution, organization, or agency; or
    - b. Within 30 days of the date of termination of the license holder's affiliation with the institution, organization, or agency.

**R12-4-410. Aquatic Wildlife Stocking License; Restocking License**

- A.** An aquatic wildlife stocking or restocking license allows a person to import, possess, purchase, stock, and transport any restricted species designated on the license at the location specified on the license.
- B.** The aquatic wildlife stocking or restocking license is valid for no more than 20 consecutive days, except that an aquatic wildlife stocking or restocking license is valid for one calendar year when issued to a political subdivision

of the state for the purpose of vector control.

- C. In addition to the requirements established under this Section, an aquatic wildlife stocking or restocking license holder shall comply with the special license requirements established under R12-4-409.
- D. The aquatic wildlife stocking and restocking license holder shall be responsible for compliance with all applicable regulatory requirements. The ~~aquatic wildlife stocking license does~~ licenses do not:
1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
  2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.
- E. The Department shall deny an aquatic wildlife stocking or restocking license to a person who fails to meet the requirements established under R12-4-409 or this Section. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10. In addition to the requirements and criteria established under R12-4-409(F)(1) through (4), the Department shall deny an aquatic wildlife stocking license when:
1. The Department determines that issuance of the license will result in a negative impact to native wildlife; or
  2. The applicant proposes to use aquatic wildlife that is not compatible with, or poses a threat to, any wildlife within the river drainage or the area where the stocking is to occur.
- F. ~~A person applying~~ An applicant for an aquatic wildlife stocking or restocking license shall submit an application to the Department. A separate application is required for each location where the applicant proposes to use wildlife. The application is furnished by the Department and is available at any Department office and ~~online at~~ www.azgfd.gov on the Department's website. An applicant shall provide the following on the application:
1. The applicant's information:
    - a. Name;
    - b. Mailing address; and
    - c. Department ID number, when applicable;
  2. When the applicant proposes to use the aquatic wildlife for a commercial purpose the applicant's business:
    - a. Name;
    - ~~b. Federal Tax Identification Number;~~
    - ~~e-b.~~ Mailing address; and
    - ~~d-c.~~ Telephone number;
  3. Aquatic wildlife species information:
    - a. Common name of the aquatic wildlife species;
    - b. Number of animals for each species; and
    - c. Approximate size of the aquatic wildlife that will be used under the license;
  4. The purpose for introducing the aquatic wildlife species;

5. For each location where the aquatic wildlife will be stocked, the owner's:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number; and
    - d. Physical address or general location of the stocking site, to include river drainage and the Global Positioning System location ~~or Universal Transverse Mercator coordinates~~;
  6. A detailed description or diagram of the facilities where the applicant will stock the aquatic wildlife, which includes:
    - a. Size of waterbody proposed for stocking aquatic wildlife;
    - b. Nearest river, stream, or other freshwater system;
    - c. Points where water enters each waterbody, when applicable;
    - d. Points where water leaves each waterbody, when applicable; and
    - e. Location of fish containment barriers;
  7. For each supplier from whom the applicant will obtain aquatic wildlife, the supplier's:
    - a. Name;
    - ~~b. Federal Tax Identification Number;~~
    - ~~e-b.~~ Mailing address; and
    - ~~d-c.~~ Telephone number;
  8. The dates on which the person will stock aquatic wildlife;
  9. Any other information required by the Department; and
  10. The certification required under R12-4-409(C).
- G.** In addition to the requirements listed under subsection (F), when an applicant wishes to stock an aquatic species in an area where that species has not yet been introduced, is not currently established, or there is potential for conflict with Department efforts to conserve wildlife, the applicant shall also submit a written proposal to the Department at the time of application. The written proposal shall contain all of the following information:
1. Anticipated benefits resulting from the introduction of the aquatic live wildlife species;
  2. Potential adverse economic impacts;
  3. Potential dangers the introduced aquatic species may possibly create for native aquatic species and game fish, to include all of the following:
    - a. Determination of whether or not the introduced aquatic species is compatible with native aquatic species or game fish;
    - b. Potential ecological problems created by the introduced aquatic species;
    - c. Anticipated hybridization concerns with introducing the aquatic species; and,
    - d. Future plans designed to evaluate the status and impact of the species after it is introduced.
  4. Assessment of probable impacts to sensitive species in the area using the list generated by the Department's ~~On-Line~~ Online Environmental Review Tool, which is available at ~~www.azgfd.gov~~ www.azgfd.gov on the Department's website. The proposal must address each species listed.

H. An application for an aquatic restocking license is considered to be a renewal of the license when there are no changes to the:

1. Aquatic wildlife species.
2. The purpose for introducing the aquatic wildlife species, and
3. The facilities where the applicant stocked the aquatic wildlife.

~~H.I.~~ An applicant for an aquatic wildlife stocking or restocking license shall pay all applicable fees established required under R12-4-412.

~~I.J.~~ An aquatic wildlife stocking or restocking license holder shall:

1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
2. Obtain all aquatic wildlife, live eggs, fertilized eggs, and milt from a licensed fish farm operator or a private noncommercial fish pond certified to be free of diseases and causative agents through the following actions:
  - a. An inspection shall be performed by a qualified fish health inspector or fish pathologist at the fish farm or pond where the aquatic wildlife or biological material is held before it is shipped to the license holder.
  - b. The inspection shall be conducted no more than 12 months prior to the date on which the aquatic wildlife or biological material is shipped to the license holder. The Department may require additional inspections at any time prior to stocking.
  - c. The applicant shall submit a copy of the certification to the Department prior to conducting any stocking activities.
3. Maintain records associated with the license for a period of five years following the date of disposition.
- ~~3-4.~~ Allow the Department to conduct inspections of an applicant's or license holder's facility and records at any time before or during the license period to determine compliance with the requirements of this Article. The Department shall comply with A.R.S. § 41-1009 when conducting inspections at a license holder's facility.
- ~~4-5.~~ Possess the license or legible copy of the license while conducting any activities authorized under the aquatic stocking license and presents it for inspection upon the request of any Department employee or agent.
- ~~5-6.~~ Dispose of wildlife only as authorized under this Section or as directed in writing by the Department.

~~J.K.~~ An aquatic wildlife stocking or restocking license holder shall comply with the requirements established under R12-4-409 and R12-4-428.

#### **R12-4-411. Live Bait Dealer's License**

- A.** A live bait dealer's license allows a person to perform any of the following activities using the aquatic live wildlife listed under subsection (B): exhibit for sale, export, import, kill, offer for sale, possess, purchase, sell, trade, or transport.
- B.** A live bait dealer's license allows a person to perform any of the activities listed under subsection (A) with any or all of the following aquatic live wildlife:
  1. Desert Sucker, *Catostomus clarkii*;
  - ~~1-2.~~ Fathead minnow, *Pimephales promelas*;

~~2.3.~~ Golden shiner, *Notemigonus crysoleucas*;

~~3.4.~~ Goldfish, *Carassius auratus*;

4. Mosquito fish, *Gambusia affinis*;

5. ~~Threadfin shad, *Dorosoma petenense*~~ Longfin Dace, *Agosia chrysogaster*;

6. Speckled Dace, *Rhynchithys osculus*; and

~~6.7.~~ Waterdogs, *Ambystoma tigrinum*, except in that portion of Santa Cruz County lying east and south of State Highway 82, or that portion of Cochise County lying west of the San Pedro River and south of State Highway 82.

C. A live bait dealer's license expires on the last day of the third December ~~31 of each year~~ from the date of issuance.

D. In addition to the requirements established under this Section, a live bait dealer license holder shall comply with the special license requirements established under R12-4-409.

E. The live bait dealer's license holder shall be responsible for compliance with all applicable regulatory requirements. The ~~live bait dealer's~~ license does not:

1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or

2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.

F. The Department shall deny a live bait dealer's license to a person who fails to meet the requirements established under R12-4-409 or this Section. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.

G. ~~A person applying~~ An applicant for a live bait dealer's license shall submit an application to the Department. ~~A separate application is required for each location where the applicant proposes to use wildlife.~~ The application is available from any Department office and ~~online at [www.azgfd.gov](http://www.azgfd.gov)~~ on the Department's website. An applicant shall provide the following information on the application:

1. The applicant's information:

a. Name;

b. Mailing address;

c. Telephone number; and

d. Department ID number, when applicable;

2. The applicant's business:

a. Name;

~~b. Federal Tax Identification Number;~~

~~e.b.~~ Mailing address; and

~~d.c.~~ Telephone number of the applicant's business;

3. Wildlife species information:

- a. Common name of all wildlife species; and
  - b. The number of animals for each species that will be sold under the license.
4. For each location where the wildlife will be used, the owner's:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number; and
  5. A detailed description or diagram of the facilities where the applicant will hold the wildlife;
  6. For each supplier from whom the applicant will obtain wildlife, the supplier's:
    - a. Name;
    - ~~b. Federal Tax Identification Number;~~
    - ~~e.b.~~ Mailing address;
    - ~~d.c.~~ Telephone number;
  7. Any other information required by the Department; and
  8. The certification required under R12-4-409(C).
- H.** An applicant for a live bait dealer's license shall pay all applicable fees ~~established~~ required under R12-4-412.
- I.** A live bait dealer's license holder shall:
1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
  2. Obtain live baitfish from a facility certified free of the diseases and causative agents through the following actions:
    - a. An inspection shall be performed by a qualified fish health inspector or fish pathologist at the facility where the wildlife is held before it is shipped to the license holder.
    - b. The inspection shall be conducted no more than 12 months prior to the date on which the aquatic wildlife or biological material is shipped to the license holder. The Department may require additional inspections at any time prior to shipping.
    - c. The applicant shall submit a copy of the certification to the Department prior to conducting any activities authorized under the license.
    - d. The live bait dealer's license holder shall include a copy of the certification in each shipment.
  3. Maintain records associated with the license for a period of five years following the date of disposition.
  - ~~3.4.~~ Allow the Department to conduct inspections of an applicant's or license holder's facility and records at any time before or during the license period to determine compliance with the requirements of this Article. The Department shall comply with A.R.S. § 41-1009 when conducting inspections at a license holder's facility.
  - ~~4.5.~~ Possess the license or legible copy of the license while conducting activities authorized under the live bait dealers license and presents it for inspection upon the request of any Department employee or agent.
  - ~~5.6.~~ Dispose of aquatic wildlife only as authorized under this Section or as directed by the Department.
- ~~**J.** A live bait dealer's license holder shall comply with the requirements established under R12-4-428.~~

**R12-4-413. Private Game Farm License**

- A. A private game farm license authorizes a person to commercially farm and sell wildlife captive pen-reared game birds as specified on the license at the location designated on the license.
1. A private game farm license allows the license holder to:
    - a. ~~Display~~ display for sale, give away, import, offer for sale, possess, propagate and rear, purchase, rent or lease, sell, trade, or transport ~~wildlife, wildlife captive pen-reared game birds~~ carcasses; or parts ~~of wildlife; and~~
    - b. ~~Propagate and rear wildlife.~~
  2. The Private Game Farm License expires on the last day of the third December ~~31 of each year~~ from the date of issuance.
- B. Private game farm ~~wildlife captive pen-reared game birds~~ may be killed or slaughtered, but a person shall not kill or allow the wildlife captive pen-reared game birds to be killed by hunting or in a manner that could be perceived as hunting or recreational sport harvest while under the care and control of the private game farm license holder.
- C. Private game farm ~~wildlife captive pen-reared game birds~~ shall not be killed by a person who pays a fee to the owner of the private game farm for killing the wildlife captive pen-reared game birds, nor shall the game farm owner accept a fee for killing the wildlife captive pen-reared game birds, except as authorized under R12-4-414.
- D. A private game farm licenses authorizes the use of only the following ~~species~~ captive-reared game birds:
- ~~1. Captive-reared game birds:~~
    - a. 1. *Alectoris chukar*, Chukar;
    2. *Anas platyrhynchos*, Mallard duck, provided all mallard ducks and progeny are physically marked as required under 50 C.F.R. 21.13, revised October 1, 2019, which is incorporated by reference;
    - ~~b.~~ 3. *Callipepla californica*, California or valley quail;
    - ~~e.~~ 4. *Callipepla gambelii*, Gambel's quail;
    - ~~d.~~ 5. *Callipepla squamata*, Scaled quail;
    - ~~e.~~ 6. *Colinus virginianus*, Northern bobwhite;
    - ~~f.~~ 7. *Cyrtonyx montezumae*, Montezuma or Mearns' quail; ~~and~~
    - ~~g.~~ 8. *Dendragapus obscurus*, Dusky grouse; ~~and~~
    9. *Oreortyx pictus*, Mountain Quail; and
    - ~~h.~~ 10. *Phasianus colchicus*, Ringneck and whitewing pheasant;
  2. ~~Mammals listed as restricted live wildlife under R12-4-406, provided:~~
    - a. ~~The same species does not exist in the wild in this state;~~
    - b. ~~The applicant submits proof of a valid license issued by the United States Department of Agriculture under 9 CFR 25.30 at the time of application;~~
    - e. ~~The applicant submits a written proposal at the time of application, which includes all of the following information:~~
      - i. ~~Species to be possessed;~~
      - ii. ~~Purpose of possession;~~

- iii. ~~Purpose of propagation, when applicable,~~
- iv. ~~Methods designed to prevent wildlife from escaping,~~
- v. ~~Methods designed to prevent threat to native wildlife,~~
- vi. ~~Methods designed to ensure public safety; and~~
- vii. ~~Methods for disposal of the wildlife, which may include export from this state, or transfer to an eligible game farm licensed under this Section, a zoo licensed under R12-4-420, or a medical or scientific research facility exempted under R12-4-407.~~

11. For subsection (D)(2), the incorporated by material is available at any Department office, online at [www.gpo.gov](http://www.gpo.gov), or may be ordered from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000. This incorporation by reference does not include any later amendments or editions of the incorporated material.

E. The Department shall deny an application for:

- 1. A new private game farm license for mammals eervids. The Department may accept a renewal application for a private game farm license holder currently permitted to possess mammals eervids, provided the license holder is in compliance with all applicable requirements under R12-4-409, R12-4-428, R12-4-430, and this Section.
- 2. A private game farm license for Northern bobwhite, *Colinus virginianus*, in game management units ~~34A,~~ 36A, 36B, and 36C, as prescribed under R12-4-108.

F. In addition to the requirements established under this Section, a private game farm holder shall comply with the special license requirements established under R12-4-409.

G. The private game farm license holder shall be responsible for compliance with all applicable regulatory requirements. The ~~private game farm~~ license does not:

- 1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
- 2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.

H. The Department shall deny a private game farm license to a person who fails to meet the requirements established under R12-4-409 or this Section. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as ~~A person applying~~ An applicant person applying for a private game farm license shall submit an application to the Department. A separate application is required for each location where the applicant proposes to use ~~wildlife~~ captive pen-reared game birds. The application is furnished by the Department and is available at any Department office and ~~online at [www.azgfd.gov](http://www.azgfd.gov)~~ on the Department's website. An applicant shall provide the following information on the application:

- 1. The applicant's information:
  - a. Name;

- b. Mailing address;
  - c. Telephone number; and
  - d. Department ID number, when applicable;
2. The applicant's business:
- a. Name;
  - ~~b. Federal Tax Identification Number;~~
  - ~~e-b.~~ Mailing address; and
  - ~~d-c.~~ Telephone number;
3. For ~~wildlife~~ captive pen-reared game birds to be used under the license:
- a. Common name of the ~~wildlife~~ captive pen-reared game birds species;
  - b. Number of ~~animals~~ birds for each species; and
  - c. When the applicant is renewing the private game farm license, the species and number of ~~wildlife~~ captive pen-reared game birds for each species currently held in captivity under the license;
4. For each location where the ~~wildlife~~ applicant proposes to use the captive pen-reared game birds will be used, the land owner's:
- a. Name;
  - b. Mailing address;
  - d. Telephone number; and
  - e. Physical address or general location description ~~to include the~~ and Global Positioning System location ~~or Universal Transverse Mercator coordinates;~~
5. A detailed description or diagram of the facilities where the applicant will hold the ~~wildlife~~ captive pen-reared game birds, and a description of how the facilities comply with the requirements established under R12-4-428 and any other captivity standards established under this Section;
6. For each wildlife supplier from whom the special license applicant will obtain wildlife, the supplier's:
- a. Name;
  - ~~b. Federal Tax Identification Number;~~
  - ~~e-b.~~ Mailing address; and
  - ~~d-c.~~ Telephone number;
7. Any other information required by the Department; and
8. The certification required under R12-4-409(C).
- J.** An applicant for a private game farm license shall pay all applicable fees ~~established~~ required under R12-4-412.
- K.** A private game farm license holder shall:
- 1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
  - 2. Ensure each shipment of live ~~wildlife~~ captive pen-reared game birds imported into the state is accompanied by a health certificate or other similar form that indicates the captive pen-reared game birds identified on the form appears to be healthy and free of infectious, contagious, and communicable diseases.

- a. The certificate or other similar form shall be issued no more than 30 days prior to the date on which the ~~wildlife~~ captive pen-reared game birds shipped.
- b. A copy of the certificate shall be submitted to the Department prior to importation.
3. Ensure the following documentation accompanies each shipment of ~~wildlife~~ captive pen-reared game birds made by the game farm:
  - a. Name of the private game farm license holder,
  - b. Private game farm license number,
  - c. Date ~~wildlife was~~ captive pen-reared game birds shipped,
  - d. Number of ~~wildlife~~ captive pen-reared game birds, by species, included in the shipment,
  - e. Name of the person or common carrier transporting the shipment, and
  - f. Name of the person receiving the shipment.
4. Provide each person who transports a ~~wildlife~~ captive pen-reared game birds carcass from the site of the game farm with a receipt that includes all of the following:
  - a. Date the ~~wildlife was~~ captive pen-reared game birds purchased, traded, or given as a gift;
  - b. Name of the game farm; and
  - c. Number of ~~wildlife~~ captive pen-reared game birds carcasses, by species, being transported.
5. Ensure each facility is inspected by the attending veterinarian at least once every year.
6. Allow the Department to conduct inspections of an applicant's or license holder's facility and records at any time before or during the license period to determine compliance with the requirements of this Article. The Department shall comply with A.R.S. § 41-1009 when conducting inspections at a license holder's facility.
7. Maintain records of all ~~wildlife~~ captive pen-reared game birds possessed under the license for a period of three years. In addition to the information required under subsections (M)(4)(a) through (M)(4)(e), the records shall also include:
  - a. The private game farm license holder's:
    - i. Name;
    - ii. Mailing address;
    - iii. Telephone number; and
    - iv. Special license number;
  - b. Copies of all federal, state, and local licenses, permits, and authorizations required for the lawful operation of the private game farm;
  - c. Copies of the annual report required under subsection (M);
  - d. Number of all ~~restricted live wildlife~~ captive pen-reared game birds, by species and the date it was obtained;
  - e. Source of all ~~restricted live wildlife~~ captive pen-reared game birds and the date it was obtained;
  - f. Number of offspring propagated by all ~~restricted live wildlife~~ captive pen-reared game birds; and
  - g. For all ~~restricted live wildlife~~ captive pen-reared game birds disposed of by the license holder:
    - i. Number, species, and date of disposition; and

- ii. Manner of disposition to include the names and addresses of persons to whom the ~~wildlife was captive pen-reared game birds~~ were bartered, given, or sold, when authorized.
- 8. Immediately report to the Department any mortality event that results in the loss of 10% or more of the adult captive pen-reared game birds held on the facility within any seven day period and allow the Department to collect samples from the affected game birds for disease testing purposes as prescribed under A.R.S. § 17-250.
- L. A private game farm license holder shall not:
  - 1. Propagate hybrid wildlife or domestic ~~animals~~ birds with ~~wildlife~~ captive pen-reared game birds; or
  - 2. Possess domestic species under the special license.
- M. A private game farm license holder shall submit an annual report to the Department before January 31 of each year for activities performed under the license for the previous calendar year. The report form is furnished by the Department.
  - 1. A report is required regardless of whether or not activities were performed during the previous year.
  - 2. The private game farm license becomes invalid if the annual report is not submitted to the Department by January 31 of each year.
  - 3. The Department will not process the special license holder's renewal application until the annual report is received by the Department.
  - 4. The annual report shall include all of the following information, as applicable:
    - a. Number of ~~wildlife~~ captive pen-reared game birds, by species;
    - b. Source of all ~~wildlife~~ captive pen-reared game birds that the license holder obtained or propagated;
    - c. Date on which the ~~wildlife~~ captive pen-reared game birds was obtained or propagated;
    - d. Date on which the ~~wildlife~~ captive pen-reared game birds was disposed of and the manner of disposition; and
    - e. Name of person who received ~~wildlife~~ captive pen-reared game birds disposed of by barter, given as a gift, or sale.
- N. Except for cervids which shall be disposed of only as established under R12-4-430, a private game farm license holder who no longer uses the ~~wildlife~~ captive pen-reared game birds for a commercial purpose shall dispose of the ~~wildlife~~ captive pen-reared game birds as follows:
  - 1. Export,
  - 2. Transfer to another private game farm licensed under this Section,
  - 3. Transfer to a zoo licensed under R12-4-420,
  - 4. Transfer to a medical or scientific research facility exempt under R12-4-407,
  - 5. As directed by the Department, or
  - 6. As otherwise authorized under this Section.
- O. A private game farm license holder shall comply with the requirements established under R12-4-428 and R12-4-430.

**R12-4-414. Game Bird License**

A. A game bird license authorizes a person to conduct certain activities with the captive pen-reared game birds specified on the license and only at the location or locations specified on the license, as described below:

1. Game Bird Hobby:

a. Authorizes a license holder to:

- i. Possess no more than 50 captive pen-reared game birds at any one time; ~~and~~
- ii. Export, ~~gift~~, import, kill, possess, propagate, purchase, and transport the captive pen-reared game birds specified on the license for personal, noncommercial purposes only; and
- iii. Gift a captive pen-reared game bird to another special license holder who is authorized to possess the game bird species.

b. The following captive pen-reared game bird species may be possessed by a Game Bird Hobby license holder:

- i. *Alectoris chukar*, Chukar;
- ii. *Callipepla californica*, California or valley quail;
- iii. *Callipepla gambelii*, Gambel's quail;
- iv. *Callipepla squamata*, Scaled quail;
- v. *Colinus virginianus*, Northern bobwhite, subject to the restriction specified under subsection (D);
- vi. *Cyrtonyx montezumae*, Montezuma or Mearn's quail; and
- vii. *Dendragapus obscurus*, Dusky grouse.

c. The license holder shall immediately report to the Department any mortality event that results in the loss of 10% or more of the adult game birds held on the facility and allow the Department to collect samples from the affected game birds for disease testing purposes as prescribed under A.R.S. § 17-250.

~~e.d.~~ The Game Bird Hobby license expires on the last day of the third December 31 of each year from the date of issuance.

2. Game Bird Shooting Preserve:

a. Authorizes a license holder to:

- i. Release captive pen-reared game birds for the purpose of hunting or shooting.
- ii. Export, display, gift, import, kill, offer for sale, possess, propagate, purchase, trade, and transport the captive pen-reared game birds specified on the license.

b. The following captive pen-reared game bird species may be possessed by a Game Bird Shooting Preserve license holder:

- i. *Alectoris chukar*, Chukar;
- ii. *Anas platyrhynchos*, Mallard duck, provided all mallard ducks and progeny are physically marked as required under 50 C.F.R. 21.13, revised October 1, 2019, which is incorporated by reference;
- iii. *Colinus virginianus*, Northern bobwhite, subject to the restriction specified under subsection (D); and
- iv. *Phasianus colchicus*, Ringneck and Whitewing pheasant.

- c. The license holder shall ~~restrict~~:
    - i. Restrict the release and take of the live captive pen-reared game birds on private lands to an area not more than 1,000 acres.
    - ii. Immediately report to the Department any mortality event that results in the loss of 10% or more of the adult game birds held on the facility and allow the Department to collect samples from the affected game birds for disease testing purposes as prescribed under A.R.S. § 17-250.
  - d. The license holder may charge a fee to allow persons to take captive pen-reared game birds on the shooting preserve.
  - e. A person is not required to possess a hunting license when taking a captive pen-reared game bird released under the provisions of this Section.
  - f. A captive pen-reared game bird released under a Game Bird Shooting Preserve license may be taken with any method designated under R12-4-304.
  - g. The Game Bird Shooting Preserve license expires on the last day of the third December 31 of each year from the date of issuance.
3. Game Bird Field Trial:
- a. Authorizes a license holder to:
    - i. Release and take captive pen-reared game birds for the purpose of conducting a competition to test the performance of hunting dogs in one field trial event;
    - ii. Import, kill, possess, purchase within the State, and transport the captive pen-reared game birds specified on the license for one field trial event; and
    - iii. Export, gift, kill, or transport any captive pen-reared game bird held after the field trial event.
  - b. The following captive pen-reared game bird species may be possessed by a Game Bird Field Trial license holder:
    - i. *Alectoris chukar*, Chukar;
    - ii. *Anas platyrhynchos*, Mallard duck, provided all mallard ducks and progeny are physically marked as required under 50 C.F.R. 21.13, revised October 1, 2019, which is incorporated by reference;
    - iii. *Colinus virginianus*, Northern bobwhite, subject to the restriction specified under subsection (D);
    - iv. *Phasianus colchicus*, Ringneck and Whitewing pheasant.
  - c. A person is not required to possess a hunting license in order to participate in a field trial event held under the provisions of this Section.
  - d. A captive pen-reared game bird released under a Game Bird Field Trial license may be taken with any method designated under R12-4-304.
  - e. The Game Bird Field Trial license is valid for no more than ten consecutive days.
4. Game Bird Field Training:
- a. Authorizes a license holder to:
    - i. Release and take released live captive pen-reared game birds specified on the license for the purpose of training a dog or raptor to hunt game birds; and

- ii. Import, possess, purchase within the State, and transport the captive pen-reared game birds specified on the license; and
      - iii. Export, gift, kill, or transport any captive pen-reared game bird possessed under the license.
    - b. The following captive pen-reared game bird species may be possessed by a Game Bird Field Training license holder:
      - i. *Alectoris chukar*, Chukar;
      - ii. *Anas platyrhynchos*, Mallard duck, provided all mallard ducks and progeny are physically marked as required under 50 C.F.R. 21.13, revised October 1, 2019, which is incorporated by reference;
      - iii. *Colinus virginianus*, Northern bobwhite, subject to the restriction specified under subsection (D)(2)(b);
      - iv. *Phasianus colchicus*, Ringneck and Whitewing pheasant.
    - c. A person is not required to possess a hunting license when taking a captive pen-reared game bird released under the provisions of this Section.
    - d. A captive pen-reared game bird released under a Game Bird Field Training license may be taken with any method designated under R12-4-304.
    - e. The Game Bird Field Training license expires on the last day of the third December ~~31 of each year from~~ the date of issuance.
  - 5. For subsections (A)(2)(b)(ii), (A)(3)(b)(ii), and (A)(4)(b)(ii), the incorporated material is available at any Department office, online at [www.gpo.gov](http://www.gpo.gov), or may be ordered from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000. This incorporation by reference does not include any later amendments or editions of the incorporated material.
- B.** In addition to the requirements established under this Section, a game bird license holder shall comply with the special license requirements established under R12-4-409.
- C.** The game bird license holder shall be responsible for compliance with all applicable regulatory requirements. The ~~game bird~~ license does not:
- 1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
  - 2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.
- D.** The Department shall deny a game bird license to a person who fails to meet the requirements under R12-4-409 or this Section. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10. In addition to the requirements and criteria established under R12-4-409(F)(1) through (4), the Department may deny a game bird license when:
- 1. The applicant proposes to release captive pen-reared game birds:
    - a. At a location where an established wild population of the same species exists.

- b. During nesting periods of upland game birds or waterfowl that nest in the area.
  - 2. The applicant requests a license:
    - a. For the sole purpose described under subsection (A)(1) and proposes to possess more than 50 captive pen-reared game birds at any one time.
    - b. To possess Northern bobwhites, *Colinus virginianus*, in any one of the following game management units, as described under R12-4-108; ~~34A~~, 36A, 36B, and 36C.
  - 3. The Department determines the:
    - a. Authorized activity listed under this Section may pose a threat to native wildlife, wildlife habitat, or public health or safety.
    - b. Escape of any species listed on the application may pose a threat to native wildlife or public health or safety.
    - c. Release of captive pen-reared game birds may interfere with a wildlife or habitat restoration program.
- E. ~~A person applying~~ An applicant for a game bird license shall submit an application to the Department. A person applying for multiple Game Bird Field Trial licenses shall submit a separate application for each date and location where a competition will occur. The application is furnished by the Department and is available at any Department office and on the Department's website. An applicant shall provide the following information on the application:
  - 1. The applicant's information:
    - a. Name;
    - b. Mailing address, when applicable;
    - c. Physical address;
    - d. Telephone number; and,
    - e. Department ID number, when applicable;
  - 2. For captive pen-reared game birds to be used under the license:
    - a. Common name of game bird species;
    - b. Number of animals for each species; and
    - c. When the applicant is renewing a Game Bird Hobby or Shooting Preserve license, the species and number of animals for each species currently held in captivity under the license;
  - 3. The type of game bird license:
    - a. Game Bird Hobby;
    - b. Game Bird Shooting Preserve;
    - c. Game Bird Field Trial; or
    - d. Game Bird Field Training;
  - 4. For each location where captive pen-reared game birds will be held, the owner's:
    - a. Name;
    - b. Mailing address, when applicable;
    - c. Telephone number; and
    - d. Physical address or general location description and Global Positioning System location, when available;

5. For each location where captive pen-reared game birds will be released, the land owner's or agency's:
    - a. Name;
    - b. Mailing address, when applicable;
    - c. Telephone number; and
    - d. Physical address or general location description and Global Positioning System location, when available; and
  6. For each captive pen-reared game bird supplier from whom the applicant will obtain game birds, the supplier's:
    - a. Name;
    - b. Mailing address; and
    - c. Telephone number;
  7. An applicant who is applying for a Game Bird Shooting Preserve or Field Trial license and intends to use the captive pen-reared game birds for a commercial purpose shall also provide the applicant's business:
    - a. Name;
    - b. Mailing address; and
    - c. Telephone number;
  8. An applicant who intends to use the captive pen-reared game birds for an activity affiliated with a sponsoring organization shall also provide the organization's:
    - a. Name;
    - b. Mailing address; and
    - c. Telephone number of the organization chair or local chapter;
  9. An applicant who is applying for a Game Bird Field Trial license shall also specify the range of dates within which the field trial event will take place, not to exceed a 10-day period;
  10. An applicant who is applying for a Game Bird Hobby or Game Bird Shooting Preserve license shall also provide a detailed description or diagram of the facilities where the applicant will hold captive pen-reared game birds and a description of how the facilities comply with the requirements established under R12-4-428 and any other captivity standards established under this Section;
  11. Any other information required by the Department; and
  12. The certification required under R12-4-409(B).
- F.** An applicant for a game bird license shall pay all applicable fees ~~established~~ required under R12-4-412.
- G.** A game bird license holder shall:
1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
  2. Allow the Department to conduct inspections of an applicant's or license holder's facility and records at any time before or during the license period to determine compliance with the requirements of this Article. The Department shall comply with A.R.S. § 41-1009 when conducting inspections at a license holder's facility.
  3. Possess the license or legible copy of the license while conducting any activity authorized under the game

- bird license and present it for inspection upon the request of any Department employee or agent.
4. Ensure each shipment of captive pen-reared game birds imported into the state is accompanied by a health certificate.
    - a. The certificate shall be issued no more than 30 days prior to the date on which the game birds are shipped.
    - b. A copy of the certificate shall be submitted to the Department prior to importation.
  5. Provide each person who transports captive pen-reared game birds taken under the game bird license with documentation that includes all of the following:
    - a. Name of the game bird license holder;
    - b. Game bird license number;
    - c. Date the captive pen-reared game bird was obtained;
    - d. Number of captive pen-reared game birds, by species; and
    - e. When the captive pen-reared game birds are being shipped:
      - i. Name of the person or common carrier transporting the shipment, and
      - ii. Name of the person receiving the shipment.
  6. Maintain records of all captive pen-reared game birds possessed under the license for a period of ~~three~~ five years. In addition to the information required under subsections (G)(5)(a) through (G)(5)(b), the records shall also include:
    - a. The game bird license holder's:
      - i. Name;
      - ii. Mailing address;
      - iii. Telephone number; and
      - iv. Special license number;
    - b. Copies of the annual report required under subsection (H);
  7. Dispose of captive pen-reared game birds only as authorized under this Section or as directed by the Department.
  8. Conduct license activities solely at the locations and within the timeframes approved by the Department. A Game Bird License holder may request permission to amend the license to conduct activities authorized under the license at an additional location by submitting the application required under subsection (E) to the Department.
- H.** A game bird license holder shall submit an annual report to the Department before January 31 of each year for the previous calendar year. The report form is furnished by the Department.
1. A report is required regardless of whether or not activities were performed during the previous year.
  2. The game bird license becomes invalid if the annual report is not submitted to the Department by January 31 of each year.
  3. The Department shall not process the special license holder's renewal application until the annual report is received by the Department.
  4. The annual report shall include all of the following information, as applicable:

- a. Number of all captive pen-reared game birds, by species and the date obtained;
  - b. Source of all captive pen-reared game birds and the date obtained;
  - c. Number of offspring propagated by all captive pen-reared game birds; and
  - d. For all captive pen-reared game birds disposed of by the license holder:
    - i. Number, species, and date of disposition; and
    - ii. Manner of disposition to include the names and addresses of persons to whom the wildlife was bartered, given, or sold, when authorized.
- I.** A game bird license holder shall comply with the requirements established under R12-4-428.
- J.** A game bird released under a game bird license and found outside of the location specified on the license shall become property of the State and is subject to the requirements prescribed under A.R.S. Title 17 and 12 A.A.C. 4, Article 3.

**R12-4-417. Wildlife Holding License**

- A.** A wildlife holding license authorizes a person to display for educational purposes, euthanize, export, give away, import, photograph for commercial purposes, possess, propagate, purchase, or transport, restricted and nonrestricted live wildlife lawfully:
- 1. Held under a valid hunting or fishing license for a purpose listed under subsection (C),
  - 2. Collected under a valid scientific ~~collecting~~ activity license issued under R12-4-418,
  - 3. Obtained under a valid wildlife rehabilitation license issued under R12-4-423,
  - 4. Or as otherwise authorized by the Department.
- B.** A wildlife holding license expires on the last day of the third December 31 of each year from the date of issuance, or, if the license holder is a representative of an institution, organization, or agency described under subsection (C)(4), upon termination of the license holder's affiliation with that entity, whichever comes first.
- C.** A wildlife holding license is valid for the following purposes, only:
- 1. Advancement of science;
  - 2. Lawfully possess restricted or nonrestricted live wildlife when it is:
    - a. Necessary to give humane treatment to ~~restricted~~ live wildlife that ~~has been abandoned or permanently disabled~~ is declared unsuitable for release by a licensed veterinarian, and is therefore unable to meet its own needs in the wild; or
    - b. Previously possessed under another special license and the primary purpose for that special license no longer exists;
  - 3. Promotion of public health or welfare;
  - 4. Provide education under the following conditions:
    - a. The applicant is an educator affiliated or partnered with an educational ~~organization~~ institution; and
    - b. The educational ~~organization~~ institution permits the use of live wildlife.
  - 5. Photograph for a commercial purpose live wildlife provided:
    - a. The wildlife will be photographed without posing a threat to other wildlife or the public, and

- b. The photography will not adversely impact other affected wildlife in this state, or
6. Wildlife management.
- D.** The Department shall deny an application for a wildlife holding license for the possession of cervids.
  - E.** In addition to the requirements established under this Section, a wildlife holding license holder shall comply with the special license requirements established under R12-4-409.
  - F.** The license holder shall be responsible for compliance with all applicable regulatory requirements. The wildlife holding license does not:
    - 1. Exempt the license holder or their agent from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
    - 2. Authorize the license holder or their agent to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.
  - G.** The Department shall deny a wildlife holding license to a person who fails to meet the requirements established under R12-4-409 or this Section, or when the person's wildlife holding privileges are suspended or revoked in any state. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10. In addition to the requirements and criteria established under R12-4-409(F)(1) through (4), the Department shall deny a wildlife holding when:
    - 1. It is in the best interest of public health or safety or the welfare of the wildlife; or
    - 2. The issuance of the license will adversely impact other wildlife or their habitat in the state.
  - H.** ~~A person applying~~ An applicant for a wildlife holding license shall submit an application to the Department. A separate application is required for each location where the applicant proposes to use wildlife. The application is furnished by the Department and is available at any Department office and ~~online at www.azgfd.gov~~ on the Department's website. The applicant shall provide the following information:
    - 1. The applicant's information:
      - a. Name;
      - b. Mailing address;
      - c. Telephone number; and
      - d. Department ID number, when applicable;
    - 2. If the applicant will use the wildlife for a commercial purpose, the applicant's business:
      - a. Name;
      - ~~b. Federal Tax Identification Number;~~
      - ~~e-b.~~ Mailing address; and
      - ~~d-c.~~ Telephone number;
    - 3. If the applicant will use wildlife for activities authorized by ~~an educational or~~ a scientific institution that employs, contracts, or is similarly affiliated with the applicant, the institution's:

- a. Name;
  - b. Mailing address; and
  - c. Telephone number;
4. For wildlife to be used under the license:
    - a. Common name of the wildlife species;
    - b. Number of animals for each species;
    - c. When the application is for the use of multiple species, the applicant shall list each species and the number of animals for each species; and
    - d. When the applicant is renewing the wildlife holding license, the species and number of animals for each species currently held in captivity under the license;
  5. For wildlife to be used for educational purposes:
    - a. The affiliated educational institution's:
      - i. Name;
      - ~~ii. Federal Tax Identification Number;~~
      - ~~iii.ii.~~ Mailing address; and
      - ~~iv.iii.~~ Telephone number of the educational institution;
    - b. A copy of the established curriculum utilizing sound educational objectives; and
    - c. A plan for how the applicant will address any safety concerns associated with the use of live wildlife in a public setting.
  6. For each location where the applicant proposes to hold the wildlife, the owner's:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number; and
    - d. Physical address or general location description ~~to include the~~ and Global Positioning System location ~~or Universal Transverse Mercator coordinates;~~
  7. A detailed description and diagram, or photographs, of the facilities where the applicant will hold the wildlife and a description of how the facilities comply with the requirements established under R12-4-428, and any other captivity standards that may be established under this Section;
  8. The dates that the applicant will begin and end holding wildlife;
  9. A clear description of how the applicant intends to dispose of the wildlife once the proposed activity for which the license was issued ends;
  10. Any other information required by the Department; and
  11. The certification required under R12-4-409(C).
  12. For subsection (H)(7), the Department may, at its discretion, accept documented current certification or approval by the applicant's institutional animal care and use committee or similar committee in lieu of the description, diagram, and photographs of the facilities.
- I. In addition to the requirements listed under subsection (H), at the time of application, an applicant for a wildlife

holding license shall also submit:

1. Evidence of lawful possession, as defined under R12-4-401;
2. A statement of the applicant's experience in handling and providing care for the wildlife to be held or experience relevant to handling or providing care for wildlife;
3. A written proposal that contains all of the following information:
  - a. A detailed description of the activity the applicant intends to perform under the license;
  - b. Purpose for the proposed activity;
  - c. The contribution the proposed activity will make to one or more of the primary purposes listed under subsection (C).
  - d. For an applicant who wishes to possess restricted or nonrestricted live wildlife for the purpose of providing humane treatment, a written explanation stating why the wildlife is unable to meet its own needs in the wild and the following information for the licensed veterinarian who will provide care for the wildlife:
    - i. Name;
    - ii. Mailing address; and
    - iii. Telephone number;

**J.** An applicant for a wildlife holding license shall pay all applicable fees required under R12-4-412.

**K.** A wildlife holding license holder shall:

1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
2. Maintain records associated with the license for a period of five years following the date of disposition.
- ~~2.3.~~ Allow the Department to conduct inspections of an applicant's or license holder's facility and records at any time before or during the license period to determine compliance with the requirements of this Article. The Department shall comply with A.R.S. § 41-1009 when conducting inspections at a license holder's facility.
- ~~3.4.~~ Possess the license or legible copy of the license while conducting any activity authorized under the wildlife holding license and presents it for inspection upon the request of any Department employee or agent.
- ~~4.5.~~ Permanently mark any restricted live wildlife used for lawful activities under the authority of the license, when required by the Department.
- ~~5.6.~~ Ensure that a copy of the license accompanies any transportation or shipment of wildlife made under the authority of the license.
- ~~6.7.~~ Surrender wildlife held under the license to the Department upon request.

**L.** A wildlife holding license holder shall submit an annual report to the Department before January 31 of each year for the previous calendar year or as indicated under subsection (O). The report form is furnished by the Department.

1. A report is required regardless of whether or not activities were performed during the previous year.
2. The wildlife holding license becomes invalid if the annual report is not submitted to the Department by January 31 of each year.

3. The Department will not process the special license holder's renewal application until the annual report is received by the Department.
  4. The annual report shall include all of the following information, as applicable:
    - a. A list of animals held during the year, the list shall be by species and include the source and date on which the wildlife was acquired.
    - b. The permanent mark or identifier of the wildlife, such as name, number, or another identifier for each animal held during the year, when required by the Department. This designation or identifier shall be provided with other relevant reported details for the holding or disposition of the individual animal;
    - c. Whether the wildlife is alive or dead.
    - d. The current location of the wildlife.
    - e. A list of all educational displays where the wildlife was utilized to include the date, location, ~~organization~~ institution or audience, approximate attendance, and wildlife used.
- M.** A wildlife holding license holder may authorize an agent to assist the license holder in conducting activities authorized under the wildlife holding license, provided the agent's wildlife privileges are not suspended or revoked in any state.
1. The license holder shall obtain written authorization from the Department before allowing a person to act as an agent.
  2. The license holder shall notify the Department in writing within 10 calendar days of terminating any agent.
  3. The Department may suspend or revoke the license holder's license if an agent violates any requirement of this Section or Article or any stipulations placed upon the license.
  4. An agent may possess wildlife for the purposes outlined under subsection (C), under the following conditions;
    - a. The agent shall possess evidence of lawful possession, as defined under R12-4-401, for all wildlife possessed by the agent;
    - b. The agent shall return the wildlife to the primary license holder's facility within two days of receiving the wildlife.
- N.** A wildlife holding license holder or their agent shall not barter, give as a gift, loan for commercial activities, offer for sale, sell, trade, or dispose of any restricted or nonrestricted live wildlife, offspring of restricted or nonrestricted live wildlife, or their parts except as stipulated on the wildlife holding license or as directed in writing by the Department.
- O.** A wildlife holding license is no longer valid once the primary purpose for which the license was issued, as prescribed in subsection (C), no longer exists. When this occurs, the wildlife holding license holder shall immediately submit the annual report required under (L) to the Department.
- P.** A wildlife license holder shall comply with the requirements established under R12-4-409, R12-4-428, and R12-4-430.

**R12-4-418. Scientific ~~Collecting~~ Activity License**

- A.** A scientific ~~collecting~~ activity license allows a person to conduct any of the following activities with ~~live~~ wildlife

when specified on the license:

1. Capture, hold, and release wildlife as directed by the Department,
  2. Collection of dead wildlife,
  3. Display,
  - 2-4. Photograph for noncommercial purposes,
  - 3-5. Possess,
  - 4-6. Propagate,
  - 5-7. Take of live wildlife,
  - 6-8. Transport, and
  - 7-9. Use for educational purposes.
- B.** The Department issues ~~three~~ five types of scientific collecting licenses:
1. ~~Personal~~ Academic institution,
  2. ~~Consultant, and~~
  - 3-2. Government agency, which includes educational and research institutions.
  3. Non-governmental organization,
  4. Nonprofit organization, and
  5. Personal.
- C.** A person may apply for a scientific ~~collecting activity~~ license only when the license is requested for:
1. The purpose of wildlife management, gathering information valuable to the maintenance of wild populations, education, the advancement of science, or promotion of the public health or welfare;
  2. A purpose that is in the best interest of the wildlife or the species, will not adversely impact other affected wildlife in this state, and may be authorized without posing a threat to wildlife or public safety; and
  3. A purpose that does not unnecessarily duplicate previously documented projects.
- D.** A scientific ~~collecting activity~~ license expires on December 31 of each year.
- E.** For the protection of wildlife or public safety, the Department has the authority to take any one or more of the following actions:
1. Rescind or modify any method of take authorized by the license;
  2. Restrict the number of animals for each species or other taxa the license holder may take under the license;
  3. Restrict the age, condition, or location of wildlife the license holder may take under the license; or
  4. Deny or substitute the number of specimens and taxa requested on an application.
- F.** The license holder shall be responsible for compliance with all applicable regulatory requirements. The scientific ~~collecting activity~~ license does not:
1. Exempt the license holder or their agent from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
  2. Authorize the license holder or their agent to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special

license.

- G.** The Department may deny a scientific ~~collecting activity~~ license to a person who fails to meet the requirements established under R12-4-409 or this Section, or when the person's scientific ~~collecting activity~~ privileges are suspended or revoked in any state. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10. In addition to the requirements and criteria established under R12-4-409(F)(1) through (4), the Department shall deny a scientific ~~collecting activity~~ license when:
1. It is in the best interest of the wildlife or public safety.
  2. The issuance of the license will adversely impact other wildlife or their habitat in the state; or
  3. It is in the best interest of public health or safety.
- H.** ~~A person applying~~ An applicant for a scientific ~~collecting activity~~ license shall submit an application to the Department. ~~A separate application is required for each location where the applicant proposes to use wildlife.~~ The application is furnished by the Department and is available from any Department office, and ~~online at~~ [www.azgfd.gov](http://www.azgfd.gov) on the Department's website. A person applying for a scientific ~~collecting activity~~ license shall provide the following information on the application:
1. The applicant's information:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number; and
    - d. Department ID number; when applicable;
  2. If the applicant will use wildlife for activities ~~authorized~~ supported by a scientific, educational, or government institution, nonprofit organization, or agency that employs, contracts, or is similarly affiliated with the applicant, the applicant shall provide the institution's:
    - a. Name;
    - ~~b. Federal Tax Identification Number;~~
    - ~~e-b.~~ b. Mailing address;
    - ~~d-c.~~ c. Telephone number of the institution; and
    - ~~e-d.~~ d. The applicant's title or a description of the nature of affiliation with the institution or nonprofit organization;
  3. When the applicant is renewing the scientific ~~collecting activity~~ license, the species and number of animals for each species currently held in captivity;
  4. For each ~~the~~ location where the live wildlife will be held, the land owner's:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number; and
    - d. Physical address or general location description ~~to include the~~ and Global Positioning System location ~~or Universal Transverse Mercator coordinates;~~

5. A detailed description and diagram, ~~or~~ photographs, or documented current certification or approval by the applicant's institutional animal care and use committee or similar committee of the facilities of the facilities where the applicant will hold the wildlife and a description of how the facilities comply with the requirements established under R12-4-428, and any other captivity standards that may be established under this Section;
  6. List of activities the applicant intends to perform under the license;
  7. Purpose and justification for the use of wildlife as established under subsection (B);
  8. When the applicant intends to use wildlife for educational purposes, the proposal shall also include the:
    - a. Minimum number of presentations the applicant anticipates to provide under the license;
    - b. Name, title, address, and telephone number of persons whom the applicant has contacted to offer educational presentations; and
    - c. Number of specimens the applicant already possesses for any species requested on the application;
  9. Applicant's relevant qualifications and experience in handling and, when applicable, providing care for the wildlife to be held under the license;
  10. Methods of take that the applicant will use, to include:
    - a. Justification for using the method, and
    - b. Proposed method of disposing wildlife taken under the license and any subsequent offspring, when applicable;
  - ~~6.11. Any other information required by the Department; and~~
  - ~~7.12. The certification required under R12-4-409(C).~~
  - ~~8. For subsection (H)(5), the Department may, at its discretion, accept documented current certification or approval by the applicant's institutional animal care and use committee or similar committee in lieu of the description, diagram, and photographs of the facilities.~~
- I.** ~~In addition to the requirements listed under subsection (H), at the time of application, an applicant for a scientific collecting license shall also submit a written proposal. The written proposal shall contain all of the following information:~~
- ~~1. List of activities the applicant intends to perform under the license;~~
  - ~~2. Purpose for the use of wildlife as established under subsection (C);~~
  - ~~3. When the applicant intends to use wildlife for educational purposes, the proposal shall also include the:~~
    - ~~a. Minimum number of presentations the applicant anticipates to provide under the license~~
    - ~~b. Name, title, address, and telephone number of persons whom the applicant has contacted to offer educational presentations; and~~
    - ~~e. Number of specimens the applicant already possesses for any species requested on the application;~~
  - ~~4. Applicant's relevant qualifications and experience in handling and, when applicable, providing care for the wildlife to be held under the license;~~
  - ~~5. Methods of take that the applicant will use, to include:~~
    - ~~a. Justification for using the method, and~~
    - ~~b. Proposed method of disposing wildlife taken under the license and any subsequent offspring, when~~

applicable;

6. ~~Number of animals for each species that will be used under the license;~~
7. ~~Locations where collection will take place;~~
8. ~~Names and addresses of any agents who will assist the applicant in carrying out the activities described in the proposal.~~
9. ~~Project completion date; and~~
10. ~~Whether the applicant intends to publish the project or its findings.~~

**J.** An applicant for a scientific ~~collecting~~ collecting activity license shall pay all applicable fees required under R12-4-412.

**K.** A scientific ~~collecting~~ collecting activity license holder shall:

1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
2. Possess the license or legible copy of the license while conducting any activity authorized under the scientific ~~collecting~~ collecting activity license and presents it for inspection upon the request of any Department employee or agent.
3. Notify the Department in writing within 10 calendar days of terminating any agent.
4. Use the most humane and practical method possible prescribed under R12-4-304, R12-4-313, or as directed by the Department in writing.
5. Conduct activities authorized under the scientific ~~collecting~~ collecting activity license only at the locations and time periods specified on the scientific ~~collecting~~ collecting activity license.
6. Dispose of wildlife, wildlife parts, or offspring, only as directed by the Department.
7. Maintain records associated with the license for a period of five years following the date of disposition.

**L.** A scientific ~~collecting~~ collecting activity license holder shall not exhibit

1. Exhibit any wildlife held under the license, unless the person also possesses a zoo license authorized under R12-4-420.
2. Administer any drug to any wildlife during the term of the scientific activity license without advance written authorization from the Department, unless the drug is administered in the course of treatment by a licensed veterinarian.

**M.** A scientific ~~collecting~~ collecting activity license holder may request authorization to allow an agent to assist the license holder in carrying out activities authorized under the scientific ~~collecting~~ collecting activity license by submitting a written request to the Department.

1. An applicant may request the ability to allow a person to act as an agent on the applicant's behalf, provided:
  - a. An employment or supervisory relationship exists between the applicant and the agent, and
  - b. The agent's privilege to take or possess live wildlife is not suspended or revoked in any state.
2. The license holder shall obtain approval from the Department prior to allowing the agent assist in any activities.
3. The license holder is liable for all acts the agent performs under the authority of this Section.
4. The Department, acting on behalf of the Commission, may suspend or revoke a license for violation of this

Section by an agent.

5. The license holder shall ensure the agent possesses a legible copy of the license while conducting any activity authorized under the scientific ~~collecting~~ activity license and presents it for inspection upon the request of any Department employee or agent.
- N.** A scientific ~~collecting~~ activity license holder may submit to the Department a written request to amend the license to add or delete an agent, location, project, or other component documented on the license at any time during the license period.
- O.** A scientific ~~collecting~~ activity license holder shall submit an annual report to the Department before January 31 of each year. The report form is furnished by the Department.
1. A report is required regardless of whether or not activities were performed during the previous year.
  2. The scientific ~~collecting~~ activity license becomes invalid if the annual report is not submitted to the Department by January 31 of each year.
  3. The Department will not process the special license holder's renewal application until the annual report is received by the Department.
  4. The Department may stipulate submission of additional interim reports upon license application or renewal.
- P.** A scientific ~~collecting~~ activity license holder who wishes to permanently hold wildlife species collected under the license in Arizona that will no longer be used for activities authorized under the license shall apply for and obtain a wildlife holding license in compliance with R12-4-417 or another appropriate special license.

**R12-4-420. Zoo License**

- A.** A zoo license allows a person to exhibit, export, euthanize, display for educational purposes, give away, import, offer for sale, possess, propagate, purchase, sell, or transport any lawfully possessed restricted and nonrestricted live wildlife.
- B.** A person may apply for a zoo license only ~~when the license is requested~~ for a commercial facility open to the public where the principal business is holding wildlife in captivity for exhibition purposes and for one or more of the following purposes:
1. Advancement of science or wildlife management,
  2. Promotion of public health or welfare;
  3. Public education; or
  4. Wildlife conservation.
- C.** A zoo license expires on the last day of the third December ~~31 of each year~~ from the date of issuance.
- D.** In addition to the requirements established under this Section, a zoo license holder shall comply with the special license requirements established under R12-4-409.
- E.** The zoo license holder shall be responsible for compliance with all applicable regulatory requirements; the ~~zoo~~ license does not:
1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or

2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.
- F. The Department shall deny a zoo license to a person who fails to meet the requirements established under R12-4-409 or this Section. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10. In addition to the requirements and criteria established under R12-4-409(F)(1) through (4), the Department shall deny a zoo license when:
1. It is in the best interest of the wildlife; or
  2. The issuance of the license will adversely impact other wildlife or their habitat in the state;
- G. ~~A person applying~~ An applicant for a zoo license shall submit an application to the Department. ~~A separate application is required for each location where the applicant proposes to use wildlife.~~ The application is furnished by the Department and is available from any Department office, and online at [www.azgfd.gov](http://www.azgfd.gov) on the Department's website. An applicant shall provide the following information on the application:
1. The applicant's information:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number;
    - ~~d. Federal Tax Identification Number;~~ and
    - e.d. Department ID number, when applicable;
  2. If the applicant ~~will use wildlife for activities authorized by an~~ is employed by, contracted with, or affiliated with an educational or scientific institution ~~that employs, contracts, or is similarly affiliated with the applicant,~~ the applicant shall provide the institution's:
    - a. Name;
    - ~~b. Federal Tax Identification Number;~~
    - e-b. Mailing address;
    - ~~d-c.~~ Telephone number;
  3. Wildlife species to be held under the license;
    - a. Common and current scientific name of the wildlife species; and
    - b. Number of ~~animals~~ individuals for each species;
  4. If the applicant is renewing the zoo license, the number of animals of each species that are currently in captivity, and evidence of lawful possession as defined under R12-4-401;
  5. For each location where the wildlife will be ~~used~~ exhibited, the land owner's:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number; and
    - d. Physical address or general location description ~~to include the~~ and Global Positioning System location

~~or Universal Transverse Mercator coordinates;~~

6. A detailed description and diagram of the facilities where the applicant will hold the wildlife and a description of how the facilities comply with the requirements established under R12-4-428;
  7. A description of how the facility or operation meets the definition of a zoo, as defined under A.R.S. § 17-101(A)(26);
  8. The purpose of the license, as described under subsection (B);
  - ~~7-9.~~ Any other information required by the Department; and
  - ~~8-10.~~ The certification required under R12-4-409(C).
- H.** In addition to the requirements listed under subsection (G), an applicant for a zoo license shall also submit at the time of application:
- ~~1.~~ ~~A written proposal that contains the following:~~
    - ~~a. A description of how the facility or operation meets the definition of a zoo, as defined under A.R.S. § 17-101; and~~
    - ~~b. The purpose of the license, as established under subsection (B);~~
  - ~~2-1.~~ Proof of current licensing by the United States Department of Agriculture under 9 C.F.R. ~~Subchapter Subpart~~ Subpart A, Animal Welfare;
  - ~~3-2.~~ Photographs of the facility when the zoo is not accredited by the Association of Zoos and Aquariums or Zoological Association of America.
  - ~~4-3.~~ For subsection ~~(H)(2)~~, (H)(1), 9 C.F.R. ~~Subchapter Subpart~~ Subpart A, Animal Welfare revised January 1, ~~2012~~ 2019, and no later amendments or editions, which is incorporated by reference. The incorporated material is available from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000, and is on file with the Department.
- I.** An applicant for a zoo license shall pay all applicable fees ~~established~~ required under R12-4-412.
- J.** A zoo license holder shall:
1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
  2. Allow the Department to conduct inspections of an applicant's or license holder's facility and records at any time before or during the license period to determine compliance with the requirements of this Article. The Department shall comply with A.R.S. § 41-1009 when conducting inspections at a license holder's facility.
  3. Ensure each facility is inspected by the attending veterinarian at least once every year.
  4. Hold all wildlife in such a manner designed to prevent wildlife from escaping from the facility specified on the license.
  5. Hold all wildlife in a manner designed to prevent the entry of unauthorized persons or other wildlife.
  6. Hold all wildlife lawfully possessed under the zoo license in the facility specified on the license, except when transporting the wildlife:
    - a. To or from a temporary exhibit;
    - b. For medical treatment; or

- c. Other activities approved by the Department in writing.
- 7. Ensure a temporary exhibit shall not exceed 60 consecutive days at any one location, unless approved by the Department in writing.
- 8. Clearly display a sign at the facility's main entrance that states the days of the week and hours when the facility is open for viewing by the general public.
- 9. Ensure all wildlife held under the license that has the potential to come into contact with the public is tested for zoonotic diseases appropriate to the species no more than 12 months prior to importation or display. Any wildlife that tests positive for a zoonotic disease shall not be imported into this state without review and approval by the Department in writing.
- 10. Dispose of the following wildlife only as directed by the Department:
  - a. Wildlife obtained under a scientific ~~collecting permit~~ activity license; or
  - b. Wildlife loaned to the zoo by the Department.
- 11. Maintain records of all wildlife possessed under the license for a period of ~~three~~ five years following the date of disposition. In addition to the information required under subsections (H)(1) through (H)(3), the records shall also include:
  - a. Number of all restricted live wildlife, by species and the date it was obtained;
  - b. Source of all restricted live wildlife and the date it was obtained;
  - c. Number of offspring propagated by all restricted live wildlife; and
  - d. For all restricted live wildlife disposed of by the license holder:
    - i. Number, species, and date of disposition; and
    - ii. Method of disposition.
- K.** A zoo license holder shall not:
  - 1. Accept any wildlife that is donated, purchased, or otherwise obtained without accompanying evidence of lawful possession.
  - 2. Import into this state any wildlife that may come into contact with the public and tests positive for zoonotic disease, as established under subsection (J)(9).
- L.** A zoo license holder shall dispose of restricted live wildlife in this state by:
  - 1. Giving, selling, or trading the wildlife to:
    - a. Another zoo licensed under this Section;
    - b. An appropriate special license holder or appropriately licensed or permitted facility in another state or country authorized to possess the wildlife being disposed;
  - 2. Giving selling, or donating the wildlife to a medical or scientific research facility exempt from special license requirements under R12-4-407;
  - 3. Exporting the wildlife to a zoo certified by the Association of Zoos and Aquariums or Zoological Association of America; or
  - 4. As otherwise directed by the Department.
- M.** A zoo license holder shall submit an annual report to the Department before January 31 of each year for the

previous calendar year. The report form is furnished by the Department.

1. A report is required regardless of whether or not activities were performed during the previous year.
  2. The zoo license becomes invalid if the annual report is not submitted to the Department by January 31 of each year.
  3. The Department will not process the special license holder's renewal application until the annual report is received by the Department.
  4. The report shall summarize the current species inventory, and acquisition and disposition of all wildlife held under the license.
- N. A zoo license holder shall request the authority to possess a new species of restricted live wildlife by submitting a written request to the Department prior to acquisition, unless the wildlife was:
1. Held under the previous year's zoo license and included in the previous annual report, or
  2. Authorized in advance by the Department in writing.
- O. A zoo license holder shall comply with the requirements established under R12-4-409, R12-4-426, R12-4-428, and R12-4-430, as applicable.

#### **R12-4-421. Wildlife Service License**

- A. A wildlife service license authorizes a person to provide, advertise, or offer assistance in removing the live wildlife listed below to the general public. For the purposes of this Section, the following wildlife, as defined under A.R.S. § 17-101(B), are designated live wildlife:
1. Furbearing animals;
  2. Javelina (*Pecari tajacu*);
  3. Nongame animals;
  4. Predatory animals; and
  5. Small game.
- B. A wildlife service license is not required when conducting pest control removal services authorized under A.R.S. § Title ~~323~~, Chapter ~~2220~~ for the following wildlife not protected under federal regulation:
1. Rodents, except those in the family Sciuridae;
  2. European starlings (*Sturnus vulgaris*);
  3. ~~Peach~~ Rosy-faced lovebirds ~~lovebirds~~ (*Agapornis roseicollis*);
  4. House sparrows (*Passer domesticus*);
  5. Eurasian collared-doves (*Streptopelia decaocto*); ~~and~~
  6. Rock pigeons (*Columba livia*); ~~and~~
  - ~~6.7.~~ Any other non-native wildlife species.
- C. A wildlife service license allows a person to conduct activities that facilitate the removal and relocation of live wildlife listed under subsection (A) when the wildlife causes a nuisance, property damage, poses a threat to public health or safety, or if the health or well-being of the wildlife is threatened by its immediate environment. Authorized activities include, but are not limited to, capture, removal, transportation, and relocation.

- D. The wildlife service license expires on the last day of the third December ~~31 of each year~~ from the date of issuance.
- E. An employee of a governmental public safety agency is not required to possess a wildlife service license when the employee is acting within the scope of the employee's official duties.
- F. In addition to the requirements established under this Section, a wildlife service license holder shall comply with the special license requirements established under R12-4-409.
- G. The wildlife service license holder shall be responsible for compliance with all applicable regulatory requirements; the ~~wildlife service~~ license does not:
1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
  2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.
- H. The Department shall deny a wildlife service license to a person who fails to meet the requirements established under R12-4-409 or this Section or when the person's wildlife service privileges are suspended or revoked in any state. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.
- I. ~~A person applying~~ An applicant for a wildlife service license shall submit an application to the Department. The application is furnished by the Department and is available from any Department office and ~~online at~~ www.azgfd.gov on the Department's website. An applicant shall provide the following information on the application:
1. The applicant's information:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number;
    - d. Physical description, to include the applicant's eye color, hair color, height, and weight; and;
    - e. Department ID number, when applicable;
  2. If the applicant will perform license activities for a commercial purpose, the applicant's business:
    - a. Name;
    - ~~b. Federal Tax Identification Number;~~
    - ~~e.b.~~ Mailing address;
    - ~~d.c.~~ Telephone number; and
    - ~~e.d.~~ Hours and days of the week the applicant will be available for service;
  3. The designated wildlife species or groups of species listed under subsection (A) that will be ~~used~~ removed under the license;
  4. The methods that the wildlife license holder will use to perform authorized activities;
  5. The general geographic area where services will be performed;

6. Any other information required by the Department; and
  7. The certification required under R12-4-409(C).
- J.** In addition to the requirements listed under subsection (I), at the time of application, an applicant for a wildlife service license shall also submit:
1. Proof the applicant has a minimum of six months full-time employment or volunteer experience handling wildlife of the species or groups designated on the application; and
  2. A written proposal that contains all of the following information:
    - a. Applicant's experience in the capture, handling, and removal of wildlife;
    - b. Specific species the applicant has experience capturing, handling, or removing;
    - c. General location and dates when the activities were performed;
    - d. Methods used to carry out the activities; ~~and~~
    - e. The methods used to dispose of the wildlife.
- K.** When renewing a license without change to the species or species groups authorized under the current license, the wildlife service license holder may reference supporting materials previously submitted in compliance with subsection (J).
- L.** An applicant for a wildlife service license shall pay all applicable fees ~~established~~ required under R12-4-412.
- M.** A wildlife service license holder shall:
1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
  2. Facilitate the removal and relocation of designated wildlife in a manner that:
    - a. Is least likely to cause injury to the wildlife; and
    - b. Will prevent the wildlife from coming into contact with the general public.
  3. Obtain special authorization from the Department regional office that has jurisdiction over the area where the activities will be conducted when performing any activities involving javelina.
  4. Release captured designated wildlife only as follows:
    - a. Without immediate threat to the animal or potentially injurious contact with humans;
    - b. During an ecologically appropriate time of year;
    - c. Into a suitable habitat;
    - d. In the same geographic area as the animal was originally captured, except that birds may be released at any location statewide within the normal range of that species in an ecological suitable habitat; and
    - e. In an area designated by the Department regional office that has jurisdiction over the area where it was captured.
  5. Euthanize the wildlife using the safest, quickest, and most humane method available.
  6. Dispose of all wildlife that is euthanized or that otherwise dies while possessed under the license by burial or incineration within 30 days of death, unless otherwise directed by the Department.
  7. Possess the license or legible copy of the license while conducting any wildlife service activity and presents it for inspection upon the request of any Department employee or agent.

8. Inform the Department in writing within five working days of any change in telephone number, area of service, or business hours or days.
  9. Maintain records associated with the license for a period of five years following the date of disposition.
- N.** A wildlife service license holder may submit to the Department a written request to amend the license to add or delete authority to control and release designated species of wildlife, provided the request meets the requirements of this Section.
- O.** A wildlife service license holder shall not:
1. Exhibit wildlife or parts of wildlife possessed under the license.
  2. Possess designated wildlife beyond the period necessary to transport and relocate or euthanize the wildlife.
  3. Retain any parts of wildlife.
- P.** A wildlife service license holder may:
1. Euthanize designated wildlife only when authorized by the Department.
  2. Give injured or orphaned wildlife to a wildlife rehabilitation license holder.
- R.** A wildlife service license holder shall submit an annual report to the Department before January 31 of each year on activities performed under the license for the previous calendar year. The report form is furnished by the Department.
1. A report is required regardless of whether or not activities were performed during the previous year.
  2. The wildlife service license becomes invalid if the annual report is not submitted to the Department by January 31 of each year.
  3. The Department will not process the special license holder's renewal application until the annual report is received by the Department.
  4. The annual report shall provide a list of all services performed under the license to include:
    - a. The date and location of service;
    - b. The number and species of wildlife removed, and
    - c. The method of disposition for each animal removed, including the location and date of release.
- S.** A wildlife service license holder shall comply with the requirements established under R12-4-409 and R12-4-428.

**R12-4-422. Sport Falconry License**

- A.** In addition to the definitions provided under A.R.S. § 17-101, R12-4-101, and R12-4-401, and for the purposes of this Section, the following definitions apply:

"Abatement" means the use of a trained raptor to scare, flush, or haze wildlife to manage depredation or other damage, including threats to human health and safety, caused by the wildlife.

~~"Abatement services" means the use of raptors possessed under a falconry permit for the control of nuisance species.~~

"Captive-bred raptor" means a raptor hatched in captivity.

"Hack" means the temporary release of a raptor into the wild to condition the raptor for use in falconry.

"Hybrid" has the same meaning as prescribed under 50 C.F.R. 21.3, revised October 1, ~~2013~~ 2019. This incorporation by reference contains no future editions or amendments. The incorporated material is available at any Department office, online at [www.gpoaccess.gov](http://www.gpoaccess.gov) [www.gpo.gov](http://www.gpo.gov), or may be ordered from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000.

"Imping" means using a molted feather to replace or repair a damaged or broken feather.

"Imprint" has the same meaning as prescribed under 50 C.F.R. 21.3, revised October 1, 2019. This incorporation by reference contains no future editions or amendments. The incorporated material is available at any Department office, online at [www.gpo.gov](http://www.gpo.gov), or may be ordered from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000.

"Retrices" means a raptor's tail feathers.

"Sponsor" means a licensed General or Master falconer with a valid Arizona Sport Falconry license who has committed to mentoring an Apprentice falconer.

"Suitable perch" means a perch that is of the appropriate size and texture for the species of raptor using the perch.

"Wild raptor" means a raptor taken from the wild, regardless of how long the raptor is held in captivity or whether the raptor is transferred to another licensed falconer or other permit type.

- B.** An Arizona Sport Falconry license permits a person to capture, possess, train, and transport a raptor for the purpose of sport falconry in compliance with the Migratory Bird Treaty Act and the Endangered Species Act of 1973.
1. The sport falconry license validates the appropriate license for hunting or taking quarry with a trained raptor. When taking quarry using a raptor, a person must possess a valid:
    - a. Sport falconry license, and
    - b. Appropriate hunting license.
  2. The sport falconry license is valid until the third December from the date of issuance.
  3. A licensed falconer may capture, possess, train, or transport wild, captive-bred, or hybrid raptors, subject to the limitations established under subsections (H)(1), (H)(2), and (H)(3), as applicable.
- C.** The Department shall comply with the licensing time-frame established under R12-4-106.
- D.** A resident who possesses or intends to possess a raptor for the purpose of sport falconry shall hold an Arizona Sport Falconry license, unless the person is exempt under A.R.S. § 17-236(C) or possesses only raptors not listed under 50 C.F.R. Part 10.13, revised October 1, ~~2014~~ 2019, and no later amendments or editions. The incorporated material is available from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000, and is on file with the Department.
- E.** In addition to the requirements established under this Section, a licensed falconer shall also comply with special license requirements established under R12-4-409.
- F.** The sport falconry license holder shall be responsible for compliance with all applicable regulatory requirements; the ~~sport falconry~~ license does not:
1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or

regulations;

2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license; or
  3. Authorize a licensed falconer to capture or release a raptor or practice falconry on public lands where prohibited or on private property without permission from the land owner or land management agency.
- G.** The Department shall deny a sport falconry license to a person who fails to meet the requirements established under R12-4-409, ~~R12-4-428~~, or this Section. The Department shall provide a written notice to an applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.
- H.** The Department may issue a Sport Falconry license for the following levels to an eligible person:
1. Apprentice level license:
    - a. An Apprentice falconer shall:
      - i. Be at least 12 years of age; and
      - ii. Have a written statement from a sponsor who is a licensed Master Falconer or a General Falconer while practicing falconry as an apprentice. The written statement shall meet the requirements established under subsection (K)(3)(a)(vi). When a sponsorship is terminated, the apprentice is prohibited from practicing falconry until a new sponsor is acquired. After acquiring a new sponsor, an apprentice shall submit a written statement from the new sponsor to the Department within 30 days. The written statement shall meet the requirements established under subsection (K)(3)(a)(vi).
    - b. An Apprentice falconer may possess only one raptor at a time for use in falconry.
    - c. An Apprentice falconer is prohibited from possessing any:
      - i. Species listed under 50 C.F.R. 17.11, revised October 1, ~~2014~~ 2019, and subspecies,
      - ii. Raptor taken from the wild as a nestling,
      - iii. Raptor that has imprinted on humans,
      - iv. Bald eagle (*Haliaeetus leucocephalus*),
      - v. White-tailed eagle (*Haliaeetus albicilla*),
      - vi. Steller's sea-eagle (*Haliaeetus pelagicus*), or
      - vii. Golden eagle (*Aquila chrysaetos*).
      - viii. For the purposes of subsection (H)(1)(c)(i), this incorporation by reference contains no future editions or amendments. The incorporated material is available at any Department office, online at [www.gpoaccess.gov](http://www.gpoaccess.gov) [www.gpo.gov](http://www.gpo.gov), or may be ordered from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000.
  2. General level license:
    - a. A General falconer shall:
      - i. Be at least 16 years of age; and
      - ii. Have submit a written statement provided by the Apprentice Falconer's sponsor, stating that the

General falconer practiced falconry as an apprentice falconer for at least two years, including maintaining, training, flying, and hunting with a raptor for at least four months in each year. An applicant cannot substitute any falconry school program or ~~educational program~~ education to shorten the two-year Apprentice period.

- b. A General falconer may possess ~~up to three raptors at a time for use in falconry;~~
    - i. Up to three raptors at a time for use in falconry; and
    - ii. Up to the total number of federally permitted or sub-permitted raptors as indicated on the Master falconer's respective federal abatement or propagation permit.
  - c. A General falconer is prohibited from possessing a:
    - i. Bald eagle,
    - ii. White-tailed eagle,
    - iii. Steller's sea-eagle, or
    - iv. Golden eagle.
3. Master level license:
- a. A Master falconer shall have practiced falconry as a General falconer for at least five years using raptors possessed by that falconer.
  - b. A Master falconer may possess:
    - i. Any species of wild, captive-bred, or hybrid raptor.
    - ii. Any number of captive-bred raptors provided they are trained and used in the pursuit of wild game; ~~and~~
    - iii. Up to three of the following species, provided the requirements established under subsection (H)(3)(d) are met: Golden eagle, White-tailed eagle, or Steller's Sea eagle; and
    - iv. Up to the total number of federally permitted abatement or propagation raptors as indicated on the Master falconer's respective federal abatement or propagation permit.
  - c. A Master falconer is prohibited from possessing:
    - i. More than three eagles
    - ii. A bald eagle, or
    - iii. More than five wild caught raptors.
  - d. A Master falconer who wishes to possess an eagle shall apply for and receive approval from the Department before possessing an eagle for use in falconry. The licensed falconer shall submit the following documentation to the Department before a request may be considered:
    - i. Proof the licensed falconer has experience in handling large raptors such as, but not limited to, ferruginous hawks (*Buteo regalis*) and goshawks (*Accipter gentilis*);
    - ii. Information regarding the raptor species, to include the type and duration of the activity in which the experience was gained; and
    - iii. Written statements of reference from two persons who have experience handling or flying large raptors such as, but not limited to, eagles, ferruginous hawks, and goshawks. Each written statement

shall contain a concise history of the author's experience with large raptors, and an assessment of the applicant's ability to care for and fly an eagle in falconry.

**I.** A sponsor shall:

1. Be at least 18 years of age;
2. Have practiced falconry as a Master or General falconer for at least two years;
3. Sponsor no more than three apprentices ~~during the same period of~~ at any one time;
4. Notify the Department within 30 consecutive days after a sponsorship is terminated;
5. Determine the appropriate species of raptor for possession by an apprentice; ~~and~~
6. Provide instruction to the Apprentice falconer pertaining to ~~the~~:
  - a. Husbandry, training, and trapping of raptors held for falconry;
  - b. Hunting with a raptor; and
  - c. Relevant wildlife laws and regulations.

**J.** A falconer licensed in another state or country is exempt from obtaining an Arizona Sport Falconry license under R12-4-407(B)(9), unless ~~remaining~~ the falconer remains in Arizona for more than 180 consecutive days. A falconer licensed in another state or country and who remains in this state for more than the 180-day period shall apply for an Arizona Sport Falconry license in order to continue practicing sport falconry in this state. The falconer licensed in another state or country shall present a copy of the out-of-state or out-of-country falconry license, or its equivalent, to the Department upon request.

1. A falconer licensed in another state shall:
  - a. Comply with all applicable state and federal falconry regulations,
  - b. Possess only those raptors authorized under the out-of-state sport falconry license, and
  - c. Provide a health certificate for each raptor possessed under the out-of-state sport falconry license when the raptor is present in this state for more than 30 consecutive days. The health certificate may be issued after the date of the interstate importation, but shall have been issued no more than 30 consecutive days prior to the interstate importation.
2. A falconer licensed in another country may possess, train, and use for falconry only those raptors authorized under the out-of-country sport falconry license, provided the import of that species into the United States is not prohibited. This subsection does not prohibit the falconer from flying or training a raptor lawfully possessed by any other licensed falconer.
3. A falconer licensed in another country is prohibited from leaving an imported raptor in this state, unless authorized under federal permit. The falconer shall report the death or escape of a raptor possessed by that falconer to the Department as established under subsection (O)(1) or prior to leaving the state, whichever occurs first.
4. A falconer licensed in another country shall:
  - a. Comply with all applicable state and federal falconry regulations;
  - b. Comply with falconry licensing requirements prescribed by the country of licensure not in conflict with federal or state law;

- c. Notify the Department no less than 30 consecutive days prior to importing a raptor into this state;
  - d. Provide a health certificate, issued no earlier than 30 consecutive days prior to the date of importation, for each raptor imported into this state; and
  - e. Attach two functioning radio transmitters to any raptor imported into this country by the falconer while flown free in this state by any falconer.
- K.** ~~A person applying~~ An applicant for a Sport Falconry license shall pass the examination required under subsection (N), ensure their raptor housing facility is inspected and meets the requirements established under subsection (M), and submit an application to the Department. The application is furnished by the Department and is available at any Department office and ~~online at [www.azgfd.gov](http://www.azgfd.gov) on the Department's website.~~
- 1. An applicant shall provide the following information on the application:
    - a. Falconry level desired;
    - b. Name;
    - c. Date of birth;
    - d. Mailing address;
    - e. Telephone number, when available;
    - f. Department I.D. number;
    - g. Applicant's physical description, to include the applicant's eye color, hair color, height, and weight;
    - h. Arizona ~~Hunting~~ hunting license number, when available;
    - i. Number of years of experience as a falconer;
    - j. Current Falconry license level;
    - k. Physical address of a housing facility when the raptor is kept at another location, when applicable;
    - l. Information documenting all raptors possessed by the applicant at the time of application, to include:
      - i. Species;
      - ii. Subspecies, when applicable;
      - iii. Age;
      - iv. Sex;
      - v. Band or microchip number, as applicable;
      - vi. Date and source of acquisition; and
    - m. The certification required under R12-4-409(C);
    - n. Parent or legal guardian's signature, when the applicant is under the age of 18;
    - o. Date of application; and
    - p. Any other information required by the Department.
  - 2. An applicant shall certify that the applicant has read and is familiar with applicable state laws, ~~and~~ rules, and the regulations under 50 C.F.R. Part 13 and the other applicable parts in 50 C.F.R. Chapter I, Subchapter B and that the information submitted is complete and accurate to the best of their knowledge and belief.
  - 3. In addition to the information required under subsection (K)(1), a person applying for:
    - a. An Apprentice level license shall also provide the sponsor's:

- i. Name,
    - ii. Date of birth,
    - iii. Mailing address,
    - iv. Department I.D. number,
    - v. Telephone number, and
    - vi. A written statement from the sponsor stating that the falconer agrees to sponsor the applicant.
  - b. A General level license shall also provide:
    - i. Information documenting the applicant's experience in maintaining falconry raptors, to include the species and period of time each raptor was possessed while licensed as an Apprentice falconer; and
    - ii. A written statement from the sponsor certifying that the applicant has practiced falconry at the Apprentice falconer level for at least two years, and maintained, trained, flown, and hunted with a raptor for at least four months in each year.
  - c. A Master level license shall certify that the falconer has practiced falconry as a General falconer with his or her own raptors for at least five years.
- L.** An applicant for any level Sport Falconry license shall pay all applicable fees ~~established~~ required under R12-4-412.
- M.** The Department ~~may~~ shall inspect the applicant's raptor housing facilities, materials, and equipment to verify compliance with the requirements established under R12-4-409(I), ~~R12-4-428~~, and this Section before issuing a Sport Falconry license. The applicant or licensed falconer shall ensure all raptors currently possessed by the falconer and kept in the housing facility are present at the time of inspection.
1. The Department may inspect a housing facility, equipment, raptors, or records:
    - a. At any time before or during the license period to determine compliance with this Section.
    - ~~a-b.~~ After a change of location, when the Department cannot verify the housing facility is the same facility as the one approved by a previous inspection, or
    - ~~b-c.~~ Prior to the acquisition of a new species or addition of another raptor when the previous inspection does not indicate the housing facilities can accommodate a new species or additional raptor.
    - d. The Department shall comply with A.R.S. § 41-1009 when conducting inspections at a license holder's facility.
  2. A licensed falconer shall notify the Department no more than five business days after changing the location of a housing facility.
  3. When a housing facility is located on property not owned by the licensed falconer, the falconer shall provide a written statement signed and dated by the property owner at the time of inspection. The written statement shall specify that the licensed falconer has permission to keep a raptor on the property and the property owner permits the Department to inspect the falconry housing facility at any reasonable time of day and in the presence of the licensed falconer.
  4. A licensed falconer shall ensure the housing facility:
    - a. Provides a healthy and safe environment,

- b. Is designed to keep predators and domestic animals out,
  - c. Is designed to avoid injury to the raptor,
  - d. Is easy to access,
  - e. Is easy to clean, and
  - f. Provides access to fresh water and sunlight.
5. In addition to the requirements established under R12-4-409(I) ~~and R12-4-428~~:
- a. A licensed falconer shall ensure housing facilities where raptors are held ~~have~~:
    - i. ~~A~~ Has a suitable perch that is protected from extreme temperatures, wind, and excessive disturbance for each raptor;
    - ii. ~~At~~ Has at least one opening for sunlight; and
    - iii. ~~Walls~~ Has walls that are solid, constructed of vertical bars spaced narrower than the width of the body of the smallest raptor housed therein, or any other suitable materials approved by the Department. A nestling may be kept in any suitable container or enclosure until it is capable of flight.
  - b. A licensed falconer shall possess all of the following equipment:
    - i. At least one flexible, weather-resistant leash;
    - ii. One swivel appropriate to the raptor being flown;
    - iii. At least one water container, available to each raptor kept in the housing facility, that is at least two inches deep and wider than the length of the largest raptor using the container;
    - iv. A reliable scale or balance suitable for weighing raptors, graduated in increments of not more than 15 grams;
    - v. Suitable equipment that protects the raptor from extreme temperatures, wind, and excessive disturbance while transporting or housing a raptor when away from the permanent housing facility where the raptor is kept, and
    - vi. At least one pair of jesses constructed of suitable material or Alymeri jesses consisting of an anklet, grommet, and removable strap that attaches the anklet and grommet to a swivel. The falconer may use a one-piece jess only when the raptor is not being flown.
6. A licensed falconer may keep a falconry raptor inside the falconer's residence provided a suitable perch is supplied. The falconer shall ensure all flighted raptors kept inside a residence are tethered or otherwise restrained at all times, unless the falconer is moving the raptor into or out of the residence. This subsection does not apply to ~~unflighted~~ unflighted ~~eyes~~ nestlings, which do not need to be tethered or otherwise restrained.
7. A licensed falconer may keep multiple raptors together in one enclosure untethered only when the raptors are compatible with each other.
8. A licensed falconer may keep a raptor temporarily outdoors in the open provided the raptor is continually under observation by the falconer or an individual designated by the falconer.
9. A licensed falconer may keep a raptor in a temporary housing facility that the Department has inspected and approved for no more than 120 consecutive days.

10. A licensed falconer may keep a raptor in a temporary housing facility that the Department has not inspected or approved for no more than 30 consecutive days. The falconer shall notify the Department of the temporary housing facility prior to the end of the 30-day period. The Department may inspect a temporary housing facility as established under R12-4-409~~(I)~~(J).
- N.** Prior to the issuance of a Sport Falconry license, an applicant shall:
1. Present proof of a previously held state-issued sport falconry license, or
  2. Correctly answer at least 80% of the questions on the Department administered written examination.
    - a. A person whose Sport Falconry license is expired more than five years shall take the examination. The Department shall issue to an eligible applicant a license for the sport falconry license type previously held by the applicant after the applicant correctly answers at least 80% of the questions on the written examination and presents proof of the previous Sport Falconry license.
    - b. A person who holds a falconry license issued in another country shall correctly answer at least 80% of the questions on the written examination. The Department shall determine the level of license issued based upon the applicant's documentation.
- O.** A licensed falconer shall ~~submit electronically a:~~
1. Submit a paper copy of the 3-186A form to report ~~1. Any~~ any of the following raptor possession changes to the Department no more than 10 business days after the occurrence:
    - a. Acquisition,
    - b. Banding,
    - c. Escape into the wild without recovery after 30 consecutive days have passed,
    - d. Death,
    - e. Microchipping,
    - f. Rebanding,
    - g. Release,
    - h. Take, or
    - i. Transfer.
  2. Submit a copy of the falconer's federal propagation report, when applicable.
  3. Submit a copy of the falconer's federal abatement report, when applicable.
  - 2.4. Upon discovering the theft of a raptor, ~~a licensed~~ the falconer shall immediately report the theft of a raptor to the Department and USFWS by:
    - a. Contacting the Department's regional office within 48 hours; and
    - b. Submitting the electronic 3-186A form within 10 days.
- P.** A licensed falconer shall print and maintain copies of all required ~~electronic database submissions~~ 3-186A form and associated documents for each abatement, falconry, and propagation raptor possessed by the falconer, as applicable. The falconer shall retain copies of all ~~submissions~~ required documents for a period of five years from the date on which the raptor left the falconer's possession.
- Q.** A licensed falconer or a person with a valid falconry license, or its equivalent, issued by any state meeting federal

falconry standards may capture a raptor for the purpose of falconry only when authorized by Commission Order.

1. A falconer attempting to capture a raptor shall possess:
  - a. A valid Arizona Sport Falconry license or valid falconry license, or its equivalent, issued by another state, and
  - b. Any required Arizona hunt permit-tag issued to the licensed falconer for take of the authorized raptor, and
  - c. A valid Arizona hunting or combination license. A short-term combination hunting and fishing license is not valid for capturing a raptor under this subsection.
2. An Apprentice falconer may take from the wild:
  - a. Any raptor not prohibited under subsection (H)(1)(c) that is less than one year of age, except nestlings or
  - b. An adult raptor.
3. A General or Master falconer may take from the wild:
  - a. A raptor of any age, including nestlings, provided at least one nestling remains in the nest; or
  - b. An adult raptor.
4. A licensed falconer shall take no more than two raptors from the wild for use in falconry each calendar year. For the purpose of take limits, a raptor is counted towards the licensed falconer's take limit by the falconer who originally captured the raptor.
5. A falconer attempting to capture a raptor shall:
  - a. Not use stupefying substances;
  - b. Use a trap or bird net that is not likely to cause injury to the raptor;
  - c. Ensure that each trap or net the falconer is using is continually attended; and
  - d. Ensure that each trap used for the purpose of capturing a raptor is marked with the falconer's name, address, and license number.
6. A licensed falconer shall report the injury of any raptor injured due to capture techniques to the Department. The falconer shall transport the injured raptor to a veterinarian or licensed rehabilitator and pay for the cost of the injured raptor's care and rehabilitation. After the initial medical treatment is completed, the licensed falconer shall either:
  - a. Keep the raptor and the raptor shall count towards the falconer's take and possession limit, or
  - b. Transfer the raptor to a permitted wildlife rehabilitator and the raptor shall not count against the falconer's take or possession limit.
7. When a licensed falconer takes a raptor from the wild and transfers the raptor to another falconer who is present at a capture site, the falconer receiving the raptor is responsible for reporting the take of the raptor.
8. A General or Master falconer may capture a raptor that will be transferred to another licensed falconer who is not present at the capture site. The falconer who captured the raptor shall report the take of the raptor and the capture shall count towards the General or Master falconer's take limit. The General or Master falconer may then transfer the raptor to another falconer.

9. A General or Master falconer may capture a raptor for another licensed falconer who cannot attend the capture due to a long-term or permanent physical impairment. The licensed falconer with the physical impairment is responsible for reporting the take of the raptor and the raptor shall count against their take and possession limits.
10. A licensed falconer may capture any raptor displaying a seamless metal band, or any other item identifying it as a falconry raptor, regardless of whether the falconer is prohibited from possessing the raptor. The capturing falconer shall return the recaptured raptor to the falconer of record. The raptor shall not count towards the capturing falconer's take or possession limits, provided the capturing falconer reports the temporary possession of the raptor to the Department no more than five consecutive days after capturing the raptor.
  - a. When the falconer of record cannot or does not wish to possess the raptor, the falconer who captured the raptor may keep the raptor, provided the falconer is eligible to possess the species and may do so without violating any requirement established under this Section.
  - b. When the falconer of record cannot be located, the Department shall determine the disposition of the recaptured raptor.
11. A licensed falconer may capture and shall report the capture of any raptor wearing a transmitter to the Department no more than five business days after the capture. The falconer shall attempt to contact the researcher or licensed falconer who applied the transmitter and facilitate the replacement or retrieval of the transmitter and raptor. The falconer may possess the raptor for no more than 30 consecutive days while waiting for the researcher or falconer to retrieve the transmitter and raptor. The raptor shall not count towards the falconer's take or possession limits, provided the falconer reports the temporary possession of the raptor to the Department no more than five consecutive days after capturing the raptor. The Department shall determine the disposition of a raptor when the researcher or falconer does not replace the transmitter or retrieve the raptor within the initial 30-day period.
12. A licensed falconer may capture any raptor displaying a federal Bird Banding Laboratory (BBL) aluminum research band or tag, except a peregrine falcon (*Falco peregrinus*). A licensed falconer who captures a raptor wearing a research band or tag shall report the following information to BBL and the Department:
  - a. Species,
  - b. Band or tag number,
  - c. Location of the capture, and
  - d. Date of capture.
  - e. A person can report the capture of a raptor wearing a research band or tag to BBL by ~~calling 1(800) 327-2263~~ submitting information regarding the capture online at the BBL website.
13. A licensed falconer may recapture a falconer's lost or any escaped falconry raptor at any time. The Department does not consider the recapture of a wild falconry raptor as taking a raptor from the wild.
14. When attempting to trap a raptor in Cochise, Graham, Pima, Pinal, or Santa Cruz counties, a licensed falconer shall:

- a. Not begin trapping while a northern aplomado falcon (*Falco femoralis septentrionalis*) is observed in the vicinity of the trapping location.
  - b. Suspend trapping when a northern aplomado falcon arrives in the vicinity of the trapping location.
15. In addition to the requirements in subsection (Q)(14), an apprentice falconer shall be accompanied by a General or Master falconer when attempting to capture a raptor in Cochise, Graham, Pima, Pinal, or Santa Cruz counties.
16. A licensed Master falconer may take up to two golden eagles from the wild only as authorized under 50 C.F.R. ~~part~~ Parts 21 and 22. The Master falconer may:
- a. Capture a golden eagle or an immature or sub-adult golden eagle during the time a livestock depredation area and associated depredation permit or depredation control order are in effect as declared by USDA Wildlife Services and permitted under 50 CFR 22.23, or upon the request of the Arizona Governor pursuant to 50 CFR 22.31 and 22.32.
  - b. Take a nestling from its nest or a nesting adult golden eagle in a livestock depredation area if a biologist representing the agency responsible for declaring the depredation area determines the adult eagle is preying on livestock or wildlife and that any nestling of the adult will be taken by a falconer authorized to possess it or by the biologist and transferred to a person authorized to possess it.
  - c. The falconer shall inform the Department of the capture plans in person, in writing, or by telephone at least three business days before trapping is initiated. The falconer may send written notification to the Arizona Game and Fish Department's Law Enforcement Programs Coordinator at 5000 West Carefree Highway, Phoenix, Arizona 85086.
17. A licensed falconer shall ensure any falconry activities the falconer is conducting do not cause unlawful take under the Endangered Species Act of 1973, 16 U.S.C. § 1531 et seq., or the Bald and Golden Eagle Protection Act, 16 U.S.C. §§ 668 through 668d. The Department or USFWS may provide information regarding where take is likely to occur. The falconer shall report the take of any federally listed threatened or endangered species or bald or golden eagle to the USFWS Arizona Ecological Services Field Office.
- R.** A licensed falconer shall comply with all of the following banding requirements:
- 1. A licensed falconer shall ensure the following raptors are banded after capture:
    - a. Northern Goshawk,
    - b. Harris's hawk (*Parabuteo unicinctus*), and
    - c. Peregrine falcon.
  - 2. The falconer shall request a band no more than five consecutive days after the capture of a raptor by contacting the Department. A Department representative or a General or Master licensed falconer may attach the USFWS leg band to the raptor.
  - 3. A licensed falconer shall not use a counterfeit, altered, or defaced band.
  - 4. A falconer holding a federal propagation permit shall ensure a raptor bred in captivity wears a seamless metal band furnished by USFWS, as prescribed under 50 C.F.R. 21.30.
  - 5. A licensed falconer may remove the rear tab on a band and smooth any imperfections on the surface, provided

doing so does not affect the band's integrity or numbering.

6. A licensed falconer shall report the loss of a band to the Department no more than five business days after discovering the loss. The falconer shall reband the raptor with a new USFWS leg band furnished by the Department.
- S.** A licensed falconer may request Department authorization to implant an ISO-compliant [134.2 kHz] microchip in lieu of a band into a captive-bred raptor or raptor listed under subsection (R)(1).
1. The falconer shall submit a written request to the Department.
  2. The falconer shall retain a copy of the Department's written authorization and any associated documentation for a period of five years from the date the raptor permanently leaves the falconer's possession.
  3. The falconer is responsible for the cost of implanting the microchip and any associated veterinary fees.
- T.** A licensed falconer may allow a falconry raptor to feed on any species of wildlife incidentally killed by the raptor for which there is no open season or for which the season is closed, but shall not take such wildlife into possession.
- U.** A General or Master falconer may hack a falconry raptor. Any raptor the falconer is hacking shall count towards the falconer's possession limit during hacking.
1. A falconer is prohibited from hacking a raptor near the nesting area of a federally threatened or endangered species or in any other location where the raptor is likely to disturb or harm a federally listed threatened or endangered species. The Department may provide information regarding where this is likely to occur.
  2. A licensed falconer shall ensure any hybrid raptor flown free or hacked by the falconer is equipped with at least two functioning radio transmitters.
- V.** A licensed falconer may release:
1. A wild-caught raptor permanently into the wild under the following circumstances:
    - a. The raptor is native to Arizona,
    - b. The falconer removes the raptor's falconry band and any other falconry equipment prior to release, and
    - c. The falconer releases the raptor in a suitable habitat and under suitable seasonal conditions.
  2. A captive-bred raptor permanently into the wild only when the raptor is native to Arizona and the Department approves the release of the raptor. The falconer shall request permission to release the captive-bred raptor by contacting the Department. When permitted by the Department and before releasing the captive-bred raptor, the General or Master falconer shall hack the captive-bred raptor in a suitable habitat and the appropriate season.
  3. A licensed falconer is prohibited from intentionally releasing any hybrid or non-native raptor permanently into the wild.
- W.** A Master falconer may conduct and receive payment for ~~any abatement services~~ conducted with a falconry raptor or federally permitted abatement raptor. The falconer shall apply for and obtain all required federal permits prior to conducting any abatement activities. The falconer shall comply with the reporting requirement under subsection (O). A General falconer may conduct abatement ~~services~~ activities only when authorized under the federal permit held by the Master falconer.
- X.** A person other than a licensed falconer may temporarily care for a falconry raptor for no more than 45 consecutive

days, unless approved by the Department. The raptor under temporary care shall remain in the falconer's facility. The raptor shall continue to count towards the falconer's possession limit. An unlicensed caretaker shall not fly the raptor. The falconer may request an extension from the Department to the temporary possession period if extenuating circumstances occur. The Department shall evaluate extension requests on a case-by-case basis.

- Y.** A licensed falconer may serve as a caretaker for another licensed falconer's raptor for no more than 120 consecutive days, unless approved by the Department. The falconer shall provide the temporary caretaker with a signed and dated statement authorizing the temporary possession of each raptor and a copy of USFWS form 3-186A that shows that the licensed falconer is the possessor of each raptor. The statement shall also include the temporary possession period and activities the caretaker may conduct with the raptor. a The raptor under temporary care shall not count toward the caretakers possession limit. The temporary caretaker may fly or train the raptor when permitted by the falconer in writing. The falconer may request an extension from the Department to the temporary possession period if extenuating circumstances occur. The Department shall evaluate extension requests on a case-by-case basis.
- Z.** A ~~licensed~~ General or Master falconer may assist a any federally licensed wildlife rehabilitator in conditioning a raptor the licensed falconer is authorized to possess in preparation for the raptor's release to the wild. The falconer may temporarily remove the raptor from the rehabilitation facilities while conditioning the raptor. The raptor shall remain under the rehabilitator's license and shall not count towards the falconer's possession limit. The rehabilitator shall provide the licensed falconer with a written statement authorizing the falconer to assist the rehabilitator. The written statement shall also identify the raptor by species, type of injury, and band number, when available. The licensed falconer shall return the raptor to the rehabilitator within the 180-day period established under R12-4-423(T), unless the raptor is:
1. Released into the wild in coordination with the rehabilitator and as authorized under this subsection,
  2. Allowed to remain with the rehabilitator for a longer period of time as authorized under R12-4-423(U), or
  3. Transferred permanently to the falconer, provided the falconer may legally possess the raptor and the Department approves the transfer. The raptor shall count towards the falconer's possession limit.
- AA.** A licensed falconer may use a raptor possessed for falconry in captive propagation, when permitted by USFWS. A licensed falconer is not required to transfer a raptor from a Sport Falconry license to another license when the raptor is used for captive propagation less than eight months in a year.
- BB.** A General or Master licensed falconer may use a lawfully possessed raptor in a conservation education program presented in a public venue. An Apprentice falconer, under the direct supervision of a General or Master falconer, may use a lawfully possessed raptor in a conservation education program presented in a public venue. The primary use for a raptor is falconry; a licensed falconer shall not possess a raptor solely for the purpose of providing a conservation education program. The falconer shall ensure the focus of the conservation education program is to provide information about the biology, ecological roles, and conservation needs of raptors and other migratory birds. The falconer may charge a fee for presenting a conservation education program; however, the fee shall not exceed the amount required to recoup the falconer's costs for providing the program. As a condition of the Sport Falconry License, the licensed falconer agrees to indemnify the Department, its officers, and employees. The

falconer is liable for any damages associated with the conservation education activities.

**CC.** A licensed falconer may allow the photography, filming, or similar uses of a falconry raptor possessed by the licensed falconer, provided:

1. The falconer is not compensated for these activities; and
2. The final product from these activities:
  - a. Promotes the practice of falconry;
  - b. Provides information about the biology, ecological roles, and conservation needs of raptors and other migratory birds;
  - c. Endorses a nonprofit falconry organization or association, products, or other endeavors related to falconry; or
  - d. Is used in scientific research or science publications.

**DD.** A licensed falconer may use or dispose of lawfully possessed falconry raptor feathers. A falconer shall not buy, sell, or barter falconry raptor feathers. A falconer may possess feathers for imping from each species of raptor that the falconer currently possesses or has possessed.

1. The licensed falconer may transfer or receive feathers for imping from:
  - a. Another licensed falconer,
  - b. A licensed wildlife rehabilitator, or
  - c. Any licensed propagator located in the United States.
2. A licensed falconer may donate falconry raptor feathers, except bald and golden eagle feathers, to:
  - a. Any person or institution permitted to possess falconry raptor feathers,
  - b. Any person or institution exempt from the permit requirement under 50 C.F.R. 21.12, or
  - c. A non-eagle feather repository. The Department may provide information regarding the submittal of falconry raptor feathers to a non-eagle feather repository.
3. A licensed falconer shall gather primary and secondary flight feathers or retrices that are molted or otherwise lost from a golden eagle and either retain the feathers for imping purposes or submit the feathers to the U.S. Fish and Wildlife Service, National Eagle Repository, Rocky Mountain Arsenal, Building 128, Commerce City, Colorado 80022.
4. A falconer whose license is either revoked or expired shall dispose of all falconry raptor feathers in the falconer's possession.

**EE.** Arizona licensed falconers importing raptors into Arizona shall have a health certificate issued no more than 30 consecutive days:

1. Prior to the international importation, or
2. Prior to or after the inter-state importation.

**FF.** A licensed falconer may conduct any of the following activities with any captive-bred raptor provided the raptor is wearing a seamless band and the person receiving the raptor possesses an appropriate special license:

1. Barter,
2. Offer for barter,

3. Gift,
4. Purchase,
5. Sell,
6. Offer for sale, or
7. Transfer.

**GG.** A licensed falconer is prohibited from conducting any of the following activities with any wild-caught raptor protected under the Migratory Bird Treaty Act:

1. Barter,
2. Offer for barter,
3. Purchase,
4. Sell, or
5. Offer for sale.

**HH.** A licensed falconer may transfer:

1. Any wild-caught falconry raptor lawfully captured in Arizona with or without a permit tag to another Arizona Sport Falconry License holder at any time.
  - a. The raptor shall count towards the take limit for that calendar year for the falconer taking the raptor from the wild.
  - b. The raptor shall not count against the take limit of the falconer receiving the raptor.
2. Any wild-caught falconry raptor to another license or permit type under this Article or federal law, provided the raptor has been used in the sport of falconry for at least two years preceding the transfer.
3. A wild-caught falconry sharp-shinned hawk (*Accipiter striatus*), Cooper's hawk (*Accipiter cooperii*), merlin (*Falco columbarius*), or American kestrel (*Falco sparverius*) to another license or permit type under this Article or federal law, provided the raptor has been used in the sport of falconry for at least one-year preceding the transfer.
4. Any hybrid or captive-bred raptor to another licensed falconer or permit type under this Article or federal law at any time.
5. Any falconry raptor that is no longer capable of being flown, as determined by a veterinarian ~~or licensed rehabilitator~~, to another permit type at any time. The licensed falconer shall provide a copy of the documentation from the veterinarian ~~or rehabilitator~~ stating that the raptor is not useable in falconry to the Federal Migratory Bird Permits office that administers the other permit type.

**II.** A licensed falconer shall not transfer a wild-caught raptor species to a licensed falconer in another state for at least one year from the date of capture if either resident or nonresident take is managed through Commission Order by way of a permit-tag, nonpermit-tag, or annual harvest quota system. However, a licensed falconer may transfer a wild-caught raptor that is not managed through Commission Order by way of a permit-tag, nonpermit-tag, or annual harvest quota system to a licensed falconer in another state at any time.

**JJ.** A surviving spouse, executor, administrator, or other legal representative of a deceased or incapacitated licensed falconer shall transfer any raptor held by the licensed falconer to another licensed falconer no more than 90

consecutive days after the death of the falconer. The Department shall determine the disposition of any raptor not transferred prior to the end of the 90-day period.

**KK.** A licensed falconer shall conduct the following activities, as applicable, no more than 10 business days after either the death of a falconry raptor or the final examination of a deceased raptor by a veterinarian:

1. Dispose of any raptor suspected or confirmed with West Nile Virus or poisoning, except for lead poisoning, by incineration.
- ~~1-2.~~ For a bald or golden eagle, send the entire body, including all feathers, talons, and other parts, to the National Eagle Repository;
- ~~2-3.~~ For any euthanized non-eagle raptor, to prevent secondary poisoning of other wildlife, the falconer shall either submit the carcass to a non-eagle repository or burn, bury, or otherwise destroy the carcass;
- ~~3-4.~~ For all other species:
  - a. Submit the carcass to a non-eagle repository;
  - b. Submit the carcass to the Department for submission to a non-eagle repository;
  - c. Donate the body or feathers to any person or institution exempt under 50 C.F.R. 21.12 or authorized by USFWS to acquire and possess such parts or feathers;
  - d. Retain the carcass or feathers for imping purposes as established under subsection (DD);
  - e. Burn, bury, or otherwise destroy the carcass; or
  - f. Mount the raptor carcass. The falconer shall ensure any microchip implanted in the raptor is not removed and any band attached to the raptor remains on the mount. The falconer may use the mount for a conservation education program. The falconer shall ensure copies of the license and all relevant 3-186A forms are retained with the mount. The mount shall not count towards the falconer's possession limit.
5. A license holder submitting a carcass or parts of a carcass of any raptor that has been euthanized shall ensure a tag indicating the raptor was euthanized is attached to the carcass or parts of the carcass before submitting it to the National Eagle Repository or non-eagle repository, as applicable.

**R12-4-423. Wildlife Rehabilitation License**

**A.** For the purposes of this Section, "volunteer" means a person who:

Is not designated as an agent, as defined under R12-4-401,

Assists a wildlife rehabilitation license holder without compensation, and

Is under the direct supervision of the license holder at the location specified on the wildlife rehabilitation license.

**B.** A wildlife rehabilitation license is issued for the sole purpose of restoring and returning wildlife to the wild through rehabilitative services. The license allows a person 18 years of age or older to conduct any of the following activities with live injured, disabled, orphaned or otherwise debilitated wildlife specified on the rehabilitation license:

1. Capture;
2. Euthanize;
3. Export to a licensed zoo, when authorized by the Department;

4. Receive from the public;

4.5. Rehabilitate;

5-6. Release;

6-7. Temporarily possess;

7-8. Transport; or

8-9. Transfer to one of the following:

- a. Licensed veterinarian for treatment or euthanasia;
- b. Another appropriately licensed special license holder;
- c. Licensed zoo, when authorized by the Department; or

9-10. As otherwise directed in writing by the Department.

C. A wildlife rehabilitation license authorizes the possession of the following taxa or species:

1. Amphibians;

2. Reptiles;

3. Birds:

- a. Non-passerines, birds in any order other than those named in subsections (b) through (e);
- b. Birds in the orders *Falconiformes* or *Strigiformes*, raptors;
- c. Birds in the order, *Galliformes* quails and turkeys;
- d. Birds in the order *Columbiformes*, doves;
- e. Birds in the order *Trochiliformes*, hummingbirds; and
- f. Birds in the order *Passeriformes*, passerines;

4. Mammals:

- a. Nongame mammals;
- b. Bats;
- c. Big game mammals other than cervids: bighorn sheep, bison, black bear, javelina, mountain lion, pronghorn;
- d. Carnivores: bobcat, coati, coyote, foxes, raccoons, ringtail, skunks, and weasels; and
- e. Small game mammals.

D. A wildlife rehabilitation license authorizes the possession of the following taxa or species only when specifically requested at the time of application:

1. Eagles;

2. Species listed under 50 C.F.R. 17.11, revised October 1, ~~2013~~ 2019; and

3. The Department's Tier 1 Species of Greatest Conservation Need, as defined under R12-4-401.

4. For the purposes of subsection (D)(2), this incorporation by reference contains no future editions or amendments. The incorporated material is available at any Department office, online at [www.gpoaccess.gov](http://www.gpoaccess.gov) [www.gpo.gov](http://www.gpo.gov), or may be ordered from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000.

E. All wildlife held under the license is the property of the state and shall be surrendered to the Department upon

request.

- F. The wildlife rehabilitation license expires on the last day of the third December from the date of issuance.
- G. In addition to the requirements established under this Section, a wildlife rehabilitation license holder shall comply with the special license requirements established under R12-4-409.
- H. The Department shall deny a wildlife rehabilitation license to a person who fails to meet the requirements and criteria established under R12-4-409, R12-4-428, or this Section or when the person's wildlife rehabilitation license is suspended or revoked in any state. The Department shall provide the written notice established under R12-4-409 to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.
- I. The wildlife rehabilitation license holder shall be responsible for compliance with all applicable regulatory requirements; the ~~wildlife rehabilitation~~ license does not:
  - 1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; ~~or~~
  - 2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license; or
  - 3. Authorize the license holder to conduct any activities that constitutes the practice of veterinary medicine as prescribed under A.R.S. § 32-2231 whether or not a fee, compensation, or reward is directly or indirectly promised, offered, expected, received or accepted, unless the license holder is currently licensed to practice veterinary medicine in the state of Arizona.
- J. Before applying for a wildlife rehabilitation license, a person shall ~~successfully complete an~~ correctly answer at least 80% of the questions on the Department administered written examination ~~conducted by the Department.~~ The Department shall consider only those parts of the examination that are applicable to the taxa of wildlife for which the license is sought in establishing the qualifications of the applicant.
  - 1. Examinations are provided by appointment, only.
  - 2. An applicant may request a verbal or written examination.
  - 3. The examination shall include questions regarding:
    - a. Wildlife rehabilitation;
    - b. Safe handling of wildlife;
    - c. Transporting wildlife;
    - d. Humane treatment;
    - e. Nutritional requirements;
    - f. Behavioral requirements;
    - g. Developmental requirements;
    - h. Ecological requirements;
    - i. Habitat requirements;
    - j. Captivity standards established under R12-4-428;

- k. Human and wildlife safety considerations;
  - l. State statutes, rules, and regulations regarding wildlife rehabilitation; and
  - m. National Wildlife Rehabilitation Association minimum standards for wildlife rehabilitation.
4. The applicant must successfully complete the examination within three years prior to the date on which the initial application for the license is submitted to the Department.
- K.** ~~A person applying~~ An applicant for a wildlife rehabilitation license shall submit an application to the Department. ~~A separate application is required for each location where the applicant proposes to use wildlife.~~ The application is furnished by the Department and is available at any Department office and ~~online at [www.azgfd.gov](http://www.azgfd.gov) on the~~ Department's website. The applicant shall provide the following information on the application:
- 1. The applicant's information:
    - a. Name;
    - b. Date of birth;
    - c. Mailing address;
    - d. Telephone number;
    - e. ~~Facility~~ Housing facility address, if different from mailing address;
    - f. Physical address or general location description ~~to include the~~ and Global Positioning System location ~~or Universal Transverse Mercator coordinates~~; and;
    - g. Department ID number, when applicable;
  - 2. The wildlife taxa or species listed under subsection (C) that will be possessed under the license;
  - 3. For each location where the applicant proposes to use wildlife ~~will be used~~, the land owner's:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number; and
    - d. Physical address or general location description ~~to include and~~ and Global Positioning System location ~~or Universal Transverse Mercator coordinates~~;
  - 4. A detailed description, diagram, and photographs of the housing facility where the applicant will hold the wildlife, and a description of how the housing facility complies with ~~R12-4-428 and any other~~ the captivity standards established under this Section;
  - 5. Any other information required by the Department; and
  - 6. The certification required under R12-4-409(C).
- L.** In addition to the requirements listed under subsection (K), at the time of application, an applicant for a wildlife rehabilitation license shall also submit:
- 1. Any one or more of the following:
    - a. A valid, current license issued by a state veterinary medical examination authority that authorizes the applicant to practice as a veterinarian;
    - b. Proof of at least six months of experience performing wildlife rehabilitative work with an average of at least eight hours each week for the taxa or species of animal listed on the application; or

- c. A current and valid license, permit, or other form of authorization issued by another state or the federal government that allows the applicant to perform wildlife rehabilitation;
  2. Proof the applicant successfully completed the examination required under subsection (J) no more than three years prior to submitting the initial application;
  3. An affidavit signed by the applicant affirming either of the following:
    - a. The applicant is a licensed veterinarian; or
    - b. A licensed veterinarian is reasonably available to provide veterinary services as necessary to facilitate rehabilitation of wildlife.
  4. A written statement describing:
    - a. The applicant's preferred method of disposing of non-releasable live wildlife as listed under subsection (B); and
    - b. ~~A statement of the~~ The applicant's training and experience in handling, capturing, rehabilitating, and caring for the taxa or species when the applicant is applying for a license to perform authorized activities with taxa or species of wildlife listed under subsection (C).
- M.** A wildlife rehabilitation license holder who wishes to continue activities authorized under the license shall renew the license before it expires.
1. When renewing a license without change to the species, location, or design of the facility where wildlife is held as authorized under the current license, the license holder may reference supporting materials previously submitted in compliance with subsection (K).
  2. A license holder applying for a renewal of the license shall successfully complete the examination at the time of renewal when the annual report submitted under subsection (Z) indicates the license holder did not perform any rehabilitative activities under the license.
  3. A license holder applying for a renewal of the license shall submit proof the license holder has completed the continuing education requirement established under subsection (N).
- N.** During the license period a wildlife rehabilitation license holder shall complete eight or more hours of continuing education sessions on wildlife rehabilitation or veterinary medicine. Acceptable continuing education sessions may be obtained from:
1. An accredited university or college;
  2. The National Wildlife Rehabilitators Association, 2625 Clearwater Rd. Suite 110, St. Cloud, MN 56301;
  3. The International Wildlife Rehabilitation Council, PO Box 3197, Eugene, OR 97403; or
  4. Other applicable training opportunities approved by the Department in writing. A license holder who wishes to use other applicable training to meet the eight hour continuing education requirement shall request approval of the other applicable training prior to participating in the education session.
- O.** A At the time of application, a wildlife rehabilitation license holder may request authorization to allow an agent to assist the license holder in carrying out activities authorized under the wildlife rehabilitation license by submitting a written request to the Department.
1. An applicant may request the ability to allow a person to act as an agent on the applicant's behalf, provided:

- a. An employment or supervisory relationship exists between the applicant and the agent,
  - b. The agent submits proof of at least six months of experience performing wildlife rehabilitative work with an average of at least eight hours each week, and
  - ~~b.c.~~ The agent's privilege to take or possess live wildlife is not suspended or revoked in any state.
  - d. An agent shall allow the Department to conduct inspections of an agent's facility when the agent intends to possess wildlife for more than 48 hours. The Department shall comply with A.R.S. § 41-1009 when conducting inspections at a license holder's facility.
2. The license holder shall obtain approval from the Department prior to allowing the agent assist in any activities.
  3. The license holder is liable for all acts the agent performs under the authority of this Section.
  4. The Department, acting on behalf of the Commission, may suspend or revoke a license for violation of this Section by an agent.
  5. The license holder shall ensure the agent possesses a legible copy of the license while conducting any activity authorized under the wildlife rehabilitation license and presents it for inspection upon the request of any Department employee or agent.
- P.** At any time during the license period, a wildlife rehabilitation license holder may request permission to amend the license to add or delete an agent or a location where wildlife is held; or to obtain authority to rehabilitate additional taxa of wildlife. To request an amendment, the license holder shall submit the following information to the Department, as applicable:
1. To add or delete an agent, the information stated in subsections (K)(1) through (K)(4) ~~and~~ (L)(2); as applicable to the agent, and proof of at least six months of experience performing wildlife rehabilitative work with an average of at least eight hours each week;
  2. To add or delete a location, the information stated in subsection (K)(1) through (K)(5); and
  3. To obtain authority to rehabilitate additional taxa or wildlife, the information stated in subsection (K)(1) through (K)(5) and (L)(1) through (L)(4).
- Q.** A wildlife rehabilitation license holder authorized to rehabilitate wildlife species listed under subsection (C)(3)(c), (C)(4)(c) and (C)(4)(d) or (D) shall contact the Department within 24 hours of receiving the individual animal to obtain instructions in handling or transferring that animal. While awaiting instructions, the license holder shall ensure that emergency veterinary care is provided as necessary.
- R.** A wildlife rehabilitation license holder shall:
1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
  2. Maintain records associated with the license for a period of five years following the date of disposition.
  - ~~2.3.~~ Allow the Department to conduct inspections of an applicant's or license holder's facility and records at any time before or during the license period to determine compliance with the requirements of this Article. The Department shall comply with A.R.S. § 41-1009 when conducting inspections at a license holder's facility.
  - ~~3.4.~~ Ensure each facility is inspected by the attending veterinarian at least once every year.

~~4.5.~~ Capture, remove, transport, and release wildlife held under the requirements of this Section in a manner that is least likely to cause injury to the affected wildlife.

~~5.6.~~ Conduct rehabilitation only at the location listed on the license

~~6.7.~~ Be responsible for all expenses incurred, including veterinary expenses, and all actions taken under the license, including all actions or omissions of all agents and volunteers when performing activities under the license.

~~7.8.~~ Immediately surrender wildlife held under the license to the Department upon request.

~~8.9.~~ Dispose of all wildlife that is euthanized or that otherwise dies within 30 days of death either by burial, incineration, or transfer to a scientific research institution, except that the license holder shall transfer all carcasses of endangered or threatened species, species listed under the Department's Tier 1 Species of Greatest Conservation Need, or eagles as directed by the Department.

~~9.10.~~ Maintain a current log that records the information specified under subsection (Z).

~~10.11.~~ Possess the license or legible copy of the license at each authorized location and while conducting any rehabilitation activities and presents it for inspection upon the request of any Department employee or agent.

~~11.12.~~ Ensure a copy of the wildlife rehabilitation license accompanies each transfer or shipment of wildlife.

13. Dispose of any raptor suspected or confirmed with West Nile Virus or poisoning, except for lead poisoning, by incineration.

14. Except as specified under subsection (R)(12), transfer the carcass or parts of the carcass of a deceased raptor as follows:

a. For a bald or golden eagle, send the entire body, including all feathers, talons, and other parts, to the National Eagle Repository, see <https://www.fws.gov/eaglerepository/factsheets.php>;

b. For any euthanized non-eagle raptor, to prevent secondary poisoning of other wildlife, either submit the carcass to a non-eagle repository or burn, bury, or otherwise destroy the carcass;

c. For all other species:

i. Submit the carcass to a non-eagle repository;

ii. Submit the carcass to the Department for submission to a non-eagle repository.

S. A wildlife rehabilitation license holder shall not:

1. Display for educational purposes any wildlife held under the license.
2. Exhibit any wildlife held under the license.
3. Permanently possess any wildlife held under the license.

T. A wildlife rehabilitation license holder may possess:

~~1.~~ ~~All~~ all wildlife for no more than 90 days; ~~or~~

~~2.~~ A Except a bird may be possessed for no more than 180 days, unless the Department has authorized possession for a longer period of time.

U. A license holder may request permission to possess wildlife for a longer period of time than specified in subsection (T) by submitting a written request to the Department.

1. The Department shall approve or deny the request within ten days of receiving the request.

2. For requests made due to a medical necessity, the Department may require the license holder to provide a written statement listing the medical reasons for the extension, signed by a licensed veterinarian.
  3. The license holder may continue to hold the specified wildlife while the Department considers the request.
  4. If the request is denied, the Department shall send a written notice to the license holder which shall include specific, time-dated directions for the surrender or disposition of the animal.
- V. A wildlife rehabilitation license holder who also possesses a federal rehabilitator license may allow a licensed falconer to assist in conditioning a raptor in preparation for the raptor's release to the wild.
1. The license holder may allow the licensed falconer to temporarily remove the raptor from the license holder's facility while conditioning the raptor.
  2. The license holder shall provide the licensed falconer with a written statement authorizing the falconer to assist the license holder.
  3. The written statement shall identify the raptor by species, type of injury, and band number, when available.
  4. The license holder shall ensure the licensed falconer returns the raptor to the license holder within the 180-day period established under subsection (T).
- W. A wildlife rehabilitation license holder may hold wildlife under the license after the wildlife reaches a state of restored health only for the amount of time reasonably necessary to prepare the wildlife for release. Rehabilitated wildlife shall be released:
1. In an area without immediate threat to the wildlife or contact with humans;
  2. During an ecologically appropriate time of year and time of day; and
  3. Into a suitable habitat in the same geographic area where the animal was originally obtained; or
  4. In an area designated by the Department.
- X. Wildlife that is not releasable after the time-frames specified in subsection (T) shall be transferred, disposed of, or euthanized as determined by the Department.
- Y. To permanently hold rehabilitated wildlife ~~that is~~ declared unsuitable for release by a licensed veterinarian, a wildlife rehabilitation license holder shall apply for and obtain a wildlife holding license in compliance with under R12-4-417.
- Z. A wildlife rehabilitation license holder shall submit an annual report to the Department before January 31 of each year for the previous calendar year. The report form is furnished by the Department.
1. A report is required regardless of whether or not activities were performed during the previous year.
  2. The wildlife rehabilitation license becomes invalid if the annual report is not submitted to the Department by January 31 of each year.
  3. The Department will not process the special license holder's renewal application until the annual report is received by the Department.
  4. The annual report shall contain the following information:
    - a. The license holder's:
      - i. Name;
      - ii. Mailing address; and

- iii. Telephone number;
- b. Each agent's:
  - i. Name;
  - ii. Mailing address; and
  - iii. Telephone number;
- c. The permit or license number of any federal permits or licenses that relate to any rehabilitative function performed by the license holder; ~~and~~
- d. For activities related to federally-protected wildlife, a copy of the rehabilitator's federal permit report of activities related to federally-protected wildlife; and
- ~~d-e.~~ An itemized list of each animal held under the license during the calendar year for which activity is being reported. For each animal held by the license holder or agent, the itemization shall include:
  - i. Species;
  - ii. Condition that required rehabilitation;
  - iii. Date of acquisition;
  - iv. Source of acquisition;
  - v. Location of acquisition;
  - vi. Age class at acquisition, when reasonably determinable;
  - vii. Status at disposition or end-of-year in relation to the condition requiring rehabilitation;
  - viii. Method of disposition;
  - ix. Location of disposition; and
  - x. Date of disposition.
- e. ~~For activities related to federally protected wildlife, a copy of the rehabilitator's federal permit report of activities related to federally protected wildlife satisfies the reporting requirement established under subsection (Z)(4)(c) for federally protected wildlife.~~

**AA.** A wildlife rehabilitation license holder shall comply with the requirements established under R12-4-409, R12-4-428, and R12-4-430, as applicable.

**R12-4-424. White Amur Stocking ~~and Holding~~ License; Restocking License**

**A.** For the purposes of this Section:

"Closed aquatic system" means any body of water, water system, canal system, or series of lakes, canals, or ponds where triploid white amur are prevented from entering or exiting the system by any natural or man-made barrier, as determined by the Department.

"Triploid" means a species having ~~4.5 chromosome~~ three homologous sets of chromosomes that renders ~~them~~ the individuals sterile.

**B.** A white amur stocking ~~and holding~~ or restocking license allows a person to import, possess, stock in a closed aquatic system, and transport triploid white amur (*Ctenopharyngodon idella*).

**C.** The white amur stocking ~~holding~~ or restocking license is valid for no more than 20 consecutive days.

- D. In addition to the requirements established under this Section, a white amur stocking ~~and holding~~ or restocking license holder shall comply with the special license requirements established under R12-4-409.
- E. The white amur stocking or restocking license holder shall be responsible for compliance with all applicable regulatory requirements; the ~~white amur stocking and holding license does~~ licenses do not:
1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
  2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.
- F. The Department shall deny a white amur stocking ~~and holding~~ or restocking license to a person who fails to meet the requirements established under R12-4-409 or this Section. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10. In addition to the requirements and criteria established under R12-4-409(F)(1) through (4), the Department shall deny a white amur stocking or restocking license when it determines the issuance of the license may result in a negative impact on native wildlife.
- G. ~~A person applying~~ An applicant for a white amur stocking ~~and holding~~ or restocking license shall submit an application to the Department. A separate application is required for each location where the applicant proposes to stock white amur. The application is furnished by the Department and is available from any Department office and ~~online at~~ www.azgfd.gov on the Department's website. The applicant shall provide the following information on the application:
1. The applicant's information:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number; and
    - d. Department ID number, when applicable;
  - ~~2. If the applicant will use the wildlife for a commercial purpose, the applicant's business:~~
    - ~~a. Name;~~
    - ~~b. Federal Tax Identification Number;~~
    - ~~e. Mailing address; and~~
    - ~~d. Telephone number;~~
  - ~~3-2.~~ For each location where the white amur will be held, stocked, or restocked, the land owner's:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number; and
    - d. Physical address or general location description ~~to include the~~ and Global Positioning System location ~~or Universal Transverse Mercator coordinates;~~

- e. For the purposes of this subsection, the following systems may qualify as separate locations, as determined by the Department:
  - i. Each closed aquatic system;
  - ii. Each separately managed portion of a closed aquatic system; or
  - iii. Multiple separate closed aquatic systems owned, controlled, or legally held by the same applicant where stocking is to occur;

~~4.3.~~ A detailed description and diagram of each enclosed aquatic system where the applicant will stock and hold the white amur, as prescribed under A.R.S. § 17-317, which shall include the following information, as applicable:

- a. A description of how the system meets the definition of a "closed aquatic system" in subsection (A);
- b. Size of waterbody proposed for stocking;
- c. Nearest river, stream, or other freshwater system;
- d. Points where water enters into each water body;
- e. Points where water leaves each water body; and
- f. Location of fish containment barriers;

~~5.4.~~ For each wildlife supplier from whom the applicant will obtain white amur, the supplier's:

- a. Name;
- ~~b. Federal Tax Identification Number;~~
- ~~e.b.~~ Mailing address; and
- ~~d.c.~~ Telephone number;

~~6.5.~~ The number and average length of white amur to be stocked;

~~7.6.~~ The dates white amur will be stocked, or restocked;

~~8.7.~~ Any other information required by the Department; and

~~9.8.~~ The certification required under R12-4-409(C).

**H.** When the Department determines an applicant proposes to stock ~~and hold~~ white amur in a watershed in a manner that conflicts with the Department's efforts to conserve wildlife, in addition to the requirements listed under subsection (G), the applicant shall also submit a written proposal to the Department at the time of application.

The written proposal shall contain all of the following:

- 1. Anticipated benefits from introducing white amur;
- 2. Potential risks introducing white amur may create for wildlife, including:
  - a. Whether white amur are compatible with native aquatic species or game fish; and
  - b. Method for evaluating the potential impact introducing white amur will have on wildlife;
- 3. Assessment of probable impacts to sensitive species in the area using the list generated by the Department's ~~On-Line~~ Online Environmental Review Tool, which is available at [www.azgfd.gov](http://www.azgfd.gov) on the Department's website. The proposal must address each species listed.

**I.** A person may apply for a white amur restocking license provided there are no changes to the closed aquatic system. The restocking application license application must include the inspection certification from the supplier

of white amur as required under subsection (K)(2).

~~I.J.~~ A person applying for a white amur stocking or restocking license holder who applies to renew the license shall pay all applicable fees as prescribed under R12-4-412.

~~J.K.~~ A white amur stocking ~~and holding~~ and restocking license holder shall comply with the requirements established under R12-4-409.

1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
2. Obtain all aquatic wildlife, live eggs, fertilized eggs, and milt from a licensed fish farm operator or a private noncommercial fish pond certified free of the diseases and causative agents through the following actions:
  - a. An inspection shall be performed by a qualified fish health inspector or fish pathologist at the fish farm or pond where the aquatic wildlife or biological material is held before it is shipped to the license holder.
  - b. The inspection shall be conducted no more than 12 months prior to the date on which the aquatic wildlife or biological material is shipped to the license holder. The Department may require additional inspections at any time prior to stocking.
  - c. The applicant shall submit a copy of the certification to the Department prior to conducting any stocking activities.
3. Maintain records associated with the license for a period of five years following the date of disposition.
- ~~3.4.~~ Allow the Department to conduct inspections of an applicant's or license holder's facility, records, and any waters proposed for stocking at any time before or during the license period to determine compliance with the requirements of this Article and to determine the appropriate number of white amur to be stocked. The Department shall comply with A.R.S. § 41-1009 when conducting inspections at a license holder's facility.
- ~~4.5.~~ Ensure all shipments of white amur are accompanied by a USFWS, or similar agent, certificate confirming the white amur are triploid.
- ~~5.6.~~ Possess the license or legible copy of the license while conducting any activities authorized under the white amur stocking ~~and holding~~ or restocking license and presents it for inspection upon the request of any Department employee or agent.

~~K.L.~~ A white amur stocking ~~and holding~~ or restocking license holder shall comply with the requirements established under R12-4-409 ~~and R12-4-428~~.

**R12-4-425. Restricted Live Wildlife Lawfully Possessed without License or Permit Before the Effective Date of Article 4 or Any Subsequent Amendments**

A. A person who lawfully possessed restricted live wildlife without a license or permit from the Department before the effective date of this Section or any subsequent amendments to R12-4-406, this Section, or this Article may continue to possess the wildlife and to use it for any purpose that was lawful, except propagation, before the effective date of R12-4-406, this Section, or this Article or any subsequent amendments, provided the person complies with the requirements established under subsections (A)(1) or (A)(2).

1. The person submits written notification to the Department's regional office in which the restricted live

wildlife is held. The person shall submit the written notification to the regional office within 30 calendar days of the effective date of any subsequent amendments to this Section, R12-4-406, or this Article. The written notification shall include all of the following information:

- a. The number of individuals of each species,
  - b. The purpose for which it is possessed, and
  - c. The unique identifier for each individual wildlife possessed by the person, as established under subsection (F); or
2. The person maintains documentation of the restricted live wildlife held. The documentation shall include:
- a. The number of individuals of each species,
  - b. Proof the individuals were legally acquired before the effective date of the amendment causing the wildlife to be restricted,
  - c. The purpose for which it is used, and
  - d. The unique identifier for each wildlife possessed by the person, as established under subsection (F).
3. The person shall report the birth or hatching of any progeny conceived before and born after the effective date of this Section, R12-4-406, or this Article to the Department and comply with the requirements established under subsection (F).

**B.** The person shall ensure the written notification described under subsection (A)(1) and (A)(2) includes the person's name, address, and the location where the wildlife is held. A person who maintains their own documentation under subsection (A)(2) shall make it available to the Department upon request.

**C.** The person shall retain the documentation required under subsections (A)(1) and (A)(2) until the person disposes of the wildlife as described under subsection (D).

**~~C.~~D.** A person who possesses wildlife under this Section shall dispose of it using any one of the following methods:

1. Exportation;
2. Euthanasia;
3. Transfer to an Arizona special license holder, provided the special license authorizes possession of the species involved; or
4. As otherwise directed by the Department in writing.

**~~D.~~E.** If a person transfers restricted live wildlife possessed under this Section to a special license holder:

1. The exemption for that wildlife under this Section expires, and
2. The special license holder shall use, possess, and report the wildlife in compliance with this Article and any stipulations applicable to that special license.

**~~E.~~F.** A person who exports wildlife held under this Section shall not import the wildlife back into this state unless the person obtains a special license prior to importing the wildlife back into this state.

**~~F.~~G.** A person who possesses wildlife under this Section shall permanently and uniquely mark the wildlife with a unique identifier as follows:

1. Within 30 calendar days of the effective date of this Section, R12-4-406, or this Article if the person has notified the Department as provided under subsection (A)(1); or

2. Within 30 calendar days of receiving written notice from the Department directing the person to permanently mark the wildlife.

**G.H.** A person possessing a desert tortoise (*Gopherus agassizii*) is not subject to the requirements of this Section and shall comply with requirements established under R12-4-404 and R12-4-407.

**R12-4-427. Exemptions from Requirements to Possess a Wildlife Rehabilitation License**

- A.** A person may possess, provide rehabilitative care to, and release to the wild any live wildlife listed below that is injured, orphaned, or otherwise debilitated:
1. The order *Passeriformes*: non-Migratory Bird Treaty Act listed passerine birds;
  2. The order *Columbiformes*: non-Migratory Bird Treaty Act listed doves;
  3. The family *Phasianidae*: quail, pheasant, and chukars;
  4. The order *Rodentia*: rodents; and
  5. The order *Lagomorpha*: hares and rabbits.
- B.** This Section does not:
1. Exempt the person from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
  2. Authorize the person to engage in authorized activities using federally-protected wildlife, unless the person possesses a valid license, permit, or other form of documentation issued by the United States that authorizes the license holder to use that wildlife in a manner consistent with the special license.
- C.** This Section does not authorize the possession of any of the following:
1. Eggs of wildlife;
  2. Wildlife listed as Species of Greatest Conservation Need, as defined under R12-4-401;
  3. Migratory birds, as defined under R12-4-101, or
  - ~~3.4.~~ More than 25 animals at the same time.
- D.** A person taking and caring for wildlife listed under this Section is not required to possess a hunting license.
- E.** A person shall only take wildlife listed under subsection (A) by hand or by a hand-held implement.
- F.** A person shall not possess wildlife lawfully held under this Section for more than 60 days.
- G.** The exemptions granted under this Section shall not apply to any person who, by their own action, has unlawfully injured, orphaned, or otherwise debilitated the wildlife.
- H.** If the wildlife is rehabilitated and suitable for release, the person who possesses the wildlife shall release it within the 60-day period established under subsection (C):
1. Into a habitat that is suitable to sustain the wildlife, or
  2. As close as possible to the same geographic area from where it was taken.
- I.** If the wildlife is not rehabilitated within the 60-day period or the wildlife requires care normally provided by a veterinarian, the person who possesses it shall:
1. Transfer it to a wildlife rehabilitation license holder or veterinarian;
  2. Euthanize it; or

3. Obtain a wildlife holding permit as established under R12-4-417.

**R12-4-428. Captivity Standards**

- A. For the purposes of this Section, "animal" means any wildlife possessed under a special license, unless otherwise indicated.
- B. A person possessing wildlife under a special license authorized under this Article shall comply with the minimum standards for the humane treatment of animals established under this Section.
- C. A person possessing wildlife under an authority granted under this Article shall ensure all facilities meet the following minimum standards:
  1. The facility shall be:
    - a. Constructed of material of sufficient strength to resist any force the animal may be capable of exerting against it.
    - b. Constructed in a manner designed to reasonably prevent the animal's escape or the entry of unauthorized persons, wildlife, or domestic animals.
    - c. Constructed and maintained in good ~~repair~~ condition to protect animals from injury, disease, or death and to enable the humane practices established under this Section.
  2. If electricity is required to comply with related requirements established under this Section, each facility shall be equipped with safe, reliable and adequate electric power.
    - a. All electric wiring shall be constructed and maintained in accordance with all applicable governmental building codes.
    - b. Electrical construction and maintenance shall be sufficient to ensure that no animal has direct contact with any electrical wiring or electrical apparatus, and the animal is fully protected from any possibility of injury, shock, or electrocution.
  3. Each animal shall be supplied with sufficient potable water to meet its needs.
    - a. All water receptacles shall be kept in clean and sanitary condition.
    - b. Water shall be readily available and monitored at least once daily or more often when the needs of the animal or environmental conditions dictate.
    - c. If potable water is not accessible to the animal at all times, it shall be provided as often as necessary for the health and comfort of the animal.
  4. Food shall be suitable, wholesome, palatable, free from contamination, and of sufficient appeal, quantity, and nutritive value to maintain the good health of each animal held in the facility.
    - a. Each animal's diet shall be prepared based upon the nutritional needs and preferences of the animal with consideration for the animal's age, species, condition, ~~health~~, size, and all veterinary directions or recommendations in regard to diet.
    - b. Each animal shall be fed as often as its needs dictate, taking into consideration behavioral adaptations, veterinary treatment or recommendations, normal fasts, or other professionally accepted humane practices.

- c. The ~~quantity or level~~ amount of available food for each animal shall be monitored at least once daily, except for those periods of time when ~~professionally accepted humane practices~~ species specific fasting protocols dictate that the animal should not consume any food during the entire day.
  - d. Food and food receptacles, when used, shall be sufficient in quantity and accessible to all animals in the facility and shall be placed to minimize potential contamination and conflict between animals using the receptacles.
  - e. Food receptacles shall be kept clean and sanitary at all times.
  - f. Any self-feeding food receptacles shall function properly and the food they provide shall be monitored at least once daily and shall not be subject to deterioration, contamination, molding, caking, or any other process that would render the food unsafe or unpalatable for the animal.
  - g. An appropriate means of refrigeration shall be provided for supplies of perishable animal foods.
5. The facility shall be kept sanitary and regularly cleaned as the nature of the animal requires:
    - a. Adequate provision shall be made for the removal and disposal of animal waste, food waste, unusable bedding materials, trash, debris and dead animals not intended for food.
    - b. The facility shall be maintained to minimize the potential of parasite, pest, and vermin infestation, disease, and unseemly odors.
    - c. Excreta shall be removed from the primary enclosure facility as often as necessary to prevent contamination, minimize hazard of disease, and reduce unseemly odors.
    - d. The sanitary condition of the facility shall be monitored at least once daily.
    - e. When the facility is cleaned by hosing, flushing, or the introduction of any chemical substances, adequate measures shall be taken to ensure the animal has no direct contact with any chemical substance and is not directly sprayed with water, steam, or chemical substances or otherwise wetted involuntarily.
  6. A sanitary and humane method shall be provided to rapidly eliminate excess water from the facility. If drains are utilized, they shall be:
    - a. Properly constructed.
    - b. Kept in good ~~repair~~ condition to avoid foul odors or parasite, pest, or vermin infestation.
    - c. Installed in a manner that prevents the backup or accumulation of debris or sewage.
  7. No animal shall be exposed to any human activity or environment that may have an inhumane or harmful effect upon the animal or that is inconsistent with the purpose of the special license.
  8. Facilities shall not be constructed or maintained in proximity to any physical condition which may pose any health threat or unnecessary stress to the animal.
  9. Persons caring for the animals shall conduct themselves in a manner that prevents the spread of disease, minimizes stress, and does not threaten the health of the animal.
  10. All animals housed in the same facility or within the same enclosed area shall be compatible and shall not pose a substantial threat to the health, life or well-being of any other animal in the same facility or enclosure, whether or not the other animals are held under a special license. This subsection shall not apply to live animals utilized as food items in the enclosures.

11. Facilities for the enclosure of animals shall be constructed and maintained to provide sufficient space to allow each animal adequate freedom of movement to make normal postural and social adjustments.
  - a. The facility area shall be large enough and constructed in a manner to allow the animal proper and adequate exercise as is characteristic to each animal's natural behavior and physical needs.
  - b. Facilities for digging or burrowing animals shall have secure safe floors below materials supplied for digging or burrowing activity.
  - c. Animals that naturally climb or perch shall be provided with safe and adequate climbing or perching apparatus.
  - d. Animals that naturally live in an aquatic environment shall be supplied with sufficient access to safe water so as to meet their aquatic behavioral needs.
  - e. The facility and holding environment shall be structured to reasonably promote the physical and psychological well-being of any animal held in the facility.
12. A special license holder shall ensure that a sufficient number of properly trained personnel are utilized to meet all the humane husbandry practices established under this Section. The license holder shall be responsible for the actions of all animal care personnel and all other persons that come in contact with the animals.
13. The special license holder shall designate a veterinarian licensed to practice in this state as the primary treating veterinarian for each species of animal to be held.
  - a. The license holder shall ensure that all animals in their care receive proper, adequate, and humane veterinary care as the needs of each animal dictate.
  - b. Each animal held for more than one year shall be inspected by the attending veterinarian at least once every year. The inspection report shall demonstrate the veterinarian inspected the health of the animal and the condition of its enclosure.
  - c. Every animal shall promptly receive licensed veterinary care whenever it appears that the animal is injured, sick, wounded, diseased, infected by parasites, or behaving in a substantially abnormal manner, including but not limited to exhibiting loss of appetite, abnormal weight loss or ~~disinclination to normal physical activity~~ lethargy.
  - d. All medications, treatments and other directions prescribed by the attending veterinarian shall be properly administered by the license holder, authorized agent, or volunteer. A license holder, authorized agent, or volunteer shall not administer prescription medicine, unless under the direction of a veterinarian.
14. Any animal that is suspected of or diagnosed as harboring any infectious or transmissible disease, whether or not the animal is held under a special license, shall be isolated immediately upon suspicion or diagnosis.
  - a. The isolated animal shall continue to be kept in a humane manner as required under this Section.
  - b. When there is an animal with an infectious or transmissible disease in any animal facility, whether or not the animal is held under a special license, the facility shall be sanitized so as to reasonably eliminate the chance of other animals being exposed to infection. Sanitation procedures may include, but are not

limited to:

- i. Washing facilities or animal-related materials with appropriate ~~antibacterial-chemical agents~~ disinfectants, soaps or detergents;
  - ii. Appropriate application of hot water or steam under pressure; and
  - iii. Replacement of gravel, dirt, sand, water, or food.
  - vi. All residue of chemical agents utilized in the sanitation process shall be reasonably eliminated from the facility before any animal is returned to the facility.
- c. Parasites, pests, and vermin shall be controlled and eliminated so as to ensure the continued health and well-being of all animals.
- D.** In addition the standards established under subsection (C), a person shall ensure all indoor facilities meet the following minimum standards:
1. Heating and cooling equipment shall be sufficient to regulate the temperature of the facility to ~~protect the animals from~~ optimal temperature ~~extremes as the nature of the wildlife requires~~ zone of the species being held to provide a healthy, comfortable, and humane living environment.
  2. Indoor facilities shall be adequately ventilated with fresh air to provide for the healthy, comfortable, and humane keeping of any animal and to minimize drafts, odors, and moisture condensation.
  3. Indoor facilities shall have lighting of a quality, distribution, and duration as is appropriate for the biological needs of the animals held and to facilitate the inspection and maintenance of the facility.
    - a. Artificial lighting, when used, shall be utilized in regular cycles as the animal's needs dictate.
    - b. Lighting shall be designed to protect the animals from excessive or otherwise harmful aspects of illumination.
- E.** In addition the standards established under subsection (C), a person shall ensure that all outdoor facilities meet the following minimum standards:
1. Sufficient shade to prevent the overheating or discomfort of any animal shall be provided.
  2. Sufficient shelter appropriate to protect animals from normal climatic conditions throughout the year.
  3. Each animal shall be acclimated to outdoor climatic conditions before they are housed in any outdoor facility or otherwise exposed to the extremes of climate.
- F.** A person who handles an animal shall ensure the animal is handled in an expeditious and careful manner to ensure no unnecessary discomfort, behavioral stress, or physical harm to the animal.
- ~~a.~~1. An animal shall be transported in a secure, expeditious, careful, temperature appropriate, and humane manner. An animal shall not be transported in any manner that poses a substantial threat to the life, health, or behavioral well-being of the animal.
  - ~~b.~~2. An animal placed on public exhibit or educational display shall be handled in a manner that minimizes the risk of harm to members of the public and to the animal, which includes but is not limited to providing and maintaining a sufficient distance or barrier between the animal and the viewing public.
  - ~~e.~~3. Any restraint or equipment used on an animal shall not cause physical harm or unnecessary discomfort.
- G.** The Department may impose additional requirements on facilities that hold animals to meet the needs of the

particular animal and ensure public health and safety. ~~Any additional special license facility requirements shall be set forth in writing by the Department at the time the special license is issued.~~

**R12-4-430. Importation, Handling, and Possession of Cervids**

- A. The Department shall not issue a new special license authorizing the possession of a live cervid, except as provided under R12-4-418 and R12-4-420.
- B. A person shall not import a live cervid into Arizona, except a zoo license holder may import any live nonnative cervid for exhibit, educational display, or propagation provided the nonnative cervid is quarantined for 30 days upon arrival and is procured from a facility that meets all of the following requirements:
  - 1. The exporting facility has a disease surveillance program and no history of chronic wasting disease or other wildlife disease that pose a serious health risk to wildlife or humans and there is accompanying documentation from the facility certifying there is no history of disease at the facility or within 50 miles of the facility;
  - 2. The nonnative cervid is accompanied by a health certificate, issued no more than 30 days prior to importation by a licensed veterinarian in the jurisdiction of origin; and
  - 3. The nonnative cervid is accompanied by evidence of lawful possession, as defined under R12-4-401.
- C. A person shall not transport a live cervid within Arizona, except to:
  - 1. Export the live cervid from Arizona for a lawful purpose;
  - 2. Transport the live cervid to a facility for the purpose of slaughter, when the slaughter will take place within five days of the date of transport;
  - 3. Transport the live cervid to or from a licensed veterinarian for medical care;
  - 4. Transport the live cervid to a new holding facility owned by, or under the control of, the cervid owner, when all of the following apply:
    - a. The current holding facility has been sold or closed;
    - b. Ownership, possession, custody, or control of the cervid will not be transferred to another person; and
    - c. The owner of the cervid has prior written approval from the Department; or
  - 5. Transport the live nonnative cervid within Arizona for the purpose of procurement or propagation when all of the following apply:
    - a. The nonnative cervid is transported to or from a zoo licensed under R12-4-420;
    - b. The nonnative cervid is quarantined for 30 days upon arrival at its destination;
    - c. The nonnative cervid is procured from a facility that meets all of the requirements established under subsection (B)(1) through (B)(3).
- D. A person who lawfully possesses a live cervid, except any cervid held under a private game farm or zoo license, shall comply with the requirements established under R12-4-425.
- E. A person shall comply with the requirements established under R12-4-305 when transporting a cervid carcass, or its parts, from a licensed private game farm.
- F. In addition to the recordkeeping requirements of R12-4-413 and R12-4-420, a person who possesses a live cervid

under a private game farm or zoo license shall:

1. Permanently mark each live cervid with either an individually identifiable microchip or tattoo within 30 days of acquisition or birth of the cervid and ensure each cervid is marked with an ear tag that identifies the farm of origin in a manner that is clearly visible from a distance of 100 feet; and
  2. Report the death of any cervid to the Department within seven calendar days of the finding the cervid,
  - ~~2.~~3. Include in the annual report submitted to the Department before January 31 of each year, the following for each native cervid in the license holder's possession:
    - a. Name of the license holder,
    - b. License holder's mailing address,
    - c. License holder's telephone number,
    - d. Number and species of live cervids held,
    - e. The microchip or tattoo number of each live native cervid held,
    - f. The disposition of all cervids that were moved or died during the current reporting period,
    - g. The results of chronic wasting disease testing for all cervids one year of age and older that die during the current reporting period.
    - h. The license holder shall also submit copies of all veterinary care records that occurred during the previous year. and
    - ~~h.~~i. Any other information required by the Department to ensure compliance with this Section.
- G. The holder of a private game farm, scientific ~~collecting~~ activity, ~~or~~ zoo license, ~~or a person possessing a cervid under R12-4-425,~~ shall ensure that the retropharyngeal lymph nodes or obex from the head of a cervid over one year of age that dies while held under the special licenses is collected by either a licensed veterinarian or the Department and submitted within 72 hours of the time of death to an Animal and Plant Health Inspection Service certified veterinary diagnostic laboratory for chronic wasting disease analysis. A list of approved laboratories is available at any Department office and ~~online at~~ [www.azgfd.gov](http://www.azgfd.gov) on the Department's website or [www.aphis.usda.gov](http://www.aphis.usda.gov). The license holder shall:
1. Ensure the shipment of the deceased animal's tissues is made by a common, private, or contract carrier that utilizes a tracking number system to track the shipment.
  2. Include all of the following information with the shipment of the deceased animal's tissues, the license holder's:
    - a. Name,
    - b. Mailing address, and
    - c. Telephone number.
  3. Designate, on the sample submission form, test results shall be sent to the Department within 10 days of completing the analysis. The sample submission form is furnished by the diagnostic laboratory providing the test.
  4. Be responsible for all costs associated with the laboratory analysis.
  5. Notify the Department within 72 hours of receiving a suspect or positive result.

- H.** A person who possesses a cervid shall comply with all procedures for:
1. Tuberculosis control and eradication for cervids as prescribed under the United States Department of Agriculture publication "Bovine Tuberculosis Eradication: Uniform Methods and Rules" USDA APHIS 91-45-011, revised January 1, 2005, which is incorporated by reference in this Section.
  2. Prevention, control, and eradication of Brucellosis in cervids as prescribed under the United States Department of Agriculture publication "Brucellosis in Cervidae: Uniform Methods and Rules" U.S.D.A. A.P.H.I.S. 91-45-16, effective September 30, 2003.
  3. The incorporated material is available at any Department office, online at [www.aphis.usda.gov](http://www.aphis.usda.gov), or may be ordered from the USDA APHIS Veterinary Services, Cattle Disease and Surveillance Staff, P. O. Box 96464, Washington D.C. 20090-6464.
  4. The material incorporated by reference in this Section does not include any later amendments or editions.
- I.** A person who possesses a cervid shall maintain records required under this Section for a period of at least five years and shall make the records available for inspection to the Department upon request.
- I.J.** The Department has the authority to seize, euthanize, and dispose of any cervid possessed in violation of this Section, at the owner's expense.

**TITLE 12. NATURAL RESOURCES**  
**CHAPTER 4. GAME AND FISH COMMISSION**  
**ARTICLE 4. LIVE WILDLIFE**

**R12-4-401, R12-4-403, R12-4-405, R12-4-406, R12-4-407, R12-4-409, R12-4-410,  
R12-4-411, R12-4-413, R12-4-414, R12-4-417, R12-4-418, R12-4-420, R12-4-421, R12-4-422,  
R12-4-423, R12-4-424, R12-4-425, R12-4-427, R12-4-428, and R12-4-430**

**Economic, Small Business and Consumer Impact Statement**

**A. The economic, small business and consumer impact summary:**

**1. Identification of the proposed rulemaking:**

The Arizona Game and Fish Commission (Commission) proposes to amend its Article 4 rules, addressing live wildlife to enact amendments developed during the preceding Five-year Review Report. The amendments proposed in the five-year review report are designed to clarify current rule language; protect public health and safety; facilitate job growth and economic development; support the tenets of the North American Model of Wildlife Conservation; enable the Department to provide better customer service; and reduce regulatory and administrative burdens wherever possible. After evaluating the scope and effectiveness of the proposed amendments specified in the review, the Commission proposes additional amendments to further implement the original proposals.

Arizona's great abundance and diversity of native wildlife can be attributed to careful management and the important role of the conservation programs developed by the Arizona Game and Fish Department. The Department's management of both game and nongame species as a public resource depends on sound science and active management. As trustee, the state has no power to delegate its trust duties and no freedom to transfer trust ownership or management of assets to private establishments. Without strict agency oversight and management, the fate of many of our native species would be in jeopardy. Wildlife can be owned by no individual and is held by the state in trust for all the people.

An exemption from Executive Order 2019-01 was provided for this rulemaking by Hunter Moore, Natural Resource Policy Advisor, Governor's Office, in an email dated September 23, 2019.

In addition to the specific amendments described below, the Commission proposes to make the following amendments to all rules contained within Article 4 (live wildlife), where applicable:

Make minor grammatical and formatting changes to make the rules more concise.

Remove the Department website Uniform Resource Location (url) and simply reference "Department's website" to ensure the rule remains concise in the event the Department's url should change.

Replaces references to the url "www.gpoaccess.gov" with "[www.gpo.gov](http://www.gpo.gov)" to make the rule more concise.

Reference the most recent edition of federal regulations incorporated by reference.

Allow a special license applicant to provide a physical address or general location and remove the requirement that an applicant provide the Universal Transverse Mercator coordinates to reduce the costs and

burdens on persons regulated by the rule. This change is proposed as a result of customer comments received by the Department.

Repeal the Federal Tax Identification Number (FTIN) requirement because the Department has determined the anticipated benefits of requiring an applicant to provide their FTIN and, when applicable, their wildlife supplier's FTIN has not been realized. This change is proposed as a result of customer comments received by the Department.

Replace all references to "White Amur Stocking and Holding License" with "White Amur Stocking License" to reflect amendments made to R12-4-424 (white amur stocking and holding license).

Replace all references to "Scientific Collecting License" with "Scientific Activity License" to reflect amendments made to R12-4-418 (scientific collecting license).

Extend the time in which a special license is valid from a period of up to one year to a period up to three years to reduce costs and burdens to the Department and persons regulated by the rule, excepting those licenses for which an authorized activity requires a shorter time-frame. The Department will continue to maintain oversight throughout the licensing period through the required inspections and reports.

Remove the requirement that an applicant submit a separate application for each location where the applicant proposes to use wildlife because the Department intends to implement an online special license application and reporting system. These changes are proposed to reduce the burdens and costs to persons regulated by the rule and the Department.

Each license holder is required to maintain records associated with the license and make them available to the Department for inspection upon request, this includes veterinary care records. The Commission proposes to amend the rules to require a license holder to maintain and make available for inspection all records maintained by the special license holder for a period of five-years.

In addition to the general amendments listed above, the Commission proposes the following amendments:

**R12-4-401. Live Wildlife Definitions:** The objective of the rule is to establish definitions that assist the regulated community and members of the public in understanding the unique terms that are used throughout Article 4.

The Commission proposes to amend the definition of "educational display" to remove rule language that prevents a person from recouping costs for the educational display. This change is consistent with the sport falconry license and allows wildlife holding and scientific activity license holders to educate the public about wildlife conservation and wildlife habitat by providing an opportunity for the public at little or no cost to the license holder.

The Department is aware confusion exists in regards to the definition of "game farm." The Commission proposes to amend the rule to remove references to "terrestrial wildlife or the parts of terrestrial wildlife" from the definition of "game farm" to reflect changes made to R12-4-413 (game farm license) to make the rule more concise and increase consistency between Commission rules.

The Department is aware confusion exists as to which medical professionals have the authority to complete a health certificate. The current definition of "health certificate" means a certificate of examination by a licensed veterinarian. The Commission proposes to amend the rule to clarify that a health certificate may also be completed by a federal or state certified inspector to reduce costs and burdens to persons regulated by the rule and to make the rule more concise.

The Commission also proposes to amend the rule to exclude the definition of "hybrid" as defined under the Migratory Bird Treaty Act (MBTA) under 50 C.F.R. 21.3 (definitions), revised October 1, 2019 to make the rule more concise.

**R12-4-403. Escaped or Released Live Wildlife:** The objective of the rule is to establish the Department's authority to take possession of any escaped or released wildlife that poses an actual or potential threat to native wildlife, wildlife habitat, or to the safety, health, and welfare of the public.

The current rule uses the term "possessing," which has resulted in some confusion. The Commission proposes to amend the rule to clarify it is the person who releases or allows wildlife to escape that is responsible for all costs incurred by the Department associated with seizing or quarantining that wildlife to make the rule more understandable.

**R12-4-405. Importing, Purchasing, and Transporting Live Wildlife Without an Arizona License or Permit:** The objective of the rule is to establish lawful activities and limitations for a person importing, purchasing, or transporting wildlife or the offspring of wildlife taken without a Department-issued license or permit to prevent harm to native wildlife of this state or to endanger public safety.

Subsection (E) of the rule references wildlife taken under an Arizona hunting or fishing license. This information was added in an effort to make the rule more concise, but has resulted in some confusion because the rule establishes lawful activities and limitations for wildlife possessed *without* a Department-issued license or permit. The Commission proposes to repeal subsection (E) to make the rule more concise.

**R12-4-406. Restricted Live Wildlife:** The objective of the rule is to establish a list of live wildlife for which a special license is required in order to possess the wildlife and/or to engage in activities that may be prohibited under A.R.S. § 17-306 and R12-4-402 (live wildlife; unlawful acts). When adding or removing a species from the restricted wildlife list, the Department bases its decision on the following factors: protection of public health and safety; biological impact on species and ecosystems; consistency with federal, state, and county regulatory agencies; and potential economic impact.

The Department is aware of some confusion as to whether the offspring of a restricted wildlife species and non-restricted wildlife species is also restricted wildlife. The Commission proposes to amend the rule to specify hybrid wildlife is considered restricted when one parent wildlife species is listed as restricted live wildlife.

In a recent rulemaking, Article 11 (aquatic invasive species) was renumbered to Article 9. Subsection (A) references R12-4-1102 (aquatic invasive species; prohibitions; inspections; decontamination protocols); The Commission proposes to amend the rule to replace the reference to R12-4-1102 with R12-4-902 to make the rule more concise.

The Department is aware of some confusion in regards to which hedgehogs are considered restricted live wildlife and which are legal to possess as a pet. The European hedgehog, *Erinaceus europaeus* species and other wild hedgehogs are still considered restricted. Hedgehog species that are not restricted include *Atelex albiventris*, *A. algirus*, *Hemiechinus auritus*, *H. collaris*, and any hybrids resulting from these three species. The Commission proposes to amend the rule to clarify which hedgehogs are not restricted; and indicate those species that pose a risk to native wildlife and habitat are restricted.

The Department is aware of some confusion as to transgenic species that are created using scientific methods such as genetic engineering. The confusion results from the statement, "a transgenic animal is considered wildlife if the animal is the offspring of at least one wildlife species." This statement does not account for genetically engineered animals. The Commission proposes to amend the rule to specify a transgenic animal is considered wildlife if the animal's genetic material originated from a restricted wildlife species to proactively address the possession of genetically engineered wildlife.

Because the Department is no longer conducting Masked Bobwhite quail, *Colinus virginianus*, reintroduction efforts in game management unit 34A, the Commission proposes to amend the rule to allow Masked Bobwhite quail to be held under a private game farm license in game management unit 34A.

The Department is aware confusion exists because turkeys are listed as a restricted species, when many species of turkey are readily available for purchase at local pet and feed stores. The Commission proposes to amend the rule to specify which species of turkeys are restricted.

The Department is aware there are discrepancies between when the italicization of scientific names should occur. The Commission proposes to amend the rule to italicize all mentions of Genus and below, with no italics above Genus to be consistent with scientific naming standards. In addition, the Commission also proposes to amend the rule to place the listed wildlife in alphabetical order and provide additional common names for certain species to make the rule more concise.

**R12-4-407. Exemptions from Special License Requirements for Restricted Live Wildlife:** The objective of the rule is to establish the types of scenarios when a person may lawfully possess restricted live wildlife without a special license.

In 1990, the Mojave population of desert tortoise was listed as threatened by the U.S. Fish and Wildlife Service (USFWS) and Arizona law has prohibited the removal of desert tortoises from the wild since 1988. Lawfully obtained desert tortoises may be privately adopted, but desert tortoise adoption in Arizona is subject to specific rules. The Department is aware that confusion exists in regards to under what circumstances a person may lawfully possess or export a desert tortoise out-of-state. The Commission proposes to amend the rule to clarify the circumstances that would allow a person to lawfully export a desert tortoise out-of-state. The proposed rule will prohibit a person from taking a live desert tortoise out-of-state unless authorized by the Department. In the alternative, the person may gift the tortoise to an Arizona resident or donate the tortoise to the Department's Tortoise Adoption Program. The Department's Desert Tortoise Application clearly states that custodians of adopted tortoises may not remove them from Arizona and must return the tortoise to an approved Arizona adoption facility if they plan to relocate to another state. These amendments are proposed

due to the amount of time and resources required of the Department and USFWS when a desert tortoise is found outside of its natural range. USFWS considers all desert tortoises found outside of the combined range of Sonoran and Mojave desert tortoises to be the federally-protected Mojave desert tortoise by similarity of appearance. USFWS and the state wildlife agency collaborate to try to determine the origin of the tortoise (Arizona, California, Nevada, or Utah). If it is determined the person possesses a Mojave desert tortoise, the person is cited for possessing a federally-listed species; USFWS and the state wildlife agency then return the tortoise back to the state from which it was exported. Because there is such a high probability the tortoise will be returned to Arizona, tortoises should not be removed from Arizona in the first place. For these reasons, the Commission proposes to amend the rule to clarify a person may only export a desert tortoise to an education or research institution or zoo located in another state; and require a person who possesses a desert tortoise and is moving out-of-state to gift the desert tortoise to another person who resides in Arizona or donate it to the Department's Tortoise Adoption Program.

The Department may allow a person to export a desert tortoise to an education or research facility or a zoo when authorized in writing by the Department. To effect a more efficient process, the Commission proposes to amend the rule to specify a person who wishes to export a desert tortoise to an education or research facility or a zoo in another state must contact their special license administrator in order to obtain that written authorization.

Under A.R.S. 17-306(A) and R12-4-402 (live wildlife; unlawful acts), a person is prohibited from releasing wildlife into the wild without written authorization from the Department. During the past several decades, a deadly bacterial infection, Upper Respiratory Tract Disease, is appearing more frequently among wild tortoises and is likely due to the release of infected captive tortoises into the wild. This bacterial infection attacks the tortoise's respiratory system and can be transmitted through sharing of burrows, or through the human handling of tortoises when a person handles a sick tortoise and then unwittingly transmits the disease to a healthy animal. The Commission proposes to amend the rule to specify a desert tortoise cannot be released into the wild to protect wildlife and wildlife habitat and to increase consistency between Commission laws and rules.

Under Commission Order 43 (reptiles), a person may lawfully possess one desert tortoise per person and the progeny of any lawfully held desert tortoise may be held in captivity for twenty-four months from date of hatching. Before or upon reaching twenty-four months of age, such progeny must be disposed of by gift to another person or as directed by the Department. The Department is aware of confusion regarding the number of desert tortoises a person may possess; some persons believe that they can lawfully possess as many as they like. The Commission proposes to amend the rule to reference the Commission Order in which the possession limit for desert tortoise is established to make the rule more concise.

In addition, the Commission proposes to clarify the exemptions listed under the rule do not authorize the take of wildlife from the wild. This change is proposed as a result of customer comments received by the Department.

**R12-4-409. General Provisions and Penalties for Special Licenses:** The objective of the rule is to establish general provisions and administrative compliance applicable to all special licenses, as well as regulatory actions that may be taken when a special license holder is convicted of an offense involving cruelty to animals, fails to remedy a noticed condition, or fails to comply with requirements of the rule governing the applicable special license or this rule.

Under A.R.S. § 17-102, wildlife, both resident and migratory, native or introduced, found in this state, except fish and bullfrogs impounded in private ponds or tanks or wildlife and birds reared or held in captivity under permit or license from the Commission, are property of the state and may be taken at such times, in such places, in such manner and with such devices as provided by law or rule of the Commission. The purpose of the special license program is to enable wildlife management and provide information valuable to the maintenance of wild populations, education, the advancement of science, or the promotion of public health. A special license is required when a person, typically a business or educational entity, wants to possess, process, or handle a species listed on the Commission's Restricted Live Wildlife list.

The current rule only allows the Department to place additional stipulations on a special license at the time of issuance or renewal. With this rulemaking, the Commission proposes to increase the length of time in which special licenses are valid to three years. The Department has documented cases where special license holders either illegally conducted surgical operations on wildlife without a veterinary license or did not seek appropriate veterinary care as required by the humane treatment standards established under R12-4-428 (captivity standards). Because the Department is responsible for all wildlife held in this State, the Commission proposes to amend the rule to allow the Department to add or remove stipulations to a special license during the license period to ensure humane care and treatment of wildlife.

Upon determining a disease or other emergency condition exists that poses an immediate threat to the public or the welfare of any wildlife, the Department may immediately order a cessation of operations under the special license and require the special license holder to ensure any contaminated or affected wildlife is tested for the presence of diseases or pathogens. Currently, only those persons possessing nonhuman primates and cervids are required to submit the results of any required testing to the Department. Because this information is necessary and aids the Department in determining what future actions are necessary to prevent the introduction and proliferation of wildlife diseases and protect public health or safety, the Commission proposes to amend the rule to require all special license holders to submit the results of any required testing to the Department.

Each license holder is required to maintain all records associated with the license and make them available to the Department for inspection upon request. The Commission proposes to amend the rule to require a license holder to maintain and make available for inspection all records maintained by the special license holder for a period of five-years.

When a special license holder elects to terminate activities authorized by their special license, they are required to dispose of all wildlife held under the license in the manner directed by the Department, which may include export from this state, transfer to another eligible special license holder, or transfer to a medical

or scientific research facility. To ensure wildlife held under the license is properly disposed of and any required administrative processes are completed, the Department must be notified when a special license holder no longer wishes to conduct activities authorized under the special license prior to the cessation of those activities. The Commission proposes to amend the rule to establish a requirement that a special license holder notify the Department at least 30 days prior to ceasing wildlife activities authorized under the special license.

In all but six states and for most federal wildlife permits, an applicant must be at least 18 years of age in order to be eligible for a permit to possess live wildlife. The Commission proposes to amend the rule to require an applicant to be at least 18 years of age; however, this restriction will not apply to the Game Bird Dog Training and Sport Falconry licenses.

The rule requires a license holder to comply with the standards established under R12-4-428 (captivity standards), or as otherwise required under this Article. In other rules within Article 4, the Commission is proposing to exempt aquatic wildlife stocking, sport falconry, and white amur stocking license holders from the standards established under R12-4-428. The Commission also proposes to amend this rule to specifically exempt aquatic wildlife stocking, sport falconry, and white amur stocking license holders from the standards established under R12-4-428 to reflect changes made to R12-4-410, R12-4-411, R12-4-422, and R12-4-424 to increase consistency between rules within Article 4. This change is proposed as a result of customer comments received by the Department.

**R12-4-410. Aquatic Wildlife Stocking License:** The objective of the rule is to establish requirements that allow a person to import, possess, purchase, stock, and transport any restricted aquatic species designated on the license at the location specified on the license, including authorized activities, administrative compliance, and the restrictions and prohibitions necessary to protect existing aquatic wildlife and wildlife habitat.

The Department is currently working with various government agencies to allow them to stock, hold, and use endangered Gila Topminnow (*Poeciliopsis occidentalis*) for vector control instead of nonnative mosquitofish. Currently, Pima and Pinal Counties are the only government agency stocking Gila Topminnow for vector control. Because these agencies need to hold and stock Gila Topminnow year-round and the aquatic stocking license is only valid for a period of 20 consecutive days, they have to apply for up to 18 licenses each year. The Commission proposes to amend the rule to allow the issuance of an annual Aquatic Wildlife Stocking to State government agencies for the purpose of stocking Gila Topminnow or other approved species for vector control to reduce burdens and costs to persons regulated by the rule.

The Commission proposes to replace the reference to the “On-Line Environmental Review Tool” with “Online Environmental Review Tool” to reflect current terminology used by the Department.

The standards established under R12-4-428 are designed to ensure the humane and ethical treatment of wildlife, but when applied specifically to fish facilities it becomes apparent that they are difficult to put into practice and unnecessarily restrictive for the humane and ethical treatment of aquatic wildlife. For these reasons, the Commission proposes to amend the rule to exempt aquatic wildlife stocking license holders from

the requirements of R12-4-428. This change is proposed as a result of customer comments received by the Department.

**R12-4-411. Live Bait Dealer's License:** The objective of the rule is to establish the requirements necessary to allow a person to conduct a commercial live bait retail sales operation; to include authorized activities, permitted species, administrative compliance, and the restrictions and prohibitions necessary to protect existing aquatic wildlife and aquatic wildlife habitat.

The Department evaluated the potential to minimize the risk and threats to native aquatic species, while continuing to maintain live bait use opportunities that have social and economic importance to the angling community. The Western Mosquitofish (*Gambusia affinis*) is native throughout the Mississippi River and its tributary waters. In Arizona, Mosquitofish have been directly linked to the local extirpation of at least three historical Gila Topminnow populations within a few years of introduction. Threadfin Shad (*Dorosoma petenense*) are native to watersheds of the Gulf Coast, including the Ohio, Illinois, Indiana, and Mississippi River drainages. Threadfin Shad are very sensitive to changes in temperature and dissolved oxygen, and die-offs are frequent in late summer and fall. Therefore, bait dealers usually do not hold and sell this species and anglers are able to collect these species from wild populations to use as bait. The Commission proposes to amend the rule to remove mosquito fish and threadfin shad from the list of authorized aquatic live wildlife a bait dealer may lawfully sell. The Commission also proposes to amend the rule to allow the following native species to the list of authorized aquatic live wildlife a bait dealer may lawfully sell: Longfin Dace, Speckled Dace (*Rhinichthys osculus*), Sonora Sucker, and Desert Sucker (*Catostomas clarkii*).

The standards established under R12-4-428 are designed to ensure the humane and ethical treatment of wildlife, but when applied specifically to fish facilities it becomes apparent that they are difficult to put into practice and unnecessarily restrictive for the humane and ethical treatment of aquatic wildlife. For these reasons, the Commission proposes to amend the rule to exempt live bait dealer's license holders from the requirements of R12-4-428. This change is proposed as a result of customer comments received by the Department.

**R12-4-413. Private Game Farm License:** The objective of the rule is to establish the requirements necessary to allow a person to conduct the commercial farming, use, and sale of game species; to include authorized activities, permitted wildlife, administrative compliance, and the restrictions and prohibitions necessary to protect native wildlife and wildlife habitat.

While the rule is intended to authorize the issuance of a game farm license for the purpose of raising and propagating game species (principally game birds and, formerly, deer) it also authorizes the possession, sale, and use of mammals listed as restricted live wildlife under R12-4-406 (restricted live wildlife), including anteaters, armadillos, moose, primates (apes, baboons, chimpanzees, gibbons, gorillas, lorises, macaques, orangutans, spider monkeys, and tamarins), shrews, sloths, weasels, wild cats (including jaguars, leopards, lions, lynx, ocelots, servals, and tigers), and woodchucks. Allowing a person to possess these mammals for game farm purposes was not the intent of this rule. As a result, the Department receives private game farm license applications for armadillos, lemurs, and servals. These are not native game species and pose a public

health and safety risk and a risk to native wildlife and wildlife habitat if illegally released or allowed to escape. In addition, many of these species require complex dietary, territorial, social, physical, and psychological needs that the general public is incapable of providing; often these animals are kept in deprived and inappropriate environments. It is not uncommon for the public to surrender unwanted restricted species to the Department. As a result, the Department must expend its resources to provide species appropriate feeding, facilities, handling, and veterinary care as well as find a willing wildlife sanctuary to accept the animal.

The Commission proposes to amend the rule to align it with Commission guidance, which indicates that private game farms for mammals is not the intent of the Game Farm rule. Commission Policy A1.12 calls for the restriction and prohibition of commercial uses of live wildlife that may adversely affect Arizona wildlife populations and habitats, or pose risks to public health and safety. This amendment will only affect new game farm applicants; the proposed change will not impact the three (3) currently licensed private game farms that authorized to possess other species of wildlife as they will be able to renew their license for the wildlife currently held under the license under subsection (E) of this rule.

Because the Department is no longer conducting Masked Bobwhite quail reintroduction efforts in game management unit 34A, the Commission proposes to amend the rule to allow Masked Bobwhite quail to be held under a private game farm license in game management unit 34A.

Under A.R.S. §17-250, a person who is in possession of wildlife or who maintains wildlife under a license issued by the Department is required to submit the wildlife or parts of the wildlife for disease testing. The Commission proposes to amend the rule to require a person to immediately report to the Department any mortality event that results in the loss of 10% or more of the adult wildlife held on the facility and allow the Department to collect samples from the affected wildlife for disease testing purposes. This standard is chosen because it is the common standard for the livestock and pet trade industries and it signifies an event outside of acceptable parameters and is indicative of a potential disease outbreak.

In 2002, as a result of concerns over the spread of Chronic Wasting Disease (CWD), the Commission amended the rule to prohibit the possession of cervids under a private game farm license. Subsection (E) was adopted to provide a mechanism to allow a person who was previously authorized to possess cervids under the rule to renew the license, provided certain criteria are met. The Commission proposes to amend the rule to allow a person who currently possesses mammals under this rule to continue to renew the private game farm license, provided the license holder is in compliance with all applicable requirements under R12-4-409 (general provisions and penalties for special licenses), R12-4-428 (captivity standards), R12-4-430 (importation, handling, and possession of cervids), and this rule.

The Commission proposes to amend the rule to clearly state that the location information required under subsection (I)(4) is the location physical address or general location where the applicant proposes to conduct activities. This change is proposed as a result of customer comments received by the Department.

The Commission proposes to amend the rule to authorize the possession of Mallard ducks and Mountain Quail to expand opportunities for private game farm license holders.

**R12-4-414. Game Bird License:** The objective of the rule is to establish the requirements that allow a person to possess, release, and take pen-reared game birds; to include authorized activities, permitted game bird species that may be held under the license, administrative compliance, and the restrictions and prohibitions necessary to protect existing habitat and wildlife resources.

The Commission proposes to amend the rule to restrict a game bird hobby license holder to gift wildlife lawfully held under the license to a person who is authorized to possess the wildlife. The intent of the proposed amendment is to prevent persons from unknowingly violating the rule. Often, persons who are gifted wildlife do not possess an appropriate special license prior to accepting the wildlife.

Because the Department is no longer conducting Masked Bobwhite quail reintroduction efforts in game management unit 34A, there is no need to restrict Masked Bobwhite quail reintroduction efforts in game management unit 34A. The Commission proposes to amend the rule to allow Masked Bobwhite quail to be held under a game bird license in game management unit 34A.

Under A.R.S. §17-250, a person who is in possession of wildlife or who maintains wildlife under a license issued by the Department is required to submit the wildlife or parts of the wildlife for disease testing. The Commission proposes to amend the rule to require a person who possesses a game bird shooting preserve or hobby license to immediately report to the Department any mortality event that results in the loss of 10% or more of the adult wildlife held on the facility and allow the Department to collect samples from the affected wildlife for disease testing purposes. This standard is chosen because it is the common standard for the livestock and pet trade industries; an event resulting in a loss of 10% or more of the total number of adult animals is outside of normal parameters and is indicative of a potential disease outbreak. This requirement will not apply to persons who hold game bird field trial events or conduct game bird field training because these license holders typically possess captive pen-reared game birds on a temporary basis.

The current live game bird license is valid for a period of up to one year depending on the date of issue; The Commission proposes to amend the rule to extend the time in which the license is valid from a period of up to one year to a period up to three years, except for the field trial license. This change is proposed to reduce the burdens and costs to persons regulated by the rule and the Department. The Department will continue to maintain oversight throughout the licensing period through the required inspections and reports.

Field trials are connected to the sport of hunting; they support the maintaining of hunting breeds of dogs which add not only to the sport of hunting, but also the conservation of our wildlife resources by facilitating more efficient game harvest. Field trials specifically involve dogs, horses, and game birds in an organized and judged event. They are outdoor competitions designed to mimic an actual hunt in the wild, with a focus on honing hunting instincts in domestic dogs. These events judge dogs on their field performance during particular events, thus an annual license is not warranted. The Game Bird Field Trial license applicant will continue to be required to submit a separate application for each date and location where a competition will occur.

**R12-4-417. Wildlife Holding License:** The objective of the rule is to establish the requirements that allow a person to possess and care for restricted live wildlife lawfully taken under a valid hunting or fishing

license, scientific collecting license, or wildlife rehabilitation license; to include authorized activities, permitted wildlife species that may be held under the license, administrative compliance, and the restrictions necessary to protect wildlife and wildlife habitat.

Throughout the rule, the terms "restricted" and "non-restricted" are used somewhat indiscriminately. The Commission proposes to amend the rule to increase consistency between when and where these terms should apply.

Under subsection (C)(2)(a), a wildlife holding license holder may permanently hold wildlife that is unable to meet its own needs in the wild; but the rule does not establish who is qualified to make this determination. The Commission proposes to amend the rule to specify that only a licensed veterinarian may determine whether or not an animal is suitable for release.

The Department receives applications for a wildlife holding license from persons asking to possess wildlife that poses a danger to public health and safety if the wildlife they were to escape or be released or come into contact with members of the public, such as bears, nonhuman primates, tigers, etc. This is not in keeping with the intent of the rule. The Commission proposes to amend the rule to allow the Department to deny a wildlife holding license when it is in the best interest of public health and safety.

The Department allows an agent to assist, or act on behalf of, the license holder. Because an agent is allowed to conduct the same activities as the license holder, the Commission proposes to amend the rule to clarify the agent's role and responsibilities to make the rule more concise.

**R12-4-418. Scientific Collecting License:** The objective of the rule is to establish the requirements that allow a person to use live wildlife for purposes related to the advancement of conservation, education, science, and wildlife management; to include authorized activities, permitted wildlife species that may be held under the license, administrative compliance, and the restrictions and prohibitions necessary to protect public health and safety and existing wildlife habitat and resources.

The Commission proposes to amend the name of the license to Scientific Activity License to more accurately reflect the purpose of the license and reduce confusion.

While the definition of "take" includes pursuing, shooting, hunting, fishing, trapping, killing, capturing, snaring or netting wildlife or placing or using any net or other device or trap in a manner that may result in capturing or killing wildlife; there is still some confusion about certain activities involving wildlife. The Commission proposes to amend the rule to include other types of activities to reflect activities already considered lawful in an effort to clarify the rule.

Because the license allows a person to collect dead wildlife, the Commission proposes to amend the rule to remove the reference to "live" to clarify the rule.

The Commission proposes to amend the rule to further refine the license types by removing the consultant type and adding academic institution, non-governmental organization, and nonprofit organization to the license types currently prescribed in rule for statistical purposes.

The Department allows an agent to assist, or act on behalf of, the license holder. Because an agent is allowed to conduct the same activities as the license holder, the Commission proposes to amend the rule to clarify the agent's role and responsibilities to make the rule more concise.

Currently, an applicant for a scientific collecting license is required to submit a separate written proposal providing information about the applicant's proposed activities and abilities. The Commission proposes to amend the rule to incorporate the information required in the proposal into the application to reduce burdens and costs to persons regulated by the rule.

The Commission proposes to amend the rule to allow the Department to deny a scientific activity license when the issuance of the license will adversely impact other wildlife or their habitat in this state or when it is in the best interest of public health and safety to better protect native wildlife and wildlife habitat.

**R12-4-420. Zoo License:** The objective of the rule is to establish the requirements that allow a person to use captive live wildlife in a commercial facility where the principal business is exhibiting wildlife to the public and for purposes related to the advancement of science, conservation, education, or wildlife management; to include authorized activities, permitted wildlife species that may be held under the license, administrative compliance, and the restrictions and prohibitions necessary to protect public health and safety and existing wildlife habitat and resources.

Public comments received by the Department indicate there is some confusion regarding whether a private person is eligible to apply for a zoo license. In addition, the rule as currently written appears to be in conflict with the Legislature's definition of "zoo" as defined under A.R.S. § 17-101(A)(26) because the rule does not make it clear that a zoo license is issued only to a commercial facility for the purpose of public exhibition of wildlife. The Commission proposes to amend the rule to increase consistency between the rule and statute by specifying that a zoo license may only be issued to a facility that is open to the public and where the principal business is holding wildlife in captivity for exhibition purposes.

The current zoo license is valid for a period of up to one year depending on the date of issue; the Commission proposes to amend the rule to extend the time in which the zoo license is valid from a period of up to one year to a period up to three years. The Department will continue to maintain oversight throughout the licensing period through the required inspections and reports.

**R12-4-421. Wildlife Service License:** The objective of the rule is to establish the requirements that allow a person to facilitate the removal of wildlife that causes property damage, poses a threat to public health or safety, or when the health or well-being of the wildlife is threatened by its immediate environment; to include authorized activities, permitted wildlife species, administrative compliance, and the restrictions and prohibitions necessary to protect public health and safety and existing wildlife habitat and resources.

Under A.R.S. § 17-102, wildlife, both resident and migratory, native or introduced, found in this state, except fish and bullfrogs impounded in private ponds or tanks or wildlife and birds reared or held in captivity under permit or license from the commission, are property of the state and may be taken at such times, in such places, in such manner and with such devices as provided by law or rule of the Commission. Subsection (B) identifies which species of animal do not require a wildlife service license and may be removed under a

Pest Management license issued by the Arizona Department of Agriculture. Because most doves are considered to be migratory birds, there is some confusion as to whether Rock pigeons (*Columba livia*) are protected under the Migratory Bird Treaty Act (MBTA). The Commission proposes to amend the rule to add Rock pigeons, also known as Rock Doves, to subsection (B). This change is proposed as a result of customer comments received by the Department.

The rule references "peach-faced love birds." The Commission proposes to amend the rule to replace the term "peach-faced love birds" with "rose-colored lovebirds" to reflect current scientific terminology.

The current wildlife service license is valid for a period of up to one year depending on the date of issue; The Commission proposes to amend the rule to extend the time in which the license is valid from a period of up to one year to a period up to three years. The Department will continue to maintain oversight throughout the licensing period through the required inspections and reports. This change is proposed to reduce the burdens and costs to persons regulated by the rule and the Department.

**R12-4-422. Sport Falconry License:** The objective of the rule is to establish the requirements that allow a person to take and use raptors listed in the Migratory Bird Treaty Act (MBTA) for the sport of falconry; to include authorized activities, permitted raptor species, administrative compliance, and the restrictions and prohibitions necessary to protect existing wildlife habitat and resources.

In 2008, 50 C.F.R. 21.29 (falconry standards and falconry permitting) was amended to eliminate the dual permitting system and transfer falconry permitting administration to the individual states, provided the state's laws, rules, processes, and forms met the minimum standards under 50 C.F.R. 21.29. If a state failed to meet standards for certification, any persons possessing a Migratory Bird Treaty Act species (MBTA) raptor for falconry in that state would be required to permanently release into the wild, euthanize, or transfer their raptor to a licensed falconer in a certified state or jurisdiction, a captive propagation program, or the Department. In order to continue permitting sport falconry using MBTA raptors in Arizona, the rule must remain in place and continue to meet USFWS standards for certification. The Department's rules, processes, and forms were certified as meeting the standards under 50 C.F.R. 21.29; see 77 FR 66406 - 66408, November 5, 2012.

In 2012, the Commission amended R12-4-422 to comply with amendments made to the federal regulations, which included amending facility requirements. At that time, a decision was made to apply the captivity standards established under R12-4-428 (captivity standards) to falconry housing facilities. The standards established under R12-4-428 are designed to ensure the humane and ethical treatment of wildlife, but when applied specifically to falconry housing facilities it becomes apparent that they are difficult to put into practice and unnecessarily restrictive for the humane and ethical treatment of raptors. For these reasons, the Commission proposes to amend the rule to exempt licensed falconers from the requirements of R12-4-428. This change is proposed as a result of customer comments received by the Department.

The Commission proposes to incorporate federal housing facility standards to ensure compliance with requirements and standards for raptors housing facilities as prescribed under 50 C.F.R. 21.29 (falconry standards and falconry permitting). The Commission also proposes to replace "facilities" with "housing facilities." These changes are proposed as a result of customer comments received by the Department.

Under 50 C.F.R. 21.29 (falconry standards and falconry permitting), USFWS is required to maintain an electronic reporting system that allows persons conducting lawful activities with MBTA raptors to enter information regarding the acquisition and disposal (death, loss, purchase, sale, theft, transfer, etc.) of raptors they possess. Because states are supposed to have access to the online reporting system for administrative purposes, the rule was previously amended to no longer require the person to provide a copy of the Federal 3-186A form to the Department. Due to functionality issues with the electronic reporting system, the Department currently requires falconry license holders to provide a copy of the 3-186A form to the Department whenever a reportable activity occurs. Requiring a paper copy of the 3-186A form is authorized under 50 C.F.R. 21.29, regardless of whether the electronic reporting system is fully functional or not. Furthermore, under 50 C.F.R. 21.27 (special purpose permits) and 21.30 (raptor propagation permits) respectively, unless the state requires an abatement or propagation permit, a person need only possess a federal permit to conduct abatement activities with, or propagate, MBTA raptors. Both federal permits have liberal possession limits and raptors held under the federal permits do not count towards the falconers possession limit established in rule. Because the federal regulations allow a person to use any lawfully possessed falconry raptor for abatement activities or for propagation, a licensed falconer can transfer their falconry raptor to their federal permit for abatement or propagation purposes at any time, as applicable. Under 50 C.F.R. 21.17 and 21.30, a person is only required to notify the governing state agency of this transfer when that state requires notification. Again, because the Department believed it would be made aware of these transfers through the electronic reporting system the rule did not require persons to notify the Department when a raptor was transferred to the federal permit. For these reasons, the Commission proposes to amend the rule to require a person to submit a paper copy of the 3-186A form and the federal propagation report at the same time the person submits these forms (reports) to USFWS. In addition, the Commission proposes to amend the rule to replace the definition of "abatement services" with "abatement" to make the rule more concise.

A license wildlife rehabilitator is authorized to provide treatment and care to sick, injured, or orphaned wildlife with the goal of releasing the wildlife back to their natural habitats in the wild once they are capable of functioning in their natural habitats as normal members of their species. A licensed falconer may assist the wildlife rehabilitator in conditioning a raptor in preparation for releasing it back into the wild. Effective, appropriate conditioning is necessary to meet the unique physical and psychological needs of each raptor species. Because the rule does not restrict the falconer to the type of raptor they are authorized to possess, a falconer who has no experience with a particular raptor species may inadvertently harm the raptor or delay its release into the wild due to their inexperience. In addition, because effective, appropriate conditioning is required, the Department does not believe the average apprentice falconer possesses the necessary skills to provide effective and appropriate conditioning. For these reasons, the Commission proposes to amend the rule to limit the ability to assist a wildlife rehabilitator in conditioning a raptor to a general or master falconer and restrict the general and master falconer to only those raptor species they are authorized to possess under their sport falconry license to align the rule with the federal regulation, 50 C.F.R. 20.21.

The rule allows a licensed falconer to assist a licensed wildlife rehabilitator in conditioning a raptor in preparation for its release into the wild. Because only a federally licensed rehabilitator may possess migratory birds for the purpose of rehabilitation, the rule has resulted in some confusion. The Commission proposes to amend the rule to clarify that a licensed falconer may assist *any federally* licensed wildlife rehabilitator in conditioning a raptor in preparation for its release into the wild. This change is proposed as a result of customer comments received by the Department.

Under 50 C.F.R. 20.21 (what hunting methods are illegal) and R12-4-422, a master falconer may conduct abatement activities with any raptor they possess for falconry, provided the falconer meets certain criteria. There is some concern about potential enforcement difficulties for State and federal law enforcement officers because the federal regulations do not allow falconry raptors held under a sport falconry license to be used for abatement and propagation activities and the potential exploitation of the liberal possession limits for master falconers under the falconry regulations. The Commission proposes to amend the rule to require a person to submit a properly completed 3-186A form to the Department when transferring a falconry raptor to the person's federal abatement or propagation permit. In addition, the Commission proposes to amend the rule to require a person to submit a paper copy of the federal propagation report at the same time the person submits the report to USFWS, as applicable.

Under subsection (M), a person is not required to tether an unflighted eyas. The Commission proposes to amend the rule to replace the term "unflighted eyas" with "nestling" as it is a common term and, thus, more easily understood.

Under subsection (H), an apprentice falconer is prohibited from possessing a raptor that has imprinted on a human. The Commission proposes to amend the rule to define "imprint" by incorporating the definition under 50 C.F.R. 21.3 (definitions) to make the rule more concise.

The rule defines "abatement services" to clarify subsection (W). The Commission proposes to amend the rule to repeal the definition of "abatement services" and define "abatement" to make the rule more concise.

In most cases where an examination is required, a person must submit an application before taking the examination. For the sport falconry license, the application is the last step in the process. The person must first pass the examination, then undergo a facilities inspection, and finally submit an application. Because this is not the typical process and there is some confusion, the Commission proposes to amend the rule to clarify the licensing process.

A person is required to report information regarding the capture of any raptor displaying a federal Bird Banding Laboratory (BBL) aluminum research band or tag to BBL by calling a telephone number. Since the rule was last amended, BBL has implemented an online reporting system. The Commission proposes to amend the rule to replace the reference to the telephone number with a reference to the BBL website to make the rule more concise.

The National Eagle Repository (Repository) is managed and operated by the USFWS; its purpose is to provide a central location for the receipt, storage, and distribution of bald and golden eagle carcasses and parts of carcasses throughout the U.S. The eagle carcasses and their parts are shipped to Native Americans

and Alaskan Natives enrolled in federally recognized tribes for use in Indian religious ceremonies. The collection efforts of USFWS provides a legal means for Native Americans to acquire eagle feathers for religious purposes, which in turn, reduces the pressure to take birds from the wild and thereby protecting eagle populations. The distribution of bald and golden eagles and their parts to Native Americans is authorized by the Bald and Golden Eagle Protection Act and Regulations found in 50 CFR 22. The numbers of requests for eagle carcasses and parts of carcasses far exceeds the number of available eagle carcasses and parts of carcasses. For this reason, federal and state conservation agencies, zoological parks, federal rehabilitators, and others who may legally possess and transport carcasses and parts of carcasses are encouraged to send them to the Repository where they will be distributed to Native Americans. The Repository will not accept the carcass and parts of carcass of a raptor that is suspected or confirmed with West Nile Virus or poisoning, except for lead poisoning, and requires the person possessing such raptor to disposed of the carcass by incineration. The Commission proposes to clarify the actions required to dispose of a deceased eagle or other raptor.

**R12-4-423. Wildlife Rehabilitation License:** The objective of the rule is to establish the requirements that allow a person to rehabilitate and release live wildlife; to include authorized activities, permitted wildlife species, administrative compliance, and the restrictions and prohibitions necessary to protect existing wildlife habitat and resources. Wildlife Rehabilitation is defined as the treatment and temporary care of injured, diseased, and displaced native wildlife, and the subsequent release of healthy individuals to appropriate habitats in the wild.

Under subsection (L)(3), an applicant for a wildlife rehabilitation license must also submit an affidavit affirming either the applicant is a licensed veterinarian or that a licensed veterinarian is reasonably available to provide veterinary services as necessary to facilitate the rehabilitation of wildlife they may possess under the license. The intent behind this requirement is that any wildlife the applicant may possess will receive appropriate medical care from a licensed veterinarian whenever necessary. The Department recently became aware of a situation where a license holder who has no formal veterinary medical education performed medical procedures, including surgery, on wildlife held under that licensee. The Commission proposes to amend the rule to clarify the wildlife rehabilitation license does not authorize the license holder to conduct any activities defined as the practice of veterinary medicine under A.R.S. § 32-2231 whether or not a fee, compensation, or reward is offered, received, or accepted by the licensed rehabilitator.

Under subsection (L), an applicant for a wildlife rehabilitation license must provide proof of at least six months experience performing wildlife rehabilitative work with an average of at least eight hours each week. This requirement ensures the license holder has the minimum amount of experience required to satisfactorily provide rehabilitative care to wildlife in their possession. Under subsection (O), an agent may conduct rehabilitative activities on the wildlife license holder's behalf. Because an agent is authorized to conduct rehabilitative activities without direct supervision, the Department believes an agent should be held to the same standards under subsection (L)(1)(b). The Commission proposes to amend the rule to establish an agent

for a wildlife rehabilitation license holder shall provide proof of at least six months experience performing wildlife rehabilitative work to protect Arizona's wildlife resources.

Under R12-4-422 (sport falconry license), a licensed falconer is required to conduct specific activities when possessing the carcass or parts of a deceased MBTA raptor. Because a wildlife rehabilitation license holder may handle deceased MBTA raptors, the Commission proposes to amend the rule to specify the actions required to dispose of a deceased eagle or other raptor.

The Commission proposes to clarify a wildlife rehabilitation license holder may lawfully possess and care for wildlife received from the public.

Under subsection (J), an applicant must successfully complete an examination conducted by the Department before a wildlife rehabilitation license may be issued to the person. The Commission proposes to clarify the rule by establishing the applicant must correctly answer at least 80% of the questions on the Department administered examination to make the rule more concise.

A licensed wildlife rehabilitator may allow a licensed falconer to assist in conditioning a raptor in preparation for its release into the wild. Because only a federally licensed rehabilitator may possess migratory birds for the purpose of rehabilitation, the rule has resulted in some confusion. The Commission proposes to amend the rule to clarify that a licensed wildlife rehabilitator who also possesses a federal rehabilitator license may allow a licensed falconer to assist in conditioning a raptor in preparation for its release into the wild. This change is proposed as a result of customer comments received by the Department.

Under subsection (Y), a wildlife rehabilitation license holder may permanently hold wildlife determined to be unsuitable for release into the wild; however, the rule does not establish who is qualified to make this determination. The Commission proposes to amend the rule to specify that only a licensed veterinarian may determine whether or not an animal is suitable for release.

Under subsection (Z), a wildlife rehabilitation license holder is required to submit an annual report containing specific information to the Department by January 31 of each year. The license holder is required to provide the permit or license number of any federal permits or licenses that relate to any rehabilitative function performed by the license holder. A license holder may submit a copy of the rehabilitator's federal permit report of activities related to federally-protected wildlife in lieu of the federal permit or license numbers. The way the information is presented has contributed to some confusion because some license holders believe the copy of the federal permit report satisfies the Department's reporting requirement. The Commission proposes to amend the rule to clarify the Department considers the federal permit report to be proof of the applicant's federal permit or license number.

**R12-4-424. White Amur Stocking and Holding License:** The objective of the rule is to establish the requirements that allow a person to possess and transport white amur (*Ctenopharyngodon Idella*); to include authorized activities, administrative compliance, and the restrictions and prohibitions necessary to protect existing aquatic habitat and resources.

An overabundance of freshwater vegetation can result in dense mats of vegetation that interfere with navigation and recreational activities, clogged power generation and irrigation equipment, stagnant water

(which provides a good breeding ground for mosquitoes), and degraded water quality due to rising pH levels, decreased oxygen, and increased temperature. White amur are used as a natural alternative to remove unwanted freshwater vegetation. They are stocked in a private or public pond until the desired effect has been achieved and then they are transported to another location where they can be of service. White amur are capable of fast growth and can live for 10 to 15 years; when they reach maturity, their rate of weed consumption declines, and restocking of additional white amur is required every 5 to 6 years. Therefore, the Commission proposes to amend the rule to remove references to "holding."

The white amur stocking and holding license is valid for a period of 20 consecutive days. In most cases, due to the life expectancy of white amur, a person will not need another license for years, if at all. The Commission proposes to amend the rule to remove references pertaining to license renewal to make the rule more concise.

Scientific terminology is language used by scientists in the context of their professional activities. While studying nature, scientists often encounter or create new material or immaterial objects and concepts and are compelled to rename or redefine them. As a result, scientific terms and definitions continue to evolve over time. The Commission proposes to amend the definition of "triploid" to reflect scientific terminology used by modern fishery biologists.

The Department is aware of some confusion regarding the use of the terms "commercial" and "noncommercial" activity and how those terms apply to the white amur license. Under R12-4-401 (live wildlife definitions), "commercial purpose" means the bartering, buying, leasing, loaning, offering to sell, selling, trading, exporting or importing of wildlife or their parts for monetary gain. When viewed through this definition, the use of white amur by an applicant for vegetation control purposes cannot be viewed as a commercial purpose. In addition, an entity maintaining white amur for a commercial purpose as defined under R12-4-401 would be operating under an aquaculture (fish farm) license issued by the Department of Agriculture. Therefore, differentiating between "commercial" and "noncommercial" is not necessary. The Commission proposes to amend the rule to remove language pertaining to "commercial" and "noncommercial" purpose.

The Commission proposes to replace the reference to "On-Line Environmental Review Tool" with "Online Environmental Review Tool" to reflect current terminology.

In most cases, the costs incurred by the Department when processing a restocking license are anticipated to be less than an initial license because the Department believes the issuance of a white amur stocking license should take less time to review as there would be no need for the required inspection(s) and background or reference check(s). The Commission proposes to amend the rule to establish a restocking license.

The standards established under R12-4-428 are designed to ensure the humane and ethical treatment of wildlife, but when applied specifically to fish facilities it becomes apparent that they are difficult to put into practice and unnecessarily restrictive for the humane and ethical treatment of white amur. For these reasons, the Commission proposes to amend the rule to exempt white amur license holders from the requirements of R12-4-428.

**R12-4-425. Restricted Live Wildlife Lawfully Possessed without License or Permit Before the Effective Date of this Article:** The objective of the rule is to establish administrative compliance requirements for the continued possession and use of wildlife lawfully possessed before becoming classified as restricted live wildlife list under R12-4-406 (restricted live wildlife) without having to apply for and obtain a special license. The rule requires a person who lawfully possessed wildlife prior to being classified as restricted live wildlife to notify the Department of the possession and use of the wildlife. The Commission restricts certain wildlife species from possession because they pose a threat to human health and safety, have a negative biological impact on species and ecosystems, have a negative economic impact, and to be consistent with federal, state, and county regulatory agencies. Notification is required so the Department can track and monitor these species.

Because the rule does not provide a time-frame for retaining this documentation and there is some confusion as to how long a person should retain documentation regarding the possession of restricted wildlife, the Department at times is unable to determine when the person obtained the restricted wildlife. The Commission proposes to amend the rule to establish a person shall retain documentation of compliance with the rule for as long as the person possesses said wildlife.

**R12-4-427. Exemptions from Requirements to Possess a Wildlife Rehabilitation License:** The objective of the rule is to establish criteria that allow a person to possess and care for specific live wildlife species without having to apply for and obtain a wildlife rehabilitation license, to include authorized activities, wildlife species that may be held without a wildlife rehabilitation license; to include the restrictions and prohibitions necessary to protect wildlife habitat and resources.

The Commission proposes to amend the rule to clarify the rule by referencing “non-Migratory Bird Treaty Act” when listing classifications that include both migratory and non-migratory species. This change is proposed as a result of customer comments received by the Department.

The Commission also proposes to amend the rule to reference the definition of migratory birds under R12-4-101 to make the rule more concise.

**R12-4-428. Captivity Standards:** The objective of the rule is to establish the minimum standards for living spaces, furnishings, equipment, dietary needs, veterinary care, and social groupings to ensure the humane treatment of wildlife possessed under a lawful exemption or special license issued by the Department. Wildlife requires specialized care to survive; without species appropriate feeding, facilities, handling, and veterinary care, wildlife may suffer or die.

The Commission proposes to amend the rule to make it more concise and easier to understand.

The rule requires a license holder to have each animal held for more than one year to be inspected by the attending veterinarian at least once every year. The Department is aware of some confusion as to what should be documented during the inspection. The Commission proposes to amend the rule to require the veterinary report to demonstrate the veterinarian inspected the health of the animal and the condition of its enclosure. This change is a result of customer comments received by the Department.

**R12-4-430. Importation, Handling, and Possession of Cervids:** The objective of the rule is to establish the requirements for the importation, handling, and possession of captive cervids necessary to prevent disease transmission from captive cervids to wildlife and domestic animals, and the restrictions and prohibitions necessary to protect existing habitat and wildlife resources.

The intent behind the rule is to protect native wildlife and their habitats from the introduction of disease carried by captive cervids and prevent the introduction of nonnative cervids in Arizona ecosystems. The economic costs associated with wildlife disease outbreaks and control can be severe. Costs of disease outbreaks are generally recurring and additive due to annual costs of monitoring and eradicating diseased animals. Outbreaks can lead to significant decreases in license revenue sales due to decreased hunter participation. If wildlife diseases are introduced into Arizona and spread to native wildlife, the Department will have to divert resources to disease prevention and mitigation instead of wildlife management and habitat enhancement. Rural economies would also be adversely impacted.

The detection of CWD in new areas is expanding; at the time of the last rulemaking, eight additional states and a Canadian province became CWD positive. According to the most recent maps, 26 states and four Canadian provinces are now CWD positive. Since beginning surveillance more than 20 years ago, the Department has collected and tested 23,300 cervid samples (elk, mule deer, and white-tailed deer) and none have tested positive for CWD.

CWD has the potential to negatively impact deer herds wherever the disease occurs; it is always fatal and could have serious negative impacts on the state's deer population if it becomes established in Arizona (Almberg et al. 2011). CWD infection decreases deer survival odds and lowers total life expectancy (Miller et al. 2008). If a large percentage of the population were to become infected there could be negative impacts for the population, including: A decline in doe survival, which results in an overall reduced population (Gross and Miller 2001); Fewer older bucks, as male animals may be more likely to be infected due to specific male social and behavioral tendencies (Miller et al. 2008, Jennelle et al. 2014); and An overall decline in population (Gross and Miller 2001, Almberg et al. 2011), as exhibited in Colorado and Wyoming. In an area of Colorado with high CWD prevalence, mule deer numbers have plummeted by 45%, in spite of good habitat and protection from human hunting. In Wyoming a monitored infected population experienced a 10.4% annual decline, with CWD-positive animals having a higher mortality rate than non-infected deer (Edmunds et al 2016). Taking action to prevent the spread of CWD to new areas helps to slow the transmission of the disease between individuals. The Commission proposes to amend the rule to implement the following requirements necessary to the Department's monitoring and detecting diseases in cervids: require the holder of a private game farm license to mark each cervid they possess with an ear tag that identifies the farm of origin in a manner clearly visible from 100 feet; require a person possessing a cervid to report the death of any cervid to the Department within seven calendar days; include the results of chronic wasting disease testing for all cervids one year of age and older that dies during the current reporting period in the annual report; notify the Department within 72 hours of receiving a suspect or positive disease testing result; and require a person who

possesses a cervid to maintain related records for a period of at least five years and make the records available for inspection to the Department upon request.

Under R12-4-425 (restricted live wildlife lawfully possessed without license or permit before the effective date of article 4 or any subsequent amendments) a person who lawfully possessed wildlife prior to being classified as restricted live wildlife to notify the Department of the possession and use of the wildlife. This notification is required so the Department is made aware of the location of the restricted wildlife for tracking and monitoring purposes. Cervids are listed as restricted live wildlife under R12-4-406 (restricted live wildlife), which means a person must have a lawful exemption or possess a special license in order to lawfully possess them in Arizona. Even though cervids have been listed as restricted live wildlife since 2002, the Department still encounters persons possessing cervids lawfully obtained prior to 2002 but who have not yet met the requirements of R12-4-425. The Commission proposes to amend the rule to reference R12-4-425 to increase consistency between rules.

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

The agency did not rely on any study in its evaluation of or justification for the rule.

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

Not applicable

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

The Commission's intent in proposing these amendments is to protect native wildlife and their habitats in many ways, including preventing the spread of disease, reducing the risk of released animals competing with native wildlife, discouraging illegal trade of native wildlife, and avoiding conflict between humans and wildlife which may threaten public health or safety. The Commission anticipates the majority of the rulemaking is intended to benefit persons regulated by the rule, members of the public, and the Department by clarifying rule language, creating consistency among existing Commission rules, reducing the burden on persons regulated by the rule where practical, and allowing the Department additional oversight where necessary. The Commission anticipates the rulemaking will result in an overall benefit to persons regulated by the rule, members of the public, and the Department. The Commission anticipates the rulemaking will result in little or no impact to political subdivisions of this state; private and public employment in businesses, agencies or political subdivisions; or state revenues. The Commission has determined that there are no less intrusive or costly alternative methods of achieving the purpose of the rulemaking. Other than the regular cost of rulemaking, the Department will expend resources to implement the rules. The Commission has determined that the benefits of the rulemaking outweigh any costs.

**(a) The conduct and its frequency of occurrence that the rule is designed to change:**

Overall, the Commission believes the amendments proposed in this rulemaking result in rules that are either less burdensome or have no significant impact on the regulated community.

**(b) The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:**

Overall, the Commission believes the amendments proposed in this rulemaking result in rules that are either less burdensome or have no significant impact on the regulated community.

**(c) The estimated change in frequency of the targeted conduct expected from the rule change:**

Overall, the Commission believes the amendments proposed in this rulemaking result in rules that are either less burdensome or have no significant impact on the regulated community.

**2. Brief summary of the information included in the economic, small business and consumer impact statement.**

The Commission's intent in proposing these amendments is to protect native wildlife and their habitats in many ways, including preventing the spread of disease, reducing the risk of released animals competing with native wildlife, discouraging illegal trade of native wildlife, and avoiding conflict between humans and wildlife which may threaten public health or safety. The Commission anticipates the majority of the rulemaking is intended to benefit persons regulated by the rule, members of the public, and the Department by clarifying rule language, creating consistency among existing Commission rules, reducing the burden on persons regulated by the rule where practical, and allowing the Department additional oversight where necessary. The Commission anticipates the rulemaking will result in an overall benefit to persons regulated by the rule, members of the public, and the Department. The Commission anticipates the rulemaking will result in little or no impact to political subdivisions of this state; private and public employment in businesses, agencies or political subdivisions; or state revenues. The Commission has determined that there are no less intrusive or costly alternative methods of achieving the purpose of the rulemaking. Other than the regular cost of rulemaking, the Department will expend resources necessary to implement the rules. The Commission has determined that the benefits of the rulemaking outweigh any costs.

**3. The name and address of agency employees who may be contacted to submit or request additional data on the information included in the economic, small business and consumer impact statement:**

Name: Celeste Cook, Rules and Policy Manager

Address: Arizona Game and Fish Department  
5000 W. Carefree Highway  
Phoenix, AZ 85086

Telephone: (623) 236-7390

Fax: (623) 236-7677

E-mail: CCook@azgfd.gov

**B. Economic, small business and consumer impact statement shall include:**

**1. Identification of the proposed rulemaking:**

See paragraph (A)(1) above.

**2. Identification of the persons who will be directly affected by, bear the costs of or directly benefit from the proposed rulemaking:**

Overall, the Commission believes the amendments proposed in this rulemaking result in rules that are either less burdensome or have no significant impact on the regulated community. The Commission believes the general public and the Department benefit from the proposed rulemaking through clarification of rule language governing the lawful possession of live wildlife.

The Commission anticipates the amendments that make grammatical changes where necessary to make the rules more concise and easier to understand will benefit persons regulated by the rule, the Department, and the public by reducing confusion.

While definitions alone have no impact on the Department or regulated community and enforcement of the rule manifests itself through proper administration, the Commission anticipates the amendment that removes “without requiring or soliciting payment from an audience or an event sponsor” from the definition of “educational display” will benefit some special license holders by allowing them to recover costs associated with the educational display.

The Commission anticipates the amendments intended to clarify current rule language, such as prohibiting the export of a desert tortoise or allowing a health certificate to be completed by a federal or state certified inspector, will have no impact on persons regulated by the rule or the Department.

The Commission anticipates the amendments that remove the Federal Tax Identification Number (FTIN), remove the requirement that an applicant submit a separate application for each location where activities will take place, and allow a special license applicant to provide a physical address or general location instead of UTM coordinates for the facility or the place where activities will take place will benefit persons regulated by the rule by reducing burdens and costs associated with the application process.

The Commission anticipates the amendments that extend the period for which the special license is valid from one to three years will benefit persons regulated by the rule and the Department by reducing burdens and costs associated with the application process. The Department will continue to maintain oversight throughout the three-year period through inspections and required reports. The following licenses will remain short-term licenses due to the nature and purpose: the Aquatic Stocking, Game Bird Field Trial, Scientific Collecting, and White Amur Stocking.

The Commission anticipates the amendment that removes Northern Bobwhite quail from the list of restricted species will benefit persons regulated by the rule by allowing the use of additional game birds.

The Commission anticipates the amendment that allows the Department to add or remove stipulations to a special license during the license period will benefit persons regulated by the rule and the Department by reducing burdens and costs associated with the license renewal process. Stipulations reaffirm rule requirements, specify animal care and handling requirements, provide authorization to conduct certain activities, prohibit certain activities, etc. and are currently added or removed at the time a license is issued. In order to move to a three year license, it is necessary for the Department to be able to make changes to the stipulations noted on the license.

The Commission anticipates the amendment that establishes the circumstances under which an application for a special license is considered a renewal of the special license will benefit persons regulated by the rule. In most cases, the costs incurred by the Department to process the renewal of a license when there are no changes to the location, species held, or agent(s) are anticipated to be less intensive and time-consuming than an initial license, the Commission intends to establish a lower fee for the renewal of a license. Because the Commission intends to establish a lower fee for the renewal of a license, it is necessary to establish the criteria that differentiates a license renewal from an initial license.

The Commission anticipates the amendment that requires a special license holder to submit the results of any required testing to the Department will benefit persons regulated by the rule and the Department. When determined to be necessary, the Department will require a special license holder to have wildlife held in their care tested for suspected diseases. If a disease is documented, it is important that the Department is able to address it immediately by ordering cessation of activities performed under the license, quarantining of the diseased wildlife, and/or the humane disposition of the diseased wildlife. In the past, there has been some confusion as to who is responsible for providing copies of the test results to the Department. Establishing who is responsible for providing the results to the Department will ensure the Department receives the results of the disease testing in a timely manner.

The Commission anticipates the amendment that establishes a time period of five-years for all records maintained by the special license holder and that are subject to Department inspection will benefit persons regulated by the rule and the Department. Most all of the special license rules require the license holder to maintain records and provide them for inspection upon request, but do not provide a time-frame for maintaining those records or specify three or five years. Establishing a consistent time-frame will increase consistency between rules within Article 4.

The Commission anticipates the amendment that requires a special license holder notify the Department at least 30 days prior to ceasing wildlife activities authorized under the special license will benefit persons regulated by the rule and the Department by ensuring the wildlife held under the license is disposed of as required by the Department.

The Commission anticipates the amendment that requires an applicant to be at least 18 years of age will benefit persons regulated by the rule and the Department. At the age of 18, a minor assumes legal control over their persons, actions, and decisions, thus terminating their parent's responsibility for the minor's actions. The Department benchmarked with other fish and wildlife agencies and all but six states require an applicant to be at least 18 years of age. The Commission proposes to amend the rule to require an applicant to be at least 18 years of age. However, this restriction will not apply to the Game Bird Dog Training and Sport Falconry licenses.

The Commission anticipates the amendment that exempts aquatic wildlife stocking, sport falconry, and white amur stocking license holders from the standards established under R12-4-428 will benefit persons regulated by the rule and the Department by removing care and housing requirements that are not applicable to the species held under the license.

The Commission anticipates the amendment that enables the Department to consider the first time a special license holder fails to remedy a condition that poses a threat to the public or welfare of any wildlife as a failure to remedy to allow the Department to take action more quickly when a special license holder commits an egregious violation will benefit the Department and the public.

The Commission anticipates the amendment that allows the Department to issue an annual aquatic wildlife stocking license to government agencies that stock Gila Topminnow or other approved species for vector control will benefit persons regulated by the rule and the Department.

The Commission anticipates the amendment that allows the Department to issue an aquatic wildlife restocking license will benefit persons regulated by the rule and the Department by facilitating a more efficient application review process.

The Commission anticipates the amendment that removes mosquito fish and threadfin shad from the list of authorized aquatic live wildlife a bait dealer may lawfully sell will benefit the Department by reducing costs and burdens associated with wildlife habitat mitigation resulting from damage caused by these bait fish.

The Commission anticipates the amendment that adds Longfin Dace, Speckled Dace (*Rhinichthys osculus*), Sonora Sucker, and Desert Sucker (*Catostomas clarkii*) to the list of authorized aquatic live wildlife a bait dealer may lawfully sell will benefit persons regulated by the rule and the Department.

The Commission anticipates the amendment that removes mammals from the list of wildlife that may be lawfully held under the license will benefit the Department and the public. While the rule is intended to authorize the issuance of a game farm license for the purpose of raising and propagating game species it also authorizes the possession, sale, and use of mammals listed as restricted live wildlife, including but not limited to anteaters, armadillos, bears, beavers, crocodiles, moose, nutrias, porcupines, primates, shrews, sloths, weasels, wild cats, and woodchucks. These are not native game species and pose a public health and safety risk and a risk to native wildlife and wildlife habitat if illegally released or allowed to escape. The Commission proposes to amend the rule to align it with Commission guidance, which indicates that private game farms for mammals is not the intent of the Game Farm rule. This amendment will only affect new game farm applicants; as the current license holders will be able to renew their licenses for the wildlife currently held under the license under the rule.

The Commission anticipates the amendment that allows the possession of Mallard ducks and Mountain Quail will benefit persons regulated by the rule by expanding opportunities for private game farm license holders.

The Commission anticipates the amendment that allows a person to submit a health certificate or other similar form that indicates the wildlife identified on the form appears to be healthy and free of infectious, contagious, and communicable diseases will benefit persons regulated by the rule by reducing burdens.

The Commission anticipates the amendments that require a person to immediately report to the Department any mortality event that results in the loss of 10% or more within a seven-day period and allow the Department to collect samples from the affected wildlife for disease testing purposes will benefit the Department and public by better protecting wildlife and wildlife habitat.

The Commission anticipates the amendments that prohibit a game bird hobby license holder from gifting wildlife held under the license to another person will benefit persons regulated by the rule, the Department, and members of the public by preventing persons do not possess a special license from unknowingly violating the rule when they accept the gifted wildlife.

The Commission anticipates the amendments that allows the possession of Mallard ducks for all game bird licenses and the incorporation by reference of the federal regulation that establishes requirements that allows the possession of captive-reared, properly marked mallard ducks without a federal permit will benefit persons regulated by the rule and the Department by increasing consistency between federal regulations and Commission rules.

The Commission anticipates the amendment that establishes only a licensed veterinarian may determine whether or not an animal is suitable for release will benefit persons regulated by the rule and the Department by ensuring this decision is made by a qualified and objective person.

The Commission anticipates the amendments that remove the commercial, noncommercial, and consultant license types and add “Academic Institutions,” “NGOs,” “and “nonprofit organizations” to the list of Scientific Collecting License types will benefit persons regulated by the rule and the Department by reducing confusion caused by the three types being removed and by further refining the types for statistical purposes.

The Commission anticipates the amendments that includes other types of activities will benefit persons regulated by the rule and the Department by reflecting activities already considered lawful in an effort to clarify the rule.

The Commission anticipates the amendment that allows the Department to deny a wildlife holding license when the issuance of the license will adversely impact other wildlife or their habitat in this state or when it is in the best interest of public health and safety will benefit the Department and the public by better protecting native wildlife and wildlife habitat.

The Commission anticipates the amendment that adds Rock pigeons to the list of wildlife that may be removed without a Wildlife Service License will benefit persons regulated by the rule and the Department by expanding opportunities for Wildlife Service License holders

The Commission anticipates the amendments that increase consistency between the federal regulations and rules within Article 4 will benefit persons regulated by the rule and the Department by increasing consistency between the federal regulations and the rule.

The Commission anticipates the amendments that require a person to submit paper copies of the 3-186A forms and federally required reports at the same time the person submits them to USFWS will benefit persons regulated by the rule and the Department by ensuring the communication, regarding the disposition of MBTA raptors, required under the federal regulation is occurring.

The Commission anticipates the amendments that exempts a licensed falconer from the captivity standards established under R12-4-428 and requires a licensed falconer to comply with the federal standards

of care for falconry housing facilities will benefit persons regulated by the rule and the Department by increasing consistency between the federal regulations and the rule.

The Commission anticipates the amendments that limit the ability to assist a wildlife rehabilitator in conditioning a raptor to general and master falconers will benefit persons regulated by the rule and the Department by increasing consistency between the federal regulations and the rule.

The Commission anticipates the amendments that establish the wildlife rehabilitation license does not authorize the license holder to conduct any activities that could be construed as the practice of veterinary medicine will benefit persons regulated by the rule and the Department.

The Commission anticipates the amendments that establish an agent working on behalf of a wildlife rehabilitation license holder to provide proof of at least six months experience performing wildlife rehabilitative work will benefit persons regulated by the rule and the Department.

The Commission anticipates the amendments that establish the actions the license holder is required to take in order to safely dispose of a deceased eagle or other raptor will benefit persons regulated by the rule and the Department.

The Commission anticipates the amendment that updates the definition of "triploid" to reflect language used by modern fishery biologists will benefit persons regulated by the rule and the Department.

The Commission anticipates the amendment that removes references to "commercial" and "noncommercial" purpose will benefit persons regulated by the rule and the Department.

The Commission anticipates the amendment that allows the Department to issue a white amur restocking license will benefit persons regulated by the rule and the Department by facilitating a more efficient application review process.

The Commission anticipates the amendments that incorporate the following recommended chronic wasting disease best practices will benefit persons regulated by the rule and the Department: requiring a private game farm license holder to mark their cervids with an ear tag; report the death of any cervid within seven days; notify the Department within 72 hours of receiving a suspect or positive disease testing result; and include the results of chronic wasting disease testing for all cervids one year of age and older that dies during the current reporting period in the annual report.

### **3. Cost benefit analysis:**

#### **(a) The probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the proposed rulemaking:**

Overall, the Commission anticipates the proposed amendments will have little or no impact on the Department or other agencies directly affected by the implementation and enforcement of the proposed rulemaking. The Commission anticipates the implementation of the rulemaking will have no measurable impact on Department operations, as the Department has been fully engaged in addressing live wildlife concerns. The Commission believes the proposed rulemaking will enhance the Department's ability to protect the public health, safety, and welfare and native wildlife and wildlife habitat. Although additional opportunities are created, the Commission does not anticipate the Department will incur additional costs

associated with regulating these changes. The Commission has determined the rulemaking will not require any new full-time employees. The Commission believes the benefits of the rulemaking outweigh any costs.

**(b) The probable costs and benefits to a political subdivision of this State directly affected by the implementation and enforcement of the proposed rulemaking:**

The Commission anticipates the proposed amendments will have little or no impact on political subdivisions of this state directly affected by the implementation and enforcement of the proposed rulemaking.

**(c) The probable costs and benefits to businesses directly affected by the proposed rulemaking, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the proposed rulemaking:**

The Commission's intent in the proposed rulemaking is to promote public health, safety, and welfare, and allow the Department the management authority necessary to protect and manage wildlife and wildlife habitat. Many of the amendments will not affect businesses, their revenues, or their payroll expenditures. Of those that do or may have an impact, the Commission does not anticipate the impact will be significant. The Commission believes the benefits of the rulemaking outweigh any costs.

**4. General description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the proposed rulemaking.**

The Commission anticipates the proposed amendments will have minimal or no substantive impact on private and public employment in businesses, agencies, and political subdivisions of this state directly affected by the proposed rulemaking.

**5. Statement of the probable impact of the proposed rulemaking on small businesses:**

**(a) Identification of the small businesses subject to the proposed rulemaking.**

The Commission's intent in proposing these amendments is to protect native wildlife and their habitats in many ways, including preventing the spread of disease, reducing the risk of released animals competing with native wildlife, discouraging illegal trade of native wildlife, and preventing interactions between humans and wildlife that may threaten public health or safety. The Commission anticipates the majority of the rulemaking is intended to benefit the regulated community, members of the public, and the Department by clarifying rule language to ease enforcement, creating consistency among existing Commission rules, reducing the burden on the regulated community where practical, and allowing the Department additional oversight where necessary. The Commission anticipates the rulemaking will result in an overall benefit to the regulated community, members of the public, and the Department. The Commission anticipates the rulemaking will result in little or no impact to political subdivisions of this state; private and public employment in businesses, agencies or political subdivisions; or state revenues. The Commission has determined that there are no less intrusive or costly alternative methods of achieving the purpose of the rulemaking. The Commission has determined that the benefits of the rulemaking outweigh any costs.

Because, in most instances, the rulemaking either reduces or makes no change to the current regulatory burden, the Commission anticipates persons regulated by the rule will not incur any additional costs as a result of the rulemaking. For most special license holders, any anticipated costs incurred are strictly administrative in nature and are believed to be insignificant.

**(b) Administrative and other costs required for compliance with the proposed rulemaking.**

Overall, the Commission believes the amendments proposed in this rulemaking result in rules that are either less burdensome or have no significant impact on the regulated community.

**(c) Description of the methods that the agency may use to reduce the impact on small businesses.**

The Commission believes establishing less stringent compliance requirements for small businesses is not necessary as the proposed rules do not place any compliance or reporting requirements on businesses.

**(d) Probable cost and benefit to private persons and consumers who are directly affected by the proposed rulemaking.**

The Commission anticipates the proposed rulemaking will benefit private persons and consumers by clarifying live wildlife and special license rules and establishing additional provisions for the protection of public welfare, and in doing so ensuring the continued integrity of and compliance with its rules. Overall, the Commission believes the amendments proposed in this rulemaking result in rules that are either less burdensome or have no significant impact on the regulated community. The Commission believes the general public and the Department benefit from the proposed rulemaking through clarification of rule language governing the lawful possession of live wildlife.

Because, in most instances, the rulemaking either reduces or makes no change to the current regulatory burden, the Commission anticipates the regulated community will not incur any additional costs as a result of the rulemaking.

It is important to note, applying for a special license is voluntary and only a person who chooses to apply for a special license will incur costs associated with the license.

**6. Statement of the probable effect on state revenues.**

The Commission anticipates the proposed amendments will have little or no impact on state revenues.

**7. Description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking including the monetizing of the costs and benefits for each option and providing rationale for not using the nonselected alternatives.**

The Commission has determined that there are no alternative methods of achieving the objectives of the proposed rulemaking.

**8. Description of any data on which a rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data. An agency advocating that any data is acceptable data has the burden of proving that the data is acceptable.**

For this rulemaking, the Commission relied on empirical data based on agency experience and observations, which included comments from the public and agency staff that administer and enforce the

rules included in this rulemaking. Additionally, the Commission relied on historical data (i.e., meeting notes from previous rulemaking teams, Department reports (sportsman data, violation data, etc.), other state agency rules, current processes, benchmarking with other states, and the Department's overall mission. This rulemaking includes rules that govern lawful possession of live wildlife. The Commission approached this rulemaking and the use of the documentation, statistics, and research in a methodical way, testing various approaches and trying to replicate approaches that were successful in other states.

**C. If for any reason adequate data are not reasonably available to comply with the requirements of subsection B of this section, the agency shall explain the limitations of the data and the methods that were employed in the attempt to obtain the data and shall characterize the probable impacts in qualitative terms.**

The Department tasked a team of subject matter experts to make recommendations for this proposed rule. In its review, the team considered all comments from the public and agency staff that administer and enforce Commission rules, available historical data, current processes and environment, and the Department's overall mission. The team considered each recommendation from a resource perspective and determined whether the recommendation would cause undue harm to the Department's goals and objectives. The team then determined whether the request was consistent with the Department's overall mission, if it was within the scope of the Commission's authority, and whether it was acceptable to the public. The Commission believes the process utilized in completing this economic, small business, and consumer statement is more than adequate.



Celeste Cook &lt;ccook@azgfd.gov&gt;

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**Fwd: Arizona Game and Fish Department Review of Live Wildlife Rules**

1 message

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**Timothy Holt** <tholt@azgfd.gov>  
To: Celeste Cook <ccook@azgfd.gov>

Wed, Sep 30, 2020 at 9:14 AM

FYI...from the Arizona Pest Professionals Organization

----- Forwarded message -----

From: **Brandy Petrone** <brandy@goodmanschwartz.com>  
Date: Wed, Sep 16, 2020 at 11:41 AM  
Subject: Re: Arizona Game and Fish Department Review of Live Wildlife Rules  
To: Timothy Holt <tholt@azgfd.gov>  
Cc: Stu Keenan <stu@kykopest.com>, Stuart Goodman <sgoodman@goodmanschwartz.com>

Thank you, Tim. We discussed this at our last meeting and do not have any comments to provide.

Appreciate you following up with AzPPO!

Brandy

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**From:** Timothy Holt <tholt@azgfd.gov>  
**Date:** Tuesday, September 15, 2020 at 11:54 AM  
**To:** Brandy Petrone <brandy@goodmanschwartz.com>  
**Cc:** Stuart Keenan <stu@kykopest.com>, Stuart Goodman <sgoodman@goodmanschwartz.com>  
**Subject:** Re: Arizona Game and Fish Department Review of Live Wildlife Rules

The public comment period is open now until October 4th.

See the following link: <https://www.azgfd.com/Agency/Rulemaking/>

On Fri, Aug 7, 2020 at 1:03 PM Timothy Holt &lt;tholt@azgfd.gov&gt; wrote:

No problem Brandy. There will be a public comment period pending approval of the rulemaking package by the Commission.

Tim

On Aug 7, 2020, at 12:13 PM, Brandy Petrone <[brandy@goodmanschwartz.com](mailto:brandy@goodmanschwartz.com)> wrote:

Hi Tim,

I wanted to give you an update on our end. Unfortunately, our committee timing did not work out to get you any possible feedback for the meeting today, but we do meet next week and I will pass along any possible feedback.

Thank you!

Brandy

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**From:** Timothy Holt <[tholt@azgfd.gov](mailto:tholt@azgfd.gov)>  
**Date:** Friday, July 17, 2020 at 1:56 PM  
**To:** Brandy Petrone <[brandy@goodmanschwartz.com](mailto:brandy@goodmanschwartz.com)>  
**Cc:** Stuart Keenan <[stu@kykopest.com](mailto:stu@kykopest.com)>, Stuart Goodman <[sgoodman@goodmanschwartz.com](mailto:sgoodman@goodmanschwartz.com)>  
**Subject:** Re: Arizona Game and Fish Department Review of Live Wildlife Rules

Brandy, Stu,

I never received any comments or concerns back from you, but wanted to inform you the draft proposed rulemaking will be going in front of the Arizona Game and Fish Commission on August 7.

I have attached the draft notice of proposed rulemaking. Please let me know if you have any questions, comments, or concerns.

Thank you.

Tim

On Mar 26, 2020, at 3:54 PM, Timothy Holt <[tholt@azgfd.gov](mailto:tholt@azgfd.gov)> wrote:

Brandy, Stu,

It has been quite some time since I last reached out to you but wanted to remain in touch and update you in regards to the rulemaking process.

Here is the latest update on the rulemaking process:

- On June 4, 2019 the Governor's Regulatory Review Council approved the Article 4 Rule Review Report.
- On September 23, 2019 we received approval from the Governor's Office to proceed with rule making.
- Internal rulemaking comments were solicited with deadline of October 23, 2019.
- Several internal team meetings were held through January 2020
- Currently, the proposed rules are being reviewed by the Arizona Game and Fish Department legal staff.
- Formal comments from the public are expected to be solicited in May/June

We wanted to reach out to you prior to the formal comment period to address any comments or concerns you may have. In regards to Arizona Administrative Code R12-4-421 (Wildlife Service License) we are proposing some minor grammatical changes and two substantive changes:

1. Changing the license to a three year license (annual report still required) to reduce burden to the customer and license administrators.
2. Charging a fee for this license as it currently is offered at no charge. Our Commission has given direction to attempt to recover license administration costs on special licenses when applicable. An internal audit was conducted in 2012 to determine this amount and for the Wildlife Service License it was recommended to be \$75.00. We are proposing an initial fee for the Wildlife Service License at \$225.00 (good for three years) and renewal fee at \$75.00.

Thank you and please let me know of any comments/concerns.

Tim Holt

602-359-1502

On Fri, Jul 20, 2018 at 2:02 PM Brandy Petrone <[brandy@goodmanschwartz.com](mailto:brandy@goodmanschwartz.com)> wrote:

Hi Time,

We would be happy to get something set up. Please let us know how we can help. Thank you for reaching out!

Brandy

[Brandy Petrone](#)

Goodman Schwartz Public Affairs

3200 N. Central Ave, Suite 2200

Phoenix, AZ 85012

O: 602-277-0911

C: 602.821.8318

[brandy@goodmanschwartz.com](mailto:brandy@goodmanschwartz.com)

**We have moved. Please note our new address.**

On Jul 18, 2018, at 12:20 PM, Stu Keenan <[stu@kykopest.com](mailto:stu@kykopest.com)> wrote:

Mr. Holt

Thank you for reaching out to me in regards to the rule making for Arizona Game and Fish Department. We would defiantly like to be involved in any of the changes your considering during your rule making process. We defiantly keep a close eye on everything that has to do with the services our industry has to offer.

We are no longer being represented by Capital Consulting. We are now with Stuart Goodman and Brandy Petrone with Goodman/Schwartz. I copied them on this email to you. Please feel free to reach out to them for a time we can meet to discuss Arizona Game and Fish Department thoughts.

Thank you Tim!

Stu

**From:** Timothy Holt [<mailto:tholt@azgfd.gov>]

**Sent:** Wednesday, July 18, 2018 10:38 AM

**To:** [stu@kykopest.com](mailto:stu@kykopest.com)

**Subject:** Arizona Game and Fish Department Review of Live Wildlife Rules

Mr. Keenan

My name is Tim Holt and I have been selected to lead a team of employees at the Arizona Game and Fish Department in a five year review of our live wildlife rules (otherwise known at Article 4 rules). It appears the Arizona Pest Professionals Organization (AZPPO) submitted comments during the last rule making cycle specifically in regards to Arizona Administrative Code R12-4-421 (Wildlife Service License) as some members of the AZPPO currently have wildlife service licenses.

We are early in the process of reviewing this rule and the rulemaking portion of the process will not begin until 2019, but we wanted to reach out early to those groups and individuals that expressed interest and comments during the last rulemaking cycle to solicit any potential concerns or comments we may take into consideration during the rule review process.

I see that AZPPO comments were received through Capitol Consulting, LLC last time...is there a contact there we should work through?

Thank you.

--

Tim Holt

Field Supervisor – Mesa

Arizona Game and Fish Department

[7200 E. University Drive](#)

[Mesa, AZ 85207](#)

602-359-1502

[tholt@azgfd.gov](mailto:tholt@azgfd.gov)

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**Tim Holt** | Field Supervisor - Flagstaff

ARIZONA GAME AND FISH DEPARTMENT

MOBILE: 602.359.1502

10/13/2020

State of Arizona Mail - Fwd: Arizona Game and Fish Department Review of Live Wildlife Rules

EMAIL: [tholt@azgfd.gov](mailto:tholt@azgfd.gov)

azgfd.gov | 3500 S. Lake Mary Road, Flagstaff, AZ 86005

Join our new [Conservation Membership](#) program and ensure a wildlife legacy for the future.

--

**Tim Holt** | Field Supervisor - Flagstaff

ARIZONA GAME AND FISH DEPARTMENT

MOBILE: 602.359.1502

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**Tim Holt** | Field Supervisor - Flagstaff

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azgfd.gov | [3500 S. Lake Mary Road, Flagstaff, AZ 86005](#)

Join our new [Conservation Membership](#) program and ensure a wildlife legacy for the future.



Celeste Cook &lt;ccook@azgfd.gov&gt;

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**Proposed changed to commission rules**

1 message

**Gerald Perry** <gperry12345@gmail.com>

Tue, Sep 22, 2020 at 8:16 PM

To: Rulemaking &lt;rulemaking@azgfd.gov&gt;

Celeste,

I noted the rules review process is open for changes to commission rule regarding article 4. Most of the changes seem to add clarity and are reasonable for what the commission seems to be trying to accomplish in raising revenue.

However, I am concerned about the term "authorized agent" pertaining to R12-4-116. Without a definition, it leaves the term too broad.

I am adamantly opposed to landowner tags or anything related to that topic. I believe landowners can charge access fees to cross their private lands, but I also believe the opportunity to pursue our state's wildlife belongs with the hunter who competes with other hunters for the opportunity to take wildlife.

The term "authorized agent" is just too ambiguous.

Sincerely,

Gerry Perry

[GPerry12345@gmail.com](mailto:GPerry12345@gmail.com)



September 30, 2020

Celeste Cook  
Rules and Policy Manager  
Arizona Game & Fish Department  
5000 W. Carefree Highway, Phoenix, AZ 85086

Dear Ms. Cook,

I am writing on behalf of Wildlife World Zoo, and James Badman of JK Badman Exotics in response to the Department's Article 4 rulemaking. We have appreciated the Department's transparency and continued communication with all relevant stakeholders as these changes are thoughtfully discussed and structured in the best way for Arizona wildlife and the businesses that engage in the conservation, education, and industry of that wildlife. While we have been able to work to agreement on a number of issues, two matters continue to be of significant concern:

**I. Private Game Farm License**

With few exceptions, in order to work with restricted wildlife in Arizona, you must have either a Private Game Farm License, or a Zoo License. Game & Fish's proposal to eliminate the Private Game Farm License for anything other than game birds gives our coalition of license holders and other focused industry stakeholders concern for those that currently (or hope to eventually) operate under a zoo license.

We most strenuously and respectfully request the Department work with us to resolve these concerns before making modifications in rule that may put these license holders in a precarious position with no alternative in place.

**II. Desert Tortoise Restrictions**

In addition to our concerns with the Private Game Farm License, we have also raised concerns about the Department's intent to restrict desert tortoise owners from taking the tortoise out of state- even to another state that permits desert tortoises. While the Department cites time/resources as the primary reason behind this restriction, we were unable to get further information from the Department about the specific number of tortoises/cases that appear to be causing said hardship. Our coalition recognizes the need to protect the fragile desert tortoise population. However, it is known that captive desert tortoises are not returned into the wild, so we would note that this rule change does nothing to support a conservation goal and only contributes to the over population at the AZGFD wildlife center.

We will continue to work with the Department to address these concerns moving forward.

Thank you for your time and thoughtful consideration,

Brittany Bingold  
Associate- Pivotal Policy Consulting  
(602)294-0202  
[brittany@pivotalpolicyconsulting.com](mailto:brittany@pivotalpolicyconsulting.com)

Nick Simonetta  
Partner- Pivotal Policy Consulting  
(602)294-0202  
[nick@pivotalpolicyconsulting.com](mailto:nick@pivotalpolicyconsulting.com)



Celeste Cook &lt;ccook@azgfd.gov&gt;

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**Game & Fish Commission Article 4 Rule making**

1 message

**'The Pet Shop' via Rulemaking - Game and Fish** <Rulemaking@azgfd.gov>

Thu, Oct 1, 2020 at 2:21 PM

Reply-To: The Pet Shop &lt;info@thepetshopaz.com&gt;

To: "rulemaking@azgfd.gov" &lt;rulemaking@azgfd.gov&gt;, "tholt@azgfd.gov" &lt;tholt@azgfd.gov&gt;

Hello,

My name is Vanessa Schmidt and I am the owner of The Pet Shop in Mesa, AZ. Our local family owned business and concerned that the Article 4 rule making will effect our business directly. As a business owner not having something in place as an alternative for the Private Game Farm is concerning for the future. Regarding the desert tortoises population. Changing what has already in place could be detrimental to the conservation of this species. The new proposed rule does not help with the over population that is at AZGFD wildlife rehab center. This will continue a problem that could be a solution for the future. I hope that you will take my comments into consideration for the future of our small business. If you have any further questions please let me know.

Thank you,

**Dylan & Vanessa**

The Pet Shop

[2235 S. Power Rd Ste 107](#)[Mesa, AZ. 85209](#)

480-807-7840

Monday-Friday 11am to 8pm

Saturday &amp; Sunday 11am to 6pm

## CHAPTER 4. GAME AND FISH COMMISSION

3. Allow a person to take wildlife in a city, county, or town park or preserve only during the posted park or preserve hours.
- C. The requirements of subsection (B)(1) do not apply to a reptile and amphibian limited weapon hand or hand-held implement season established by Commission Order.

**Historical Note**

New Section R12-4-321 renumbered from R12-4-301 and amended by final rulemaking at 18 A.A.R. 1458, effective January 1, 2013 (Supp. 12-2). Amended by final rulemaking at 25 A.A.R. 1047, effective June 1, 2019 (Supp. 19-2).

**R12-4-322. Pickup and Possession of Wildlife Carcasses or Parts**

- A. For the purposes of this Section, the following definitions apply:
1. "Fresh" means the majority of the wildlife carcass or part is not exposed dry bone and is comprised mainly of hair, hide, or flesh.
  2. "Not fresh" means the majority of the wildlife carcass or part is exposed dry bone due to natural processes such as scavenging, decomposition, or weathering.
- B. If not contrary to federal law or regulation, a person may pick up and possess naturally shed antlers or horns or other wildlife parts that are not fresh without a permit or inspection by a Department law enforcement officer.
- C. If not contrary to federal law or regulation, a person may only pick up and possess a fresh wildlife carcass or its parts under this Section if the person notifies the Department prior to pick up and possession and:
1. The Department's first report or knowledge of the carcass or its parts is voluntarily provided by the person wanting to possess the carcass or its parts;
  2. A Department law enforcement officer or an authorized Department employee or agent is able to observe the carcass or its parts at the site where the animal was found in the same condition and location as when the animal was originally found by the person wanting to possess the carcass or its parts; and
  3. A Department law enforcement officer, using the officer's education, training, and experience, determines the animal died from natural causes. The Department may require the person to take the officer to the site where the animal carcass or parts were found when an adequate description or location cannot be provided to the officer.
- D. If a Department law enforcement officer determines that the person wanting to possess the carcass or its parts is authorized to do so under subsection (C), the officer may authorize possession of the carcass or its parts.
- E. Wildlife parts picked up and possessed from areas under control of jurisdictions that prohibit such activity, such as other states, reservations, or national parks, are illegal to possess in this state.
- F. This Section does not authorize the pickup and possession of a threatened or endangered species carcass or its parts.

**Historical Note**

New Section made by final rulemaking at 19 A.A.R. 826, effective July 1, 2013 (Supp. 13-2). Amended by final rulemaking at 25 A.A.R. 1047, effective June 1, 2019 (Supp. 19-2).

**ARTICLE 4. LIVE WILDLIFE****R12-4-401. Live Wildlife Definitions**

In addition to definitions provided under A.R.S. § 17-101, and for the purposes of this Article, the following definitions apply:

"Adoption" means the transfer of custody of live wildlife to a member of the public, initiated by either the Department or its authorized agent, when no special license is required.

"Agent" means the person identified on a special license and who assists a special license holder in performing activities authorized by the special license to achieve the objectives for which the license was issued. "Agent" has the same meaning as "sublicensee" and "subpermittee" as these terms are used for the purpose of federal permits.

"Aquarium trade" means the commercial industry and its customers who lawfully trade in aquatic live wildlife.

"Aversion training" means behavioral training in which an aversive stimulus is paired with an undesirable behavior in order to reduce or eliminate that behavior.

"Captive live wildlife" means live wildlife held in captivity, physically restrained, confined, impaired, or deterred to prevent it from escaping to the wild or moving freely in the wild.

"Captive-reared" means wildlife born, bred, raised, or held in captivity.

"Circus" means a scheduled event where a variety of entertainment is the principal business, primary purpose, and attraction. "Circus" does not include animal displays or exhibits held as an attraction for a secondary commercial endeavor.

"Commercial purpose" means the bartering, buying, leasing, loaning, offering to sell, selling, trading, exporting or importing of wildlife or their parts for monetary gain.

"Domestic" means an animal species that does not exist in the wild, and includes animal species that have only become feral after they were released by humans who held them in captivity or individuals or populations that escaped from human captivity.

"Educational display" means a display of captive live wildlife to increase public understanding of wildlife biology, conservation, and management without requiring or soliciting payment from an audience or an event sponsor. For the purposes of this Article, "to display for educational purposes" refers to display as part of an educational display.

"Educational institution" means any entity that provides instructional services or education-related services to persons.

"Endangered or threatened wildlife" means wildlife listed under 50 C.F.R. 17.11, revised October 1, 2013, which is incorporated by reference. A copy of the list is available at any Department office, online at [www.gpoaccess.gov](http://www.gpoaccess.gov), or may be ordered from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000. This incorporation by reference does not include any later amendments or editions of the incorporated material.

"Evidence of lawful possession" means any license or permit authorizing possession of a specific live wildlife species or individual, or other documentation establishing lawful possession. Other forms of documentation may include, but are not limited to, a statement issued by the country or state of origin verifying a license or permit for that specific live wildlife species or individual is not required.

"Exhibit" means to display captive live wildlife in public or to allow photography of captive live wildlife for any commercial purpose.

"Exotic" means wildlife or offspring of wildlife not native to North America.

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“Fish farm” means a commercial operation designed and operated for propagating, rearing, or selling aquatic wildlife for any purpose.

“Game farm” means a commercial operation designed and operated for the purpose of propagating, rearing, or selling terrestrial wildlife or the parts of terrestrial wildlife for any purpose stated under R12-4-413.

“Health certificate” means a certificate of an inspection completed by a licensed veterinarian verifying the animal examined appears to be healthy and free of infectious, contagious, and communicable diseases.

“Hybrid wildlife” means an offspring from two different wildlife species or genera. Offspring from a wildlife species and a domestic animal species are not considered wildlife.

“Live baitfish” means any species of live freshwater fish designated by Commission Order as lawful for use in taking aquatic wildlife under R12-4-313 and R12-4-317.

“Live bait” means aquatic live wildlife used or intended for use in taking aquatic wildlife.

“Migratory birds” mean all species listed under 50 C.F.R. 10.13 revised October 1, 2014, and no later amendments or editions. The incorporated material is available from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000, and is on file with the Department.

“Noncommercial purpose” means the use of products or services developed using wildlife for which no compensation or monetary value is received.

“Nonhuman primate” means any nonhuman member of the order Primate of mammals including prosimians, monkeys, and apes.

“Nonnative” means wildlife or its offspring that did not occur naturally within the present boundaries of Arizona before European settlement.

“Photography” means any process that creates durable images of wildlife or parts of wildlife by recording light or other electromagnetic radiation, either chemically by means of a light-sensitive material or electronically by means of an image sensor.

“Rehabilitated wildlife” means live wildlife that is injured, orphaned, sick, or otherwise debilitated and is provided care to restore it to a healthy condition suitable for release to the wild or for lawful captive use.

“Research facility” means any association, institution, organization, school, except an elementary or secondary school, or society that uses or intends to use live animals in research.

“Restricted live wildlife” means wildlife that cannot be imported, exported, or possessed without a special license or lawful exemption.

“Shooting preserve” means any operation where live wildlife is released for the purpose of hunting.

“Special license” means any license issued under this Article, including any additional stipulations placed on the license authorizing specific activities normally prohibited under A.R.S. § 17-306 and R12-4-402.

“Species of greatest conservation need” means any species listed in the Department’s Arizona’s State Wildlife Action Plan list Tier 1a and 1b published by the Arizona Game and Fish

Department. The material is available for inspection at any Department office and online at [www.azgfd.gov](http://www.azgfd.gov).

“Stock” and “stocking” means to release live aquatic wildlife into public or private waters other than the waters where taken.

“Taxa” means groups of animals within specific classes of wildlife occurring in the state with common characteristics that establish relatively similar requirements for habitat, food, and other ecological, genetic, or behavioral factors.

“Unique identifier” means a permanent marking made of alphanumeric characters that identifies an individual animal, which may include, but is not limited to, a tattoo or microchip.

“USFWS” means the United States Fish and Wildlife Service.

“Volunteer” means a person who:

Assists a special license holder in conducting activities authorized under the special license,

Is under the direct supervision of the license holder at the premises described on the license,

Is not designated as an agent, and

Receives no compensation.

“Wildlife disease” means any disease that poses a health risk to wildlife in Arizona.

“Zoo” means any facility licensed by the Arizona Game and Fish Department under R12-4-420 or, for facilities located outside of Arizona, licensed or recognized by the applicable governing agency.

“Zoonotic” means a disease that can be transmitted from animals to humans or, more specifically, a disease that normally exists in animals but that can infect humans.

#### Historical Note

Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 9 A.A.R. 3186, effective August 30, 2003 (Supp. 03-3). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 25 A.A.R. 1047, effective June 1, 2019 (Supp. 19-2).

#### R12-4-402. Live Wildlife: Unlawful Acts

- A. A person shall not perform any of the following activities with live wildlife unless authorized by a federal license or permit, this Chapter, or A.R.S. Title 3, Chapter 16:
1. Import any live wildlife into the state;
  2. Export any live wildlife from the state;
  3. Conduct any of the following activities with live wildlife within the state:
    - a. Display,
    - b. Exhibit,
    - c. Give away,
    - d. Lease,
    - e. Offer for sale,
    - f. Possess,
    - g. Propagate,
    - h. Purchase,
    - i. Release,
    - j. Rent,
    - k. Sell,
    - l. Sell as live bait,

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- m. Stock,
- n. Trade,
- o. Transport; or
- 4. Kill any captive live wildlife.
- B. The Department may seize, quarantine, hold, or euthanize any lawfully possessed wildlife held in a manner that poses an actual or potential threat to the wildlife, other wildlife, or the safety, health, or welfare of the public. The Department shall make reasonable efforts to find suitable placement for any animal prior to euthanizing it.
- C. A person who does not lawfully possess wildlife in accordance with this Article shall be responsible for all costs associated with the care and keeping of the wildlife.
- D. Performing activities authorized under a federal license or permit does not exempt a federal agency or its employees from complying with state permit requirements.

**Historical Note**

Adopted effective April 28, 1989 (Supp. 89-2). Amended by final rulemaking at 7 A.A.R. 2732, effective July 1, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 23 A.A.R. 492, effective April 8, 2017 (Supp. 20-3).

**R12-4-403. Escaped or Released Live Wildlife**

- A. The Department may seize, quarantine, or euthanize any live wildlife that has been released, has escaped, or is likely to escape if the wildlife poses an actual or potential threat to:
  - 1. Native wildlife;
  - 2. Wildlife habitat; or
  - 3. Public health, safety, or welfare; or
  - 4. Property.
- B. A person shall not release live wildlife, unless specifically directed to do so by the Department or authorized under this Article.
- C. The person possessing the wildlife shall be responsible for all costs incurred by the Department associated with seizing or quarantining the wildlife.
- D. All special license holders shall be subject to the requirements of this Section.

**Historical Note**

Adopted effective April 28, 1989 (Supp. 89-2). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

**R12-4-404. Possession of Live Wildlife Taken Under an Arizona Hunting or Fishing License**

- A. A person may take live wildlife from the wild under a valid Arizona hunting or fishing license provided the current Commission Order authorizes a live bag and possession limit for that wildlife and the individual possesses the appropriate hunting or fishing license and special license, when applicable.
- B. Except for live baitfish which may only be possessed and transported as established under R12-4-316, a person may conduct any of the following activities with wildlife taken under an Arizona hunting or fishing license provided the activity is for a noncommercial purpose:
  - 1. Export,
  - 2. Kill,
  - 3. Place on educational display,
  - 4. Possess,
  - 5. Propagate, and
  - 6. Transport.

- C. A person possessing wildlife or offspring of wildlife taken under this Section shall dispose of the wildlife or offspring of wildlife using any one or more of the following methods:
  - 1. Giving the wildlife as a gift,
  - 2. Exporting the wildlife to another state or jurisdiction, or
  - 3. Disposing of the wildlife as directed by the Department.
- D. A person shall not use wildlife or offspring of wildlife taken under this Section for commercial purposes.
- E. A person exporting live wildlife for a noncommercial purpose shall verify exported live wildlife and offspring of wildlife shall not be:
  - 1. Bartered,
  - 2. Leased,
  - 3. Offered for sale,
  - 4. Purchased,
  - 5. Rented,
  - 6. Sold, or
  - 7. Used for any commercial purpose.
- F. A person may temporarily hold and release live wildlife possessed under this Section into the wild, provided the person did not remove the wildlife from the immediate area where it was taken.
- G. A person shall not exceed the possession limit of live wildlife established by Commission Order for that species.
  - 1. Offspring of wildlife possessed under this Section shall count towards the established possession limit.
  - 2. A person may possess offspring of amphibians or reptiles in excess of the possession limit for no more than 12 months from the date of birth or hatching.
  - 3. On or before the day the offspring reach 12 months of age, the person possessing them shall dispose of them as prescribed under subsection (C).
  - 4. A person is prohibited from releasing offspring of propagated wildlife into the wild.
- H. A person may use reptiles and amphibians taken under a valid Arizona hunting license for the purpose of providing aversion or avoidance training when the current Commission Order authorizes a live bag and possession limit for that reptile or amphibian.
- I. A person may sell photographs of wildlife taken under a valid hunting or fishing license.
- J. A person who possesses live wildlife or offspring of wildlife taken under this Section shall comply with the requirements prescribed under R12-4-425 if the wildlife becomes listed as restricted wildlife under R12-4-406.

**Historical Note**

Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

**R12-4-405. Importing, Purchasing, and Transporting Live Wildlife Without an Arizona License or Permit**

- A. A person may import mammals, birds, amphibians, and reptiles not listed as restricted wildlife under R12-4-406 without a special license required under this Article, provided the animals are:
  - 1. Lawfully possessed under a:
    - a. Lawful exemption; or
    - b. Valid license, permit, or other form of authorization from another state, the United States, or another country; and
  - 2. Accompanied by the health certificate required under 3 A.A.C. 2, Article 6, and this Article, when applicable.

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- B.** A person may import live aquatic wildlife not listed as restricted wildlife under R12-4-406 without a special license under the following conditions:
1. The aquatic wildlife is lawfully possessed under a lawful exemption, valid license, permit, or other form of authorization from another state, the United States, or another country; and
  2. The aquatic wildlife is used only for restaurants or markets that are licensed to sell food to the public and the wildlife is killed before it is transported from the restaurant or market, or, if transported alive from the market, is conveyed directly to its final destination for preparation as food; or
  3. The aquatic wildlife is used only for the aquarium trade or a fish farm and is accompanied by a valid license or permit issued by another state or the United States that allows the wildlife to be transported into this state.
    - a. A person in the aquarium trade shall:
      - i. Only use aquatic wildlife used in the aquarium trade as a pet or in an educational display, and
      - ii. Keep aquatic wildlife used in the aquarium trade in an aquarium or enclosed pond that does not allow the wildlife to leave the aquarium or pond and does not allow other live aquatic wildlife to enter the aquarium or pond.
    - b. A person in the aquarium trade shall not use or possess aquatic wildlife listed as restricted live wildlife under R12-4-406.
- C.** A person shall obtain the appropriate special license listed under R12-4-409(A) before importing aquatic live wildlife for any purpose not stated under subsection (B), unless exempt under this Chapter.
- D.** A person may purchase, possess, exhibit, transport, propagate, trade, rent, lease, give away, sell, offer for sale, export, or kill wildlife or aquatic wildlife or its offspring without an Arizona license or permit if the wildlife is lawfully imported and possessed as prescribed under subsections (A) or (B).
- E.** An individual shall use and dispose of wildlife that is taken under an Arizona hunting or fishing license as prescribed by R12-4-404, or R12-4-417 and this Article, as applicable.
- C.** All of the following are considered restricted live wildlife and are subject to the requirements of this Article, unless otherwise specified:
1. Hybrid wildlife, as defined under R12-4-401, resulting from the interbreeding of at least one parent species of wildlife that is listed as restricted under this Section; and
  2. Transgenic species, unless otherwise specified under this Article. For the purposes of this Section, “transgenic species” means any organism that has had genes from another organism put into its genome through direct human manipulation of that genome. Transgenic species do not include natural hybrids or individuals that have had their chromosome number altered to induce sterility. A transgenic animal is considered wildlife if the animal is the offspring of at least one wildlife species.
- D.** Domestic animals, as defined under R12-4-401, are not subject to restrictions under A.R.S. Title 17, 12 A.A.C. 4, or Commission Orders.
- E.** Unless otherwise specified, all mammals listed below are considered restricted live wildlife:
1. All species of the order *Afrosoricida*. Common names include: tenrecs and golden moles.
  2. All species of the following families of the order *Artiodactyla*. Common name: even-toed ungulates:
    - a. The family *Antilocapridae*. Common name: prong-horns.
    - b. The family *Bovidae*. Common names include: cattle, buffalo, bison, oxen, duikers, antelopes, gazelles, goats, and sheep. Except the following genera which are not restricted:
      - i. The genus *Bubalus*. Common name: water buffalo.
      - ii. The genus *Bison*. Common name: bison, American bison or buffalo.
    - c. The family *Cervidae*. Common names include: cervid, deer, elk, moose, wapiti, and red deer.
    - d. The family *Tayassuidae*. Common name: peccaries.
  3. All species of the order *Carnivora*. Common names include: carnivores, skunks, raccoons, bears, foxes, and weasels.
  4. All species of the order *Chiroptera*. Common name: bats.
  5. All species of the genus *Didelphis*. Common name: American opossums.
  6. All species of the order *Erinaceomorpha*. Common names include: gymnures and moonrats. Except members of the family *Erinaceidae*, which are not restricted. Common name: hedgehogs.
  7. All species of the order *Lagomorpha*. Common names include: pikas, rabbits, and hares. Except for members of the genus *Oryctolagus* containing domestic rabbits, which are not wildlife and are not restricted.
  8. All nonhuman primates. Common names include: orangutans, chimpanzees, gorillas, macaques, and spider monkeys.
  9. All species of the following families of the order *Rodentia*. Common name: rodents:
    - a. The family *Capromyidae*. Common name: hutias.
    - b. The family *Castoridae*. Common name: beavers.
    - c. The family *Echimyidae*. Common names include: coypus and nutrias.
    - d. The family *Erethizontidae*. Common name: new world porcupines.
    - e. The family *Geomyidae*. Common name: pocket gophers.

**Historical Note**

Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

**R12-4-406. Restricted Live Wildlife**

- A.** In order to lawfully possess wildlife listed as restricted under this Section, for any activity prohibited under A.R.S. §§ 17-255.02, 17-306, R12-4-1102, or this Article, a person shall possess:
1. All applicable federal licenses and permits; and
  2. The appropriate special license listed under R12-4-409(A); or
  3. Act under a lawful exemption authorized under A.R.S. § 17-255.04, R12-4-316, R12-4-404, R12-4-405, R12-4-407, R12-4-425, R12-4-427, and R12-4-430.
- B.** The Commission recognizes the online taxonomic classification from the Integrated Taxonomic Information System as the authority in determining the designations of restricted live mammals, birds, reptiles, amphibians, fish, crustaceans, and mollusks referenced under this Article. The Integrated Taxonomic Information System is available at any Department office and at [www.its.gov](http://www.its.gov).

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- f. The family *Sciuridae*. Common names include: squirrels, chipmunks, marmots, woodchucks, and prairie dogs.
10. All species of the order *Soricomorpha*. Common names include: shrews, desmans, moles, and shrew-moles.
11. All species of the order *Xenarthra*. Common names include: edentates; or sloths, anteaters, and armadillos.
- F.** Birds listed below are considered restricted live wildlife:
1. The following species within the family *Phasianidae*. Common names: partridges, grouse, turkeys, quail, and pheasants:
- Callipepla gambelii*. Common name: Gambel's quail.
  - Callipepla squamata*. Common name: scaled quail.
  - Colinus virginianus*. Common name: northern bobwhite. Restricted only in game management units 34A, 36A, 36B, and 36C as prescribed under R12-4-108.
  - Cyrtonyx montezumae*. Common name: Montezuma, harlequin, or Mearn's quail.
  - Dendragapus obscurus*. Common name: dusky grouse.
2. All species listed under the Migratory Bird Treaty Act listed under 50 C.F.R. 10.13 revised October 1, 2014, and no later amendments or editions. The incorporated material is available from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000, and is on file with the Department.
- G.** Reptiles listed below are considered restricted live wildlife:
1. All species of the order *Crocodylia*. Common names include: gavials, caimans, crocodiles, and alligators.
2. All species of the following families or genera of the order *Squamata*:
- The family *Atractaspididae*. Common name: burrowing asps.
  - The following species and genera of the family *Colubridae*:
    - Boiga irregularis*. Common name: brown tree snake.
    - Dispholidus typus*. Common name: boomslang.
    - Rhabdophis*. Common name: keelback.
    - Thelotornis kirtlandii*. Common names include: bird snake or twig snake.
  - The family *Elapidae*. Common names include: cobras, mambas, coral snakes, kraits, Australian elapids, and sea snakes.
  - The family *Helodermatidae*. Common names include: Gila monster and Mexican beaded lizard.
  - The family *Viperidae*. Common names include: true vipers and pit vipers, including rattlesnakes.
3. The following species of the order *Testudines*:
- All species of the family *Chelydridae*. Common name: snapping turtles.
  - All species of the genus *Gopherus*. Common names include: gopher tortoises, including the desert tortoise.
- H.** Amphibians listed below are considered restricted live wildlife. The following species within the order *Anura*, common names frogs and toads:
- The species *Bufo horribilis*, *Bufo marinus*, *Bufo schneideri*. Common names include: giant or marine toads.
  - All species of the genus *Rana*. Common names include: leopard frogs and bullfrogs. Except bullfrogs possessed under A.R.S. § 17-102.
  - All species of the genus *Xenopus*. Common name: clawed frogs.
- I.** Fish listed below are considered restricted live wildlife:
- All species of the family *Acipenseridae*. Common name: sturgeon.
  - The species *Amia calva*. Common name: bowfin.
  - The species *Aplodinotus grunniens*. Common name: freshwater drum.
  - The species *Arapaima gigas*. Common name: bony tongue.
  - All species of the genus *Astyanax*. Common name: tetra.
  - The species *Belonesox belizanus*. Common name: pike topminnow.
  - All species, both marine and freshwater, of the orders *Carcharhiniformes*, *Heterodontiformes*, *Hexanchiformes*, *Lamniformes*, *Orectolobiformes*, *Pristiophoriformes*, *Squaliformes*, *Squatinaformes*, and except for all species of the families *Brachaeluridae*, *Hemiscylliidae*, *Orectolobidae*, and *Triakidae*; genera of the family *Scyliorhinidae*, including *Aulohalaelurus*, *Halaelurus*, *Haploblepharus*, *Poroderma*, and *Scyliorhinus*; and genera of the family *Parascylliidae*, including *Cirrhoscyllium* and *Parascyllium*. Common name: sharks.
  - All species of the family *Centrarchidae*. Common name: sunfish.
  - All species of the family *Cetopsidae* and *Trichomycteridae*. Common name: South American catfish.
  - All species of the family *Channidae*. Common name: snakehead.
  - All of the species *Cirrhinus mrigala*, *Gibelion catla*, and *Labeo rohita*. Common name: Indian carp.
  - All species of the family *Clariidae*. Common names include: labyrinth or airbreathing catfish.
  - All species of the family *Clupeidae* except threadfin shad, species *Dorosoma petenense*. Common names include: herring and shad.
  - The species *Ctenopharyngodon idella*. Common names include: white amur or grass carp.
  - The species *Cyprinella lutrensis*. Common name: red shiner.
  - The species *Electrophorus electricus*. Common name: electric eel.
  - All species of the family *Esocidae*. Common names include: pike and pickerels.
  - All species of the family *Hiodontidae*. Common names include: goldeye and mooneye.
  - The species *Hoplias malabaricus*. Common name: tiger fish.
  - The species *Hypophthalmichthys molitrix*. Common name: silver carp.
  - The species *Hypophthalmichthys nobilis*. Common name: bighead carp.
  - All species of the family *Ictaluridae*. Common name: catfish.
  - All species of the genus *Lates* and *Luciolates*. Common name: Nile perch.
  - All species of the family *Lepisosteidae*. Common name: gar.
  - The species *Leuciscus idus*. Common names include: whitefish and ide.
  - The species *Malapterurus electricus*. Common name: electric catfish.
  - All species of the family *Moronidae*. Common name: temperate bass.
  - The species *Mylopharyngodon piceus*. Common name: black carp.

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29. All species of the family *Percidae*. Common names include: walleye and pike perches.
  30. All species of the family *Petromyzontidae*. Common name: lamprey.
  31. The species *Polyodon spathula*. Common name: American Paddlefish.
  32. All species of the family *Potamotrygonidae*. Common name: stingray.
  33. All species of the genera *Pygocentrus*, *Pygopristis*, and *Serrasalmus*. Common name: piranha.
  34. All species of the family *Salmonidae*. Common names include: trout and salmon.
  35. The species *Scardinius erythrophthalmus*. Common name: rudd.
  36. All species of the family *Serranidae*. Common name: bass.
  37. The following species, and hybrid forms, of the Genus *Tilapia*: *O. aureus*, *O. mossambica*; *O. niloticus*, *O. urolepis hornorum* and *T. zilli*. Common name: tilapia.
  38. The species *Thymallus arcticus*. Common name: Arctic grayling.
- J.** Crustaceans listed below are considered restricted live wildlife:
1. All freshwater species within the families *Astacidae*, *Cambaridae*, and *Parastacidae*. Common name: crayfish.
  2. The species *Eriocheir sinensis*. Common name: Chinese mitten crab.
- K.** Mollusks listed below are considered restricted live wildlife:
1. The species *Corbicula fluminea*. Common name: Asian clam.
  2. All species of the family *Dreissenidae*. Common names include: zebra and quagga mussel.
  3. The species *Euglandina rosea*. Common name: rosy wolfsnail.
  4. The species *Mytilopsis leucophaeata*. Common names include: Conrad's false mussel or false dark mussel.
  5. All species of the genus *Pomacea*. Common names include: Chinese mystery snail or apple snail.
  6. The species *Potamopyrgus antipodarum*. Common name: New Zealand mud snail.
- L.** All wildlife listed within Aquatic Invasive Species Director's Order #1.
- Historical Note**
- Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 2220, effective May 25, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 3186, effective August 30, 2003 (Supp. 03-3). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 18 A.A.R. 196, effective January 10, 2012 (Supp. 12-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).
- R12-4-407. Exemptions from Special License Requirements for Restricted Live Wildlife**
- A.** All live cervids may only be imported, possessed, or transported as authorized under R12-4-430.
- B.** A person is not required to possess a special license to lawfully possess restricted live wildlife under the following circumstances:
1. A person may possess, transport, or give away a desert tortoise (*Gopherus morafkai*) or the progeny of a desert tortoise provided the person possessed the tortoise prior to April 28, 1989 or obtained the tortoise through a Department authorized adoption program. A person who receives a desert tortoise that is given away under this Section is also exempt from special license requirements. A person shall not:
    - a. Propagate lawfully possessed desert tortoises or their progeny unless authorized in writing by the Department's special license administrator.
    - b. Export a live desert tortoise from this state unless authorized in writing by the Department.
  2. A licensed veterinarian may possess restricted wildlife while providing medical care to the wildlife and may release rehabilitated wildlife as directed in writing by the Department, provided:
    - a. The veterinarian keeps records of restricted live wildlife as required by the Veterinary Medical Examining Board, and makes the records available for inspection by the Department.
    - b. The Department assumes no financial responsibility for any care the veterinarian provides, except care that is specifically authorized by the Department.
  3. A person may transport restricted live wildlife through this state provided the person:
    - a. Transports the wildlife through the state within 72 continuous and consecutive hours;
    - b. Ensures at least one person is continually present with, and accountable for, the wildlife while in this state;
    - c. Ensures the wildlife is neither transferred nor sold to another person;
    - d. Ensures the wildlife is accompanied by evidence of lawful possession, as defined under R12-4-401;
    - e. Ensures a health certificate required under this Article accompanies the wildlife described on the health certificate, when applicable; and
    - f. Ensures the carcasses of any wildlife that die while in transport through this state are disposed of only as directed by the Department.
  4. A person may exhibit, export, import, possess, and transport restricted live wildlife for a circus, temporary animal exhibit, or government-authorized state or county fair, provided the person:
    - a. Possesses evidence of lawful possession as defined under R12-4-401, for the wildlife;
    - b. Ensures the evidence of lawful possession accompanies the wildlife described on that evidence;
    - c. Ensures a health certificate required under this Article accompanies the wildlife described on the health certificate, when applicable;
    - d. Ensures the wildlife does not come into physical contact with the public;
    - e. Keeps the wildlife under complete control by safe and humane means; and
    - f. Ensures the wildlife is not in this state for more than 60 consecutive days.
  5. A person may export, import, possess, and transport restricted live wildlife for the purpose of commercial photography, provided the person:
    - a. Possesses evidence of lawful possession as defined under R12-4-401 for the wildlife;
    - b. Ensures the evidence of lawful possession accompanies the wildlife described on that evidence;
    - c. Ensures a health certificate required under this Article accompanies the wildlife described on the health certificate, when applicable;

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- d. Ensures the wildlife does not come into physical contact with the public;
  - e. Keeps the wildlife under complete control by safe and humane means; and
  - f. Ensures the wildlife is not in this state for more than 60 consecutive days.
6. A person may exhibit, import, possess, and transport restricted live wildlife for advertising purposes other than photography, provided the person:
    - a. Ensures the wildlife is accompanied by evidence of lawful possession as defined under R12-4-401;
    - b. Ensures the evidence of lawful possession accompanies the wildlife described on that evidence;
    - c. Ensures a health certificate required under this Article accompanies the wildlife described on the health certificate, when applicable;
    - d. Maintains the wildlife under complete control by safe and humane means;
    - e. Prevents the wildlife from coming into contact with the public or being photographed with the public;
    - f. Does not charge the public a fee to view the wildlife; and
    - g. Exports the wildlife from the state within 10 days of importation.
  7. A person may export restricted live wildlife, provided the person:
    - a. Ensures the wildlife is accompanied by evidence of lawful possession as defined under R12-4-401;
    - b. Ensures the evidence of lawful possession accompanies the wildlife described on that evidence;
    - c. Maintains the wildlife under complete control by safe and humane means;
    - d. Prevents the wildlife from coming into contact with the public or being photographed with the public;
    - e. Does not charge the public a fee to view the wildlife; and
    - f. Exports the wildlife from the state within 10 days of importation.
  8. A person may possess restricted live wildlife taken alive under R12-4-404, R12-4-405, and R12-4-427, provided the person possesses the wildlife in compliance with those Sections.
  9. A person who holds a falconry license issued by another state or country is exempt from obtaining an Arizona Sport Falconry License under R12-4-422, unless remaining in this State for more than 180 consecutive days.
    - a. The falconer licensed in another state or country shall present a copy of the out-of-state or out-of-country falconry license, or its equivalent, to the Department upon request.
    - b. A falconer licensed in another state or country and who remains in this State for more than the 180-day period shall apply for an Arizona Sport Falconry License in order to continue practicing sport falconry in this state.
  10. A person may export, give away, import, kill, possess, propagate, purchase, trade, and transport restricted live wildlife provided the person is doing so for a medical or scientific research facility registered with the United States Department of Agriculture under 9 C.F.R. 2.30 revised January 1, 2012, which is incorporated by reference in this Section. The incorporated material is available at any Department office, online at [www.gpoaccess.gov](http://www.gpoaccess.gov), or may be ordered from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000.
 

This incorporation by reference contains no future editions or amendments.
  11. A person may import and transport restricted live game fish and crayfish directly to restaurants or markets that are licensed to sell food to the public.
  12. A person operating a restaurant or market licensed to sell food to the public may exhibit, offer for sale, possess, and sell restricted live game fish or crayfish, provided the live game fish and crayfish are killed before being transported from the restaurant or market.
  13. A person may export, giveaway, import, kill, possess, propagate, purchase, and trade transgenic animals provided the person is doing so for a medical or scientific research facility.
- C. An exemption granted under this Section is not valid for any wildlife protected by federal statute or regulation.

**Historical Note**

Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 2220, effective May 25, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 3186, effective August 30, 2003 (Supp. 03-3). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

**R12-4-408. Holding Wildlife for the Department**

- A. A game ranger may authorize a person to possess or transport live wildlife on behalf of the Department if the wildlife is needed as evidence in a pending civil or criminal proceeding.
- B. With the exception of live cervids, the Department has the authority to allow a person to possess and transport captive live wildlife for up to 72 hours or as otherwise directed by the Department.
- C. The Director has the authority to allow a person to hold a live cervid on behalf of the Department.

**Historical Note**

Adopted effective April 28, 1989 (Supp. 89-2). Amended by final rulemaking at 9 A.A.R. 3186, effective August 30, 2003 (Supp. 03-3). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

**R12-4-409. General Provisions and Penalties for Special Licenses**

- A. A special license is required when a person intends to conduct any activity using restricted live wildlife. Special licenses are listed as follows:
  1. Aquatic wildlife stocking license, established under R12-4-410;
  2. Game bird license, established under R12-4-414;
  3. Live bait dealer's license, established under R12-4-411;
  4. Private game farm license, established under R12-4-413;
  5. Scientific collecting license, established under R12-4-418;
  6. Sport falconry license, established under R12-4-422;
  7. White amur stocking and holding license, established under R12-4-424;
  8. Wildlife holding license, established under R12-4-417;
  9. Wildlife rehabilitation license, established under R12-4-423;
  10. Wildlife service license, established under R12-4-421; and

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11. Zoo license, established under R12-4-420.
- B.** A person applying for a special license listed under subsection (A) shall:
- a. Submit an application to the Department meeting the specific application requirements established under the applicable governing Section.
    - i. Applications for special licenses are furnished by the Department and are available at any Department office and online at [www.azgfd.gov](http://www.azgfd.gov).
    - ii. An application is required upon initial application for a special license and when renewing a special license.
  - b. Pay all applicable fees required under R12-4-412.
- C.** At the time of application, the person shall certify:
1. The information provided on the application is true and correct to the applicant's knowledge;
  2. The applicant shall comply with any municipal, county, state or federal code, ordinance, statute, regulation, or rule applicable to the license held; and
  3. The applicant's live wildlife privileges are not currently suspended or revoked in this state, any other state or territory, or by the United States.
- D.** A special license obtained by fraud or misrepresentation is invalid from the date of issuance.
- E.** The Department shall either grant or deny a special license within the applicable overall time-frame established for that special license under R12-4-106Ch.
- F.** In addition to the criteria prescribed under the applicable governing Section, the Department shall deny a special license when:
1. The applicant's live wildlife privileges are revoked or suspended in this state, any other state, or by the United States;
  2. The applicant was convicted of illegally holding or possessing live wildlife within five years preceding the date of application for the special license; or
  3. The applicant knowingly provides false information on an application.
  4. The Department shall deny a license to a person who fails to meet the requirements established under the applicable governing Section or this Section. The Department shall provide a written notice to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.
- G.** A special license holder may only engage in activities using federally-protected wildlife when the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license. A special license issued by the Department does not:
1. Exempt the license holder from any municipal, county, state or federal code, ordinance, statute, regulation, or rule; or
  2. Authorize the license holder to engage in any activity using wildlife that is protected by federal regulation.
- H.** The Department may place additional stipulations on a special license at the time of initial application or renewal when necessary to:
1. Conserve wildlife populations,
  2. Prevent the introduction and proliferation of wildlife diseases,
  3. Prevent wildlife from escaping, or
  4. Protect public health or safety.
- I.** A special license holder shall keep live wildlife in a facility according to the captivity standards prescribed under R12-4-428 or as otherwise required under this Article.
- J.** The Department may inspect a facility to verify compliance with all applicable requirements established under this Article.
- K.** A special license holder shall keep records in compliance with the requirements established under the governing Section and shall make the records available for inspection to the Department upon request.
- L.** The Department may conduct an inspection of an applicant's or license holder's facility at any time before or during the license period to determine compliance with the requirements of this Article. The Department shall comply with A.R.S. § 41-1009 when conducting inspections at a license holder's facility.
- M.** Upon determining a disease or other emergency condition exists that poses an immediate threat to the public or the welfare of any wildlife, the Department may immediately order a cessation of operations under the special license and, if necessary, order the humane disposition or quarantine of any contaminated or affected wildlife.
1. When directed by the Department, a special license holder shall:
    - a. Perform disease testing,
    - b. Submit biological samples to the Department or its designee,
    - c. Surrender the wildlife to the Department;
    - d. Quarantine the wildlife, or
    - e. Humanely euthanize the wildlife.
  2. The license holder shall:
    - a. Ensure any disease or other emergency condition under this subsection is diagnosed by a person professionally certified to make the diagnosis.
    - b. Be responsible for all costs associated with the testing and treatment of the contaminated and affected wildlife.
- N.** If a condition exists, including disease or any violation of this Article, that poses a threat to the public or the welfare of any wildlife, but the threat does not constitute an emergency, the Department may issue a written notice of the condition to the special license holder specifying a reasonable period of time for the license holder to remedy the noticed condition. The notice of condition shall be delivered to the special license holder by certified mail or personal service.
1. Failure of the license holder to remedy the noticed condition within the time specified by the Department is a violation under subsection (O).
  2. If a licensee receives three notices under this subsection for the same condition within a two-year period, the Department shall treat the third notice as a failure to remedy.
- O.** A special license holder shall not:
1. Violate any provision of the governing Section or this Section;
  2. Violate any provision of the special license that the person possesses, including any stipulations specified on the special license;
  3. Violate A.R.S. § 13-2908, relating to criminal nuisance;
  4. Violate A.R.S. § 13-2910, relating to cruelty to animals; or
  5. Refuse to allow the inspection of facilities, wildlife, or required records.
- P.** The Department may take one or more of the following actions when a special license holder is convicted of a criminal offense involving cruelty to animals, violates subsection (N),

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or fails to comply with any requirement established under the governing Section or this Section:

1. File criminal charges,
  2. Suspend or revoke a special license,
  3. Humanely dispose of the wildlife,
  4. Seize or seize in place any wildlife held under a special license.
  5. A person may appeal to the Commission any Department action listed under this subsection as prescribed under A.R.S. Title 41, Chapter 6, Article 10, except the filing of criminal charges.
- Q.** A special license holder who wishes to continue conducting activities authorized under the special license shall submit a renewal application to the Department on or before the special license expiration date.
1. The current license will remain valid until the Department grants or denies the new special license.
  2. If the Department denies the renewal application and the license holder appeals the denial to the Commission as prescribed under subsection (F)(4), the license holder may continue to hold the wildlife until:
    - a. The date on which the Commission makes its final decision on the appeal, or
    - b. The final date on which a person may request judicial review of the decision.
  3. A special license holder who fails to submit a renewal application to the Department before the date the license expires, cannot lawfully possess any live wildlife currently possessed under the license.
- R.** If required by the governing Section, a special license holder shall submit an annual report to the Department before January 31 of each year for the previous calendar year. The report form is furnished by the Department.
1. A report is required regardless of whether or not activities were performed during the previous year.
  2. The special license becomes invalid if the special license holder fails to submit the annual report by January 31 of each year.
  3. The Department will not process the special license holder's renewal application until the annual report is received by the Department.
  4. When the license holder is acting as a representative of an institution, organization, or agency for the purposes of the special license, the license holder shall submit the report required under subsection this Section:
    - a. By January 31 of each year the license holder is affiliated with the institution, organization, or agency; or
    - b. Within 30 days of the date of termination of the license holder's affiliation with the institution, organization, or agency.
- Historical Note**
- Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 2732, effective July 1, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 3186, effective August 30, 2003 (Supp. 03-3). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).
- R12-4-410. Aquatic Wildlife Stocking License**
- A.** An aquatic wildlife stocking license allows a person to import, possess, purchase, stock, and transport any restricted species designated on the license at the location specified on the license.
- B.** The aquatic wildlife stocking license is valid for no more than 20 consecutive days.
- C.** In addition to the requirements established under this Section, an aquatic wildlife stocking license holder shall comply with the special license requirements established under R12-4-409.
- D.** The license holder shall be responsible for compliance with all applicable regulatory requirements. The aquatic wildlife stocking license does not:
1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
  2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.
- E.** The Department shall deny an aquatic wildlife stocking license to a person who fails to meet the requirements established under R12-4-409 or this Section. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10. In addition to the requirements and criteria established under R12-4-409(F)(1) through (4), the Department shall deny an aquatic wildlife stocking license when:
1. The Department determines that issuance of the license will result in a negative impact to native wildlife; or
  2. The applicant proposes to use aquatic wildlife that is not compatible with, or poses a threat to, any wildlife within the river drainage or the area where the stocking is to occur.
- F.** A person applying for an aquatic wildlife stocking license shall submit an application to the Department. A separate application is required for each location where the applicant proposes to use wildlife. The application is furnished by the Department and is available at any Department office and online at [www.azgfd.gov](http://www.azgfd.gov). An applicant shall provide the following on the application:
1. The applicant's information:
    - a. Name;
    - b. Mailing address; and
    - c. Department ID number, when applicable;
  2. When the applicant proposes to use the aquatic wildlife for a commercial purpose the applicant's business:
    - a. Name;
    - b. Federal Tax Identification Number;
    - c. Mailing address; and
    - d. Telephone number;
  3. Aquatic wildlife species information:
    - a. Common name of the aquatic wildlife species;
    - b. Number of animals for each species; and
    - c. Approximate size of the aquatic wildlife that will be used under the license;
  4. The purpose for introducing the aquatic wildlife species;
  5. For each location where the aquatic wildlife will be stocked, the owner's:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number; and
    - d. Physical location of the stocking site, to include river drainage and the Global Positioning System

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- location or Universal Transverse Mercator coordinates;
6. A detailed description or diagram of the facilities where the applicant will stock the aquatic wildlife, which includes:
    - a. Size of waterbody proposed for stocking aquatic wildlife;
    - b. Nearest river, stream, or other freshwater system;
    - c. Points where water enters each waterbody, when applicable;
    - d. Points where water leaves each waterbody, when applicable; and
    - e. Location of fish containment barriers;
  7. For each supplier from whom the applicant will obtain aquatic wildlife, the supplier's:
    - a. Name;
    - b. Federal Tax Identification Number;
    - c. Mailing address;
    - d. Telephone number;
  8. The dates on which the person will stock aquatic wildlife;
  9. Any other information required by the Department; and
  10. The certification required under R12-4-409(C).
- G.** In addition to the requirements listed under subsection (F), when an applicant wishes to stock an aquatic species in an area where that species has not yet been introduced, is not currently established, or there is potential for conflict with Department efforts to conserve wildlife, the applicant shall also submit a written proposal to the Department at the time of application. The written proposal shall contain all of the following information:
1. Anticipated benefits resulting from the introduction of the aquatic live wildlife species;
  2. Potential adverse economic impacts;
  3. Potential dangers the introduced aquatic species may possibly create for native aquatic species and game fish, to include all of the following:
    - a. Determination of whether or not the introduced aquatic species is compatible with native aquatic species or game fish;
    - b. Potential ecological problems created by the introduced aquatic species;
    - c. Anticipated hybridization concerns with introducing the aquatic species; and,
    - d. Future plans designed to evaluate the status and impact of the species after it is introduced.
  4. Assessment of probable impacts to sensitive species in the area using the list generated by the Department's On-Line Environmental Review Tool, which is available at [www.azgfd.gov](http://www.azgfd.gov). The proposal must address each species listed.
- H.** An applicant for an aquatic wildlife stocking license shall pay all applicable fees established under R12-4-412.
- I.** An aquatic wildlife stocking license holder shall:
1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
  2. Obtain all aquatic wildlife, live eggs, fertilized eggs, and milt from a licensed fish farm operator or a private non-commercial fish pond certified to be free of diseases and causative agents through the following actions:
    - a. An inspection shall be performed by a qualified fish health inspector or fish pathologist at the fish farm or pond where the aquatic wildlife or biological material is held before it is shipped to the license holder.
    - b. The inspection shall be conducted no more than 12 months prior to the date on which the aquatic wildlife or biological material is shipped to the license holder. The Department may require additional inspections at any time prior to stocking.
    - c. The applicant shall submit a copy of the certification to the Department prior to conducting any stocking activities.
  3. Allow the Department to conduct inspections of an applicant's or license holder's facility and records at any time before or during the license period to determine compliance with the requirements of this Article.
  4. Possess the license or legible copy of the license while conducting any activities authorized under the aquatic stocking license and presents it for inspection upon the request of any Department employee or agent.
  5. Dispose of wildlife only as authorized under this Section or as directed in writing by the Department.
- J.** An aquatic wildlife stocking license holder shall comply with the requirements established under R12-4-409 and R12-4-428.
- Historical Note**
- Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).
- R12-4-411. Live Bait Dealer's License**
- A.** A live bait dealer's license allows a person to perform any of the following activities using the aquatic live wildlife listed under subsection (B): exhibit for sale, export, import, kill, offer for sale, possess, purchase, sell, trade, or transport.
- B.** A live bait dealer's license allows a person to perform any of the activities listed under subsection (A) with any or all of the following aquatic live wildlife:
1. Fathead minnow, *Pimephales promelas*;
  2. Golden shiner, *Notemigonus crysoleucas*;
  3. Goldfish, *Carassius auratus*;
  4. Mosquito fish, *Gambusia affinis*;
  5. Threadfin shad, *Dorosoma petenense*; and
  6. Waterdogs, *Ambystoma tigrinum*, except in that portion of Santa Cruz County lying east and south of State Highway 82, or that portion of Cochise County lying west of the San Pedro River and south of State Highway 82.
- C.** A live bait dealer's license expires on December 31 of each year.
- D.** In addition to the requirements established under this Section, a live bait dealer license holder shall comply with the special license requirements established under R12-4-409.
- E.** The license holder shall be responsible for compliance with all applicable regulatory requirements. The live bait dealer's license does not:
1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
  2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.
- F.** The Department shall deny a live bait dealer's license to a person who fails to meet the requirements established under R12-4-409 or this Section. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant

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stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.

- G. A person applying for a live bait dealer’s license shall submit an application to the Department. A separate application is required for each location where the applicant proposes to use wildlife. The application is available from any Department office and online at [www.azgfd.gov](http://www.azgfd.gov). An applicant shall provide the following information on the application:
  - 1. The applicant’s information:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number; and
    - d. Department ID number, when applicable;
  - 2. The applicant’s business:
    - a. Name;
    - b. Federal Tax Identification Number;
    - c. Mailing address; and
    - d. Telephone number of the applicant’s business;
  - 3. Wildlife species information:
    - a. Common name of all wildlife species; and
    - b. The number of animals for each species that will be sold under the license.
  - 4. For each location where the wildlife will be used, the owner’s:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number; and
  - 5. A detailed description or diagram of the facilities where the applicant will hold the wildlife;
  - 6. For each supplier from whom the applicant will obtain wildlife, the supplier’s:
    - a. Name;
    - b. Federal Tax Identification Number;
    - c. Mailing address;
    - d. Telephone number;
  - 7. Any other information required by the Department; and
  - 8. The certification required under R12-4-409(C).
- H. An applicant for a live bait dealer’s license shall pay all applicable fees established under R12-4-412.
- I. A live bait dealer’s license holder shall:
  - 1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
  - 2. Obtain live baitfish from a facility certified free of the diseases and causative agents through the following actions:
    - a. An inspection shall be performed by a qualified fish health inspector or fish pathologist at the facility where the wildlife is held before it is shipped to the license holder.
    - b. The inspection shall be conducted no more than 12 months prior to the date on which the aquatic wildlife or biological material is shipped to the license holder. The Department may require additional inspections at any time prior to shipping.
    - c. The applicant shall submit a copy of the certification to the Department prior to conducting any activities authorized under the license.
    - d. The live bait dealer’s license holder shall include a copy of the certification in each shipment.
  - 3. Allow the Department to conduct inspections of an applicant’s or license holder’s facility and records at any time before or during the license period to determine compliance with the requirements of this Article.

- 4. Possess the license or legible copy of the license while conducting activities authorized under the live bait dealer’s license and presents it for inspection upon the request of any Department employee or agent.
- 5. Dispose of aquatic wildlife only as authorized under this Section or as directed by the Department.
- J. A live bait dealer’s license holder shall comply with the requirements established under R12-4-428.

**Historical Note**

Adopted effective April 28, 1989 (Supp. 89-2). Amended by final rulemaking at 7 A.A.R. 2220, effective May 25, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

**R12-4-412. Special License Fees**

- A. A person who applies for a special license authorized under this Article shall pay all applicable fees at the time of application.
- B. A new application fee is required upon initial application or when an applicant fails to renew a special license before the license expires.
- C. A renewal application fee is required when an applicant submits an application to renew the special license before the license expires.

Special License Fees	New Application	Renewal Application
Aquatic Wildlife Stocking License	no fee	no fee
Game Bird		
Field Trial License	\$6	\$6
Hobby License	\$5	\$5
Shooting Preserve License	\$115	\$115
Live Bait Dealer’s License	\$35	\$35
Private Game Farm License	\$57.50	\$57.50
Scientific Collecting License		
Commercial	no fee	no fee
Noncommercial	no fee	no fee
Sport Falconry License, not available to a nonresident under R12-4-422(J).	\$87.50	\$87.50
White Amur Stocking and Holding License		
Commercial	\$250	\$250
Noncommercial	\$250	no fee
Wildlife Holding License	no fee	no fee
Wildlife Rehabilitation License	no fee	no fee
Wildlife Service License	no fee	no fee
Zoo License	\$115	\$115

**Historical Note**

Adopted effective April 28, 1989 (Supp. 89-2). Repealed effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). New Section adopted effective November 10, 1997 (Supp. 97-4). Amended by final rulemaking at 6 A.A.R. 211, effective December 14, 1999 (Supp. 99-4). Section repealed by final rulemaking at 9 A.A.R. 3186, effective August 30, 2003 (Supp. 03-3). New Section made by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3). Amended by final rulemaking at 21 A.A.R. 2813,

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effective December 5, 2015 (Supp. 15-4).

**R12-4-413. Private Game Farm License**

- A.** A private game farm license authorizes a person to commercially farm and sell wildlife, as specified on the license at the location designated on the license.
1. A private game farm license allows the license holder to:
    - a. Display for sale, give away, import, offer for sale, possess, purchase, rent or lease, sell, trade, or transport wildlife, wildlife carcasses, or parts of wildlife; and
    - b. Propagate and rear wildlife.
  2. The Private Game Farm License expires on December 31 of each year.
- B.** Private game farm wildlife may be killed or slaughtered, but a person shall not kill or allow the wildlife to be killed by hunting or in a manner that could be perceived as hunting or recreational sport harvest.
- C.** Private game farm wildlife shall not be killed by a person who pays a fee to the owner of the private game farm for killing the wildlife, nor shall the game farm owner accept a fee for killing the wildlife, except as authorized under R12-4-414.
- D.** A private game farm licenses authorizes the use of only the following species:
1. Captive-reared game birds:
    - a. *Alectoris chukar*, Chukar;
    - b. *Callipepla californica*, California or valley quail;
    - c. *Callipepla gambelii*, Gambel's quail;
    - d. *Callipepla squamata*, Scaled quail;
    - e. *Colinus virginianus*, Northern bobwhite;
    - f. *Cyrtonyx montezumae*, Montezuma or Mearns' quail;
    - g. *Dendragapus obscurus*, Dusky grouse; and
    - h. *Phasianus colchicus*, Ringneck and whitewing pheasant;
  2. Mammals listed as restricted live wildlife under R12-4-406, provided:
    - a. The same species does not exist in the wild in this state;
    - b. The applicant submits proof of a valid license issued by the United States Department of Agriculture under 9 CFR 25.30 at the time of application;
    - c. The applicant submits a written proposal at the time of application, which includes all of the following information:
      - i. Species to be possessed,
      - ii. Purpose of possession,
      - iii. Purpose of propagation, when applicable,
      - iv. Methods designed to prevent wildlife from escaping,
      - v. Methods designed to prevent threat to native wildlife,
      - vi. Methods designed to ensure public safety; and
      - vii. Methods for disposal of the wildlife, which may include export from this state, or transfer to an eligible game farm licensed under this Section, a zoo licensed under R12-4-420, or a medical or scientific research facility exempted under R12-4-407.
- E.** The Department shall deny an application for:
1. A new private game farm license for cervids. The Department may accept a renewal application for a private game farm license holder currently permitted to possess cervids, provided the license holder is in compliance with all applicable requirements under R12-4-409, R12-4-430, and this Section.
  2. A private game farm license for Northern bobwhite, *Colinus virginianus*, in game management units 34A, 36A, 36B, and 36C, as prescribed under R12-4-108.
- F.** In addition to the requirements established under this Section, a private game farm holder shall comply with the special license requirements established under R12-4-409.
- G.** The license holder shall be responsible for compliance with all applicable regulatory requirements. The private game farm license does not:
1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
  2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.
- H.** The Department shall deny a private game farm license to a person who fails to meet the requirements established under R12-4-409 or this Section. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.
- I.** A person applying for a private game farm license shall submit an application to the Department. A separate application is required for each location where the applicant proposes to use wildlife. The application is furnished by the Department and is available at any Department office and online at [www.azgfd.gov](http://www.azgfd.gov). An applicant shall provide the following information on the application:
1. The applicant's information:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number; and
    - d. Department ID number, when applicable;
  2. The applicant's business:
    - a. Name;
    - b. Federal Tax Identification Number;
    - c. Mailing address; and
    - d. Telephone number;
  3. For wildlife to be used under the license:
    - a. Common name of the wildlife species;
    - b. Number of animals for each species; and
    - c. When the applicant is renewing the private game farm license, the species and number of animals for each species currently held in captivity under the license;
  4. For each location where the wildlife will be used, the land owner's:
    - a. Name;
    - b. Mailing address;
    - d. Telephone number; and
    - e. Physical location description to include the Global Positioning System location or Universal Transverse Mercator coordinates;
  5. A detailed description or diagram of the facilities where the applicant will hold the wildlife, and a description of how the facilities comply with the requirements established under R12-4-428 and any other captivity standards established under this Section;
  6. For each wildlife supplier from whom the special license applicant will obtain wildlife, the supplier's;
    - a. Name;
    - b. Federal Tax Identification Number;

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- c. Mailing address;
  - d. Telephone number;
  - 7. Any other information required by the Department; and
  - 8. The certification required under R12-4-409(C).
  - J.** An applicant for a private game farm license shall pay all applicable fees established under R12-4-412.
  - K.** A private game farm license holder shall:
    - 1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
    - 2. Ensure each shipment of live wildlife imported into the state is accompanied by a health certificate.
      - a. The certificate shall be issued no more than 30 days prior to the date on which the wildlife shipped.
      - b. A copy of the certificate shall be submitted to the Department prior to importation.
    - 3. Ensure the following documentation accompanies each shipment of wildlife made by the game farm:
      - a. Name of the private game farm license holder,
      - b. Private game farm license number,
      - c. Date wildlife was shipped,
      - d. Number of wildlife, by species, included in the shipment,
      - e. Name of the person or common carrier transporting the shipment, and
      - f. Name of the person receiving the shipment.
    - 4. Provide each person who transports a wildlife carcass from the site of the game farm with a receipt that includes all of the following:
      - a. Date the wildlife was purchased, traded, or given as a gift;
      - b. Name of the game farm; and
      - c. Number of wildlife carcasses, by species, being transported.
    - 5. Ensure each facility is inspected by the attending veterinarian at least once every year.
    - 6. Allow the Department to conduct inspections of an applicant's or license holder's facility and records at any time before or during the license period to determine compliance with the requirements of this Article.
    - 7. Maintain records of all wildlife possessed under the license for a period of three years. In addition to the information required under subsections (M)(4)(a) through (M)(4)(e), the records shall also include:
      - a. The private game farm license holder's:
        - i. Name;
        - ii. Mailing address;
        - iii. Telephone number; and
        - iv. Special license number;
      - b. Copies of all federal, state, and local licenses, permits, and authorizations required for the lawful operation of the private game farm;
      - c. Copies of the annual report required under subsection (M);
      - d. Number of all restricted live wildlife, by species and the date it was obtained;
      - e. Source of all restricted live wildlife and the date it was obtained;
      - f. Number of offspring propagated by all restricted live wildlife; and
      - g. For all restricted live wildlife disposed of by the license holder:
        - i. Number, species, and date of disposition; and
        - ii. Manner of disposition to include the names and addresses of persons to whom the wildlife was bartered, given, or sold, when authorized.
  - L.** A private game farm license holder shall not:
    - 1. Propagate hybrid wildlife or domestic animals with wild-life; or
    - 2. Possess domestic species under the special license.
  - M.** A private game farm license holder shall submit an annual report to the Department before January 31 of each year for activities performed under the license for the previous calendar year. The report form is furnished by the Department.
    - 1. A report is required regardless of whether or not activities were performed during the previous year.
    - 2. The private game farm license becomes invalid if the annual report is not submitted to the Department by January 31 of each year.
    - 3. The Department will not process the special license holder's renewal application until the annual report is received by the Department.
    - 4. The annual report shall include all of the following information, as applicable:
      - a. Number of wildlife, by species;
      - b. Source of all wildlife that the license holder obtained or propagated;
      - c. Date on which the wildlife was obtained or propagated;
      - d. Date on which the wildlife was disposed of and the manner of disposition; and
      - e. Name of person who received wildlife disposed of by barter, given as a gift, or sale.
  - N.** Except for cervids which shall be disposed of only as established under R12-4-430, a private game farm license holder who no longer uses the wildlife for a commercial purpose shall dispose of the wildlife as follows:
    - 1. Export,
    - 2. Transfer to another private game farm licensed under this Section,
    - 3. Transfer to a zoo licensed under R12-4-420,
    - 4. Transfer to a medical or scientific research facility exempt under R12-4-407,
    - 5. As directed by the Department, or
    - 6. As otherwise authorized under this Section.
  - O.** A private game farm license holder shall comply with the requirements established under R12-4-428 and R12-4-430.
- Historical Note**
- Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 2732, effective July 1, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 3186, effective August 30, 2003 (Supp. 03-3). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).
- R12-4-414. Game Bird License**
- A.** A game bird license authorizes a person to conduct certain activities with the captive pen-reared game birds specified on the license and only at the location or locations specified on the license, as described below:
    - 1. Game Bird Hobby:
      - a. Authorizes a license holder to:
        - i. Possess no more than 50 captive pen-reared game birds at any one time; and
        - ii. Export, gift, import, kill, possess, propagate, purchase, and transport the captive pen-reared game birds specified on the license for personal, noncommercial purposes only.

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- b. The following captive pen-reared game bird species may be possessed by a Game Bird Hobby license holder:
    - i. *Alectoris chukar*, Chukar;
    - ii. *Callipepla californica*, California or valley quail;
    - iii. *Callipepla gambelii*, Gambel's quail;
    - iv. *Callipepla squamata*, Scaled quail;
    - v. *Colinus virginianus*, Northern bobwhite, subject to the restriction specified under subsection (D);
    - vi. *Cyrtonyx montezumae*, Montezuma or Mearn's quail; and
    - vii. *Dendragapus obscurus*, Dusky grouse.
  - c. The Game Bird Hobby license expires on December 31 each year.
2. Game Bird Shooting Preserve:
- a. Authorizes a license holder to:
    - i. Release captive pen-reared game birds for the purpose of hunting or shooting.
    - ii. Export, display, gift, import, kill, offer for sale, possess, propagate, purchase, trade, and transport the captive pen-reared game birds specified on the license.
  - b. The following captive pen-reared game bird species may be possessed by a Game Bird Shooting Preserve license holder:
    - i. *Alectoris chukar*, Chukar;
    - ii. *Anas platyrhynchos*, Mallard duck;
    - iii. *Colinus virginianus*, Northern bobwhite, subject to the restriction specified under subsection (D); and
    - iv. *Phasianus colchicus*, Ringneck and White-wing pheasant.
  - c. The license holder shall restrict the release and take of the live captive pen-reared game birds on private lands to an area not more than 1,000 acres.
  - d. The license holder may charge a fee to allow persons to take captive pen-reared game birds on the shooting preserve.
  - e. A person is not required to possess a hunting license when taking a captive pen-reared game bird released under the provisions of this Section.
  - f. A captive pen-reared game bird released under a Game Bird Shooting Preserve license may be taken with any method designated under R12-4-304.
  - g. The Game Bird Shooting Preserve license expires on December 31 each year.
3. Game Bird Field Trial:
- a. Authorizes a license holder to:
    - i. Release and take captive pen-reared game birds for the purpose of conducting a competition to test the performance of hunting dogs in one field trial event;
    - ii. Import, kill, possess, purchase within the State, and transport the captive pen-reared game birds specified on the license for one field trial event; and
    - iii. Export, gift, kill, or transport any captive pen-reared game bird held after the field trial event.
  - b. The following captive pen-reared game bird species may be possessed by a Game Bird Field Trial license holder:
    - i. *Alectoris chukar*, Chukar;
    - ii. *Anas platyrhynchos*, Mallard duck;
    - iii. *Colinus virginianus*, Northern bobwhite, subject to the restriction specified under subsection (D); and
    - iv. *Phasianus colchicus*, Ringneck and White-wing pheasant.
4. Game Bird Field Training:
- a. Authorizes a license holder to:
    - i. Release and take released live captive pen-reared game birds specified on the license for the purpose of training a dog or raptor to hunt game birds; and
    - ii. Import, possess, purchase within the State, and transport the captive pen-reared game birds specified on the license; and
    - iii. Export, gift, kill, or transport any captive pen-reared game bird possessed under the license.
  - b. The following captive pen-reared game bird species may be possessed by a Game Bird Field Training license holder:
    - i. *Alectoris chukar*, Chukar;
    - ii. *Anas platyrhynchos*, Mallard duck;
    - iii. *Colinus virginianus*, Northern bobwhite, subject to the restriction specified under subsection (D)(2)(b);
    - iv. *Phasianus colchicus*, Ringneck and White-wing pheasant.
  - c. A person is not required to possess a hunting license when taking a captive pen-reared game bird released under the provisions of this Section.
  - d. A captive pen-reared game bird released under a Game Bird Field Training license may be taken with any method designated under R12-4-304.
  - e. The Game Bird Field Training license expires on December 31 each year.
- B.** In addition to the requirements established under this Section, a game bird license holder shall comply with the special license requirements established under R12-4-409.
- C.** The license holder shall be responsible for compliance with all applicable regulatory requirements. The game bird license does not:
- 1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
  - 2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.
- D.** The Department shall deny a game bird license to a person who fails to meet the requirements under R12-4-409 or this Section. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10. In addition to the requirements and criteria established under R12-4-409(F)(1) through (4), the Department may deny a game bird license when:

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1. The applicant proposes to release captive pen-reared game birds:
    - a. At a location where an established wild population of the same species exists.
    - b. During nesting periods of upland game birds or waterfowl that nest in the area.
  2. The applicant requests a license:
    - a. For the sole purpose described under subsection (A)(1) and proposes to possess more than 50 captive pen-reared game birds at any one time.
    - b. To possess Northern bobwhites, *Colinus virginianus*, in any one of the following game management units, as described under R12-4-108; 34A, 36A, 36B, and 36C.
  3. The Department determines the:
    - a. Authorized activity listed under this Section may pose a threat to native wildlife, wildlife habitat, or public health or safety.
    - b. Escape of any species listed on the application may pose a threat to native wildlife or public health or safety.
    - c. Release of captive pen-reared game birds may interfere with a wildlife or habitat restoration program.
- E.** A person applying for a game bird license shall submit an application to the Department. A person applying for multiple Game Bird Field Trial licenses shall submit a separate application for each date and location where a competition will occur. The application is furnished by the Department and is available at any Department office and on the Department's website. An applicant shall provide the following information on the application:
1. The applicant's information:
    - a. Name;
    - b. Mailing address, when applicable;
    - c. Physical address;
    - d. Telephone number; and
    - e. Department ID number, when applicable;
  2. For captive pen-reared game birds to be used under the license:
    - a. Common name of game bird species;
    - b. Number of animals for each species; and
    - c. When the applicant is renewing a Game Bird Hobby or Shooting Preserve license, the species and number of animals for each species currently held in captivity under the license;
  3. The type of game bird license:
    - a. Game Bird Hobby;
    - b. Game Bird Shooting Preserve;
    - c. Game Bird Field Trial; or
    - d. Game Bird Field Training;
  4. For each location where captive pen-reared game birds will be held, the owner's:
    - a. Name;
    - b. Mailing address, when applicable;
    - c. Telephone number; and
    - d. Physical address or general location description and Global Positioning System location, when available;
  5. For each location where captive pen-reared game birds will be released, the land owner's or agency's:
    - a. Name;
    - b. Mailing address, when applicable;
    - c. Telephone number; and
    - d. Physical address or general location description and Global Positioning System location, when available; and
  6. For each captive pen-reared game bird supplier from whom the applicant will obtain game birds, the supplier's:
    - a. Name;
    - b. Mailing address; and
    - c. Telephone number;
  7. An applicant who is applying for a Game Bird Shooting Preserve or Field Trial license and intends to use the captive pen-reared game birds for a commercial purpose shall also provide the applicant's business:
    - a. Name;
    - b. Mailing address; and
    - c. Telephone number;
  8. An applicant who intends to use the captive pen-reared game birds for an activity affiliated with a sponsoring organization shall also provide the organization's:
    - a. Name;
    - b. Mailing address; and
    - c. Telephone number of the organization chair or local chapter;
  9. An applicant who is applying for a Game Bird Field Trial license shall also specify the range of dates within which the field trial event will take place, not to exceed a 10-day period;
  10. An applicant who is applying for a Game Bird Hobby or Game Bird Shooting Preserve license shall also provide a detailed description or diagram of the facilities where the applicant will hold captive pen-reared game birds and a description of how the facilities comply with the requirements established under R12-4-428 and any other captivity standards established under this Section;
  11. Any other information required by the Department; and
  12. The certification required under R12-4-409(B).
- F.** An applicant for a game bird license shall pay all applicable fees established under R12-4-412.
- G.** A game bird license holder shall:
1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
  2. Allow the Department to conduct inspections of an applicant's or license holder's facility and records at any time before or during the license period to determine compliance with the requirements of this Article.
  3. Possess the license or legible copy of the license while conducting any activity authorized under the game bird license and present it for inspection upon the request of any Department employee or agent.
  4. Ensure each shipment of captive pen-reared game birds imported into the state is accompanied by a health certificate.
    - a. The certificate shall be issued no more than 30 days prior to the date on which the game birds are shipped.
    - b. A copy of the certificate shall be submitted to the Department prior to importation.
  5. Provide each person who transports captive pen-reared game birds taken under the game bird license with documentation that includes all of the following:
    - a. Name of the game bird license holder;
    - b. Game bird license number;
    - c. Date the captive pen-reared game bird was obtained;
    - d. Number of captive pen-reared game birds, by species; and
    - e. When the captive pen-reared game birds are being shipped:

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- i. Name of the person or common carrier transporting the shipment, and
  - ii. Name of the person receiving the shipment.
6. Maintain records of all captive pen-reared game birds possessed under the license for a period of three years. In addition to the information required under subsections (G)(5)(a) through (G)(5)(b), the records shall also include:
- a. The game bird license holder's:
    - i. Name;
    - ii. Mailing address;
    - iii. Telephone number; and
    - iv. Special license number;
  - b. Copies of the annual report required under subsection (H);
7. Dispose of captive pen-reared game birds only as authorized under this Section or as directed by the Department.
8. Conduct license activities solely at the locations and within the time-frames approved by the Department. A Game Bird License holder may request permission to amend the license to conduct activities authorized under the license at an additional location by submitting the application required under subsection (E) to the Department.
- H.** A game bird license holder shall submit an annual report to the Department before January 31 of each year for the previous calendar year. The report form is furnished by the Department.
- 1. A report is required regardless of whether or not activities were performed during the previous year.
  - 2. The game bird license becomes invalid if the annual report is not submitted to the Department by January 31 of each year.
  - 3. The Department shall not process the special license holder's renewal application until the annual report is received by the Department.
  - 4. The annual report shall include all of the following information, as applicable:
    - a. Number of all captive pen-reared game birds, by species and the date obtained;
    - b. Source of all captive pen-reared game birds and the date obtained;
    - c. Number of offspring propagated by all captive pen-reared game birds; and
    - d. For all captive pen-reared game birds disposed of by the license holder:
      - i. Number, species, and date of disposition; and
      - ii. Manner of disposition to include the names and addresses of persons to whom the wildlife was bartered, given, or sold, when authorized.
- I.** A game bird license holder shall comply with the requirements established under R12-4-428.
- J.** A game bird released under a game bird license and found outside of the location specified on the license shall become property of the State and is subject to the requirements prescribed under A.R.S. Title 17 and 12 A.A.C. 4, Article 3.

**Historical Note**

Adopted effective April 28, 1989 (Supp. 89-2). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 23 A.A.R. 2557, effective September 6, 2017 (Supp. 17-3).

**R12-4-415. Repealed****Historical Note**

Adopted effective April 28, 1989 (Supp. 89-2). Amended

by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Repealed by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

**R12-4-416. Repealed****Historical Note**

Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Repealed by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

**R12-4-417. Wildlife Holding License**

- A.** A wildlife holding license authorizes a person to display for educational purposes, euthanize, export, give away, import, photograph for commercial purposes, possess, propagate, purchase, or transport, restricted and nonrestricted live wildlife lawfully:
- 1. Held under a valid hunting or fishing license for a purpose listed under subsection (C),
  - 2. Collected under a valid scientific collecting license issued under R12-4-418,
  - 3. Obtained under a valid wildlife rehabilitation license issued under R12-4-423,
  - 4. Or as otherwise authorized by the Department.
- B.** A wildlife holding license expires on December 31 of the year issued, or, if the license holder is a representative of an institution, organization, or agency described under subsection (C)(4), upon termination of affiliation with that entity, whichever comes first.
- C.** A wildlife holding license is valid for the following purposes, only:
- 1. Advancement of science;
  - 2. Lawfully possess restricted live wildlife when it is:
    - a. Necessary to give humane treatment to restricted live wildlife that has been abandoned or permanently disabled, and is therefore unable to meet its own needs in the wild; or
    - b. Previously possessed under another special license and the primary purpose for that special license no longer exists;
  - 3. Promotion of public health or welfare;
  - 4. Provide education under the following conditions:
    - a. The applicant is an educator affiliated or partnered with an educational organization; and
    - b. The educational organization permits the use of live wildlife.
  - 5. Photograph for a commercial purpose live wildlife provided:
    - a. The wildlife will be photographed without posing a threat to other wildlife or the public, and
    - b. The photography will not adversely impact other affected wildlife in this state, or
  - 6. Wildlife management.
- D.** The Department shall deny an application for a wildlife holding license for the possession of cervids.
- E.** In addition to the requirements established under this Section, a wildlife holding license holder shall comply with the special license requirements established under R12-4-409.
- F.** The license holder shall be responsible for compliance with all applicable regulatory requirements. The wildlife holding license does not:
- 1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or

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2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.
- G.** The Department shall deny a wildlife holding license to a person who fails to meet the requirements established under R12-4-409 or this Section, or when the person's wildlife holding privileges are suspended or revoked in any state. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10. In addition to the requirements and criteria established under R12-4-409(F)(1) through (4), the Department shall deny a wildlife holding when:
1. It is in the best interest of the wildlife; or
  2. The issuance of the license will adversely impact other wildlife or their habitat in the state.
- H.** A person applying for a wildlife holding license shall submit an application to the Department. A separate application is required for each location where the applicant proposes to use wildlife. The application is furnished by the Department and is available at any Department office and online at [www.azgfd.gov](http://www.azgfd.gov). The applicant shall provide the following information:
1. The applicant's information:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number; and
    - d. Department ID number, when applicable;
  2. If the applicant will use the wildlife for a commercial purpose, the applicant's business:
    - a. Name;
    - b. Federal Tax Identification Number;
    - c. Mailing address; and
    - d. Telephone number;
  3. If the applicant will use wildlife for activities authorized by an educational or scientific institution that employs, contracts, or is similarly affiliated with the applicant, the institution's:
    - a. Name;
    - b. Mailing address; and
    - c. Telephone number;
  4. For wildlife to be used under the license:
    - a. Common name of the wildlife species;
    - b. Number of animals for each species;
    - c. When the application is for the use of multiple species, the applicant shall list each species and the number of animals for each species; and
    - d. When the applicant is renewing the wildlife holding license, the species and number of animals for each species currently held in captivity under the license;
  5. For wildlife to be used for educational purposes:
    - a. The affiliated educational institution's:
      - i. Name;
      - ii. Federal Tax Identification Number;
      - iii. Mailing address; and
      - iv. Telephone number of the educational institution;
    - b. A copy of the established curriculum utilizing sound educational objectives; and
    - c. A plan for how the applicant will address any safety concerns associated with the use of live wildlife in a public setting.
  6. For each location where the applicant proposes to hold the wildlife, the owner's:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number; and
    - d. Physical location description to include the Global Positioning System location or Universal Transverse Mercator coordinates;
  7. A detailed description and diagram, or photographs, of the facilities where the applicant will hold the wildlife and a description of how the facilities comply with the requirements established under R12-4-428, and any other captivity standards that may be established under this Section;
  8. The dates that the applicant will begin and end holding wildlife;
  9. A clear description of how the applicant intends to dispose of the wildlife once the proposed activity for which the license was issued ends;
  10. Any other information required by the Department; and
  11. The certification required under R12-4-409(C).
  12. For subsection (H)(7), the Department may, at its discretion, accept documented current certification or approval by the applicant's institutional animal care and use committee or similar committee in lieu of the description, diagram, and photographs of the facilities.
- I.** In addition to the requirements listed under subsection (H), at the time of application, an applicant for a wildlife holding license shall also submit:
1. Evidence of lawful possession, as defined under R12-4-401;
  2. A statement of the applicant's experience in handling and providing care for the wildlife to be held or experience relevant to handling or providing care for wildlife;
  3. A written proposal that contains all of the following information:
    - a. A description of the activity the applicant intends to perform under the license;
    - b. Purpose for the proposed activity;
    - c. The contribution the proposed activity will make to one or more of the primary purposes listed under subsection (C).
    - d. For an applicant who wishes to possess restricted live wildlife for the purpose of providing humane treatment, a written explanation stating why the wildlife is unable to meet its own needs in the wild and the following information for the licensed veterinarian who will provide care for the wildlife:
      - i. Name;
      - ii. Mailing address; and
      - iii. Telephone number;
- J.** An applicant for a wildlife holding license shall pay all applicable fees required under R12-4-412.
- K.** A wildlife holding license holder shall:
1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
  2. Allow the Department to conduct inspections of an applicant's or license holder's facility and records at any time before or during the license period to determine compliance with the requirements of this Article.
  3. Possess the license or legible copy of the license while conducting any activity authorized under the wildlife holding license and presents it for inspection upon the request of any Department employee or agent.

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4. Permanently mark any restricted live wildlife used for lawful activities under the authority of the license, when required by the Department.
  5. Ensure that a copy of the license accompanies any transportation or shipment of wildlife made under the authority of the license.
  6. Surrender wildlife held under the license to the Department upon request.
- L.** A wildlife holding license holder shall submit an annual report to the Department before January 31 of each year for the previous calendar year or as indicated under subsection (O). The report form is furnished by the Department.
1. A report is required regardless of whether or not activities were performed during the previous year.
  2. The wildlife holding license becomes invalid if the annual report is not submitted to the Department by January 31 of each year.
  3. The Department will not process the special license holder's renewal application until the annual report is received by the Department.
  4. The annual report shall include all of the following information, as applicable:
    - a. A list of animals held during the year, the list shall be by species and include the source and date on which the wildlife was acquired.
    - b. The permanent mark or identifier of the wildlife, such as name, number, or another identifier for each animal held during the year, when required by the Department. This designation or identifier shall be provided with other relevant reported details for the holding or disposition of the individual animal;
    - c. Whether the wildlife is alive or dead.
    - d. The current location of the wildlife.
    - e. A list of all educational displays where the wildlife was utilized to include the date, location, organization or audience, approximate attendance, and wildlife used.
- M.** A wildlife holding license holder may authorize an agent to assist the license holder in conducting activities authorized under the wildlife holding license, provided the agent's wildlife privileges are not suspended or revoked in any state.
1. The license holder shall obtain written authorization from the Department before allowing a person to act as an agent.
  2. The license holder shall notify the Department in writing within 10 calendar days of terminating any agent.
  3. The Department may suspend or revoke the license holder's license if an agent violates any requirement of this Section or Article or any stipulations placed upon the license.
  4. An agent may possess wildlife for the purposes outlined under subsection (C), under the following conditions;
    - a. The agent shall possess evidence of lawful possession, as defined under R12-4-401, for all wildlife possessed by the agent;
    - b. The agent shall return the wildlife to the primary license holder's facility within two days of receiving the wildlife.
- N.** A wildlife holding license holder shall not barter, give as a gift, loan for commercial activities, offer for sale, sell, trade, or dispose of any restricted live wildlife, offspring of restricted live wildlife, or their parts except as stipulated on the wildlife holding license or as directed in writing by the Department.
- O.** A wildlife holding license is no longer valid once the primary purpose for which the license was issued, as prescribed in subsection (C), no longer exists. When this occurs, the wildlife holding license holder shall immediately submit the annual report required under (L) to the Department.
- P.** A wildlife license holder shall comply with the requirements established under R12-4-409, R12-4-428, and R12-4-430.

**Historical Note**

Adopted effective April 28, 1989 (Supp. 89-2). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 211, effective January 1, 2000 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 3186, effective August 30, 2003 (Supp. 03-3). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

**R12-4-418. Scientific Collecting License**

- A.** A scientific collecting license allows a person to conduct any of the following activities with live wildlife when specified on the license:
1. Display,
  2. Photograph for noncommercial purposes,
  3. Possess,
  4. Propagate,
  5. Take,
  6. Transport, and
  7. Use for educational purposes.
- B.** The Department issues three types of scientific collecting licenses:
1. Personal,
  2. Consultant, and
  3. Government, which includes educational and research institutions.
- C.** A person may apply for a scientific collecting license only when the license is requested for:
1. The purpose of wildlife management, gathering information valuable to the maintenance of wild populations, education, the advancement of science, or promotion of the public health or welfare;
  2. A purpose that is in the best interest of the wildlife or the species, will not adversely impact other affected wildlife in this state, and may be authorized without posing a threat to wildlife or public safety; and
  3. A purpose that does not unnecessarily duplicate previously documented projects.
- D.** A scientific collecting license expires on December 31 each year.
- E.** For the protection of wildlife or public safety, the Department has the authority to take any one or more of the following actions:
1. Rescind or modify any method of take authorized by the license;
  2. Restrict the number of animals for each species or other taxa the license holder may take under the license;
  3. Restrict the age, condition, or location of wildlife the license holder may take under the license; or
  4. Deny or substitute the number of specimens and taxa requested on an application.
- F.** The license holder shall be responsible for compliance with all applicable regulatory requirements. The scientific collecting license does not:
1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
  2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States autho-

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- ricing the license holder to use that wildlife in a manner consistent with the special license.
- G.** The Department may deny a scientific collecting license to a person who fails to meet the requirements established under R12-4-409 or this Section, or when the person's scientific collecting privileges are suspended or revoked in any state. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10. In addition to the requirements and criteria established under R12-4-409(F)(1) through (4), the Department shall deny a scientific collecting license when it is in the best interest of the wildlife or public safety.
- H.** A person applying for a scientific collecting license shall submit an application to the Department. A separate application is required for each location where the applicant proposes to use wildlife. The application is furnished by the Department and is available from any Department office, and online at [www.azgfd.gov](http://www.azgfd.gov). A person applying for a scientific collecting license shall provide the following information on the application:
1. The applicant's information:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number; and
    - d. Department ID number; when applicable;
  2. If the applicant will use wildlife for activities authorized by a scientific, educational, or government institution, organization, or agency that employs, contracts, or is similarly affiliated with the applicant, the applicant shall provide the institution's:
    - a. Name;
    - b. Federal Tax Identification Number;
    - c. Mailing address;
    - d. Telephone number of the institution; and
    - e. The applicant's title or a description of the nature of affiliation with the institution or organization;
  3. When the applicant is renewing the scientific collecting license, the species and number of animals for each species currently held in captivity;
  4. For each the location where the wildlife will be held, the land owner's:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number; and
    - d. Physical location description to include the Global Positioning System location or Universal Transverse Mercator coordinates;
  5. A detailed description and diagram, or photographs, of the facilities where the applicant will hold the wildlife and a description of how the facilities comply with the requirements established under R12-4-428, and any other captivity standards that may be established under this Section;
  6. Any other information required by the Department; and
  7. The certification required under R12-4-409(C).
  8. For subsection (H)(5), the Department may, at its discretion, accept documented current certification or approval by the applicant's institutional animal care and use committee or similar committee in lieu of the description, diagram, and photographs of the facilities.
- I.** In addition to the requirements listed under subsection (H), at the time of application, an applicant for a scientific collecting license shall also submit a written proposal. The written proposal shall contain all of the following information:
1. List of activities the applicant intends to perform under the license;
  2. Purpose for the use of wildlife as established under subsection (C);
  3. When the applicant intends to use wildlife for educational purposes, the proposal shall also include the:
    - a. Minimum number of presentations the applicant anticipates to provide under the license
    - b. Name, title, address, and telephone number of persons whom the applicant has contacted to offer educational presentations; and
    - c. Number of specimens the applicant already possesses for any species requested on the application;
  4. Applicant's relevant qualifications and experience in handling and, when applicable, providing care for the wildlife to be held under the license;
  5. Methods of take that the applicant will use, to include:
    - a. Justification for using the method, and
    - b. Proposed method of disposing wildlife taken under the license and any subsequent offspring, when applicable;
  6. Number of animals for each species that will be used under the license;
  7. Locations where collection will take place;
  8. Names and addresses of any agents who will assist the applicant in carrying out the activities described in the proposal.
  9. Project completion date; and
  10. Whether the applicant intends to publish the project or its findings.
- J.** An applicant for a scientific collecting license shall pay all applicable fees required under R12-4-412.
- K.** A scientific collecting license holder shall:
1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
  2. Possess the license or legible copy of the license while conducting any activity authorized under the scientific collecting license and presents it for inspection upon the request of any Department employee or agent.
  3. Notify the Department in writing within 10 calendar days of terminating any agent.
  4. Use the most humane and practical method possible prescribed under R12-4-304, R12-4-313, or as directed by the Department in writing.
  5. Conduct activities authorized under the scientific collecting license only at the locations and time periods specified on the scientific collecting license.
  6. Dispose of wildlife, wildlife parts, or offspring, only as directed by the Department.
- L.** A scientific collecting license holder shall not exhibit any wildlife held under the license, unless the person also possesses a zoo license authorized under R12-4-420.
- M.** A scientific collecting license holder may request authorization to allow an agent to assist the license holder in carrying out activities authorized under the scientific collecting license by submitting a written request to the Department.
1. An applicant may request the ability to allow a person to act as an agent on the applicant's behalf, provided:
    - a. An employment or supervisory relationship exists between the applicant and the agent, and
    - b. The agent's privilege to take or possess live wildlife is not suspended or revoked in any state.
  2. The license holder shall obtain approval from the Department prior to allowing the agent assist in any activities.

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3. The license holder is liable for all acts the agent performs under the authority of this Section.
  4. The Department, acting on behalf of the Commission, may suspend or revoke a license for violation of this Section by an agent.
  5. The license holder shall ensure the agent possesses a legible copy of the license while conducting any activity authorized under the scientific collecting license and presents it for inspection upon the request of any Department employee or agent.
- N.** A scientific collecting license holder may submit to the Department a written request to amend the license to add or delete an agent, location, project, or other component documented on the license at any time during the license period.
- O.** A scientific collecting license holder shall submit an annual report to the Department before January 31 of each year. The report form is furnished by the Department.
1. A report is required regardless of whether or not activities were performed during the previous year.
  2. The scientific collecting license becomes invalid if the annual report is not submitted to the Department by January 31 of each year.
  3. The Department will not process the special license holder's renewal application until the annual report is received by the Department.
  4. The Department may stipulate submission of additional interim reports upon license application or renewal.
- P.** A scientific collecting license holder who wishes to permanently hold wildlife species collected under the license in Arizona that will no longer be used for activities authorized under the license shall apply for and obtain a wildlife holding license in compliance with R12-4-417 or another appropriate special license.
- Historical Note**
- Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 2732, effective July 1, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).
- R12-4-419. Repealed**
- Historical Note**
- Adopted effective April 28, 1989 (Supp. 89-2). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Repealed by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).
- R12-4-420. Zoo License**
- A.** A zoo license allows a person to exhibit, export, euthanize, display for educational purposes, give away, import, offer for sale, possess, propagate, purchase, sell, or transport any lawfully possessed restricted and nonrestricted live wildlife.
- B.** A person may apply for a zoo license only when the license is requested for:
1. Advancement of science or wildlife management,
  2. Promotion of public health or welfare,
  3. Public education, or
  4. Wildlife conservation.
- C.** A zoo license expires on December 31 each year.
- D.** In addition to the requirements established under this Section, a zoo license holder shall comply with the special license requirements established under R12-4-409.
- E.** The license holder shall be responsible for compliance with all applicable regulatory requirements; the zoo license does not:
1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
  2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.
- F.** The Department shall deny a zoo license to a person who fails to meet the requirements established under R12-4-409 or this Section. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10. In addition to the requirements and criteria established under R12-4-409(F)(1) through (4), the Department shall deny a zoo license when:
1. It is in the best interest of the wildlife; or
  2. The issuance of the license will adversely impact other wildlife or their habitat in the state;
- G.** A person applying for a zoo license shall submit an application to the Department. A separate application is required for each location where the applicant proposes to use wildlife. The application is furnished by the Department and is available from any Department office and online at [www.azgfd.gov](http://www.azgfd.gov). An applicant shall provide the following information on the application:
1. The applicant's information:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number;
    - d. Federal Tax Identification Number; and
    - e. Department ID number, when applicable;
  2. If the applicant will use wildlife for activities authorized by an educational or scientific institution that employs, contracts, or is similarly affiliated with the applicant, the applicant shall provide the institution's:
    - a. Name;
    - b. Federal Tax Identification Number;
    - c. Mailing address;
    - d. Telephone number;
  3. Wildlife species to be held under the license;
    - a. Common and current scientific name of the wildlife species; and
    - b. Number of animals for each species;
  4. If the applicant is renewing the zoo license, the number of animals of each species that are currently in captivity, and evidence of lawful possession as defined under R12-4-401;
  5. For each location where the wildlife will be used, the land owner's:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number; and
    - d. Physical location description to include the Global Positioning System location or Universal Transverse Mercator coordinates;
  6. A detailed description and diagram of the facilities where the applicant will hold the wildlife and a description of how the facilities comply with the requirements established under R12-4-428;
  7. Any other information required by the Department; and
  8. The certification required under R12-4-409(C).

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- H.** In addition to the requirements listed under subsection (G), an applicant for a zoo license shall also submit at the time of application:
1. A written proposal that contains the following:
    - a. A description of how the facility or operation meets the definition of a zoo, as defined under A.R.S. § 17-101; and
    - b. The purpose of the license, as established under subsection (B);
  2. Proof of current licensing by the United States Department of Agriculture under 9 C.F.R. Subchapter A, Animal Welfare;
  3. Photographs of the facility when the zoo is not accredited by the Association of Zoos and Aquariums or Zoological Association of America.
  4. For subsection (H)(2), 9 C.F.R. Subchapter A, Animal Welfare revised January 1, 2012, and no later amendments or editions, which is incorporated by reference. The incorporated material is available from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000, and is on file with the Department.
- I.** An applicant for a zoo license shall pay all applicable fees established under R12-4-412.
- J.** A zoo license holder shall:
1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
  2. Allow the Department to conduct inspections of an applicant's or license holder's facility and records at any time before or during the license period to determine compliance with the requirements of this Article.
  3. Ensure each facility is inspected by the attending veterinarian at least once every year.
  4. Hold all wildlife in such a manner designed to prevent wildlife from escaping from the facility specified on the license.
  5. Hold all wildlife in a manner designed to prevent the entry of unauthorized persons or other wildlife.
  6. Hold all wildlife lawfully possessed under the zoo license in the facility specified on the license, except when transporting the wildlife:
    - a. To or from a temporary exhibit;
    - b. For medical treatment; or
    - c. Other activities approved by the Department in writing.
  7. Ensure a temporary exhibit shall not exceed 60 consecutive days at any one location, unless approved by the Department in writing.
  8. Clearly display a sign at the facility's main entrance that states the days of the week and hours when the facility is open for viewing by the general public.
  9. Ensure all wildlife held under the license that has the potential to come into contact with the public is tested for zoonotic diseases appropriate to the species no more than 12 months prior to importation or display. Any wildlife that tests positive for a zoonotic disease shall not be imported into this state without review and approval by the Department in writing.
  10. Dispose of the following wildlife only as directed by the Department:
    - a. Wildlife obtained under a scientific collecting permit; or
    - b. Wildlife loaned to the zoo by the Department.
  11. Maintain records of all wildlife possessed under the license for a period of three years following the date of disposition. In addition to the information required under subsections (H)(1) through (H)(3), the records shall also include:
    - a. Number of all restricted live wildlife, by species and the date it was obtained;
    - b. Source of all restricted live wildlife and the date it was obtained;
    - c. Number of offspring propagated by all restricted live wildlife; and
    - d. For all restricted live wildlife disposed of by the license holder:
      - i. Number, species, and date of disposition; and
      - ii. Method of disposition.
- K.** A zoo license holder shall not:
1. Accept any wildlife that is donated, purchased, or otherwise obtained without accompanying evidence of lawful possession.
  2. Import into this state any wildlife that may come into contact with the public and tests positive for zoonotic disease, as established under subsection (J)(9).
- L.** A zoo license holder shall dispose of restricted live wildlife in this state by:
1. Giving, selling, or trading the wildlife to:
    - a. Another zoo licensed under this Section;
    - b. An appropriate special license holder or appropriately licensed or permitted facility in another state or country authorized to possess the wildlife being disposed;
  2. Giving selling, or donating the wildlife to a medical or scientific research facility exempt from special license requirements under R12-4-407;
  3. Exporting the wildlife to a zoo certified by the Association of Zoos and Aquariums or Zoological Association of America; or
  4. As otherwise directed by the Department.
- M.** A zoo license holder shall submit an annual report to the Department before January 31 of each year for the previous calendar year. The report form is furnished by the Department.
1. A report is required regardless of whether or not activities were performed during the previous year.
  2. The zoo license becomes invalid if the annual report is not submitted to the Department by January 31 of each year.
  3. The Department will not process the special license holder's renewal application until the annual report is received by the Department.
  4. The report shall summarize the current species inventory, and acquisition and disposition of all wildlife held under the license.
- N.** A zoo license holder shall request the authority to possess a new species of restricted live wildlife by submitting a written request to the Department prior to acquisition, unless the wildlife was:
1. Held under the previous year's zoo license and included in the previous annual report, or
  2. Authorized in advance by the Department in writing.
- O.** A zoo license holder shall comply with the requirements established under R12-4-409, R12-4-426, R12-4-428, and R12-4-430, as applicable.

**Historical Note**

Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 2732, effective July 1, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 3186, effective August 30, 2003 (Supp. 03-3).

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Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4). Subsections (J) through (O) omitted in supplement 15-4; errors corrected at the request of the Commission at R18-91 (Supp. 18-1). Subsections (A) through (I) amendments omitted in supplement 15-4; full text has been included as submitted at 21 A.A.R. 2813, File No. R15-155, effective December 5, 2015 (Supp. 19-1).

**R12-4-421. Wildlife Service License**

- A.** A wildlife service license authorizes a person to provide, advertise, or offer assistance in removing the live wildlife listed below to the general public. For the purposes of this Section, the following wildlife, as defined under A.R.S. § 17-101(B), are designated live wildlife:
1. Furbearing animals;
  2. Javelina (*Pecari tajacu*);
  3. Nongame animals;
  4. Predatory animals; and
  5. Small game.
- B.** A wildlife service license is not required when conducting pest control removal services authorized under A.R.S. § Title 32, Chapter 22 for the following wildlife not protected under federal regulation:
1. Rodents, except those in the family Sciuridae;
  2. European starlings;
  3. Peach-faced love birds;
  4. House sparrows;
  5. Eurasian collared-doves; and
  6. Any other non-native wildlife species.
- C.** A wildlife service license allows a person to conduct activities that facilitate the removal and relocation of live wildlife listed under subsection (A) when the wildlife causes a nuisance, property damage, poses a threat to public health or safety, or if the health or well-being of the wildlife is threatened by its immediate environment. Authorized activities include, but are not limited to, capture, removal, transportation, and relocation.
- D.** The wildlife service license expires on December 31 each year.
- E.** An employee of a governmental public safety agency is not required to possess a wildlife service license when the employee is acting within the scope of the employee's official duties.
- F.** In addition to the requirements established under this Section, a wildlife service license holder shall comply with the special license requirements established under R12-4-409.
- G.** The license holder shall be responsible for compliance with all applicable regulatory requirements; the wildlife service license does not:
1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
  2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.
- H.** The Department shall deny a wildlife service license to a person who fails to meet the requirements established under R12-4-409 or this Section or when the person's wildlife service privileges are suspended or revoked in any state. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.
- I.** A person applying for a wildlife service license shall submit an application to the Department. The application is furnished by the Department and is available from any Department office and online at [www.azgfd.gov](http://www.azgfd.gov). An applicant shall provide the following information on the application:
1. The applicant's information:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number;
    - d. Physical description, to include the applicant's eye color, hair color, height, and weight; and;
    - e. Department ID number, when applicable;
  2. If the applicant will perform license activities for a commercial purpose, the applicant's business:
    - a. Name;
    - b. Federal Tax Identification Number;
    - c. Mailing address;
    - d. Telephone number; and
    - e. Hours and days of the week the applicant will be available for service;
  3. The designated wildlife species or groups of species listed under subsection (A) that will be used under the license;
  4. The methods that the wildlife license holder will use to perform authorized activities;
  5. The general geographic area where services will be performed;
  6. Any other information required by the Department; and
  7. The certification required under R12-4-409(C).
- J.** In addition to the requirements listed under subsection (I), at the time of application, an applicant for a wildlife service license shall also submit:
1. Proof the applicant has a minimum of six months full-time employment or volunteer experience handling wildlife of the species or groups designated on the application; and
  2. A written proposal that contains all of the following information:
    - a. Applicant's experience in the capture, handling, and removal of wildlife;
    - b. Specific species the applicant has experience capturing, handling, or removing;
    - c. General location and dates when the activities were performed;
    - d. Methods used to carry out the activities; and
    - e. The methods used to dispose of the wildlife.
- K.** When renewing a license without change to the species or species groups authorized under the current license, the wildlife service license holder may reference supporting materials previously submitted in compliance with subsection (J).
- L.** An applicant for a wildlife service license shall pay all applicable fees established under R12-4-412.
- M.** A wildlife service license holder shall:
1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
  2. Facilitate the removal and relocation of designated wildlife in a manner that:
    - a. Is least likely to cause injury to the wildlife; and
    - b. Will prevent the wildlife from coming into contact with the general public.
  3. Obtain special authorization from the Department regional office that has jurisdiction over the area where the activities will be conducted when performing any activities involving javelina.
  4. Release captured designated wildlife only as follows:

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- a. Without immediate threat to the animal or potentially injurious contact with humans;
  - b. During an ecologically appropriate time of year;
  - c. Into a suitable habitat;
  - d. In the same geographic area as the animal was originally captured, except that birds may be released at any location statewide within the normal range of that species in an ecological suitable habitat; and
  - e. In an area designated by the Department regional office that has jurisdiction over the area where it was captured.
5. Euthanize the wildlife using the safest, quickest, and most humane method available.
  6. Dispose of all wildlife that is euthanized or that otherwise dies while possessed under the license by burial or incineration within 30 days of death, unless otherwise directed by the Department.
  7. Possess the license or legible copy of the license while conducting any wildlife service activity and presents it for inspection upon the request of any Department employee or agent.
  8. Inform the Department in writing within five working days of any change in telephone number, area of service, or business hours or days.
- N.** A wildlife service license holder may submit to the Department a written request to amend the license to add or delete authority to control and release designated species of wildlife, provided the request meets the requirements of this Section.
- O.** A wildlife service license holder shall not:
1. Exhibit wildlife or parts of wildlife possessed under the license.
  2. Possess designated wildlife beyond the period necessary to transport and relocate or euthanize the wildlife.
  3. Retain any parts of wildlife.
- P.** A wildlife service license holder may:
1. Euthanize designated wildlife only when authorized by the Department.
  2. Give injured or orphaned wildlife to a wildlife rehabilitation license holder.
- Q.** A wildlife service license holder shall submit an annual report to the Department before January 31 of each year on activities performed under the license for the previous calendar year. The report form is furnished by the Department.
1. A report is required regardless of whether or not activities were performed during the previous year.
  2. The wildlife service license becomes invalid if the annual report is not submitted to the Department by January 31 of each year.
  3. The Department will not process the special license holder's renewal application until the annual report is received by the Department.
  4. The annual report shall provide a list of all services performed under the license to include:
    - a. The date and location of service;
    - b. The number and species of wildlife removed, and
    - c. The method of disposition for each animal removed, including the location and date of release.
- R.** A wildlife service license holder shall comply with the requirements established under R12-4-409 and R12-4-428.

**Historical Note**

Adopted effective January 1, 1993; filed December 18, 1992 (Supp. 92-4). Amended by final rulemaking at 7 A.A.R. 2732, effective July 1, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp.

15-4).

**R12-4-422. Sport Falconry License**

- A.** In addition to the definitions provided under A.R.S. § 17-101, R12-4-101, and R12-4-401, and for the purposes of this Section, the following definitions apply:

“Abatement services” means the use of raptors possessed under a falconry permit for the control of nuisance species.

“Captive-bred raptor” means a raptor hatched in captivity.

“Hack” means the temporary release of a raptor into the wild to condition the raptor for use in falconry.

“Hybrid” has the same meaning as prescribed under 50 C.F.R. 21.3, revised October 1, 2013. This incorporation by reference contains no future editions or amendments. The incorporated material is available at any Department office, online at [www.gpoaccess.gov](http://www.gpoaccess.gov), or may be ordered from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000.

“Imping” means using a molted feather to replace or repair a damaged or broken feather.

“Retrices” means a raptor's tail feathers.

“Sponsor” means a licensed General or Master falconer with a valid Arizona Sport Falconry license who has committed to mentoring an Apprentice falconer.

“Suitable perch” means a perch that is of the appropriate size and texture for the species of raptor using the perch.

“Wild raptor” means a raptor taken from the wild, regardless of how long the raptor is held in captivity or whether the raptor is transferred to another licensed falconer or other permit type.

- B.** An Arizona Sport Falconry license permits a person to capture, possess, train, and transport a raptor for the purpose of sport falconry in compliance with the Migratory Bird Treaty Act and the Endangered Species Act of 1973.
1. The sport falconry license validates the appropriate license for hunting or taking quarry with a trained raptor. When taking quarry using a raptor, a person must possess a valid:
    - a. Sport falconry license, and
    - b. Appropriate hunting license.
  2. The sport falconry license is valid until the third December from the date of issuance.
  3. A licensed falconer may capture, possess, train, or transport wild, captive-bred, or hybrid raptors, subject to the limitations established under subsections (H)(1), (H)(2), and (H)(3), as applicable.
- C.** The Department shall comply with the licensing time-frame established under R12-4-106.
- D.** A resident who possesses or intends to possess a raptor for the purpose of sport falconry shall hold an Arizona Sport Falconry license, unless the person is exempt under A.R.S. § 17-236(C) or possesses only raptors not listed under 50 C.F.R. Part 10.13, revised October 1, 2014, and no later amendments or editions. The incorporated material is available from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000, and is on file with the Department.
- E.** In addition to the requirements established under this Section, a licensed falconer shall also comply with special license requirements established under R12-4-409.

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- F. The license holder shall be responsible for compliance with all applicable regulatory requirements; the sport falconry license does not:
1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations;
  2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license; or
  3. Authorize a licensed falconer to capture or release a raptor or practice falconry on public lands where prohibited or on private property without permission from the land owner or land management agency.
- G. The Department shall deny a sport falconry license to a person who fails to meet the requirements established under R12-4-409, R12-4-428, or this Section. The Department shall provide a written notice to an applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.
- H. The Department may issue a Sport Falconry license for the following levels to an eligible person:
1. Apprentice level license:
    - a. An Apprentice falconer shall:
      - i. Be at least 12 years of age; and
      - ii. Have a sponsor while practicing falconry as an apprentice. When a sponsorship is terminated, the apprentice is prohibited from practicing falconry until a new sponsor is acquired. After acquiring a new sponsor, an apprentice shall submit a written statement from the new sponsor to the Department within 30 days. The written statement shall meet the requirements established under subsection (K)(3)(a)(vi).
    - b. An Apprentice falconer may possess only one raptor at a time for use in falconry.
    - c. An Apprentice falconer is prohibited from possessing any:
      - i. Species listed under 50 C.F.R. 17.11, revised October 1, 2014, and subspecies,
      - ii. Raptor taken from the wild as a nestling,
      - iii. Raptor that has imprinted on humans,
      - iv. Bald eagle (*Haliaeetus leucocephalus*),
      - v. White-tailed eagle (*Haliaeetus albicilla*),
      - vi. Steller's sea-eagle (*Haliaeetus pelagicus*), or
      - vii. Golden eagle (*Aquila chrysaetos*).
      - viii. For the purposes of subsection (H)(1)(c)(i), this incorporation by reference contains no future editions or amendments. The incorporated material is available at any Department office, online at [www.gpoaccess.gov](http://www.gpoaccess.gov), or may be ordered from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000.
  2. General level license:
    - a. A General falconer shall:
      - i. Be at least 16 years of age; and
      - ii. Have practiced falconry as an apprentice falconer for at least two years, including maintaining, training, flying, and hunting with a raptor for at least four months in each year. An applicant cannot substitute any falconry school or educational program to shorten the two-year Apprentice period.
    - b. A General falconer may possess up to three raptors at a time for use in falconry.
    - c. A General falconer is prohibited from possessing a:
      - i. Bald eagle,
      - ii. White-tailed eagle,
      - iii. Steller's sea-eagle, or
      - iv. Golden eagle.
    3. Master level license:
      - a. A Master falconer shall have practiced falconry as a General falconer for at least five years using raptors possessed by that falconer.
      - b. A Master falconer may possess:
        - i. Any species of wild, captive-bred, or hybrid raptor.
        - ii. Any number of captive-bred raptors provided they are trained and used in the pursuit of wild game; and
        - iii. Up to three of the following species, provided the requirements established under subsection (H)(3)(d) are met: Golden eagle, White-tailed eagle, or Steller's Sea eagle.
      - c. A Master falconer is prohibited from possessing:
        - i. More than three eagles
        - ii. A bald eagle, or
        - iii. More than five wild caught raptors.
      - d. A Master falconer who wishes to possess an eagle shall apply for and receive approval from the Department before possessing an eagle for use in falconry. The licensed falconer shall submit the following documentation to the Department before a request may be considered:
        - i. Proof the licensed falconer has experience in handling large raptors such as, but not limited to, ferruginous hawks (*Buteo regalis*) and goshawks (*Accipiter gentilis*);
        - ii. Information regarding the raptor species, to include the type and duration of the activity in which the experience was gained; and
        - iii. Written statements of reference from two persons who have experience handling or flying large raptors such as, but not limited to, eagles, ferruginous hawks, and goshawks. Each written statement shall contain a concise history of the author's experience with large raptors, and an assessment of the applicant's ability to care for and fly an eagle.
  - I. A sponsor shall:
    1. Be at least 18 years of age;
    2. Have practiced falconry as a General falconer for at least two years;
    3. Sponsor no more than three apprentices during the same period of time;
    4. Notify the Department within 30 consecutive days after a sponsorship is terminated;
    5. Determine the appropriate species of raptor for possession by an apprentice; and
    6. Provide instruction pertaining to the:
      - a. Husbandry, training, and trapping of raptors held for falconry;
      - b. Hunting with a raptor; and
      - c. Relevant wildlife laws and regulations.
  - J. A falconer licensed in another state or country is exempt from obtaining an Arizona Sport Falconry license under R12-4-407(B)(9), unless remaining in Arizona for more than 180 consecutive days. A falconer licensed in another state or country and who remains in this state for more than the 180-day

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period shall apply for an Arizona Sport Falconry license in order to continue practicing sport falconry in this state. The falconer licensed in another state or country shall present a copy of the out-of-state or out-of-country falconry license, or its equivalent, to the Department upon request.

1. A falconer licensed in another state shall:
    - a. Comply with all applicable state and federal falconry regulations,
    - b. Possess only those raptors authorized under the out-of-state sport falconry license, and
    - c. Provide a health certificate for each raptor possessed under the out-of-state sport falconry license when the raptor is present in this state for more than 30 consecutive days. The health certificate may be issued after the date of the interstate importation, but shall have been issued no more than 30 consecutive days prior to the interstate importation.
  2. A falconer licensed in another country may possess, train, and use for falconry only those raptors authorized under the out-of-country sport falconry license, provided the import of that species into the United States is not prohibited. This subsection does not prohibit the falconer from flying or training a raptor lawfully possessed by any other licensed falconer.
  3. A falconer licensed in another country is prohibited from leaving an imported raptor in this state, unless authorized under federal permit. The falconer shall report the death or escape of a raptor possessed by that falconer to the Department as established under subsection (O)(1) or prior to leaving the state, whichever occurs first.
  4. A falconer licensed in another country shall:
    - a. Comply with all applicable state and federal falconry regulations;
    - b. Comply with falconry licensing requirements prescribed by the country of licensure not in conflict with federal or state law;
    - c. Notify the Department no less than 30 consecutive days prior to importing a raptor into this state;
    - d. Provide a health certificate, issued no earlier than 30 consecutive days prior to the date of importation, for each raptor imported into this state; and
    - e. Attach two functioning radio transmitters to any raptor imported into this country by the falconer while flown free in this state by any falconer.
- K.** A person applying for a Sport Falconry license shall submit an application to the Department. The application is furnished by the Department and is available at any Department office and online at [www.azgfd.gov](http://www.azgfd.gov).
1. An applicant shall provide the following information on the application:
    - a. Falconry level desired;
    - b. Name;
    - c. Date of birth;
    - d. Mailing address;
    - e. Telephone number, when available;
    - f. Department I.D. number;
    - g. Applicant's physical description, to include the applicant's eye color, hair color, height, and weight;
    - h. Arizona Hunting license number, when available;
    - i. Number of years of experience as a falconer;
    - j. Current Falconry license level;
    - k. Physical address of a facility when the raptor is kept at another location, when applicable;
    1. Information documenting all raptors possessed by the applicant at the time of application, to include:
      - i. Species;
      - ii. Subspecies, when applicable;
      - iii. Age;
      - iv. Sex;
      - v. Band or microchip number, as applicable;
      - vi. Date and source of acquisition; and
    - m. The certification required under R12-4-409(C);
    - n. Parent or legal guardian's signature, when the applicant is under the age of 18;
    - o. Date of application; and
    - p. Any other information required by the Department.
2. An applicant shall certify that the applicant has read and is familiar with applicable state laws and rules and the regulations under 50 C.F.R. Part 13 and the other applicable parts in 50 C.F.R. Chapter I, Subchapter B and that the information submitted is complete and accurate to the best of their knowledge and belief.
  3. In addition to the information required under subsection (K)(1), a person applying for:
    - a. An Apprentice level license shall also provide the sponsor's:
      - i. Name,
      - ii. Date of birth,
      - iii. Mailing address,
      - iv. Department I.D. number,
      - v. Telephone number, and
      - vi. A written statement from the sponsor stating that the falconer agrees to sponsor the applicant.
    - b. A General level license shall also provide:
      - i. Information documenting the applicant's experience in maintaining falconry raptors, to include the species and period of time each raptor was possessed while licensed as an Apprentice falconer; and
      - ii. A written statement from the sponsor certifying that the applicant has practiced falconry at the Apprentice falconer level for at least two years, and maintained, trained, flown, and hunted with a raptor for at least four months in each year.
    - c. A Master level license shall certify that the falconer has practiced falconry as a General falconer for at least five years.
- L.** An applicant for any level Sport Falconry license shall pay all applicable fees established under R12-4-412.
- M.** The Department may inspect the applicant's raptor facilities, materials, and equipment to verify compliance with requirements established under R12-4-409(I), R12-4-428, and this Section before issuing a Sport Falconry license. The applicant or licensed falconer shall ensure all raptors currently possessed by the falconer and kept in the facility are present at the time of inspection.
1. Department may inspect a facility:
    - a. After a change of location, when the Department cannot verify the facility is the same facility as the one approved by a previous inspection, or
    - b. Prior to the acquisition of a new species or addition of another raptor when the previous inspection does not indicate the facilities can accommodate a new species or additional raptor.
  2. A licensed falconer shall notify the Department no more than five business days after changing the location of a facility.
  3. When a facility is located on property not owned by the licensed falconer, the falconer shall provide a written statement signed and dated by the property owner at the

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- time of inspection. The written statement shall specify that the licensed falconer has permission to keep a raptor on the property and the property owner permits the Department to inspect the falconry facility at any reasonable time of day and in the presence of the licensed falconer.
4. A licensed falconer shall ensure the facility:
    - a. Provides a healthy and safe environment,
    - b. Is designed to keep predators out,
    - c. Is designed to avoid injury to the raptor,
    - d. Is easy to access,
    - e. Is easy to clean, and
    - f. Provides access to fresh water and sunlight.
  5. In addition to the requirements established under R12-4-409(I) and R12-4-428:
    - a. A licensed falconer shall ensure facilities where raptors are held have:
      - i. A suitable perch that is protected from extreme temperatures, wind, and excessive disturbance for each raptor;
      - ii. At least one opening for sunlight; and
      - iii. Walls that are solid, constructed of vertical bars spaced narrower than the width of the body of the smallest raptor housed therein, or any other suitable materials approved by the Department.
    - b. A licensed falconer shall possess all of the following equipment:
      - i. At least one flexible, weather-resistant leash;
      - ii. One swivel appropriate to the raptor being flown;
      - iii. At least one water container, available to each raptor kept in the facility, that is at least two inches deep and wider than the length of the largest raptor using the container;
      - iv. A reliable scale or balance suitable for weighing raptors, graduated in increments of not more than 15 grams;
      - v. Suitable equipment that protects the raptor from extreme temperatures, wind, and excessive disturbance while transporting or housing a raptor when away from the permanent facility where the raptor is kept, and
      - vi. At least one pair of jesses constructed of suitable material or Alymeri jesses consisting of an anklet, grommet, and removable strap that attaches the anklet and grommet to a swivel. The falconer may use a one-piece jess only when the raptor is not being flown.
  6. A licensed falconer may keep a falconry raptor inside the falconer's residence provided a suitable perch is supplied. The falconer shall ensure all flighted raptors kept inside a residence are tethered or otherwise restrained at all times, unless the falconer is moving the raptor into or out of the residence. This subsection does not apply to unflighted eyas, which do not need to be tethered or otherwise restrained.
  7. A licensed falconer may keep multiple raptors together in one enclosure untethered only when the raptors are compatible with each other.
  8. A licensed falconer may keep a raptor temporarily outdoors in the open provided the raptor is continually under observation by the falconer or an individual designated by the falconer.
  9. A licensed falconer may keep a raptor in a temporary facility that the Department has inspected and approved for no more than 120 consecutive days.
  10. A licensed falconer may keep a raptor in a temporary facility that the Department has not inspected or approved for no more than 30 consecutive days. The falconer shall notify the Department of the temporary facility prior to the end of the 30-day period. The Department may inspect a temporary facility as established under R12-4-409(I).
- N.** Prior to the issuance of a Sport Falconry license, an applicant shall:
1. Present proof of a previously held state-issued sport falconry license, or
  2. Correctly answer at least 80% of the questions on the Department administered written examination.
    - a. A person whose Sport Falconry license is expired more than five years shall take the examination. The Department shall issue to an eligible applicant a license for the sport falconry license type previously held by the applicant after the applicant correctly answers at least 80% of the questions on the written examination and presents proof of the previous Sport Falconry license.
    - b. A person who holds a falconry license issued in another country shall correctly answer at least 80% of the questions on the written examination. The Department shall determine the level of license issued based upon the applicant's documentation.
- O.** A licensed falconer shall submit electronically a 3-186A form to report:
1. Any of the following raptor possession changes to the Department no more than 10 business days after the occurrence:
    - a. Acquisition,
    - b. Banding,
    - c. Escape into the wild without recovery after 30 consecutive days have passed,
    - d. Death,
    - e. Microchipping,
    - f. Rebanding,
    - g. Release,
    - h. Take, or
    - i. Transfer.
  2. Upon discovering the theft of a raptor, a licensed falconer shall immediately report the theft of a raptor to the Department and USFWS by:
    - a. Contacting the Department's regional office within 48 hours; and
    - b. Submitting the electronic 3-186A form within 10 days.
- P.** A licensed falconer shall print and maintain copies of all required electronic database submissions for each falconry raptor possessed by the falconer. The falconer shall retain copies of all submissions for a period of five years from the date on which the raptor left the falconer's possession.
- Q.** A licensed falconer or a person with a valid falconry license, or its equivalent, issued by any state meeting federal falconry standards may capture a raptor for the purpose of falconry only when authorized by Commission Order.
1. A falconer attempting to capture a raptor shall possess:
    - a. A valid Arizona Sport Falconry license or valid falconry license, or its equivalent, issued by another state, and
    - b. Any required Arizona hunt permit-tag issued to the licensed falconer for take of the authorized raptor, and
    - c. A valid Arizona hunting or combination license. A short-term combination hunting and fishing license

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- is not valid for capturing a raptor under this subsection.
2. An Apprentice falconer may take from the wild:
    - a. Any raptor not prohibited under subsection (H)(1)(c) that is less than one year of age, except nestlings or
    - b. An adult raptor.
  3. A General or Master falconer may take from the wild:
    - a. A raptor of any age, including nestlings, provided at least one nestling remains in the nest; or
    - b. An adult raptor.
  4. A licensed falconer shall take no more than two raptors from the wild for use in falconry each calendar year. For the purpose of take limits, a raptor is counted towards the licensed falconer's take limit by the falconer who originally captured the raptor.
  5. A falconer attempting to capture a raptor shall:
    - a. Not use stupefying substances;
    - b. Use a trap or bird net that is not likely to cause injury to the raptor;
    - c. Ensure that each trap or net the falconer is using is continually attended; and
    - d. Ensure that each trap used for the purpose of capturing a raptor is marked with the falconer's name, address, and license number.
  6. A licensed falconer shall report the injury of any raptor injured due to capture techniques to the Department. The falconer shall transport the injured raptor to a veterinarian or licensed rehabilitator and pay for the cost of the injured raptor's care and rehabilitation. After the initial medical treatment is completed, the licensed falconer shall either:
    - a. Keep the raptor and the raptor shall count towards the falconer's take and possession limit, or
    - b. Transfer the raptor to a permitted wildlife rehabilitator and the raptor shall not count against the falconer's take or possession limit.
  7. When a licensed falconer takes a raptor from the wild and transfers the raptor to another falconer who is present at a capture site, the falconer receiving the raptor is responsible for reporting the take of the raptor.
  8. A General or Master falconer may capture a raptor that will be transferred to another licensed falconer who is not present at the capture site. The falconer who captured the raptor shall report the take of the raptor and the capture shall count towards the General or Master falconer's take limit. The General or Master falconer may then transfer the raptor to another falconer.
  9. A General or Master falconer may capture a raptor for another licensed falconer who cannot attend the capture due to a long-term or permanent physical impairment. The licensed falconer with the physical impairment is responsible for reporting the take of the raptor and the raptor shall count against their take and possession limits.
  10. A licensed falconer may capture any raptor displaying a seamless metal band, or any other item identifying it as a falconry raptor, regardless of whether the falconer is prohibited from possessing the raptor. The falconer shall return the recaptured raptor to the falconer of record. The raptor shall not count towards the falconer's take or possession limits, provided the falconer reports the temporary possession of the raptor to the Department no more than five consecutive days after capturing the raptor.
    - a. When the falconer of record cannot or does not wish to possess the raptor, the falconer who captured the raptor may keep the raptor, provided the falconer is eligible to possess the species and may do so without violating any requirement established under this Section.
    - b. When the falconer of record cannot be located, the Department shall determine the disposition of the recaptured raptor.
  11. A licensed falconer may capture and shall report the capture of any raptor wearing a transmitter to the Department no more than five business days after the capture. The falconer shall attempt to contact the researcher or licensed falconer who applied the transmitter and facilitate the replacement or retrieval of the transmitter and raptor. The falconer may possess the raptor for no more than 30 consecutive days while waiting for the researcher or falconer to retrieve the transmitter and raptor. The raptor shall not count towards the falconer's take or possession limits, provided the falconer reports the temporary possession of the raptor to the Department no more than five consecutive days after capturing the raptor. The Department shall determine the disposition of a raptor when the researcher or falconer does not replace the transmitter or retrieve the raptor within the initial 30-day period.
  12. A licensed falconer may capture any raptor displaying a federal Bird Banding Laboratory (BBL) aluminum research band or tag, except a peregrine falcon (*Falco peregrinus*). A licensed falconer who captures a raptor wearing a research band or tag shall report the following information to BBL and the Department:
    - a. Species,
    - b. Band or tag number,
    - c. Location of the capture, and
    - d. Date of capture.
    - e. A person can report the capture of a raptor wearing a research band or tag to BBL by calling 1(800) 327-2263.
  13. A licensed falconer may recapture a falconer's lost or any escaped falconry raptor at any time. The Department does not consider the recapture of a wild falconry raptor as taking a raptor from the wild.
  14. When attempting to trap a raptor in Cochise, Graham, Pima, Pinal, or Santa Cruz counties, a licensed falconer shall:
    - a. Not begin trapping while a northern aplomado falcon (*Falco femoralis septentrionalis*) is observed in the vicinity of the trapping location.
    - b. Suspend trapping when a northern aplomado falcon arrives in the vicinity of the trapping location.
  15. In addition to the requirements in subsection (Q)(14), an apprentice falconer shall be accompanied by a General or Master falconer when attempting to capture a raptor in Cochise, Graham, Pima, Pinal, or Santa Cruz counties.
  16. A licensed Master falconer may take up to two golden eagles from the wild only as authorized under 50 C.F.R. part 22. The Master falconer may:
    - a. Capture an immature or sub-adult golden eagle, or
    - b. Take a nestling from its nest or a nesting adult golden eagle in a livestock depredation area if a biologist representing the agency responsible for declaring the depredation area determines the adult eagle is preying on livestock or wildlife and that any nestling of the adult will be taken by a falconer authorized to possess it.
    - c. The falconer shall inform the Department of the capture plans in person, in writing, or by telephone at least three business days before trapping is initiated. The falconer may send written notification to the Arizona Game and Fish Department's Law Enforcement

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ment Programs Coordinator at 5000 West Carefree Highway, Phoenix, Arizona 85086.

17. A licensed falconer shall ensure any falconry activities the falconer is conducting do not cause unlawful take under the Endangered Species Act of 1973, 16 U.S.C. § 1531 et seq., or the Bald and Golden Eagle Protection Act, 16 U.S.C. §§ 668 through 668d. The Department or USFWS may provide information regarding where take is likely to occur. The falconer shall report the take of any federally listed threatened or endangered species or bald or golden eagle to the USFWS Arizona Ecological Services Field Office.
- R. A licensed falconer shall comply with all of the following banding requirements:
1. A licensed falconer shall ensure the following raptors are banded after capture:
    - a. Northern Goshawk,
    - b. Harris's hawk (*Parabuteo unicinctus*), and
    - c. Peregrine falcon.
  2. The falconer shall request a band no more than five consecutive days after the capture of a raptor by contacting the Department. A Department representative or a General or Master licensed falconer may attach the USFWS leg band to the raptor.
  3. A licensed falconer shall not use a counterfeit, altered, or defaced band.
  4. A falconer holding a federal propagation permit shall ensure a raptor bred in captivity wears a seamless metal band furnished by USFWS, as prescribed under 50 C.F.R. 21.30.
  5. A licensed falconer may remove the rear tab on a band and smooth any imperfections on the surface, provided doing so does not affect the band's integrity or numbering.
  6. A licensed falconer shall report the loss of a band to the Department no more than five business days after discovering the loss. The falconer shall reband the raptor with a new USFWS leg band furnished by the Department.
- S. A licensed falconer may request Department authorization to implant an ISO-compliant [134.2 kHz] microchip in lieu of a band into a captive-bred raptor or raptor listed under subsection (R)(1).
1. The falconer shall submit a written request to the Department.
  2. The falconer shall retain a copy of the Department's written authorization and any associated documentation for a period of five years from the date the raptor permanently leaves the falconer's possession.
  3. The falconer is responsible for the cost of implanting the microchip and any associated veterinary fees.
- T. A licensed falconer may allow a falconry raptor to feed on any species of wildlife incidentally killed by the raptor for which there is no open season or for which the season is closed, but shall not take such wildlife into possession.
- U. A General or Master falconer may hack a falconry raptor. Any raptor the falconer is hacking shall count towards the falconer's possession limit during hacking.
1. A falconer is prohibited from hacking a raptor near the nesting area of a federally threatened or endangered species or in any other location where the raptor is likely to disturb or harm a federally listed threatened or endangered species. The Department may provide information regarding where this is likely to occur.
  2. A licensed falconer shall ensure any hybrid raptor flown free or hacked by the falconer is equipped with at least two functioning radio transmitters.
- V. A licensed falconer may release:
1. A wild-caught raptor permanently into the wild under the following circumstances:
    - a. The raptor is native to Arizona,
    - b. The falconer removes the raptor's falconry band and any other falconry equipment prior to release, and
    - c. The falconer releases the raptor in a suitable habitat and under suitable seasonal conditions.
  2. A captive-bred raptor permanently into the wild only when the raptor is native to Arizona and the Department approves the release of the raptor. The falconer shall request permission to release the captive-bred raptor by contacting the Department. When permitted by the Department and before releasing the captive-bred raptor, the General or Master falconer shall hack the captive-bred raptor in a suitable habitat and the appropriate season.
  3. A licensed falconer is prohibited from intentionally releasing any hybrid or non-native raptor permanently into the wild.
- W. A Master falconer may conduct and receive payment for any abatement services conducted with a falconry raptor. The falconer shall apply for and obtain all required federal permits prior to conducting any abatement activities. A General falconer may conduct abatement services only when authorized under the federal permit held by the Master falconer.
- X. A person other than a licensed falconer may temporarily care for a falconry raptor for no more than 45 consecutive days, unless approved by the Department. The raptor under temporary care shall remain in the falconer's facility. The raptor shall continue to count towards the falconer's possession limit. An unlicensed caretaker shall not fly the raptor. The falconer may request an extension from the Department to the temporary possession period if extenuating circumstances occur. The Department shall evaluate extension requests on a case-by-case basis.
- Y. A licensed falconer may serve as a caretaker for another licensed falconer's raptor for no more than 120 consecutive days, unless approved by the Department. The falconer shall provide the temporary caretaker with a signed and dated statement authorizing the temporary possession of each raptor. The statement shall also include the temporary possession period and activities the caretaker may conduct with the raptor. The raptor under temporary care shall not count toward the caretakers possession limit. The temporary caretaker may fly or train the raptor when permitted by the falconer in writing. The falconer may request an extension from the Department to the temporary possession period if extenuating circumstances occur. The Department shall evaluate extension requests on a case-by-case basis.
- Z. A licensed falconer may assist a wildlife rehabilitator in conditioning a raptor in preparation for the raptor's release to the wild. The falconer may temporarily remove the raptor from the rehabilitation facilities while conditioning the raptor. The raptor shall remain under the rehabilitator's license and shall not count towards the falconer's possession limit. The rehabilitator shall provide the licensed falconer with a written statement authorizing the falconer to assist the rehabilitator. The written statement shall also identify the raptor by species, type of injury, and band number, when available. The licensed falconer shall return the raptor to the rehabilitator within the 180-day period established under R12-4-423(T), unless the raptor is:
1. Released into the wild in coordination with the rehabilitator and as authorized under this subsection,

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2. Allowed to remain with the rehabilitator for a longer period of time as authorized under R12-4-423(U), or
  3. Transferred permanently to the falconer, provided the falconer may legally possess the raptor and the Department approves the transfer. The raptor shall count towards the falconer's possession limit.
- AA.** A licensed falconer may use a raptor possessed for falconry in captive propagation, when permitted by USFWS. A licensed falconer is not required to transfer a raptor from a Sport Falconry license to another license when the raptor is used for captive propagation less than eight months in a year.
- BB.** A General or Master licensed falconer may use a lawfully possessed raptor in a conservation education program presented in a public venue. An Apprentice falconer, under the direct supervision of a General or Master falconer, may use a lawfully possessed raptor in a conservation education program presented in a public venue. The primary use for a raptor is falconry; a licensed falconer shall not possess a raptor solely for the purpose of providing a conservation education program. The falconer shall ensure the focus of the conservation education program is to provide information about the biology, ecological roles, and conservation needs of raptors and other migratory birds. The falconer may charge a fee for presenting a conservation education program; however, the fee shall not exceed the amount required to recoup the falconer's costs for providing the program. As a condition of the Sport Falconry License, the licensed falconer agrees to indemnify the Department, its officers, and employees. The falconer is liable for any damages associated with the conservation education activities.
- CC.** A licensed falconer may allow the photography, filming, or similar uses of a falconry raptor possessed by the licensed falconer, provided:
1. The falconer is not compensated for these activities; and
  2. The final product from these activities:
    - a. Promotes the practice of falconry;
    - b. Provides information about the biology, ecological roles, and conservation needs of raptors and other migratory birds;
    - c. Endorses a nonprofit falconry organization or association, products, or other endeavors related to falconry; or
    - d. Is used in scientific research or science publications.
- DD.** A licensed falconer may use or dispose of lawfully possessed falconry raptor feathers. A falconer shall not buy, sell, or barter falconry raptor feathers. A falconer may possess feathers for imping from each species of raptor that the falconer currently possesses or has possessed.
1. The licensed falconer may transfer or receive feathers for imping from:
    - a. Another licensed falconer,
    - b. A licensed wildlife rehabilitator, or
    - c. Any licensed propagator located in the United States.
  2. A licensed falconer may donate falconry raptor feathers, except bald and golden eagle feathers, to:
    - a. Any person or institution permitted to possess falconry raptor feathers,
    - b. Any person or institution exempt from the permit requirement under 50 C.F.R. 21.12, or
    - c. A non-eagle feather repository. The Department may provide information regarding the submittal of falconry raptor feathers to a non-eagle feather repository.
  3. A licensed falconer shall gather primary and secondary flight feathers or retrices that are molted or otherwise lost from a golden eagle and either retain the feathers for imping purposes or submit the feathers to the U.S. Fish and Wildlife Service, National Eagle Repository, Rocky Mountain Arsenal, Building 128, Commerce City, Colorado 80022.
4. A falconer whose license is either revoked or expired shall dispose of all falconry raptor feathers in the falconer's possession.
- EE.** Arizona licensed falconers importing raptors into Arizona shall have a health certificate issued no more than 30 consecutive days:
1. Prior to the international importation, or
  2. Prior to or after the inter-state importation.
- FF.** A licensed falconer may conduct any of the following activities with any captive-bred raptor provided the raptor is wearing a seamless band and the person receiving the raptor possesses an appropriate special license:
1. Barter,
  2. Offer for barter,
  3. Gift,
  4. Purchase,
  5. Sell,
  6. Offer for sale, or
  7. Transfer.
- GG.** A licensed falconer is prohibited from conducting any of the following activities with any wild-caught raptor protected under the Migratory Bird Treaty Act:
1. Barter,
  2. Offer for barter,
  3. Purchase,
  4. Sell, or
  5. Offer for sale.
- HH.** A licensed falconer may transfer:
1. Any wild-caught falconry raptor lawfully captured in Arizona with or without a permit tag to another Arizona Sport Falconry License holder at any time.
    - a. The raptor shall count towards the take limit for that calendar year for the falconer taking the raptor from the wild.
    - b. The raptor shall not count against the take limit of the falconer receiving the raptor.
  2. Any wild-caught falconry raptor to another license or permit type under this Article or federal law, provided the raptor has been used in the sport of falconry for at least two years preceding the transfer.
  3. A wild-caught falconry sharp-shinned hawk (*Accipiter striatus*), Cooper's hawk (*Accipiter cooperii*), merlin (*Falco columbarius*), or American kestrel (*Falco sparverius*) to another license or permit type under this Article or federal law, provided the raptor has been used in the sport of falconry for at least one-year preceding the transfer.
  4. Any hybrid or captive-bred raptor to another licensed falconer or permit type under this Article or federal law at any time.
  5. Any falconry raptor that is no longer capable of being flown, as determined by a veterinarian or licensed rehabilitator, to another permit type at any time. The licensed falconer shall provide a copy of the documentation from the veterinarian or rehabilitator stating that the raptor is not useable in falconry to the Federal Migratory Bird Permits office that administers the other permit type.
- II.** A licensed falconer shall not transfer a wild-caught raptor species to a licensed falconer in another state for at least one year from the date of capture if either resident or nonresident take is managed through Commission Order by way of a permit-tag, nonpermit-tag, or annual harvest quota system. However, a licensed falconer may transfer a wild-caught raptor that is not

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managed through Commission Order by way of a permit-tag, nonpermit-tag, or annual harvest quota system to a licensed falconer in another state at any time.

**JJ.** A surviving spouse, executor, administrator, or other legal representative of a deceased or incapacitated licensed falconer shall transfer any raptor held by the licensed falconer to another licensed falconer no more than 90 consecutive days after the death of the falconer. The Department shall determine the disposition of any raptor not transferred prior to the end of the 90-day period.

**KK.** A licensed falconer shall conduct the following activities, as applicable, no more than 10 business days after either the death of a falconry raptor or the final examination of a deceased raptor by a veterinarian:

1. For a bald or golden eagle, send the entire body, including all feathers, talons, and other parts, to the National Eagle Repository;
2. For any euthanized non-eagle raptor, to prevent secondary poisoning of other wildlife, the falconer shall either submit the carcass to a non-eagle repository or burn, bury, or otherwise destroy the carcass;
3. For all other species:
  - a. Submit the carcass to a non-eagle repository;
  - b. Submit the carcass to the Department for submission to a non-eagle repository;
  - c. Donate the body or feathers to any person or institution exempt under 50 C.F.R. 21.12 or authorized by USFWS to acquire and possess such parts or feathers;
  - d. Retain the carcass or feathers for imping purposes as established under subsection (DD);
  - e. Burn, bury, or otherwise destroy the carcass; or
  - f. Mount the raptor carcass. The falconer shall ensure any microchip implanted in the raptor is not removed and any band attached to the raptor remains on the mount. The falconer may use the mount for a conservation education program. The falconer shall ensure copies of the license and all relevant 3-186A forms are retained with the mount. The mount shall not count towards the falconer's possession limit.

**Historical Note**

Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended effective April 4, 1997 (Supp. 97-2). Amended by final rulemaking at 6 A.A.R. 211, effective December 14, 1999 (Supp. 99-4). Amended by final rulemaking at 18 A.A.R. 958, effective January 1, 2013 (Supp. 12-2). Amended by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

**R12-4-423. Wildlife Rehabilitation License**

- A.** For the purposes of this Section, "volunteer" means a person who:  
Is not designated as an agent, as defined under R12-4-401,  
Assists a wildlife rehabilitation license holder without compensation, and  
Is under the direct supervision of the license holder at the location specified on the wildlife rehabilitation license.
- B.** A wildlife rehabilitation license is issued for the sole purpose of restoring and returning wildlife to the wild through rehabilitative services. The license allows a person 18 years of age or older to conduct any of the following activities with live injured, disabled, orphaned or otherwise debilitated wildlife specified on the rehabilitation license:

1. Capture;
  2. Euthanize;
  3. Export to a licensed zoo, when authorized by the Department;
  4. Rehabilitate;
  5. Release;
  6. Temporarily possess;
  7. Transport; or
  8. Transfer to one of the following:
    - a. Licensed veterinarian for treatment or euthanasia;
    - b. Another appropriately licensed special license holder;
    - c. Licensed zoo, when authorized by the Department; or
  9. As otherwise directed in writing by the Department.
- C.** A wildlife rehabilitation license authorizes the possession of the following taxa or species:
1. Amphibians;
  2. Reptiles;
  3. Birds:
    - a. Non-passerines, birds in any order other than those named in subsections (b) through (e);
    - b. Birds in the orders *Falconiformes* or *Strigiformes*, raptors;
    - c. Birds in the order, *Galliformes* quails and turkeys;
    - d. Birds in the order *Columbiformes*, doves;
    - e. Birds in the order *Trochiliformes*, hummingbirds; and
    - f. Birds in the order *Passeriformes*, passerines;
  4. Mammals:
    - a. Nongame mammals;
    - b. Bats;
    - c. Big game mammals other than cervids: bighorn sheep, bison, black bear, javelina, mountain lion, pronghorn;
    - d. Carnivores: bobcat, coati, coyote, foxes, raccoons, ringtail, skunks, and weasels; and
    - e. Small game mammals.
- D.** A wildlife rehabilitation license authorizes the possession of the following taxa or species only when specifically requested at the time of application:
1. Eagles;
  2. Species listed under 50 C.F.R. 17.11, revised October 1, 2013; and
  3. The Department's Tier 1 Species of Greatest Conservation Need, as defined under R12-4-401.
  4. For the purposes of subsection (D)(2), this incorporation by reference contains no future editions or amendments. The incorporated material is available at any Department office, online at [www.gpoaccess.gov](http://www.gpoaccess.gov), or may be ordered from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000.
- E.** All wildlife held under the license is the property of the state and shall be surrendered to the Department upon request.
- F.** The wildlife rehabilitation license expires on the last day of the third December from the date of issuance.
- G.** In addition to the requirements established under this Section, a wildlife rehabilitation license holder shall comply with the special license requirements established under R12-4-409.
- H.** The Department shall deny a wildlife rehabilitation license to a person who fails to meet the requirements and criteria established under R12-4-409, R12-4-428, or this Section or when the person's wildlife rehabilitation license is suspended or revoked in any state. The Department shall provide the written notice established under R12-4-409 to the applicant stating the

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reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.

- I.** The license holder shall be responsible for compliance with all applicable regulatory requirements; the wildlife rehabilitation license does not:
1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
  2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.
- J.** Before applying for a wildlife rehabilitation license, a person shall successfully complete an examination conducted by the Department. The Department shall consider only those parts of the examination that are applicable to the taxa of wildlife for which the license is sought in establishing the qualifications of the applicant.
1. Examinations are provided by appointment, only.
  2. An applicant may request a verbal or written examination.
  3. The examination shall include questions regarding:
    - a. Wildlife rehabilitation;
    - b. Safe handling of wildlife;
    - c. Transporting wildlife;
    - d. Humane treatment;
    - e. Nutritional requirements;
    - f. Behavioral requirements;
    - g. Developmental requirements;
    - h. Ecological requirements;
    - i. Habitat requirements;
    - j. Captivity standards established under R12-4-428;
    - k. Human and wildlife safety considerations;
    - l. State statutes, rules, and regulations regarding wildlife rehabilitation; and
    - m. National Wildlife Rehabilitation Association minimum standards for wildlife rehabilitation.
  4. The applicant must successfully complete the examination within three years prior to the date on which the initial application for the license is submitted to the Department.
- K.** A person applying for a wildlife rehabilitation license shall submit an application to the Department. A separate application is required for each location where the applicant proposes to use wildlife. The application is furnished by the Department and is available at any Department office and online at [www.azgfd.gov](http://www.azgfd.gov). The applicant shall provide the following information on the application:
1. The applicant's information:
    - a. Name;
    - b. Date of birth;
    - c. Mailing address;
    - d. Telephone number;
    - e. Facility address, if different from mailing address;
    - f. Physical location description to include the Global Positioning System location or Universal Transverse Mercator coordinates; and
    - g. Department ID number, when applicable;
  2. The wildlife taxa or species listed under subsection (C) that will be possessed under the license;
  3. For each location where the wildlife will be used, the land owner's:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number; and
    - d. Physical location description to include the Global Positioning System location or Universal Transverse Mercator coordinates;
  4. A detailed description, diagram, and photographs of the facility where the applicant will hold the wildlife, and a description of how the facility complies with R12-4-428 and any other captivity standards established under this Section;
  5. Any other information required by the Department; and
  6. The certification required under R12-4-409(C).
- L.** In addition to the requirements listed under subsection (K), at the time of application, an applicant for a wildlife rehabilitation license shall also submit:
1. Any one or more of the following:
    - a. A valid, current license issued by a state veterinary medical examination authority that authorizes the applicant to practice as a veterinarian;
    - b. Proof of at least six months of experience performing wildlife rehabilitative work with an average of at least eight hours each week for the taxa or species of animal listed on the application; or
    - c. A current and valid license, permit, or other form of authorization issued by another state or the federal government that allows the applicant to perform wildlife rehabilitation;
  2. Proof the applicant successfully completed the examination required under subsection (J) no more than three years prior to submitting the application;
  3. An affidavit signed by the applicant affirming either of the following:
    - a. The applicant is a licensed veterinarian; or
    - b. A licensed veterinarian is reasonably available to provide veterinary services as necessary to facilitate rehabilitation of wildlife.
  4. A written statement describing:
    - a. The applicant's preferred method of disposing of non-releasable live wildlife as listed under subsection (B); and
    - b. A statement of the applicant's training and experience in handling, capturing, rehabilitating, and caring for the taxa or species when the applicant is applying for a license to perform authorized activities with taxa or species of wildlife listed under subsection (C).
- M.** A wildlife rehabilitation license holder who wishes to continue activities authorized under the license shall renew the license before it expires.
1. When renewing a license without change to the species, location, or design of the facility where wildlife is held as authorized under the current license, the license holder may reference supporting materials previously submitted in compliance with subsection (K).
  2. A license holder applying for a renewal of the license shall successfully complete the examination at the time of renewal when the annual report submitted under subsection (Z) indicates the license holder did not perform any rehabilitative activities under the license.
  3. A license holder applying for a renewal of the license shall submit proof the license holder has completed the continuing education requirement established under subsection (N).
- N.** During the license period a wildlife rehabilitation license holder shall complete eight or more hours of continuing education sessions on wildlife rehabilitation or veterinary medicine.

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- Acceptable continuing education sessions may be obtained from:
1. An accredited university or college;
  2. The National Wildlife Rehabilitators Association, 2625 Clearwater Rd. Suite 110, St. Cloud, MN 56301;
  3. The International Wildlife Rehabilitation Council, PO Box 3197, Eugene, OR 97403; or
  4. Other applicable training opportunities approved by the Department in writing. A license holder who wishes to use other applicable training to meet the eight hour continuing education requirement shall request approval of the other applicable training prior to participating in the education session.
- O.** A wildlife rehabilitation license holder may request authorization to allow an agent to assist the license holder in carrying out activities authorized under the wildlife rehabilitation license by submitting a written request to the Department.
1. An applicant may request the ability to allow a person to act as an agent on the applicant's behalf, provided:
    - a. An employment or supervisory relationship exists between the applicant and the agent, and
    - b. The agent's privilege to take or possess live wildlife is not suspended or revoked in any state
  2. The license holder shall obtain approval from the Department prior to allowing the agent assist in any activities.
  3. The license holder is liable for all acts the agent performs under the authority of this Section.
  4. The Department, acting on behalf of the Commission, may suspend or revoke a license for violation of this Section by an agent.
  5. The license holder shall ensure the agent possesses a legible copy of the license while conducting any activity authorized under the wildlife rehabilitation license and presents it for inspection upon the request of any Department employee or agent.
- P.** At any time during the license period, a wildlife rehabilitation license holder may request permission to amend the license to add or delete an agent or a location where wildlife is held; or to obtain authority to rehabilitate additional taxa of wildlife. To request an amendment, the license holder shall submit the following information to the Department, as applicable:
1. To add or delete an agent, the information stated in subsections (K)(1) through (K)(4) and (L)(2), as applicable to the agent;
  2. To add or delete a location, the information stated in subsection (K)(1) through (K)(5); and
  3. To obtain authority to rehabilitate additional taxa or wildlife, the information stated in subsection (K)(1) through (K)(5) and (L)(1) through (L)(4).
- Q.** A wildlife rehabilitation license holder authorized to rehabilitate wildlife species listed under subsection (C)(3)(c), (C)(4)(c) and (C)(4)(d) or (D) shall contact the Department within 24 hours of receiving the individual animal to obtain instructions in handling or transferring that animal. While awaiting instructions, the license holder shall ensure that emergency veterinary care is provided as necessary.
- R.** A wildlife rehabilitation license holder shall:
1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
  2. Allow the Department to conduct inspections of an applicant's or license holder's facility and records at any time before or during the license period to determine compliance with the requirements of this Article.
  3. Ensure each facility is inspected by the attending veterinarian at least once every year.
  4. Capture, remove, transport, and release wildlife held under the requirements of this Section in a manner that is least likely to cause injury to the affected wildlife.
  5. Conduct rehabilitation only at the location listed on the license
  6. Be responsible for all expenses incurred, including veterinary expenses, and all actions taken under the license, including all actions or omissions of all agents and volunteers when performing activities under the license.
  7. Immediately surrender wildlife held under the license to the Department upon request.
  8. Dispose of all wildlife that is euthanized or that otherwise dies within 30 days of death either by burial, incineration, or transfer to a scientific research institution, except that the license holder shall transfer all carcasses of endangered or threatened species, species listed under the Department's Tier 1 Species of Greatest Conservation Need, or eagles as directed by the Department.
  9. Maintain a current log that records the information specified under subsection (Z).
  10. Possess the license or legible copy of the license at each authorized location and while conducting any rehabilitation activities and presents it for inspection upon the request of any Department employee or agent.
  11. Ensure a copy of the wildlife rehabilitation license accompanies each transfer or shipment of wildlife.
- S.** A wildlife rehabilitation license holder shall not:
1. Display for educational purposes any wildlife held under the license.
  2. Exhibit any wildlife held under the license.
  3. Permanently possess any wildlife held under the license.
- T.** A wildlife rehabilitation license holder may possess:
1. All wildlife for no more than 90 days; or
  2. A bird for no more than 180 days, unless the Department has authorized possession for a longer period of time.
- U.** A license holder may request permission to possess wildlife for a longer period of time than specified in subsection (T) by submitting a written request to the Department.
1. The Department shall approve or deny the request within ten days of receiving the request.
  2. For requests made due to a medical necessity, the Department may require the license holder to provide a written statement listing the medical reasons for the extension, signed by a licensed veterinarian.
  3. The license holder may continue to hold the specified wildlife while the Department considers the request.
  4. If the request is denied, the Department shall send a written notice to the license holder which shall include specific, time-dated directions for the surrender or disposition of the animal.
- V.** A wildlife rehabilitation license holder may allow a licensed falconer to assist in conditioning a raptor in preparation for the raptor's release to the wild.
1. The license holder may allow the licensed falconer to temporarily remove the raptor from the license holder's facility while conditioning the raptor.
  2. The license holder shall provide the licensed falconer with a written statement authorizing the falconer to assist the license holder.
  3. The written statement shall identify the raptor by species, type of injury, and band number, when available.
  4. The license holder shall ensure the licensed falconer returns the raptor to the license holder within the 180-day period established under subsection (T).
- W.** A wildlife rehabilitation license holder may hold wildlife under the license after the wildlife reaches a state of restored

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health only for the amount of time reasonably necessary to prepare the wildlife for release. Rehabilitated wildlife shall be released:

1. In an area without immediate threat to the wildlife or contact with humans;
  2. During an ecologically appropriate time of year and time of day; and
  3. Into a suitable habitat in the same geographic area where the animal was originally obtained; or
  4. In an area designated by the Department.
- X.** Wildlife that is not releasable after the time-frames specified in subsection (T) shall be transferred, disposed of, or euthanized as determined by the Department.
- Y.** To permanently hold rehabilitated wildlife that is unsuitable for release, a wildlife rehabilitation license holder shall apply for and obtain a wildlife holding license in compliance with under R12-4-417.
- Z.** A wildlife rehabilitation license holder shall submit an annual report to the Department before January 31 of each year for the previous calendar year. The report form is furnished by the Department.
1. A report is required regardless of whether or not activities were performed during the previous year.
  2. The wildlife rehabilitation license becomes invalid if the annual report is not submitted to the Department by January 31 of each year.
  3. The Department will not process the special license holder's renewal application until the annual report is received by the Department.
  4. The annual report shall contain the following information:
    - a. The license holder's:
      - i. Name;
      - ii. Mailing address; and
      - iii. Telephone number;
    - b. Each agent's:
      - i. Name;
      - ii. Mailing address; and
      - iii. Telephone number;
    - c. The permit or license number of any federal permits or licenses that relate to any rehabilitative function performed by the license holder; and
    - d. An itemized list of each animal held under the license during the calendar year for which activity is being reported. For each animal held by the license holder or agent, the itemization shall include:
      - i. Species;
      - ii. Condition that required rehabilitation;
      - iii. Date of acquisition;
      - iv. Source of acquisition;
      - v. Location of acquisition;
      - vi. Age class at acquisition, when reasonably determinable;
      - vii. Status at disposition or end-of-year in relation to the condition requiring rehabilitation;
      - viii. Method of disposition;
      - ix. Location of disposition; and
      - x. Date of disposition.
    - e. For activities related to federally-protected wildlife, a copy of the rehabilitator's federal permit report of activities related to federally-protected wildlife satisfies the reporting requirement established under subsection (Z)(4)(c) for federally protected wildlife.
- AA.** A wildlife rehabilitation license holder shall comply with the requirements established under R12-4-409, R12-4-428, and R12-4-430, as applicable.

**Historical Note**

Adopted effective January 4, 1990 (Supp. 90-1).  
 Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4).  
 Amended by final rulemaking at 7 A.A.R. 2732, effective July 1, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 3186, effective August 30, 2003 (Supp. 03-3).  
 Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

**R12-4-424. White Amur Stocking and Holding License**

- A.** For the purposes of this Section:  
 "Closed aquatic system" means any body of water, water system, canal system, or series of lakes, canals, or ponds where triploid white amur are prevented from entering or exiting the system by any natural or man-made barrier, as determined by the Department.  
 "Triploid" means a species having 1.5 chromosome sets that renders them sterile.
- B.** A white amur stocking and holding license allows a person to import, possess, stock in a closed aquatic system, and transport triploid white amur (*Ctenopharyngodon idella*).
- C.** The white amur stocking and holding license is valid for no more than 20 consecutive days.
- D.** In addition to the requirements established under this Section, a white amur stocking and holding license holder shall comply with the special license requirements established under R12-4-409.
- E.** The license holder shall be responsible for compliance with all applicable regulatory requirements; the white amur stocking and holding license does not:
1. Exempt the license holder from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
  2. Authorize the license holder to engage in authorized activities using federally-protected wildlife, unless the license holder possesses a valid license, permit, or other form of documentation issued by the United States authorizing the license holder to use that wildlife in a manner consistent with the special license.
- F.** The Department shall deny a white amur stocking and holding license to a person who fails to meet the requirements established under R12-4-409 or this Section. The Department shall provide the written notice established under R12-4-409(F)(4) to the applicant stating the reason for the denial. The person may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10. In addition to the requirements and criteria established under R12-4-409(F)(1) through (4), the Department shall deny a white amur stocking license when it determines the issuance of the license may result in a negative impact on native wildlife.
- G.** A person applying for a white amur stocking and holding license shall submit an application to the Department. A separate application is required for each location where the applicant proposes to stock white amur. The application is furnished by the Department and is available from any Department office and online at [www.azgfd.gov](http://www.azgfd.gov). The applicant shall provide the following information on the application:
1. The applicant's information:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number; and
    - d. Department ID number, when applicable;
  2. If the applicant will use the wildlife for a commercial purpose, the applicant's business:

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- a. Name;
  - b. Federal Tax Identification Number;
  - c. Mailing address; and
  - d. Telephone number;
3. For each location where the white amur will be held, stocked, or restocked, the land owner's:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number; and
    - d. Physical location description to include the Global Positioning System location or Universal Transverse Mercator coordinates;
    - e. For the purposes of this subsection, the following systems may qualify as separate locations, as determined by the Department:
      - i. Each closed aquatic system;
      - ii. Each separately managed portion of a closed aquatic system; or
      - iii. Multiple separate closed aquatic systems owned, controlled, or legally held by the same applicant where stocking is to occur;
  4. A detailed description and diagram of each enclosed aquatic system where the applicant will stock and hold the white amur, as prescribed under A.R.S. § 17-317, which shall include the following information, as applicable:
    - a. A description of how the system meets the definition of a "closed aquatic system" in subsection (A);
    - b. Size of waterbody proposed for stocking;
    - c. Nearest river, stream, or other freshwater system;
    - d. Points where water enters into each water body;
    - e. Points where water leaves each water body; and
    - f. Location of fish containment barriers;
  5. For each wildlife supplier from whom the applicant will obtain white amur, the supplier's:
    - a. Name;
    - b. Federal Tax Identification Number;
    - c. Mailing address; and
    - d. Telephone number;
  6. The number and average length of white amur to be stocked;
  7. The dates white amur will be stocked, or restocked;
  8. Any other information required by the Department; and
  9. The certification required under R12-4-409(C).
- H.** When the Department determines an applicant proposes to stock and hold white amur in a watershed in a manner that conflicts with the Department's efforts to conserve wildlife, in addition to the requirements listed under subsection (G), the applicant shall also submit a written proposal to the Department at the time of application. The written proposal shall contain all of the following:
1. Anticipated benefits from introducing white amur;
  2. Potential risks introducing white amur may create for wildlife, including:
    - a. Whether white amur are compatible with native aquatic species or game fish; and
    - b. Method for evaluating the potential impact introducing white amur will have on wildlife;
  3. Assessment of probable impacts to sensitive species in the area using the list generated by the Department's On-Line Environmental Review Tool, which is available at [www.azgfd.gov](http://www.azgfd.gov). The proposal must address each species listed.
- I.** A white amur stocking license holder who applies to renew the license shall pay fees as prescribed under R12-4-412.
- J.** A white amur stocking and holding license holder shall comply with the requirements established under R12-4-409.
1. Comply with all additional stipulations placed on the license by the Department, as authorized under R12-4-409(H).
  2. Obtain all aquatic wildlife, live eggs, fertilized eggs, and milt from a licensed fish farm operator or a private non-commercial fish pond certified free of the diseases and causative agents through the following actions:
    - a. An inspection shall be performed by a qualified fish health inspector or fish pathologist at the fish farm or pond where the aquatic wildlife or biological material is held before it is shipped to the license holder.
    - b. The inspection shall be conducted no more than 12 months prior to the date on which the aquatic wildlife or biological material is shipped to the license holder. The Department may require additional inspections at any time prior to stocking.
    - c. The applicant shall submit a copy of the certification to the Department prior to conducting any stocking activities.
  3. Allow the Department to conduct inspections of an applicant's or license holder's facility, records, and any waters proposed for stocking at any time before or during the license period to determine compliance with the requirements of this Article and to determine the appropriate number of white amur to be stocked.
  4. Ensure all shipments of white amur are accompanied by a USFWS, or similar agent, certificate confirming the white amur are triploid.
  5. Possess the license or legible copy of the license while conducting any activities authorized under the white amur stocking and holding license and presents it for inspection upon the request of any Department employee or agent.
- K.** A white amur stocking and holding license holder shall comply with the requirements established under R12-4-409 and R12-4-428.

**Historical Note**

Adopted as an emergency effective July 5, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3).

Correction, Historical Note, Supp. 88-3, should read, "Adopted as an emergency effective July 15, 1988..."; readopted and amended as an emergency effective October 13, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted as an emergency effective January 24, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Former Section R12-4-219 amended and adopted as a permanent rule and renumbered as Section R12-4-424 effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 2732, effective July 1, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

**R12-4-425. Restricted Live Wildlife Lawfully Possessed without License or Permit Before the Effective Date of Article 4 or Any Subsequent Amendments**

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- A. A person who lawfully possessed restricted live wildlife without a license or permit from the Department before the effective date of this Section or any subsequent amendments to R12-4-406, this Section, or this Article may continue to possess the wildlife and to use it for any purpose that was lawful, except propagation, before the effective date of R12-4-406, this Section, or this Article or any subsequent amendments, provided the person complies with the requirements established under subsections (A)(1) or (A)(2).
1. The person submits written notification to the Department's regional office in which the restricted live wildlife is held. The person shall submit the written notification to the regional office within 30 calendar days of the effective date of any subsequent amendments to this Section, R12-4-406, or this Article. The written notification shall include all of the following information:
    - a. The number of individuals of each species,
    - b. The purpose for which it is possessed, and
    - c. The unique identifier for each individual wildlife possessed by the person, as established under subsection (F); or
  2. The person maintains documentation of the restricted live wildlife held. The documentation shall include:
    - a. The number of individuals of each species,
    - b. Proof the individuals were legally acquired before the effective date of the amendment causing the wildlife to be restricted,
    - c. The purpose for which it is used, and
    - d. The unique identifier for each wildlife possessed by the person, as established under subsection (F).
  3. The person shall report the birth or hatching of any progeny conceived before and born after the effective date of this Section, R12-4-406, or this Article to the Department and comply with the requirements established under subsection (F).
- B. The person shall ensure the written notification described under subsection (A)(1) and (A)(2) includes the person's name, address, and the location where the wildlife is held. A person who maintains their own documentation under subsection (A)(2) shall make it available to the Department upon request.
- C. A person who possesses wildlife under this Section shall dispose of it using any one of the following methods:
  1. Exportation;
  2. Euthanasia;
  3. Transfer to an Arizona special license holder, provided the special license authorizes possession of the species involved; or
  4. As otherwise directed by the Department in writing.
- D. If a person transfers restricted live wildlife possessed under this Section to a special license holder:
  1. The exemption for that wildlife under this Section expires, and
  2. The special license holder shall use, possess, and report the wildlife in compliance with this Article and any stipulations applicable to that special license.
- E. A person who exports wildlife held under this Section shall not import the wildlife back into this state unless the person obtains a special license prior to importing the wildlife back into this state.
- F. A person who possesses wildlife under this Section shall permanently and uniquely mark the wildlife with a unique identifier as follows:
  1. Within 30 calendar days of the effective date of this Section, R12-4-406, or this Article if the person has notified the Department as provided under subsection (A)(1); or
  2. Within 30 calendar days of receiving written notice from the Department directing the person to permanently mark the wildlife.
- G. A person possessing a desert tortoise (*Gopherus agassizii*) is not subject to the requirements of this Section and shall comply with requirements established under R12-4-404 and R12-4-407.

**Historical Note**

Adopted effective April 28, 1989 (Supp. 89-2). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

**R12-4-426. Possession of Nonhuman Primates**

- A. A person is prohibited from possessing a nonhuman primate, unless authorized under a special license or lawful exemption.
- B. A person shall not import a nonhuman primate into this state unless:
  1. A person lawfully possessing a nonhuman primate shall ensure the primate is tested and reported to be free of any zoonotic disease that poses a serious health risk as determined by the Department. Zoonotic diseases that pose a serious health risk include, but are not limited to:
    - a. Tuberculosis;
    - b. Simian Herpes B virus;
    - c. Simian Immunodeficiency Virus;
    - d. Simian T Lymphotropic Virus; and
    - e. Gastrointestinal pathogens such as, but not limited to, Shigella, Salmonella, E. coli, and Giardia.
  2. A qualified person, as determined by the Department, performs the test and provides the test results; and
  3. The tests required under subsection (B)(1) are:
    - a. Conducted no more than 30 days before the person imports the nonhuman primate; and
    - b. The person submits the results to the Department prior to importation.
- C. A person lawfully possessing the nonhuman primate shall contain the primate within the confines of the person's private property or licensed facility.
- D. A person possessing a nonhuman primate may only transport the primate by way of a secure cage, crate, or carrier. A person possessing a primate shall only transport the primate to the following locations:
  1. To or from a licensed veterinarian;
  2. Into or out of the state for lawful purposes.
- E. A person lawfully possessing a nonhuman primate that bit, scratched, or otherwise exposed a human to pathogenic organisms, as determined by the Department, shall ensure the primate is examined and laboratory tested for the presence of pathogens as follows:
  1. The Department shall prescribe examinations and laboratory testing for the presence of pathogens.
  2. The person shall have the nonhuman primate examined by a state licensed veterinarian who shall perform any examinations or laboratory tests as directed by the Department.
    - a. The licensed veterinarian shall provide the laboratory results to the Department within 24 hours of receiving the results.
    - b. The Department shall notify the exposed person and the Department of Health Services, Vector Borne and Zoonotic Disease Section within 10 days of receiving notice of the test results.
  3. The person possessing the nonhuman primate shall pay all costs associated with the examination, laboratory testing, and maintenance of the primate.

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- F. A person lawfully possessing a nonhuman primate shall ensure a primate that tests positive for a zoonotic disease that poses a serious health risk to humans, or is involved in more than one incident of biting, scratching, or otherwise exposing a human to pathogenic organisms, is maintained in captivity or disposed of as directed in writing by the Department.
- G. A zoo license holder or a person using nonhuman primates at a research facility, as defined under R12-4-401, possessing a primate that bit, scratched, or otherwise exposed a human to pathogenic organisms shall quarantine and test the primate in accordance with procedures approved by the Department.
- H. A person lawfully possessing a nonhuman primate is subject to the requirements established under R12-4-428.
2. As close as possible to the same geographic area from where it was taken.
- I. If the wildlife is not rehabilitated within the 60-day period or the wildlife requires care normally provided by a veterinarian, the person who possesses it shall:
1. Transfer it to a wildlife rehabilitation license holder or veterinarian;
  2. Euthanize it; or
  3. Obtain a wildlife holding permit as established under R12-4-417.

**Historical Note**

Adopted effective April 28, 1989 (Supp. 89-2). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

**Historical Note**

Adopted effective April 28, 1989 (Supp. 89-2). Rule expired December 31, 1989; text rescinded (Supp. 93-2). New Section adopted by final rulemaking at 6 A.A.R. 211, effective December 14, 1999 (Supp. 99-4). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Section R12-4-426(C) corrected to include subsection (C)(1), under A.R.S. § 41-1011 and A.A.C. R1-1-108, Office File No. M11-77, filed March 4, 2011 (Supp. 10-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

**R12-4-427. Exemptions from Requirements to Possess a Wildlife Rehabilitation License**

- A. A person may possess, provide rehabilitative care to, and release to the wild any live wildlife listed below that is injured, orphaned, or otherwise debilitated:
1. The order *Passeriformes*: passerine birds;
  2. The order *Columbiformes*: doves;
  3. The family *Phasianidae*: quail, pheasant, and chukars;
  4. The order *Rodentia*: rodents; and
  5. The order *Lagomorpha*: hares and rabbits.
- B. This Section does not:
1. Exempt the person from any municipal, county, state, or federal codes, ordinances, statutes, rules, or regulations; or
  2. Authorize the person to engage in authorized activities using federally-protected wildlife, unless the person possesses a valid license, permit, or other form of documentation issued by the United States that authorizes the license holder to use that wildlife in a manner consistent with the special license.
- C. This Section does not authorize the possession of any of the following:
1. Eggs of wildlife;
  2. Wildlife listed as Species of Greatest Conservation Need, as defined under R12-4-401; or
  3. More than 25 animals at the same time.
- D. A person taking and caring for wildlife listed under this Section is not required to possess a hunting license.
- E. A person shall only take wildlife listed under subsection (A) by hand or by a hand-held implement.
- F. A person shall not possess wildlife lawfully held under this Section for more than 60 days.
- G. The exemptions granted under this Section shall not apply to any person who, by their own action, has unlawfully injured, orphaned, or otherwise debilitated the wildlife.
- H. If the wildlife is rehabilitated and suitable for release, the person who possesses the wildlife shall release it within the 60-day period established under subsection (C):
1. Into a habitat that is suitable to sustain the wildlife, or
- A. For the purposes of this Section, “animal” means any wildlife possessed under a special license, unless otherwise indicated.
- B. A person possessing wildlife under a special license authorized under this Article shall comply with the minimum standards for the humane treatment of animals established under this Section.
- C. A person possessing wildlife under an authority granted under this Article shall ensure all facilities meet the following minimum standards:
1. The facility shall be:
    - a. Constructed of material of sufficient strength to resist any force the animal may be capable of exerting against it.
    - b. Constructed in a manner designed to reasonably prevent the animal’s escape or the entry of unauthorized persons, wildlife, or domestic animals.
    - c. Constructed and maintained in good repair to protect animals from injury, disease, or death and to enable the humane practices established under this Section.
  2. If required to comply with related requirements established under this Section, each facility shall be equipped with safe, reliable and adequate electric power.
    - a. All electric wiring shall be constructed and maintained in accordance with all applicable governmental building codes.
    - b. Electrical construction and maintenance shall be sufficient to ensure that no animal has direct contact with any electrical wiring or electrical apparatus and the animal is fully protected from any possibility of injury, shock, or electrocution.
  3. Each animal shall be supplied with sufficient potable water to meet its needs.
    - a. All water receptacles shall be kept in clean and sanitary condition.
    - b. Water shall be readily available and monitored at least once daily or more often when the needs of the animal dictate.
    - c. If potable water is not accessible to the animal at all times, it shall be provided as often as necessary for the health and comfort of the animal.
  4. Food shall be suitable, wholesome, palatable, free from contamination, and of sufficient appeal, quantity, and nutritive value to maintain the good health of each animal held in the facility.
    - a. Each animal’s diet shall be prepared based upon the nutritional needs and preferences of the animal with consideration for the animal’s age, species, condi-

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- tion, health, size, and all veterinary directions or recommendations in regard to diet.
- b. Each animal shall be fed as often as its needs dictate, taking into consideration behavioral adaptations, veterinary treatment or recommendations, normal fasts, or other professionally accepted humane practices.
  - c. The quantity or level of available food for each animal shall be monitored at least once daily, except for those periods of time when professionally accepted humane practices dictate that the animal not consume any food during the entire day.
  - d. Food and food receptacles, when used, shall be sufficient in quantity and accessible to all animals in the facility and shall be placed to minimize potential contamination and conflict between animals using the receptacles.
  - e. Food receptacles shall be kept clean and sanitary at all times.
  - f. Any self-feeding food receptacles shall function properly and the food they provide shall be monitored at least once daily and shall not be subject to deterioration, contamination, molding, caking, or any other process that would render the food unsafe or unpalatable for the animal.
  - g. An appropriate means of refrigeration shall be provided for supplies of perishable animal foods.
5. The facility shall be kept sanitary and regularly cleaned as the nature of the animal requires:
    - a. Adequate provision shall be made for the removal and disposal of animal waste, food waste, unusable bedding materials, trash, debris and dead animals not intended for food.
    - b. The facility shall be maintained to minimize the potential of vermin infestation, disease, and unseemly odors.
    - c. Excreta shall be removed from the primary enclosure facility as often as necessary to prevent contamination, minimize hazard of disease, and reduce unseemly odors.
    - d. The sanitary condition of the facility shall be monitored at least once daily.
    - e. When the facility is cleaned by hosing, flushing, or the introduction of any chemical substances, adequate measures shall be taken to ensure the animal has no direct contact with any chemical substance and is not directly sprayed with water, steam, or chemical substances or otherwise wetted involuntarily.
  6. A sanitary and humane method shall be provided to rapidly eliminate excess water from the facility. If drains are utilized, they shall be:
    - a. Properly constructed.
    - b. Kept in good repair to avoid foul odors or vermin infestation.
    - c. Installed in a manner that prevents the backup or accumulation of debris or sewage.
  7. No animal shall be exposed to any human activity or environment that may have an inhumane or harmful effect upon the animal that is inconsistent with the purpose of the special license.
  8. Facilities shall not be constructed or maintained in proximity to any physical condition which may pose any health threat or unnecessary stress to the animal.
  9. Persons caring for the animals shall conduct themselves in a manner that prevents the spread of disease, minimizes stress, and does not threaten the health of the animal.
  10. All animals housed in the same facility or within the same enclosed area shall be compatible and shall not pose a substantial threat to the health, life or well-being of any other animal in the same facility or enclosure, whether or not the other animals are held under a special license. This subsection shall not apply to live animals utilized as food items in the enclosures.
  11. Facilities for the enclosure of animals shall be constructed and maintained to provide sufficient space to allow each animal adequate freedom of movement to make normal postural and social adjustments.
    - a. The facility area shall be large enough and constructed in a manner to allow the animal proper and adequate exercise as is characteristic to each animal's natural behavior and physical needs.
    - b. Facilities for digging or burrowing animals shall have secure safe floors below materials supplied for digging or burrowing activity.
    - c. Animals that naturally climb or perch shall be provided with safe and adequate climbing or perching apparatus.
    - d. Animals that naturally live in an aquatic environment shall be supplied with sufficient access to safe water so as to meet their aquatic behavioral needs.
    - e. The facility and holding environment shall be structured to reasonably promote the psychological well-being of any animal held in the facility.
  12. A special license holder shall ensure that a sufficient number of properly trained personnel are utilized to meet all the humane husbandry practices established under this Section. The license holder shall be responsible for the actions of all animal care personnel and all other persons that come in contact with the animals.
  13. The special license holder shall designate a veterinarian licensed to practice in this state as the primary treating veterinarian for each species of animal to be held.
    - a. The license holder shall ensure that all animals in their care receive proper, adequate, and humane veterinary care as the needs of each animal dictate.
    - b. Each animal held for more than one year shall be inspected by the attending veterinarian at least once every year.
    - c. Every animal shall promptly receive licensed veterinary care whenever it appears that the animal is injured, sick, wounded, diseased, infected by parasites, or behaving in a substantially abnormal manner, including but not limited to exhibiting loss of appetite or disinclination to normal physical activity.
    - d. All medications, treatments and other directions prescribed by the attending veterinarian shall be properly administered by the license holder, authorized agent, or volunteer. A license holder, authorized agent, or volunteer shall not administer prescription medicine, unless under the direction of a veterinarian.
  14. Any animal that is suspected of or diagnosed as harboring any infectious or transmissible disease, whether or not the animal is held under a special license, shall be isolated immediately upon suspicion or diagnosis.
    - a. The isolated animal shall continue to be kept in a humane manner as required under this Section.
    - b. When there is an animal with an infectious or transmissible disease in any animal facility, whether or not the animal is held under a special license, the

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facility shall be sanitized so as to reasonably eliminate the chance of other animals being exposed to infection. Sanitation procedures may include, but are not limited to:

- i. Washing facilities or animal-related materials with appropriate antibacterial chemical agents, soaps or detergents;
  - ii. Appropriate application of hot water or steam under pressure; and
  - iii. Replacement of gravel, dirt, sand, water, or food. All residue of chemical agents utilized in the sanitation process shall be reasonably eliminated from the facility before any animal is returned to the facility.
- c. Parasites and vermin shall be controlled and eliminated so as to ensure the continued health and well-being of all animals.
- D.** In addition the standards established under subsection (C), a person shall ensure all indoor facilities meet the following minimum standards:
1. Heating and cooling equipment shall be sufficient to regulate the temperature of the facility to protect the animals from temperature extremes as the nature of the wildlife requires to provide a healthy, comfortable, and humane living environment.
  2. Indoor facilities shall be adequately ventilated with fresh air to provide for the healthy, comfortable, and humane keeping of any animal and to minimize drafts, odors, and moisture condensation.
  3. Indoor facilities shall have lighting of a quality, distribution, and duration as is appropriate for the biological needs of the animals held and to facilitate the inspection and maintenance of the facility.
    - a. Artificial lighting, when used, shall be utilized in regular cycles as the animal's needs dictate.
    - b. Lighting shall be designed to protect the animals from excessive or otherwise harmful aspects of illumination.
- E.** In addition the standards established under subsection (C), a person shall ensure that all outdoor facilities meet the following minimum standards:
1. Sufficient shade to prevent the overheating or discomfort of any animal shall be provided.
  2. Sufficient shelter appropriate to protect animals from normal climatic conditions throughout the year. Each animal shall be acclimated to outdoor climatic conditions before they are housed in any outdoor facility or otherwise exposed to the extremes of climate.
- F.** A person who handles an animal shall ensure the animal is handled in an expeditious and careful manner to ensure no unnecessary discomfort, behavioral stress, or physical harm to the animal.
- a. An animal shall be transported in a secure, expeditious, careful, temperature appropriate, and humane manner. An animal shall not be transported in any manner that poses a substantial threat to the life, health, or behavioral well-being of the animal.
  - b. An animal placed on public exhibit or educational display shall be handled in a manner that minimizes the risk of harm to members of the public and to the animal, which includes but is not limited to providing and maintaining a sufficient distance between the animal and the viewing public.
  - c. Any restraint used on an animal shall not cause physical harm or unnecessary discomfort.

- G.** The Department may impose additional requirements on facilities that hold animals to meet the needs of the particular animal and ensure public health and safety. Any additional special license facility requirements shall be set forth in writing by the Department at the time the special license is issued.

**Historical Note**

Adopted effective April 28, 1989 (Supp. 89-2). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

**R12-4-429. Expired****Historical Note**

New Section made by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 3127, effective July 1, 2002 for a period of 180 days (Supp. 02-3). Emergency rulemaking renewed under A.R.S. § 41-1026(D) for an additional 180-day period at 9 A.A.R. 132, effective December 27, 2002 (Supp. 02-4). Section expired effective June 24, 2003 (Supp. 03-2).

**R12-4-430. Importation, Handling, and Possession of Cervids**

- A.** The Department shall not issue a new special license authorizing the possession of a live cervid, except as provided under R12-4-418 and R12-4-420.
- B.** A person shall not import a live cervid into Arizona, except a zoo license holder may import any live nonnative cervid for exhibit, educational display, or propagation provided the nonnative cervid is quarantined for 30 days upon arrival and is procured from a facility that meets all of the following requirements:
1. The exporting facility has a disease surveillance program and no history of chronic wasting disease or other wildlife disease that pose a serious health risk to wildlife or humans and there is accompanying documentation from the facility certifying there is no history of disease at the facility;
  2. The nonnative cervid is accompanied by a health certificate, issued no more than 30 days prior to importation by a licensed veterinarian in the jurisdiction of origin; and
  3. The nonnative cervid is accompanied by evidence of lawful possession, as defined under R12-4-401.
- C.** A person shall not transport a live cervid within Arizona, except to:
1. Export the live cervid from Arizona for a lawful purpose;
  2. Transport the live cervid to a facility for the purpose of slaughter, when the slaughter will take place within five days of the date of transport;
  3. Transport the live cervid to or from a licensed veterinarian for medical care;
  4. Transport the live cervid to a new holding facility owned by, or under the control of, the cervid owner, when all of the following apply:
    - a. The current holding facility has been sold or closed;
    - b. Ownership, possession, custody, or control of the cervid will not be transferred to another person; and
    - c. The owner of the cervid has prior written approval from the Department; or
  5. Transport the live nonnative cervid within Arizona for the purpose of procurement or propagation when all of the following apply:
    - a. The nonnative cervid is transported to or from a zoo licensed under R12-4-420;
    - b. The nonnative cervid is quarantined for 30 days upon arrival at its destination;

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- c. The nonnative cervid is procured from a facility that meets all of the requirements established under subsection (B)(1) though (B)(3).
- D. A person who lawfully possesses a live cervid, except any cervid held under a private game farm or zoo license, shall comply with the requirements established under R12-4-425.
- E. A person shall comply with the requirements established under R12-4-305 when transporting a cervid carcass, or its parts, from a licensed private game farm.
- F. In addition to the recordkeeping requirements of R12-4-413 and R12-4-420, a person who possesses a live cervid under a private game farm or zoo license shall:
1. Permanently mark each live cervid with either an individually identifiable microchip or tattoo within 30 days of acquisition or birth of the cervid; and
  2. Include in the annual report submitted to the Department before January 31 of each year, the following for each native cervid in the license holder's possession:
    - a. Name of the license holder,
    - b. License holder's mailing address,
    - c. License holder's telephone number,
    - d. Number and species of live cervids held,
    - e. The microchip or tattoo number of each live native cervid held,
    - f. The disposition of all cervids that were moved or died during the current reporting period
    - h. Any other information required by the Department to ensure compliance with this Section.
- G. The holder of a private game farm, scientific collecting, or zoo license shall ensure that the retropharyngeal lymph nodes or obex from the head of a cervid over one year of age that dies while held under the special licenses is collected by either a licensed veterinarian or the Department and submitted within 72 hours of the time of death to an Animal and Plant Health Inspection Service certified veterinary diagnostic laboratory for chronic wasting disease analysis. A list of approved laboratories is available at any Department office and online at [www.azgfd.gov](http://www.azgfd.gov) or [www.aphis.usda.gov](http://www.aphis.usda.gov). The license holder shall:
1. Ensure the shipment of the deceased animal's tissues is made by a common, private, or contract carrier that utilizes a tracking number system to track the shipment.
  2. Include all of the following information with the shipment of the deceased animal's tissues, the license holder's:
    - a. Name,
    - b. Mailing address, and
    - c. Telephone number.
  3. Designate, on the sample submission form, test results shall be sent to the Department within 10 days of completing the analysis. The sample submission form is furnished by the diagnostic laboratory providing the test.
  4. Be responsible for all costs associated with the laboratory analysis.
- H. A person who possesses a cervid shall comply with all procedures for:
1. Tuberculosis control and eradication for cervids as prescribed under the United States Department of Agriculture publication "Bovine Tuberculosis Eradication: Uniform Methods and Rules" USDA APHIS 91-45-011, revised January 1, 2005, which is incorporated by reference in this Section. available
  2. Prevention, control, and eradication of Brucellosis in cervids as prescribed under the United States Department of Agriculture publication "Brucellosis in Cervidae: Uniform Methods and Rules" U.S.D.A. A.P.H.I.S. 91-45-16, effective September 30, 2003.
3. The incorporated material is available at any Department office, online at [www.aphis.usda.gov](http://www.aphis.usda.gov), or may be ordered from the USDA APHIS Veterinary Services, Cattle Disease and Surveillance Staff, P. O. Box 96464, Washington D.C. 20090-6464.
4. The material incorporated by reference in this Section does not include any later amendments or editions.
- I. The Department has the authority to seize, euthanize, and dispose of any cervid possessed in violation of this Section, at the owner's expense.

**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 3186, effective August 30, 2003 (Supp. 03-3). Amended by final rulemaking at 12 A.A.R. 980, effective May 6, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2813, effective December 5, 2015 (Supp. 15-4).

**ARTICLE 5. BOATING AND WATER SPORTS****R12-4-501. Boating and Water Sports Definitions**

In addition to the definitions provided under A.R.S. § 5-301, the following definitions apply to this Article unless otherwise specified:

"Abandoned watercraft" means any watercraft that has remained:

On private property without the consent of the private property owner;

Unattended for more than 48 hours on a highway, public street, or other public property;

Unattended for more than 72 hours on state or federal lands; or

Unattended for more than 14 days on state or federal waterways, unless in a designated mooring or anchorage area.

"Aids to navigation" means buoys, beacons, or other fixed objects placed on, in, or near the water to mark obstructions to navigation or to direct navigation through channels or on a safe course.

"Authorized third-party provider" means an entity that has been awarded a written agreement with the Department, pursuant to a competitive bid process, to perform limited or specific services on behalf of the Department.

"AZ number" means the Department-assigned identification number with the prefix "AZ."

"Bill of sale" means a written agreement transferring ownership of a watercraft that includes all of the following information:

Name of buyer;

Name of seller;

Manufacturer of the watercraft, when known;

Hull identification number, unless exempt under R12-4-505;

Purchase price and sales tax paid, when applicable; and

Signature of seller.

"Boats keep out" in reference to a regulatory marker means the operator or user of a watercraft, or a person

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**3-1205. Control of animal diseases; violation; classification**

- A.** When advised of the occurrence of a disease of animals or poultry which constitutes a threat to the livestock or poultry industries, the director may issue lawful orders and adopt rules he deems necessary.
- B.** The state veterinarian may enter any place where a suspected animal or poultry may be and take custody of the animal or poultry for the purpose of determining the presence of a contagious, infectious or communicable disease.
- C.** The director may direct the state veterinarian and agency employees to:
  - 1. Establish quarantines and define their boundaries.
  - 2. Destroy animals or poultry when necessary to prevent the spread of any infectious, contagious or communicable disease.
  - 3. Appoint appraisers for the purpose of indemnifying owners of animals or poultry destroyed.
  - 4. Control the movement of animals or poultry, animal or poultry products and agricultural products which may be directly related to dissemination of diseases affecting the livestock or poultry industries.
- D.** Any person who violates any lawful order or rule issued pursuant to the provisions of subsection A, or breaks any quarantine established by the state veterinarian for the prevention and control of disease among livestock or poultry, is guilty of a class 2 misdemeanor.

**17-101. Definitions**

- A.** In this title, unless the context otherwise requires:
  - 1. "Angling" means the taking of fish by one line and not to exceed two hooks, by one line and one artificial lure, which may have attached more than one hook, or by one line and not to exceed two artificial flies or lures.
  - 2. "Bag limit" means the maximum limit, in number or amount, of wildlife that may lawfully be taken by any one person during a specified period of time.
  - 3. "Closed season" means the time during which wildlife may not be lawfully taken.
  - 4. "Commission" means the Arizona game and fish commission.
  - 5. "Department" means the Arizona game and fish department.
  - 6. "Device" means any net, trap, snare, salt lick, scaffold, deadfall, pit, explosive, poison or stupefying substance, crossbow, firearm, bow and arrow, or other implement used for taking wildlife. Device does not include a raptor or any equipment used in the sport of falconry.
  - 7. "Domicile" means a person's true, fixed and permanent home and principal residence. Proof of domicile in this state may be shown as prescribed by rule by the commission.
  - 8. "Falconry" means the sport of hunting or taking quarry with a trained raptor.
  - 9. "Fishing" means to lure, attract or pursue aquatic wildlife in such a manner that the wildlife may be captured or killed.
  - 10. "Fur dealer" means any person engaged in the business of buying for resale the raw pelts or furs of wild mammals.

11. "Guide" means a person who does any of the following:
  - (a) Advertises for guiding services.
  - (b) Holds himself out to the public for hire as a guide.
  - (c) Is employed by a commercial enterprise as a guide.
  - (d) Accepts compensation in any form commensurate with the market value in this state for guiding services in exchange for aiding, assisting, directing, leading or instructing a person in the field to locate and take wildlife.
  - (e) Is not a landowner or lessee who, without full fair market compensation, allows access to the landowner's or lessee's property and directs and advises a person in taking wildlife.
12. "License classification" means a type of license, permit, tag or stamp authorized under this title and prescribed by the commission by rule to take, handle or possess wildlife.
13. "License year" means the twelve-month period between January 1 and December 31, inclusive, or a different twelve-month period as prescribed by the commission by rule.
14. "Nonresident", for the purposes of applying for a license, permit, tag or stamp, means a citizen of the United States or an alien who is not a resident.
15. "Open season" means the time during which wildlife may be lawfully taken.
16. "Possession limit" means the maximum limit, in number or amount of wildlife, that may be possessed at one time by any one person.
17. "Resident", for the purposes of applying for a license, permit, tag or stamp, means a person who is:
  - (a) A member of the armed forces of the United States on active duty and who is stationed in:
    - (i) This state for a period of thirty days immediately preceding the date of applying for a license, permit, tag or stamp.
    - (ii) Another state or country but who lists this state as the person's home of record at the time of applying for a license, permit, tag or stamp.
  - (b) Domiciled in this state for six months immediately preceding the date of applying for a license, permit, tag or stamp and who does not claim residency privileges for any purpose in any other state or jurisdiction.
18. "Road" means any maintained right-of-way for public conveyance.
19. "Statewide" means all lands except those areas lying within the boundaries of state and federal refuges, parks and monuments, unless specifically provided differently by commission order.
20. "Take" means pursuing, shooting, hunting, fishing, trapping, killing, capturing, snaring or netting wildlife or the placing or using of any net or other device or trap in a manner that may result in the capturing or killing of wildlife.
21. "Taxidermist" means any person who engages for hire in the mounting, refurbishing, maintaining, restoring or preserving of any display specimen.
22. "Traps" or "trapping" means taking wildlife in any manner except with a gun or other implement in hand.

23. "Wild" means, in reference to mammals and birds, those species that are normally found in a state of nature.
  24. "Wildlife" means all wild mammals, wild birds and the nests or eggs thereof, reptiles, amphibians, mollusks, crustaceans and fish, including their eggs or spawn.
  25. "Youth" means a person who is under eighteen years of age.
  26. "Zoo" means a commercial facility open to the public where the principal business is holding wildlife in captivity for exhibition purposes.
- B. The following definitions of wildlife shall apply:
1. Aquatic wildlife are all fish, amphibians, mollusks, crustaceans and soft-shelled turtles.
  2. Game mammals are deer, elk, bear, pronghorn (antelope), bighorn sheep, bison (buffalo), peccary (javelina), mountain lion, tree squirrel and cottontail rabbit.
  3. Big game are wild turkey, deer, elk, pronghorn (antelope), bighorn sheep, bison (buffalo), peccary (javelina), bear and mountain lion.
  4. "Trophy" means:
    - (a) A mule deer buck with at least four points on one antler, not including the eye-guard point.
    - (b) A whitetail deer buck with at least three points on one antler, not including the eye-guard point.
    - (c) A bull elk with at least six points on one antler, including the eye-guard point and the brow tine point.
    - (d) A pronghorn (antelope) buck with at least one horn exceeding or equal to fourteen inches in total length.
    - (e) Any bighorn sheep.
    - (f) Any bison (buffalo).
  5. Small game are cottontail rabbits, tree squirrels, upland game birds and migratory game birds.
  6. Fur-bearing animals are muskrats, raccoons, otters, weasels, bobcats, beavers, badgers and ringtail cats.
  7. Predatory animals are foxes, skunks, coyotes and bobcats.
  8. Nongame animals are all wildlife except game mammals, game birds, fur-bearing animals, predatory animals and aquatic wildlife.
  9. Upland game birds are quail, partridge, grouse and pheasants.
  10. Migratory game birds are wild waterfowl, including ducks, geese and swans; sandhill cranes; all coots, all gallinules, common snipe, wild doves and bandtail pigeons.
  11. Nongame birds are all birds except upland game birds and migratory game birds.
  12. Raptors are birds that are members of the order of falconiformes or strigiformes and include falcons, hawks, owls, eagles and other birds that the commission may classify as raptors.
  13. Game fish are trout of all species, bass of all species, catfish of all species, sunfish of all species, northern pike, walleye and yellow perch.
  14. Nongame fish are all the species of fish except game fish.
  15. Trout means all species of the family salmonidae, including grayling.

**17-102. Wildlife as state property; exceptions**

Wildlife, both resident and migratory, native or introduced, found in this state, except fish and bullfrogs impounded in private ponds or tanks or wildlife and birds reared or held in captivity under permit or license from the commission, are property of the state and may be taken at such times, in such places, in such manner and with such devices as provided by law or rule of the commission.

**17-211. Director; selection; removal; powers and duties; employees**

- A.** The commission shall appoint a director of the Arizona game and fish department, who shall be the chief administrative officer of the game and fish department. The director shall receive compensation as determined pursuant to section 38-611. The director shall be selected on the basis of administrative ability and general knowledge of wildlife management. The director shall act as secretary to the commission, and shall serve at the pleasure of the commission. The director shall not hold any other office, and shall devote the entire time to the duties of office.
- B.** The commission shall prepare an examination for the post of director to comply with the requirements of this title. The examination shall be conducted at the offices of the commission at the capital to establish an active list of eligible applicants. The director shall be selected from those scoring satisfactory grades and having other qualities deemed advisable by the commission. The commission may call for additional examinations from time to time for selection of a new list of eligible applicants to fill a vacancy.
- C.** Subject to title 41, chapter 4, article 4, the director may appoint employees necessary to carry out the purposes of this title, when funds for the payment of their salaries are appropriated. Department employees shall be located in different sections of the state where their services are most needed. Compensation for persons appointed shall be as determined pursuant to section 38-611.
- D.** The director shall:

  - 1. Have general supervision and control of all activities, functions and employees of the department.
  - 2. Enforce all provisions of this title, including all commission rules.
  - 3. Collaborate with the state forester in presentations to legislative committees on issues associated with forest management and wildfire prevention and suppression as provided by section 37-622, subsection B.
- E.** Game rangers and wildlife managers may, in addition to other duties:

  - 1. Execute all warrants issued for a violation of this title.
  - 2. Execute subpoenas issued in any matter arising under this title.
  - 3. Search without warrant any aircraft, boat, vehicle, box, game bag or other package where there is sufficient cause to believe that wildlife or parts of wildlife are possessed in violation of law.
  - 4. Inspect all wildlife taken or transported and seize all wildlife taken or possessed in violation of law, or showing evidence of illegal taking.
  - 5. Seize as evidence devices used illegally in taking wildlife and hold them subject to the provisions of section 17-240.
  - 6. Generally exercise the powers of peace officers with primary duties the enforcement of this title.

7. Seize devices that cannot be lawfully used for the taking of wildlife and are being so used and hold and dispose of them pursuant to section 17-240.

**17-231. General powers and duties of the commission**

A. The commission shall:

1. Adopt rules and establish services it deems necessary to carry out the provisions and purposes of this title.
2. Establish broad policies and long-range programs for the management, preservation and harvest of wildlife.
3. Establish hunting, trapping and fishing rules and prescribe the manner and methods that may be used in taking wildlife, but the commission shall not limit or restrict the magazine capacity of any authorized firearm.
4. Be responsible for the enforcement of laws for the protection of wildlife.
5. Provide for the assembling and distribution of information to the public relating to wildlife and activities of the department.
6. Prescribe rules for the expenditure, by or under the control of the director, of all funds arising from appropriation, licenses, gifts or other sources.
7. Exercise such powers and duties necessary to carry out fully the provisions of this title and in general exercise powers and duties that relate to adopting and carrying out policies of the department and control of its financial affairs.
8. Prescribe procedures for use of department personnel, facilities, equipment, supplies and other resources in assisting search or rescue operations on request of the director of the division of emergency management.
9. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

B. The commission may:

1. Conduct investigations, inquiries or hearings in the performance of its powers and duties.
2. Establish game management units or refuges for the preservation and management of wildlife.
3. Construct and operate game farms, fish hatcheries, fishing lakes or other facilities for or relating to the preservation or propagation of wildlife.
4. Expend funds to provide training in the safe handling and use of firearms and safe hunting practices.
5. Remove or permit to be removed from public or private waters fish which hinder or prevent propagation of game or food fish and dispose of such fish in such manner as it may designate.
6. Purchase, sell or barter wildlife for the purpose of stocking public or private lands and waters and take at any time in any manner wildlife for research, propagation and restocking purposes or for use at a game farm or fish hatchery and declare wildlife salable when in the public interest or the interest of conservation.

7. Enter into agreements with the federal government, with other states or political subdivisions of the state and with private organizations for the construction and operation of facilities and for management studies, measures or procedures for or relating to the preservation and propagation of wildlife and expend funds for carrying out such agreements.
  8. Prescribe rules for the sale, trade, importation, exportation or possession of wildlife.
  9. Expend monies for the purpose of producing publications relating to wildlife and activities of the department for sale to the public and establish the price to be paid for annual subscriptions and single copies of such publications. All monies received from the sale of such publications shall be deposited in the game and fish publications revolving fund.
  10. Contract with any person or entity to design and produce artwork on terms that, in the commission's judgment, will produce an original and valuable work of art relating to wildlife or wildlife habitat.
  11. Sell or distribute the artwork authorized under paragraph 10 of this subsection on such terms and for such price as it deems acceptable.
  12. Consider the adverse and beneficial short-term and long-term economic impacts on resource dependent communities, small businesses and the state of Arizona, of policies and programs for the management, preservation and harvest of wildlife by holding a public hearing to receive and consider written comments and public testimony from interested persons.
  13. Adopt rules relating to range operations at public shooting ranges operated by and under the jurisdiction of the commission, including the hours of operation, the fees for the use of the range, the regulation of groups and events, the operation of related range facilities, the type of firearms and ammunition that may be used at the range, the safe handling of firearms at the range, the required safety equipment for a person using the range, the sale of firearms, ammunition and shooting supplies at the range, and the authority of range officers to enforce these rules, to remove violators from the premises and to refuse entry for repeat violations.
  14. Solicit and accept grants, gifts or donations of money or other property from any source, which may be used for any purpose consistent with this title.
- C. The commission shall confer and coordinate with the director of water resources with respect to the commission's activities, plans and negotiations relating to water development and use, restoration projects under the restoration acts pursuant to chapter 4, article 1 of this title, where water development and use are involved, the abatement of pollution injurious to wildlife and in the formulation of fish and wildlife aspects of the director of water resources' plans to develop and utilize water resources of the state and shall have jurisdiction over fish and wildlife resources and fish and wildlife activities of projects constructed for the state under or pursuant to the jurisdiction of the director of water resources.
- D. The commission may enter into one or more agreements with a multi-county water conservation district and other parties for participation in the lower Colorado river multispecies conservation program under section 48-3713.03, including the collection and payment of any monies authorized by law for the purposes of the lower Colorado river multispecies conservation program.

**17-234. Open or closed seasons; bag limits; possession limits**

The commission shall by order open, close or alter seasons and establish bag and possession limits for wildlife, but a commission order to open a season shall be issued not less than ten days prior to such opening date. The order may apply statewide or to any portion of the state. Closed season shall be in effect unless opened by commission order.

**17-235. Migratory birds**

The commission shall prescribe seasons, bag limits, possession limits and other regulations pertaining to taking migratory birds in accordance with the migratory bird treaty act and regulations issued thereunder, but the commission may shorten or modify seasons, bag and possession limits and other regulations on migratory birds as it deems necessary.

**17-236. Taking birds; possession of raptors**

- A. It is unlawful to take or injure any bird or harass any bird upon its nest, or remove the nests or eggs of any bird, except as may occur in normal horticultural and agricultural practices and except as authorized by commission order. Nothing in this title shall be construed to prohibit the taking of such birds for scientific purposes under permits issued by the commission.
- B. The commission shall issue licenses to permit the possession and transportation of raptors for sport falconry consistent with the requirements of the migratory bird treaty act (40 Stat. 755; 16 United States Code sections 703 through 711) and the endangered species act of 1973 (P.L. 93-205; 87 Stat. 884; 16 United States Code sections 1531 through 1544).
- C. A person who has qualified to become a class II, general, or class III, master, falconer, as provided by commission rule, may possess, transport and use for sport falconry purposes, raptors not listed in the migratory bird treaty act (40 Stat. 755; 16 United States Code sections 703 through 711) without possessing a sport falconry license.

**17-238. Special licenses for field trials, for shooting preserves and for collecting or holding wildlife in captivity**

- A. The commission may adopt rules and regulations and issue licenses for the conduct of field trials, shooting preserves, private wildlife farms and zoos, or for the personal use and possession of wildlife so as to safeguard the interests of the wildlife and people of the state.
- B. The commission, at its discretion and under such regulations as it deems necessary, may issue a permit to take wildlife for scientific purposes to any person or duly accredited representative of public educational or scientific institutions, or governmental departments of the United States engaged in the scientific study of wildlife.
- C. A person holding a permit issued pursuant to this section may, upon advance approval by the commission, buy, sell and transport wildlife legally possessed. Each person receiving a permit under this section shall file with the department within fifteen days after requested by the department a report of his activities under the permit. The commission may revoke such licenses or permits for noncompliance with regulations.

**17-239. Wildlife depredations; investigations; corrective measures; disposal; reports; judicial review**

- A. Any person suffering property damage from wildlife may exercise all reasonable measures to alleviate the damage, except that reasonable measures shall not include injuring or killing game mammals, game birds or wildlife protected by federal law or regulation unless authorized under subsection D of this section. A person may not retain or sell any portion of an animal taken pursuant to this subsection except as provided in section 3-2403.
- B. Any person suffering such property damage, after resorting to the relief as is provided in subsection A of this section, may file a written report with the director, advising the director of the damage suffered, and the species of animals causing the damage, and the director shall immediately order an investigation and report by an employee trained in the handling of wild animal depredation.
- C. The department shall provide technical advice and assist in the necessary anti-depredation measures recommended in the report, including trapping, capturing and relocating animals.
- D. If harvest of animals is found to be necessary to relieve damage, the commission may establish special seasons or special bag limits, and either set reduced fees or waive any or all license fees required by this title, to crop that wildlife. If the commission determines that this cropping by hunters is impractical, it may issue a special permit for taking that wildlife to the landowner, lessee, livestock operator or municipality suffering damage, provided that the edible portions, or other portions as prescribed by the commission, of all the wildlife taken by the person suffering damage are turned over to an agent of the department for delivery to a public institution or charitable organization.
- E. Except as provided in section 41-1092.08, subsection H, in the event any person suffering property damage from wildlife is dissatisfied with the final decision of the commission, the person may seek judicial review pursuant to title 12, chapter 7, article 6.

**17-240. Disposition of wildlife; devices; unlawful devices; notice of intention to destroy; waiting period; destruction; jurisdiction of recovery actions; disposition of unclaimed property**

- A. Wildlife seized under this title may be disposed of in such manner as the commission or the court may prescribe, except that the edible portions shall be given to public institutions or charitable organizations. In consultation with the department of health services and the chief veterinary meat inspector, the commission shall adopt rules for the handling, transportation, processing and storing of game meat given to public institutions and charitable organizations.
- B. Devices, excepting firearms, which cannot be used lawfully for the taking of wildlife and being so used at the time seized may be destroyed. Notice of intention to destroy such devices as prescribed in this section must be sent by registered mail to the last known address of the person from whom seized if known and posted in three conspicuous places within the county wherein seized, two of said notices being posted in the customary place for posting public notices about the county courthouse of said county. Such device shall be held by the department for thirty days after such posting and mailing, and if no action is commenced to recover possession of such device within such time, the same shall be summarily destroyed by the department, or if such device

shall be held by the court in any such action to have been used for the taking of wildlife, then such device shall be summarily destroyed by the department immediately after the decision of the court has become final. The justice court shall have jurisdiction of any such actions or proceedings commenced to recover the possession of such devices.

- C. Devices other than those referred to in subsection B, including firearms seized under this title shall, after final disposition of the case, be returned to the person from whom the device was seized. If the person from whom the device was seized cannot be located or ascertained, the device seized shall be retained by the department at least ninety days after final disposition of the case, and all devices so held by the department may be:
  - 1. Sold annually.
  - 2. Destroyed only if considered a prohibited or defaced weapon, as defined in section 13-3101, except that any seized firearm registered in the national firearms registry and transfer records of the United States treasury department or has been classified as a curio or relic by the United States treasury department shall not be destroyed.
- D. If no complaint is filed pursuant to this title, the device shall be returned to the person from whom seized within thirty days from the date seized.
- E. A complete report of all wildlife and devices seized by the department showing a description of the items, the person from whom it was seized, if known, and a record of the disposition shall be kept by the department. The money derived from the sale of any devices shall be deposited in the game and fish fund.

**17-250. Wildlife diseases; order of director; violation; classification; rule making exemption**

- A. If a wildlife disease is suspected or documented in freeranging or captive wildlife, the director may issue orders that are necessary to minimize or eliminate the threat from the disease. The director may also order or direct an employee of the department to:
  - 1. After notification of and in coordination with the state veterinarian, establish quarantines and the boundary of the quarantine.
  - 2. Destroy wildlife as necessary to prevent the spread of any infectious, contagious or communicable disease.
  - 3. Control the movement of wildlife, wildlife carcasses or wildlife parts that may be directly related to spreading or disseminating diseases that pose a health threat to animals or humans.
  - 4. Require any individual who has taken wildlife, who is in possession of wildlife or who maintains wildlife under a license issued by the department to submit the wildlife or parts for disease testing.
- B. On finding there is reason to believe an infectious, contagious or communicable disease is present, the director may require an employee of the department to enter any place where wildlife may be located and take custody of the wildlife for purposes of disease testing. If search warrants are required by law, the director shall apply for and obtain warrants for entry to carry out the requirements of this subsection.
- C. A person who violates any lawful order issued under this section is guilty of a class 2 misdemeanor.

- D.** An order issued under this section is exempt from title 41, chapter 6, article 3, except that the director shall promptly file a copy of the order with the secretary of state for publication in the Arizona administrative register pursuant to section 41-1013.

**17-255. Definition of aquatic invasive species**

In this article, unless the context otherwise requires, "aquatic invasive species":

1. Means any aquatic species that is not native to the ecosystem under consideration and whose introduction or presence in this state may cause economic or environmental harm or harm to human health.
2. Does not include:
  - (a) Any nonindigenous species lawfully or historically introduced into this state for sport fishing recreation.
  - (b) Any species introduced into this state by the department, by other governmental entities or by any person pursuant to this title.

**17-255.02. Prohibitions**

Except as authorized by the commission, a person shall not:

1. Possess, import, ship or transport into or within this state, or cause to be imported, shipped or transported into or within this state, an aquatic invasive species.
2. Notwithstanding section 17-255.04, subsection A, paragraph 4, release, place or plant, or cause to be released, placed or planted, an aquatic invasive species into waters in this state or into any water treatment facility, water supply or water transportation facility, device or mechanism in this state.
3. Notwithstanding section 17-255.04, subsection A, paragraph 4, place in any waters of this state any equipment, watercraft, vessel, vehicle or conveyance that has been in any water or location where aquatic invasive species are present within the preceding thirty days without first decontaminating the equipment, watercraft, vessel, vehicle or conveyance.
4. Sell, purchase, barter or exchange in this state an aquatic invasive species.

**17-301. Times when wildlife may be taken; exceptions; methods of taking**

- A.** A person may take wildlife, except aquatic wildlife, only during daylight hours unless otherwise prescribed by the commission. A person shall not take any species of wildlife by the aid or with the use of a jacklight, other artificial light, or illegal device, except as provided by the commission.
- B.** A person shall not take wildlife, except aquatic wildlife, or discharge a firearm or shoot any other device from a motor vehicle, including an automobile, aircraft, train or powerboat, or from a sailboat, boat under sail, or a floating object towed by powerboat or sailboat except as expressly permitted by the commission. No person may knowingly discharge any firearm or shoot any other device upon, from, across or into a road or railway.
- C.** Fish may be taken only by angling unless otherwise provided by the commission. The line shall be constantly attended. In every case the hook, fly or lure shall be used in such manner that the fish voluntarily take or attempt to take it in their mouths.

- D.** It shall be unlawful to take wildlife with any leghold trap, any instant kill body gripping design trap, or by a poison or a snare on any public land, including state owned or state leased land, lands administered by the United States forest service, the federal bureau of land management, the national park service, the United States department of defense, the state parks board and any county or municipality. This subsection shall not prohibit:
1. The use of the devices prescribed in this subsection by federal, state, county, city, or other local departments of health which have jurisdiction in the geographic area of such use, for the purpose of protection from or surveillance for threats to human health or safety.
  2. The taking of wildlife with firearms, with fishing equipment, with archery equipment, or other implements in hand as may be defined or regulated by the Arizona game and fish commission, including but not limited to the taking of wildlife pursuant to a hunting or fishing license issued by the Arizona game and fish department.
  3. The use of snares, traps not designed to kill, or nets to take wildlife for scientific research projects, sport falconry, or for relocation of the wildlife as may be defined or regulated by the Arizona game and fish commission or the government of the United States or both.
  4. The use of poisons or nets by the Arizona game and fish department to take or manage aquatic wildlife as determined and regulated by the Arizona game and fish commission.
  5. The use of traps for rodent control or poisons for rodent control for the purpose of controlling wild and domestic rodents as otherwise allowed by the laws of the state of Arizona, excluding any fur-bearing animals as defined in section 17-101.

**17-306. Importation, transportation, release or possession of live wildlife**

- A.** No person shall import or transport into this state or sell, trade or release within this state or have in the person's possession any live wildlife except as authorized by the commission or as defined in title 3, chapter 16.
- B.** It is unlawful for a person to knowingly and without lawful authority under state or federal law import and transport into this state and release within this state a species of wildlife that is listed as a threatened, endangered or candidate species under the endangered species act of 1973 (P.L. 93-205; 87 Stat. 884; 16 United States Code sections 1531 through 1544).
- C.** A person who violates subsection B of this section is guilty of a class 6 felony.
- D.** A person who violates subsection B of this section with the intent to disrupt or interfere with the development or use of public natural resources to establish the presence of the species in an area not currently known to be occupied by that species is guilty of a class 4 felony.

**17-307. Possession, storage, sale and gift of the carcass or parts thereof of wildlife**

- A.** The carcass or parts thereof of wildlife lawfully obtained in accordance with the provisions of this title and commission regulations may be possessed by the person taking such wildlife.
- B.** The carcass or parts thereof of wildlife lawfully obtained may be placed in storage in accordance with the provisions of this title.

- C. The carcass or parts thereof of wildlife lawfully produced by or lawfully obtained from a commercial wildlife breeding or processing establishment may be sold in this state.
- D. A person may make a gift of the carcass or parts thereof of his lawfully obtained wildlife, or he may have it prepared in a public eating place and served to himself and his guests.

**17-309. Violations; classification**

- A. Unless otherwise prescribed by this title, it is unlawful for a person to:
  - 1. Violate any provision of this title or any rule adopted pursuant to this title.
  - 2. Take, possess, transport, buy, sell or offer or expose for sale wildlife except as expressly permitted by this title.
  - 3. Destroy, injure or molest livestock, growing crops, personal property, notices or signboards, or other improvements while hunting, trapping or fishing.
  - 4. Discharge a firearm while taking wildlife within one-fourth mile of an occupied farmhouse or other residence, cabin, lodge or building without permission of the owner or resident.
  - 5. Take a game bird, game mammal or game fish and knowingly permit an edible portion thereof to go to waste, except as provided in section 17-302.
  - 6. Take big game, except bear or mountain lion, with the aid of dogs.
  - 7. Make more than one use of a shipping permit or coupon issued by the commission.
  - 8. Obtain a license or take wildlife during the period for which the person's license has been revoked or suspended or the person has been denied a license.
  - 9. Litter hunting and fishing areas while taking wildlife.
  - 10. Take wildlife during the closed season.
  - 11. Take wildlife in an area closed to the taking of that wildlife.
  - 12. Take wildlife with an unlawful device.
  - 13. Take wildlife by an unlawful method.
  - 14. Take wildlife in excess of the bag limit.
  - 15. Possess wildlife in excess of the possession limit.
  - 16. Possess or transport any wildlife or parts of the wildlife that was unlawfully taken.
  - 17. Possess or transport the carcass of big game without a valid tag being attached.
  - 18. Use the edible parts of any game mammal or any part of any game bird or nongame bird as bait.
  - 19. Possess or transport the carcass or parts of a carcass of any wildlife that cannot be identified as to species and legality.
  - 20. Take game animals, game birds and game fish with an explosive compound, poison or any other deleterious substances.
  - 21. Import into this state or export from this state the carcass or parts of a carcass of any wildlife unlawfully taken or possessed.

- B.** Unless a different or other penalty or punishment is specifically prescribed a person who violates any provision of this title, or who violates or fails to comply with a lawful order or rule of the commission, is guilty of a class 2 misdemeanor.
- C.** A person who knowingly takes any big game during a closed season or who knowingly possesses, transports or buys any big game that was unlawfully taken during a closed season is guilty of a class 1 misdemeanor.
- D.** A person is guilty of a class 6 felony who knowingly:
  1. Barters, sells or offers for sale any big game or parts of big game taken unlawfully.
  2. Barters, sells or offers for sale any wildlife or parts of wildlife unlawfully taken during a closed season.
  3. Barters, sells or offers for sale any wildlife or parts of wildlife imported or purchased in violation of this title or a lawful rule of the commission.
  4. Assists another person for monetary gain with the unlawful taking of big game.
  5. Takes or possesses wildlife while under permanent revocation under section 17-340, subsection B, paragraph 3.
- E.** A peace officer who knowingly fails to enforce a lawful rule of the commission or this title is guilty of a class 2 misdemeanor.

**17-314. Civil liability for illegally taking or wounding wildlife; recovery of damages**

- A.** The commission or any officer charged with enforcement of the laws relating to game and fish, if so directed by the commission, may bring a civil action in the name of the state against any person unlawfully taking, wounding or killing, or unlawfully in possession of, any of the following wildlife, or part thereof, and seek to recover the following minimum sums as damage:
 

1	For each turkey or javelin	\$500.00
2	For each bear, mountain lion, antelope or deer, other than trophy	\$1,500.00
3	For each elk or eagle, other than trophy or endangered species	\$2,500.00
4	For each predatory, fur-bearing or nongame animal	\$250.00
5	For each small game or aquatic wildlife animal	\$50.00
6	For each trophy or endangered species animal	\$8,000.00
- B.** No verdict or judgment recovered by the state in such action shall be for less than the sum fixed in this section. The minimum sum that the commission may seek to recover as damages from a person pursuant to this section may be doubled for a second verdict or judgment and tripled for a third verdict or judgment. The action for damages may be joined with an action for possession, and recovery had for the possession as well as the damages.
- C.** The pendency or determination of an action for damages or payment of a judgment, or the pendency or determination of a criminal prosecution for the same taking, wounding, killing or possession, is not a bar to the other, nor does either affect the right of seizure under any other provision of the laws relating to game and fish.
- D.** All monies recovered pursuant to this section shall be placed in the wildlife theft prevention fund.

**17-317. Possession and containment of white amur; determination of closed aquatic system**

- A. The commission shall establish a procedure by rule to permit the possession of certified triploid white amur (*ctenopharyngodon idellus*).
- B. The department shall evaluate potential sites for the stocking of certified triploid white amur in this state. These sites shall be in closed aquatic systems as determined by the commission. The commission shall determine what constitutes a closed aquatic system after at least one public hearing and shall consider at least the following factors:
  - 1. Hydrologic:
    - (a) Flood potential of the aquatic system.
    - (b) Proximity of the aquatic system to other aquatic systems.
    - (c) Water movement into and out of the aquatic system.
  - 2. The risk of severe damage to the aquatic habitat in other bodies of water due to the possession and use of white amur.

**17-318. Disease assessment and treatment before importing wildlife and transporting big game**

- A. The department shall test all cloven-hoofed wildlife it introduces or imports into this state, and all cloven-hoofed big game transported and released in this state for the purpose of creating new or expanding existing populations, for presence of diseases that can be transmitted to livestock. The tests to be conducted shall be determined by consultation with the state veterinarian. The department shall treat and cure all wildlife infected with any known disease that can be transmitted to livestock before the wildlife are released in this state.
- B. Before introducing or importing cloven-hoofed wildlife into this state, or transporting and releasing cloven-hoofed big game in this state for purposes of creating new or expanding existing populations, the department shall determine the potential for livestock and domestic animals infecting the wildlife and, if possible, immunize the wildlife before they are released in this state.

**17-331. License or proof of purchase required; violation of child support order**

- A. Except as provided by this title, rules prescribed by the commission or commission order, a person shall not take any wildlife in this state without a valid license or a commission approved proof of purchase. The person shall carry the license or proof of purchase and produce it on request to any game ranger, wildlife manager or peace officer.
- B. A certificate of noncompliance with a child support order issued pursuant to section 25-518 invalidates any license or proof of purchase issued to the support obligor for taking wildlife in this state and prohibits the support obligor from applying for any additional licenses issued by an automated drawing system under this title.
- C. On receipt of a certificate of compliance with a child support order from the court pursuant to section 25-518 and without further action:

1. Any license or proof of purchase issued to the support obligor for taking wildlife that was previously invalidated by a certificate of noncompliance and that has not otherwise expired shall be reinstated.
2. Any ineligibility to apply for any license issued by an automated drawing system shall be removed.

**17-332. Form and contents of license; duplicate licenses; period of validity**

- A. Licenses and license materials shall be prepared by the department and may be furnished and charged to dealers authorized to issue licenses. The license shall be issued in the name of the department. Except as provided by rule adopted by the commission, each license shall be signed by the licensee in ink on the face of the license and any license not signed is invalid. With each license authorizing the taking of big game the department shall provide such tags as the commission may prescribe, which the licensee shall attach to the big game animal in such manner as prescribed by the commission. The commission shall limit the number of big game permits issued to nonresidents in a random drawing to ten per cent or fewer of the total hunt permits, but in extraordinary circumstances, at a public meeting the commission may increase the number of permits issued to nonresidents in a random drawing if, on separate roll call votes, the members of the commission unanimously:
  1. Support the finding of a specifically described extraordinary circumstance.
  2. Adopt the increased number of nonresident permits for the hunt.
- B. The commission shall issue with each license a shipping permit entitling the holder of the license to a shipment of game or fish as provided by article 4 of this chapter.
- C. It is unlawful, except as provided by the commission, for any person to apply for or obtain in any one license year more than one original license permitting the taking of big game. A duplicate license or tag may be issued by the department or by a license dealer if the person requesting such license or tag furnishes the information deemed necessary by the commission.
- D. No license or permit is transferable, nor shall such license or permit be used by anyone except the person to whom such license or permit was issued, except that:
  1. The commission may prescribe the manner and conditions of transferring and using permits and tags under this paragraph, including an application process for a qualified organization, to allow a person to transfer the person's big game permit or tag to a qualified organization for use by:
    - (a) A minor child who has a life-threatening medical condition or by a minor child who has a permanent physical disability. If a child with a physical disability is under fourteen years of age, the child must satisfactorily complete the Arizona hunter education course or another comparable hunter education course that is approved by the director.
    - (b) A veteran of the armed forces of the United States who has a service-connected disability. For the purposes of this paragraph:
      - (i) "Disability" means a permanent physical impairment that substantially limits one or more major life activities requiring the assistance of another person or a mechanical device for physical mobility.
      - (ii) "Qualified organization" means a nonprofit organization that is qualified under section 501(c)(3) of the United States internal revenue code and that affords opportunities and experiences to

children with life-threatening medical conditions or with physical disabilities or to veterans with service-connected disabilities.

2. A parent, grandparent or legal guardian may allow the parent's, grandparent's or guardian's minor child or minor grandchild to use the parent's, grandparent's or guardian's big game permit or tag to take big game pursuant to the following requirements:
  - (a) The parent, grandparent or guardian must transfer the permit or tag to the child in a manner prescribed by the commission.
  - (b) The parent or guardian must accompany the child in the field or, if a grandparent allows a minor grandchild to use the grandparent's permit or tag, the grandparent, the parent or the child's guardian must accompany the child in the field.
  - (c) The child must possess a valid hunting license and, if under fourteen years of age, must satisfactorily complete the Arizona hunter education course or another comparable hunter education course that is approved by the director.
  - (d) Any big game that is taken counts toward the child's bag limit.
- E. No refunds may be made for the purchase of a license or permit.
- F. Licenses are valid for a license year as prescribed in rule by the commission. Lifetime licenses and benefactor licenses are valid for the lifetime of the licensee.

**17-333. License classifications; fees; annual report; review**

- A. Through July 1, 2019, the commission shall prescribe by rule license classifications that are valid for the taking or handling of wildlife, fees for licenses, permits, tags and stamps and application fees.
- B. The commission may temporarily reduce or waive any fee prescribed by rule under this title on the recommendation of the director.
- C. All monies collected pursuant to this section shall be deposited, pursuant to sections 35-146 and 35-147, in the game and fish fund established by section 17-261.
- D. On or before December 31 of each year, the commission shall submit an annual report to the president of the senate, the speaker of the house of representatives, the chairperson of the senate natural resources and rural affairs committee and the chairperson of the house of representatives energy, environment and natural resources committee, or their successor committees, that includes information relating to license classifications, fees for licenses, permits, tags and stamps and any other fees that the commission prescribes by rule. On or before July 1, 2019 and each fifth year thereafter, the joint legislative audit committee shall assign a committee of reference to hold a public hearing and review the annual report submitted by the commission.

**17-371. Transportation, possession and sale of wildlife and wildlife parts**

- A. A person may transport in his possession his legally taken wildlife, or may authorize the transportation of his legally taken big game, provided such big game or any part thereof has attached thereto a valid transportation permit issued by the department. Such wildlife shall be transported in such manner that it may be inspected by

authorized persons upon demand until the wildlife is packaged or stored. Species of wildlife, other than game species, may be transported in any manner unless otherwise specified by the commission. A person possessing a valid license may transport lawfully taken wildlife other than big game given to him but in no event shall any person possess more than one bag or possession limit.

- B. A holder of a resident license shall not transport from a point within to a point without the state any big game species or parts thereof without first having obtained a special permit issued by the department or its authorized agent.
- C. Migratory birds may be possessed and transported in accordance with the migratory bird treaty act (40 Stat. 755; 16 United States Code sections 703 through 711) and regulations under that act.
- D. A holder of a sport falconry license may transport one or more raptors that the person lawfully possesses under terms and conditions prescribed by the commission. Regardless of whether a person holds a sport falconry license and as provided by section 17-236, subsection C, the person may transport for sport falconry purposes one or more raptors that are not listed pursuant to the migratory bird treaty act.
- E. Heads, horns, antlers, hides, feet or skin of wildlife lawfully taken, or the treated or mounted specimens thereof, may be possessed, sold and transported at any time, except that migratory birds may be possessed and transported only in accordance with federal regulations.

**25-320. Child support; factors; methods of payment; additional enforcement provisions; definitions**

- A. In a proceeding for dissolution of marriage, legal separation, maintenance or child support, the court may order either or both parents owing a duty of support to a child, born to or adopted by the parents, to pay an amount reasonable and necessary for support of the child, without regard to marital misconduct.
- B. If child support has not been ordered by a child support order and if the court deems child support appropriate, the court shall direct, using a retroactive application of the child support guidelines to the date of filing a dissolution of marriage, legal separation, maintenance or child support proceeding, the amount that the parents shall pay for the past support of the child and the manner in which payment shall be paid, taking into account any amount of temporary or voluntary support that has been paid. Retroactive child support is enforceable in any manner provided by law.
- C. If the parties lived apart before the date of the filing for dissolution of marriage, legal separation, maintenance or child support and if child support has not been ordered by a child support order, the court may order child support retroactively to the date of separation, but not more than three years before the date of the filing for dissolution of marriage, legal separation, maintenance or child support. The court must first consider all relevant circumstances, including the conduct or motivation of the parties in that filing and the diligence with which service of process was attempted on the obligor spouse or was frustrated by the obligor spouse. If the court determines that child support is appropriate, the court shall direct, using a retroactive application of the child support guidelines, the amount that the parents must pay for the past support of the child and the manner in which payments must be paid, taking into account any amount of temporary or voluntary support that has been paid.

- D. The supreme court shall establish guidelines for determining the amount of child support. The amount resulting from the application of these guidelines is the amount of child support ordered unless a written finding is made, based on criteria approved by the supreme court, that application of the guidelines would be inappropriate or unjust in a particular case. The supreme court shall review the guidelines at least once every four years to ensure that their application results in the determination of appropriate child support amounts. The supreme court shall base the guidelines and criteria for deviation from them on all relevant factors, considered together and weighed in conjunction with each other, including:
1. The financial resources and needs of the child.
  2. The financial resources and needs of the custodial parent.
  3. The standard of living the child would have enjoyed if the child lived in an intact home with both parents to the extent it is economically feasible considering the resources of each parent and each parent's need to maintain a home and to provide support for the child when the child is with that parent.
  4. The physical and emotional condition of the child, and the child's educational needs.
  5. The financial resources and needs of the noncustodial parent.
  6. The medical support plan for the child. The plan should include the child's medical support needs, the availability of medical insurance or services provided by the Arizona health care cost containment system and whether a cash medical support order is necessary.
  7. Excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of community, joint tenancy and other property held in common.
  8. The duration of parenting time and related expenses.
- E. Even if a child is over the age of majority when a petition is filed or at the time of the final decree, the court may order support to continue past the age of majority if all of the following are true:
1. The court has considered the factors prescribed in subsection D of this section.
  2. The child is severely mentally or physically disabled as demonstrated by the fact that the child is unable to live independently and be self-supporting.
  3. The child's disability began before the child reached the age of majority.
- F. If a child reaches the age of majority while the child is attending high school or a certified high school equivalency program, support shall continue to be provided during the period in which the child is actually attending high school or the equivalency program but only until the child reaches nineteen years of age unless the court enters an order pursuant to subsection E of this section. Notwithstanding any other law, a parent paying support for a child over the age of majority pursuant to this section is entitled to obtain all records related to the attendance of the child in the high school or equivalency program.
- G. If a personal check for support payments and handling fees is rightfully dishonored by the payor bank or other drawee, the person obligated to pay support shall make any subsequent support payments and handling fees only by cash, money order, cashier's check, traveler's check or certified check. If a person required to pay support other than by personal check demonstrates full and timely payment for twenty-four consecutive months,

that person may pay support by personal check if these payments are for the full amount, are timely tendered and are not rightfully dishonored by the payor bank or other drawee.

- H. Subsection G of this section does not apply to payments made by means of an assignment.
- I. If after reasonable efforts to locate the obligee the clerk or support payment clearinghouse is unable to deliver payments for the period prescribed in section 25-503 due to the failure of the person to whom the support has been ordered to be paid to notify the clerk or support payment clearinghouse of a change in address, the clerk or support payment clearinghouse shall not deliver further payments and shall return the payments to the obligor consistent with the requirements of section 25-503.
- J. An order for child support shall assign responsibility for providing medical insurance for the child who is the subject of the support order to one of the parents and shall assign responsibility for the payment of any medical costs of the child that are not covered by insurance according to the child support guidelines. Each parent shall provide information to the court regarding the availability of medical insurance for the child that is accessible and available at a reasonable cost. In title IV-D cases, the parent responsible pursuant to court order for providing medical insurance for the child shall notify the child support enforcement agency in the department of economic security if medical insurance has been obtained or if the child is no longer covered under an insurance plan.
- K. If the court finds that neither parent has the ability to obtain medical insurance for the child that is accessible and available at a reasonable cost, the court shall:
  - 1. In a title IV-D case, in accordance with established title IV-D criteria, establish a reasonable monthly cash medical support order to be paid by the obligor. If medical assistance is being provided to a child under title XIX of the social security act, cash medical support is assigned to the state pursuant to section 46-407. On verification that the obligor has obtained private insurance, the cash medical support order terminates by operation of law on the first day of the month after the policy's effective date or on the date the court, or the department in a title IV-D case, is notified that insurance has been obtained, whichever is later. If the private insurance terminates, the cash medical support order automatically resumes by operation of law on the first day of the month following the termination date of the policy.
  - 2. Order one parent to provide medical insurance when it becomes accessible and available at a reasonable cost.
  - 3. Order that medical costs in excess of the cash medical support amount shall be paid by each parent according to the percentage assigned for payment of uninsured costs.
- L. In a title IV-D case, if the court orders the noncustodial parent to obtain medical insurance the court shall also set an alternative cash medical support order to be paid by that parent if the child is not covered under an insurance plan within ninety days after entry of the order or if the child is no longer covered by insurance. The court shall not order the custodial parent to pay cash medical support.
- M. In title IV-D cases the superior court shall accept for filing any documents that are received through electronic transmission if the electronically reproduced document states that the copy used for the electronic transmission was certified before it was electronically transmitted.

- N. The court shall presume, in the absence of contrary testimony, that a parent is capable of full-time employment at least at the applicable state or federal adult minimum wage, whichever is higher. This presumption does not apply to noncustodial parents who are under eighteen years of age and who are attending high school.
- O. An order for support shall provide for an assignment pursuant to sections 25-504 and 25-323.
- P. Each licensing board or agency that issues professional, recreational or occupational licenses or certificates shall record on the application the social security number of the applicant and shall enter this information in its database in order to aid the department of economic security in locating parents or their assets or to enforce child support orders. This subsection does not apply to a license that is issued pursuant to title 17 and that is not issued by an automated drawing system. If a licensing board or agency allows an applicant to use a number other than the social security number on the face of the license or certificate while the licensing board or agency keeps the social security number on file, the licensing board or agency shall advise an applicant of this fact.
- Q. The factors prescribed pursuant to subsection D of this section are stated for direction to the supreme court. Except pursuant to subsection E of this section and sections 25-501 and 25-809, The superior court shall not consider the factors when making child support orders, independent of the child support guidelines.
- R. For the purposes of this section:
  - 1. "Accessible" means that insurance is available in the geographic region where the child resides.
  - 2. "Child support guidelines" means the child support guidelines that are adopted by the state supreme court pursuant to 42 United States Code sections 651 through 669B.
  - 3. "Date of separation" means the date the married parents ceased to cohabit.
  - 4. "Reasonable cost" means an amount that does not exceed the higher of five per cent of the gross income of the obligated parent or an income-based numeric standard that is prescribed in the child support guidelines.
  - 5. "Support" has the same meaning prescribed in section 25-500.
  - 6. "Support payments" means the amount of money ordered by the court to be paid for the support of the minor child or children.

#### **41-1005. Exemptions**

- A. This chapter does not apply to any:
  - 1. Rule that relates to the use of public works, including streets and highways, under the jurisdiction of an agency if the effect of the order is indicated to the public by means of signs or signals.
  - 2. Order or rule of the Arizona game and fish commission that does the following:
    - (a) Opens, closes or alters seasons or establishes bag or possession limits for wildlife.
    - (b) Establishes a fee pursuant to section 5-321, 5-322 or 5-327.
    - (c) Establishes a license classification, fee or application fee pursuant to title 17, chapter 3, article 2.
  - 3. Rule relating to section 28-641 or to any rule regulating motor vehicle operation that relates to speed, parking, standing, stopping or passing enacted pursuant to title 28, chapter 3.
  - 4. Rule concerning only the internal management of an agency that does not directly and substantially affect the procedural or substantive rights or duties of any segment of the public.

5. Rule that only establishes specific prices to be charged for particular goods or services sold by an agency.
6. Rule concerning only the physical servicing, maintenance or care of agency owned or operated facilities or property.
7. Rule or substantive policy statement concerning inmates or committed youths of a correctional or detention facility in secure custody or patients admitted to a hospital, if made by the state department of corrections, the department of juvenile corrections, the board of executive clemency or the department of health services or a facility or hospital under the jurisdiction of the state department of corrections, the department of juvenile corrections or the department of health services.
8. Form whose contents or substantive requirements are prescribed by rule or statute, and instructions for the execution or use of the form.
9. Capped fee-for-service schedule adopted by the Arizona health care cost containment system administration pursuant to title 36, chapter 29.
10. Fees prescribed by section 6-125.
11. Order of the director of water resources adopting or modifying a management plan pursuant to title 45, chapter 2, article 9.
12. Fees established under section 3-1086.
13. Fees established under sections 41-4010 and 41-4042.
14. Rule or other matter relating to agency contracts.
15. Fees established under section 32-2067 or 32-2132.
16. Rules made pursuant to section 5-111, subsection A.
17. Rules made by the Arizona state parks board concerning the operation of the Tonto natural bridge state park, the facilities located in the Tonto natural bridge state park and the entrance fees to the Tonto natural bridge state park.
18. Fees or charges established under section 41-511.05.
19. Emergency medical services protocols except as provided in section 36-2205, subsection B.
20. Fee schedules established pursuant to section 36-3409.
21. Procedures of the state transportation board as prescribed in section 28-7048.
22. Rules made by the state department of corrections.
23. Fees prescribed pursuant to section 32-1527.
24. Rules made by the department of economic security pursuant to section 46-805.
25. Schedule of fees prescribed by section 23-908.
26. Procedure that is established pursuant to title 23, chapter 6, article 6.
27. Rules, administrative policies, procedures and guidelines adopted for any purpose by the Arizona commerce authority pursuant to chapter 10 of this title if the authority provides, as appropriate under the circumstances, for notice of an opportunity for comment on the proposed rules, administrative policies, procedures and guidelines.
28. Rules made by a marketing commission or marketing committee pursuant to section 3-414.

29. Administration of public assistance program monies authorized for liabilities that are incurred for disasters declared pursuant to sections 26-303 and 35-192.
  30. User charges, tolls, fares, rents, advertising and sponsorship charges, services charges or similar charges established pursuant to section 28-7705.
  31. Administration and implementation of the hospital assessment pursuant to section 36-2901.08, except that the Arizona health care cost containment system administration must provide notice and an opportunity for public comment at least thirty days before establishing or implementing the administration of the assessment.
  32. Rules made by the Arizona department of agriculture to adopt and implement the provisions of the federal milk ordinance as prescribed by section 3-605.
- B. Notwithstanding subsection A, paragraph 21 of this section, at such time as the federal highway administration authorizes the privatization of rest areas, the state transportation board shall make rules governing the lease or license by the department of transportation to a private entity for the purposes of privatization of a rest area.
  - C. Coincident with the making of a final rule pursuant to an exemption from the applicability of this chapter under this section, another statute or session law, the agency shall file a copy of the rule with the secretary of state for publication pursuant to section 41-1012 and provide a copy to the council.
  - D. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the Arizona board of regents and the institutions under its jurisdiction, except that the Arizona board of regents shall make policies or rules for the board and the institutions under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies or rules proposed.
  - E. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the Arizona state schools for the deaf and the blind, except that the board of directors of all the state schools for the deaf and the blind shall adopt policies for the board and the schools under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies proposed for adoption.
  - F. Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the state board of education, except that the state board of education shall adopt policies or rules for the board and the institutions under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies or rules proposed for adoption. In order to implement or change any rule, the state board of education shall provide at least two opportunities for public comment.

## D-2

### **GAME AND FISH COMMISSION**

Title 12, Chapter 4, Article 1, Definitions and General Provisions

**Amend:** R12-4-101, R12-4-104, R12-4-105, R12-4-106, R12-4-107, R12-4-108, R12-4-110, R12-4-113, R12-4-114, R12-4-115, R12-4-118, R12-4-120, R12-4-121, R12-4-122, R12-4-124, R12-4-125, R12-4-126, R12-4-313, R12-4-318

**Renumber:** R12-4-116, R12-4-126

**New Section:** R12-4-116, R12-4-127



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - REGULAR RULEMAKING

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**MEETING DATE:** February 2, 2021

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** January 11, 2021

**SUBJECT: GAME AND FISH COMMISSION**  
Title 12, Chapter 4, Article 1, Definitions and General Provisions

**Amend:** R12-4-101, R12-4-104, R12-4-105, R12-4-106, R12-4-107, R12-4-108, R12-4-110, R12-4-113, R12-4-114, R12-4-115, R12-4-118, R12-4-120, R12-4-121, R12-4-122, R12-4-124, R12-4-125, R12-4-126, R12-4-313, R12-4-318

**Renumber:** R12-4-116, R12-4-126

**New Section:** R12-4-116, R12-4-127

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### **Summary:**

This regular rulemaking from the Arizona Game and Fish Commission (Commission) seeks to amend 19 rules, renumber two rules, and add two new sections to Title 12, Chapter 4, Article 1 related to definitions and general provisions. Specifically, the Commission seeks to enact amendments developed during the preceding Five-Year Review Report (5YRR) approved by this Council on June 4, 2019. The Commission states the amendments are designed to clarify current rule language; protect public health and safety; facilitate job growth and economic development; support the tenets of the North American Model of Wildlife Conservation; enable the Department to provide better customer service; and reduce regulatory and administrative burdens wherever possible.

1. **Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?**

The Commission cites both general and specific statutory authority for these rules.

2. **Do the rules establish a new fee or contain a fee increase?**

The Commission indicates this rulemaking does not establish a new fee or contain a fee increase.

3. **Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely upon?**

The Commission did not review or rely on any study in conducting this rulemaking.

4. **Summary of the agency's economic impact analysis:**

The Commission anticipates the proposed rulemaking will benefit those regulated by creating more opportunities for the use of wildlife resources, with fewer costs. The Commission anticipates that the proposed rulemaking may impact large and small businesses, but not enough to affect business revenues of payroll expenditures. The Commission does not anticipate the rules will significantly impact State revenues, or impose other monetary or regulatory costs to state agencies, or individuals regulated by the rules.

5. **Has the agency analyzed the costs and benefits of the rulemaking and determined that the rules impose the least burden and costs to those who are regulated?**

The Department had determined that the proposed rulemaking will have minimal impact on the regulated community. The proposed changes protect public health and safety, facilitate job growth and economic development, and reduce regulatory and administrative burdens. The Commission has determined that there are no alternative methods of achieving the objectives of the proposed rulemaking and that the benefits of the proposed rulemaking outweigh the costs.

6. **What are the economic impacts on stakeholders?**

Key stakeholder include: the Commission, license dealers, hunters, and prospective hunters.

The Department will benefit from clearer rules on the licensing and permitting process. The Department will benefit monetarily by charging an application fee for high demand locations and high demand species, in addition to other fees required for a license, permit stamp, or tag fee. The Commission will have the opportunity to collect additional revenue from hunters who were previously unable to be reached by telephone, but are now able to be contacted through other means of communication. Prior to alternative methods of contact, the Commission would lose the potential revenue from these hunters.

The rule changes will affect hunters and prospective hunters by having to submit separate applications and fees for each species. The hunter will also potentially have to pay additional costs if they hunt in an in-demand area. However, hunters will also benefit from the alternative methods of contact by the Commission, allowing them more opportunities to hunt.

License dealers will be affected by the rules, since they do not have to adhere to the five percent commission fee for selling licenses. These license dealers are now allowed to collect a fee that they determine is reasonable.

7. **Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

The Commission indicates that it made the following changes to its rules between its Notice of Proposed Rulemaking and Notice of Final Rulemaking before the Council:

- R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Computer Draw and Purchase of Bonus Points: Subsection (N) was changed to replace the term "mail" with "deliver" to make the rule more concise.
- R12-4-108. Management Unit Boundaries: References to US 89 and US 89A and AZ 89 and AZ89A were corrected in Units 7, 11M, 12B, 20A, 34A, 35B, and 36B.
- R12-4-116. Issuance of Limited-Entry Permit-tag: References to "authorized agent" were removed. In addition, subsection (I)(2) was amended to clarify the bag limit allowances are specific to big game.
- R12-4-120. Issuance, Sale, and Transfer of Special Big Game License-tags: The time in which an organization must submit the required information is changed from 30-days to 60-days in order to allow persons regulated by the rule adequate time to submit the required information.

It is Council staff's position that none of these revisions constitute a substantial change as defined in A.R.S. § 41-1025.

8. **Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

The Commission received eight written comments related to this rulemaking which are summarized in Section 11 of the Notice of Final Rulemaking along with the Commission's responses. Copies of the written comments have also been provided with this rulemaking package for your consideration. It is Council staff's position that the Commission adequately addressed the comments related to the proposed amendments.

**9. Do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

Pursuant to A.R.S. § 41-1037(A), “[i]f an agency proposes...an amendment to an existing rule that requires the issuance of a regulatory permit, license or agency authorization, the agency shall use a general permit...” unless certain limited exceptions apply. The Commission indicates that the following licenses are required by the rules:

- R12-4-105. License Dealer’s License.
- R12-4-113. Small Game Depredation Permit

The Commission states that the above-referenced licences/permits fall within the definition of a “general permit” as defined by A.R.S. § 41-1001(11). Therefore, the Commission is in compliance with A.R.S. § 41-1037.

**10. Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

Not applicable. The Commission indicates federal law is not directly applicable to the subject of the rules.

**11. Conclusion**

This regular rulemaking from the Arizona Game and Fish Commission (Commission) seeks to amend 19 rules, renumber two rules, and add two new sections to Title 12, Chapter 4, Article 1 related to definitions and general provisions to enact amendments developed during the preceding Five-Year Review Report (5YRR) approved by this Council on June 4, 2019. The Commission states the amendments are designed to clarify current rule language; protect public health and safety; facilitate job growth and economic development; support the tenets of the North American Model of Wildlife Conservation; enable the Department to provide better customer service; and reduce regulatory and administrative burdens wherever possible.

The Commission is seeking a delayed effective date of July 1, 2021. The Commission indicates this delayed effective date will allow the Department the time needed to ensure necessary programmatic changes occur and all affected publications, licenses, applications, permits, tags, and Internet pages are revised before rulemaking becomes effective. Pursuant to A.R.S. § 41-1032(B), an agency may specify an effective date more than sixty days after the filing of the rule in the office of the secretary of state if the agency determines that good cause exists for and the public interest will not be harmed by the later date. It is Council staff’s position that the Commission has shown good cause for an effective date more than sixty days after the filing of the rule with the Secretary of State’s office and the public interest will not be harmed by that later date.

Council staff recommends approval of this rulemaking.



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**December 8, 2020**

**VIA EMAIL:** [grrc@azdoa.gov](mailto:grrc@azdoa.gov)

Nicole Sornsin, Chair

Governor's Regulatory Review Council

100 North 15th Avenue, Suite 305

Phoenix, Arizona 85007

**RE: Arizona Game and Fish Department, 12 A.A.C. 4, Article 1.  
Definitions and General Provisions, Regular Rulemaking**

Dear Nicole Sornsin:

1. **The close of record date:** December 4, 2020
2. **Does the rulemaking activity relate to a Five Year Review Report:** Yes
  - a. **If yes, the date the Council approved the Five Year Review Report:** June 4, 2019
3. **Does the rule establish a new fee:** No
  - a. **If yes, what statute authorizes the fee:** Not applicable
4. **Does the rule contain a fee increase:** No
5. **Is an immediate effective date requested pursuant to A.R.S. 41-1032:** No

The Arizona Game and Fish Department certifies that the preamble discloses a reference to any study relevant to the rule that the agency reviewed. The Arizona Game and Fish Department certifies that the preamble states it did not rely on any study relevant to the rule in the Department's evaluation of or justification for the rule.

The Arizona Game and Fish Department certifies that the preparer of the economic, small business, and consumer impact statement has notified the Joint Legislative Budget Committee of the number of new full-time employees necessary to implement and enforce the rule (none).

The following documents are enclosed:

1. **Notice of Final Rulemaking, including the preamble, table of contents, and text of each rule;**
2. **An economic, small business, and consumer impact statement that contains the information required by A.R.S. 41-1055;**

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**azgfd.gov | 602.942.3000**

**5000 W. CAREFREE HIGHWAY, PHOENIX AZ 85086**

**GOVERNOR:** DOUGLAS A. DUCEY **COMMISSIONERS:** CHAIRMAN, ERIC S. SPARKS, TUCSON | KURT R. DAVIS, PHOENIX | LELAND S. "BILL" BRAKE, ELGIN  
JAMES E. GOUGHNOUR, PAYSON | TODD G. GEILER, PRESCOTT **DIRECTOR:** TY E. GRAY **DEPUTY DIRECTOR:** TOM P. FINLEY



3. **If applicable:** The written comments received by the agency concerning the proposed rule and a written record, transcript, or minutes of any testimony received if the agency maintains a written record, transcript or minutes;
4. **If applicable:** Material incorporated by reference;
5. General and specific statutes authorizing the rules, including relevant statutory definitions; and
6. **If applicable:** If a term is defined in the rule by referring to another rule or a statute other than the general and specific statutes authorizing the rule, the statute or other rule referred to in the definition.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ty E. Gray".

Ty E. Gray, Director

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**azgfd.gov | 602.942.3000**

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JAMES E. GOUGHNOUR, PAYSON | TODD G. GEILER, PRESCOTT **DIRECTOR:** TY E. GRAY **DEPUTY DIRECTOR:** TOM P. FINLEY

**NOTICE OF FINAL RULEMAKING**  
**TITLE 12. NATURAL RESOURCES**  
**CHAPTER 4. GAME AND FISH COMMISSION**

**PREAMBLE**

<b><u>1. Article, Part, or Section Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
R12-4-101	Amend
R12-4-104	Amend
R12-4-105	Amend
R12-4-106	Amend
R12-4-107	Amend
R12-4-108	Amend
R12-4-110	Amend
R12-4-113	Amend
R12-4-114	Amend
R12-4-115	Amend
R12-4-116	Re-number
R12-4-116	New Section
R12-4-118	Amend
R12-4-120	Amend
R12-4-121	Amend
R12-4-122	Amend
R12-4-124	Amend
R12-4-125	Amend
R12-4-126	Re-number
R12-4-126	Amend
R12-4-127	New Section
R12-4-313	Amend
R12-4-318	Amend

**2. Citations to the agency’s statutory authority to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. § 17-231(A)(1)

Implementing statute: A.R.S. §§ 17-101, 17-102, 17-211, 17-214, 17-231, 17-234, 17-239, 17-240, 17-250, 17-304, 17-309, 17-315, 17-331, 17-332, 17-333, 17-333.02, 17-334, 17-335, 17-335.01, 17-337, 17-338, 17-339, 17-342, 17-345, 17-346, 17-371, 17-452, 17-453, 17-454, 17-455, 25-320, 25-502, 25-518, 41-1005, 41-1072, 41-1073, and 41-2752

**3. The effective date of the rules:**

**a. If the agency selected a date earlier than the 60 days effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**

Not applicable

**b. If the agency selected a date later than the 60 days effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(B):**

The Commission requests the rulemaking become effective on July 1, 2021. This delayed effective date will allow the Department the time needed to ensure necessary programmatic changes occur and all affected publications, licenses, applications, permits, tags, and Internet pages are revised before rulemaking becomes effective.

**4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**

Notice of Rulemaking Docket Opening: 26 A.A.R. 1765, August 28, 2020

Notice of Proposed Rulemaking: 26 A.A.R. 1729, August 28, 2020

**5. The agency's contact person who can answer questions about the rulemaking:**

Name: Celeste Cook, Rules and Policy Manager

Address: Arizona Game and Fish Department  
5000 W. Carefree Highway  
Phoenix, AZ 85086

Telephone: (623) 236-7390

E-mail: CCook@azgfd.gov

Please visit the AZGFD website to track the progress of this rule; view the regulatory agenda, five-year review reports, and learn about other agency rulemaking matters.

**6. An agency's justification and reason why the rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**

The Arizona Game and Fish Commission (Commission) proposes to amend its Article 1 rules, addressing definitions and general provisions to enact amendments developed during the preceding Five-year Review Report. The amendments proposed in the five-year review report are designed to clarify current rule language; protect public health and safety and private property rights; facilitate job growth and economic development; support the tenets of the North American Model of Wildlife Conservation; enable the Department to provide better customer service; and reduce regulatory and administrative burdens wherever possible. After evaluating the scope and effectiveness of the proposed amendments specified in the review, the Commission proposes additional amendments to further implement the original proposals.

Arizona's great abundance and diversity of native wildlife can be attributed to careful management and the important role of the conservation programs developed by the Arizona Game and Fish Department. The

Department's management of both game and nongame species as a public resource depends on sound science and active management. As trustee, the state has no power to delegate its trust duties and no freedom to transfer trust ownership or management of assets to private establishments. Without strict agency oversight and management, the fate of many of our native species would be in jeopardy. Wildlife can be owned by no person and is held by the state in trust for all the people.

An exemption from Executive Order 2019-01 was provided for this rulemaking by Hunter Moore, Natural Resource Policy Advisor, Governor's Office, in an email dated September 23, 2019.

In addition to making minor grammatical and nonsubstantive amendments intended to make rules clearer and more concise; and replacing references to the Department website url with "Department's website" and the terms "antelope" with "pronghorn," "buffalo" with "bison," and "animal" with "wildlife," where appropriate; the Commission proposes the following substantive amendments:

**R12-4-101. Definitions**, the rule establishes definitions that assist the persons regulated by the rule and members of the public in understanding the unique terms that are used throughout 12 A.A.C. Chapter 4.

The Commission proposes to amend the rule to define "Arizona Conservation Education," "Arizona Hunter Education," "limited-entry permit-tag," "pursue," "pursuit-only," and "pursuit-only permit" to further implement amendments made to R12-4-107, R12-4-102, R12-4-313, and R12-4-318.

The Commission proposed to amend the rule to define terms used in multiple Game and Fish Commission rules and Commission Orders: "bow," "cervid," "crossbow," "export," "handgun," "import," "nonprofit organization," and "person" to clarify the Commission's intent and foster consistent interpretation of Commission rules. These changes are proposed as a result of customer comments received by the Department.

**R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Computer Draw and Purchase of Bonus Points**, the rule prescribes application requirements for the purchase of a bonus point and the issuance of hunt permit-tags; meaning a permit-tag for which the Commission has assigned a hunt number.

The Commission proposes to amend the rule only to remove the Department website Uniform Resource Location (url) and simply reference "Department's website" to ensure the rule remains concise in the event the Department's url should change.

**R12-4-105. License Dealer's License**, the rule establishes definitions, eligibility criteria, application procedures, license holder requirements, authorized activities, and prohibited activities for a license dealer's license.

During the Second Regular Session of the 53rd Arizona State Legislature, the Legislature amended A.R.S. § 17-338 to remove the five % commission license dealers were authorized to retain as compensation for selling Game and Fish licenses to the public and to allow license dealers to collect and retain a reasonable fee as determined by the license dealer. The Commission proposes to amend the rule to align it with statute.

A person may purchase hunting and fishing licenses online, using the Department's online license sales system. This means any unauthorized person has the ability to sell Department's licenses, which is unlawful under A.R.S. § 17-334. The Commission proposes to amend the rule to establish a person who is not authorized to sell licenses on behalf of the Department is prohibited from selling Department-issued hunting and fishing licenses.

**R12-4-106. Special Licenses Licensing Time-frames**, the rule establishes the time-frames during which the agency will either grant or deny a special license.

In 2015, the Commission amended the Article 4 rules (live wildlife) to replace references to "permit" with "license." The Commission proposes to amend the rule to replace references to "aquatic wildlife stocking permit" with "aquatic wildlife stocking license" and "scientific collecting permit" with "scientific activity license" to increase consistency between Commission rules.

**R12-4-107. Bonus Point System**, the rule establishes requirements for applying for and maintaining bonus points, which may improve an applicant's draw odds for big game computer draws.

The Department recently programmed the computer draw to allow the issuance of Sandhill crane permit-tags; this was previously accomplished by a manual draw process. In addition, the number of applicants for Sandhill crane tags has increased, and there is some interest in establishing a bonus point for Sandhill crane. The Commission proposes to amend the rule to add Sandhill crane to the list of species for which bonus points may be purchased or accrued. This change is in response to customer comments received by the Department.

A youth under the age of 10 may take wildlife without a license when accompanied by a person 18 years of age or older holding a valid hunting license during an open season; however this exemption does not apply to big game species. Because a license and the appropriate hunt permit-tag are required to take big game, no person under age 10 may hunt big game in Arizona; this is consistent with other states practices (the average age is 14). An applicant who is under the age of 14 and applying for a big game hunt must complete an Arizona Hunter Education course before the beginning date of that hunt. The Department is aware that there is some confusion as to when a youth may take the hunter education course. The Commission proposes to amend the rule to clarify that a person who is 9 years of age or older may take the Arizona Hunter Education course and shall be awarded one permanent bonus point for each big game species upon the successful completion of the course. This change is in response to customer comments received by the Department.

The Commission proposes to amend the rule to establish an Arizona Conservation Education course. The Arizona Conservation Education course will satisfy the education requirement for obtaining a permanent education bonus point for persons age of 18 and older. The class will not qualify as a hunter education course reciprocal with other states. Persons between the ages of 10-14 who wish to hunt big game would still be required to attend the Arizona Hunter Education Course and be awarded a permanent education bonus point upon graduation of that course.

The primary reasoning behind the Department's Hunter Education Permanent Bonus Point is that incentivizing Arizona hunters to complete hunter education allows Arizona to reap the benefits of hunter education; creating safer hunters and reducing the potential for hunting incidents. Arizona Hunter Education Program analysis shows that the Department consistently has 13-19% of graduates attending hunter education courses for the sole purpose of acquiring the bonus point. In an effort to increase the percentage of seat availability in Arizona Hunter Education courses for those who are required to attend and have equal or greater participation by persons who are attending solely for the bonus point, the Commission proposes to amend the rule to establish an Arizona Conservation Education course. The Arizona Conservation Education course would become the

requirement for obtaining a permanent education bonus point and would not qualify as a hunter education course reciprocal with other states. Persons between the ages of 10-13 who wish to hunt big game would still be required to attend the Arizona Hunter Education Course and be awarded a permanent education bonus point upon graduation of that course. This change is in response to customer comments received by the Department.

A youth under the age of 10 may take wildlife without a license when accompanied by a person 18 years of age or older holding a valid hunting license during an open season; this exemption does not apply to big game species. Because a license and the appropriate hunt permit-tag are required to take big game, no person under age 10 may hunt big game in Arizona; this is consistent with other states practices (the average age is 14). An applicant who is under the age of 14 and applying for a big game hunt must complete a hunter education course before the beginning date of that hunt. The Department is aware that there is some confusion as to when a youth may take the hunter education course. The Commission proposes to amend the rule to clarify that a person who is 9 years of age or older may take the Arizona hunter education certification course and shall be awarded one permanent bonus point for each big game species upon the successful completion of the course. This change is in response to customer comments received by the Department.

The Commission proposes to establish an extended bonus point period to allow a person who was unable to apply for a hunt permit-tag before the computer draw deadline to apply for a bonus point only during a bonus-point only application timeline. This change is in response to customer comments received by the Department.

Under A.R.S. § 17-341, it is unlawful for a person to knowingly purchase, apply for, accept, obtain or use, by fraud or misrepresentation a license, permit, tag or stamp to take wildlife and that a license or permit so obtained is void and of no effect from the date of issuance. In 2013, the rule was amended to establish that it is unlawful for a person to purchase a bonus point by fraud or misrepresentation and any bonus point so obtained shall be removed from the person's Department record to increase consistency between statute and rule. This amendment did not address bonus points that were accrued as a result of fraud or misrepresentation. The Commission proposes to amend the rule to specify that any bonus point fraudulently obtained, whether purchased or *accrued*, shall be removed from the person's Department record.

**R12-4-108. Management Unit Boundaries**, the rule establishes Game Management Unit boundaries for the preservation and management of wildlife. These units define the areas where it is legal to hunt and are essential to the Department's licensing, hunt permit-tag and law enforcement operations.

Because landmarks change over time due to environmental factors, as local opinion changes regarding its destination, or the names of places and things change due to political or historical factors, the Commission proposes to amend the rule to address boundary description changes and update Management Unit boundaries to conform to the Arizona Department of Transportation's Highway System. These amendments will provide additional clarity and maintain recreational opportunities for both hunters and outdoor recreationists.

**R12-4-110. Posting and Access to State Land**, the rule prescribes the required conduct on State trust lands by licensed sportsmen and also ensures hunter access is not unlawfully blocked.

The Department is aware of ongoing issues with illegally locked gates in certain areas of the state and works with the State land Department to correct these situations on a case-by-case basis. The Commission proposes to

amend the rule to clarify that, although a person may close land to hunting, fishing, and trapping; a person may not deny lawful access to State land.

**R12-4-113. Small Game Depredation Permit**, the rule establishes authorized activities and application requirements for the no-fee small game depredation permit authorized under A.R.S. § 17-239(D).

The Commission proposes to amend the rule to require a person issued a small game depredation permit to report what species and how many individuals were removed from a location. This amendment would allow the Department to gather information about any significant numbers of individuals removed that might be used as a source for translocations, a place to direct hunters, or other management actions, when desired.

**R12-4-114. Issuance of Nonpermit-tags and Hunt Permit-tags**, the rule prescribes the hunt permit-tag structure, conditions under which the Commission may issue tags, application procedures, and distribution and use of hunt permit- and nonpermit-tags.

The Commission proposes to amend the rule to replace the term "antelope" with "pronghorn" as this is the current reference for the species.

The Department recently programmed the computer draw to allow the issuance of Sandhill crane permit-tags; this was previously accomplished by a manual draw process. The Commission also proposes to amend the rule to include Sandhill crane. This change is in response to customer comments received by the Department.

**R12-4-115. Restricted Nonpermit-tags; Supplemental Hunts and Hunter Pool**, the rule establishes the Commission's authority to implement a supplemental hunt when necessary to achieve management objectives and the requirements for the supplemental hunter pool, comprised of persons who may be called upon to receive restricted nonpermit-tags when a supplemental hunt is authorized by the Commission.

The Commission proposes to remove language referencing the Department contacting the applicant by telephone to allow the Department to utilize other methods, such as email, to contact a supplemental hunter pool applicant and to make the rule more concise. The Commission proposes to establish that a separate application and fee is required for each species the applicant submits an application for. This is similar to the process used by other western states.

The Commission proposes to require a hunter pool applicant to provide their Social Security Number to ensure compliance with A.R.S. §§ 25-320(P) and 25-502(K), which requires the Department to record the social security number of each applicant that applies for a hunt permit-tag issued through an automated drawing system. The Department intends to develop an automated system for notifying persons entered in the hunter pool that is similar to the draw. It will ensure the random selection of applicants is a transparent process and archive the information for future reference.

**R12-4-116. Reward Payments**, the Commission proposes to renumber the rule to R12-4-126 and amend the rule to establish the reward payments to be paid for information received regarding attendant acts of vandalism to increase consistency between statute and rule.

**R12-4-116. Issuance of Limited-entry Permit-tags**, the rule is adopted to prescribe the limited-entry permit-tag structure, conditions under which the Commission may issue tags, application procedures, distribution process, and use of limited-entry permit-tags.

The Commission proposes to establish limited-entry angling and hunting events. The Commission envisions these events occurring at either high demand locations, such as Becker Lake, or for high demand species, such as Mearns's quail.

**R12-4-118. Hunt Permit-tag Surrender**, the rule establishes the requirements necessary to implement a tag surrender program, to include the establishment of a membership program and the requirements and limitations for the surrender of an unused hunt permit-tag.

The Commission proposes to amend the rule to establish a process that allows a nonprofit organization to return a donated original, unused hunt permit-tag to the Department when the nonprofit organization is unable to find a recipient who can use the donated hunt permit-tag. This would provide the Department with the opportunity to reissue the tag. This change is in response to customer comment received by the Department.

The Commission proposes to amend the following rules to remove the Department website Uniform Resource Location (url) and simply reference "Department's website" to ensure the rule remains concise in the event the Department's url should change.

**For R12-4-120. Issuance, Sale, and Transfer of Special Big Game License-tags**, the rule prescribes procedures and requirements for the application and issuance of special big game license-tags, including the selection criteria for choosing applicants (incorporated nonprofit organizations) who are awarded such tags as authorized under A.R.S. § 17-346.

These tags are typically made available to the public through auctions or raffles. Every dollar raised from each species tag goes directly to the management of that species through wildlife and habitat management/projects. However, there are concerns over the length of time it takes for the auctioning organization to provide the winning bidders license information to the Department. This is problematic because the special big game license-tags are valid from August 15 of the year the special big game license-tags was won until August 14 the following year. When an organization delays providing the required information to the Department, the winning bidder loses hunting days. The Commission proposes to amend the rule to specify an organization shall submit the winning bidder's license information to the Department within 30 days of the close of the raffle or auction.

In addition, there are concerns over the winning bidder reselling the special big game license tag to another person. In an effort to maintain the integrity of the auction and raffle and make the auction and raffle process more transparent the Commission proposes to amend the rule to prohibit the winning bidder from reselling the special big game license tag to another person.

The Commission also proposes to require the person named on the special big game license tag to possess a valid hunting license to increase consistency between Commission rules.

**R12-4-121. Big Game Tag Transfer**, the rule prescribes the requirements necessary to process an unused big game tag transfer as authorized under A.R.S. § 17-332.

The Commission proposes to establish limited-entry angling and hunting events and the permits and tags associated with those events. The Commission believes a person issued one of these permits or tags should be able to donate or transfer the permit or tag as authorized under this rule. Because the Commission envisions

issuing limited entry permits for aquatic wildlife, big game, game birds, and small game, the Commission proposes to amend the rule to remove references to big game and incorporate the limited-entry permits and tags.

The Commission proposes to amend the rule to establish that once it is determined a nonprofit meets the statutory qualifications, the authorization to receive donated unused tags will remain in effect until revoked by the Department. This change is in response to customer comments received by the Department.

**R12-4-122. Handling, Transporting, Processing and Storing of Game Meat Given to Public Institutions and Charitable Organizations**, the rule establishes which species of wildlife may be donated and the necessary requirements for donating game meat to a public institution or charitable organization, to include who is authorized to determine when game meat is safe and appropriate for donation. Instead of discarding or wasting game meat harvested, the Department donation program was developed with the purpose of distributing surplus meat to put healthy meals onto the tables of those in need, which help to maintain the historical role of hunters as food providers and ensure game meat is not wasted.

The Commission proposes to amend the rule to allow the donation of bear and mountain lion meat in compliance with A.R.S. § 17-240 and to ensure edible game meat does not go to waste.

**R12-4-124. Proof of Domicile**, the rule establishes the documents a person may use to provide acceptable "proof of domicile."

In legal terms, "domicile" is considered the status or attribution of being a lawful permanent resident in a particular jurisdiction. A person may have several residences, but only one domicile. While there are persons who seek to take advantage of the system by claiming residency in Arizona in order to purchase a resident license instead of the nonresident license (offered at a higher cost), there are more persons who are simply confused as to what constitutes residency. There is also some confusion between a military service member's "home of record" and "state of legal residence." The military considers the military service member's home of residence to be the place from which they entered the military; it is not necessarily their domicile. For example, a person was born in Maryland and lived there until they went to college in Florida; then they entered the military while still living in Florida. Florida is listed as that person's home of record. In addition, military spouses do not have a home of record. The military considers the person's state of legal residence to be the place where the service member thinks of as home; the state where military service member's intends to make their permanent home after leaving the military. For these reasons, the Commission proposes to amend the rule to define "current address" and clarify rule language to make the rule more concise.

The Department is aware of instances where a person has attempted to use outdated documents as proof of residency. For example, an expired driver license with an old address may be used as proof of domicile. The Commission proposes to amend the rule to require a person to present a valid document that contains a current address.

In addition, there are times where more than one document is needed to fully establish a person's domicile. The Commission proposes to amend the rule to clarify that more than one document may be required to fully establish the persons domicile. In addition, when a person is cited by a member of law enforcement, the officer records the information given by the person. There is no follow-up action taken to ensure the information provided

is valid; as a result, this information may continue to be used throughout the court process and be included in court-issued documentation. For this reason, the Commission proposes to remove a certified copy of a court order from the list of acceptable proof of domicile.

**R12-4-126. Reward Payments**, the rule establishes the requirements necessary for reward payments to include the schedule of reward payments.

Through Operation Game Thief, a person can receive a reward when a tip they provide results in an arrest for a violation of a Game and Fish law or rule. Under A.R.S. § 17-315(B)(1), reward payments may also be to persons who report attendant acts of vandalism when they occurred in conjunction with a "take" violation.

**R12-4-127. Civil Liability for Loss of Wildlife**, the rule is adopted to prescribe the civil liability values for the loss of wildlife when a person convicted of unlawfully taking, wounding, or killing wildlife or unlawfully in possession of unlawfully taken wildlife.

Under A.R.S. 17-314, authorizes the Commission to bring a civil action against a person convicted of unlawfully taking, wounding, or killing wildlife or unlawfully in possession of unlawfully taken wildlife in an effort to recover damages suffered due to the loss of the illegally taken wildlife; and establishes the minimum sums for damages (loss of wildlife). In the event the wildlife taken was of exceptional value, the Commission has the authority to establish sums greater than the minimum sums prescribed under statute. Over the years, the Department employed a number of methods to determine damages, which included evaluating empirical data, obtaining estimates from taxidermists, benchmarking with other fish and wildlife agencies, etc. In 2018, the Commission directed the Department to establish an objective and consistent process for determining the dollar value of the loss of wildlife. The Commission believes the proposed rule creates a method using reasonable factors to ensure damages are determined fairly and consistently.

**R12-4-313. Lawful Methods of Take and Seasons for Aquatic Wildlife**, the objective of the rule is to establish lawful devices and methods a person may use to take aquatic wildlife and establish seasons to allow the Department to achieve management plans and goals for the preservation and harvest of fish.

The Commission proposes to amend the rule to establish a limited-entry season for fishing events. The Commission envisions these events occurring at high demand locations owned by the Department, such as Becker Lake or for high demand species. In another rulemaking, the Commission proposes to charge an application fee for entry into these types of events whenever they are offered. The application fee would be in addition to any other required license, permit, stamp, or tag fee.

**R12-4-318. Seasons for Lawfully Taking Wild Mammals, Birds, and Reptiles**, the objective of the rule is to establish special restrictions and requirements for various hunt structures in order to allow the Department to achieve management goals for the preservation and harvest of wildlife, while at the same time providing maximum wildlife-oriented recreational opportunities for the public.

Because the definition of take under A.R.S. § 17-101 includes the term "pursuing," the Commission proposes to clarify the pursuit-only season to address concerns regarding unlawful take of wildlife in excess of bag limit.

The Commission proposes to amend the rule to establish a limited-entry season for hunting events. The Commission envisions these events occurring at high demand locations or for high demand species. In another

rulemaking, the Commission proposes to charge an application fee for entry into these types of events whenever they are offered. The application fee would be in addition to any other required license, permit, stamp, or tag fee.

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

The agency did not rely on any study in its evaluation of or justification for the rule.

**8. A showing of good cause why the rulemaking 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

**9. A summary of the economic, small business, and consumer impact:**

The Commission anticipates the proposed rulemaking in general will benefit the regulated community by creating more opportunities for the use of wildlife resources, with few costs, and maintaining resident hunting opportunity. The Commission believes the regulated community and the Department benefit from the proposed rulemaking through clarification of rule language governing general provisions. The Commission anticipates the proposed rulemaking may impact businesses, both large and small; however, the Commission has determined that the impact will not be significant enough to impact business revenues or payroll expenditures. The Commission anticipates the proposed rulemaking will have a minimal impact on the regulated community.

The Commission anticipates the proposed rulemaking will not impact public or private employment. The Commission anticipates the proposed rulemaking will not have a significant impact on State revenues. In addition, the rulemaking will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this State, persons, or individuals so regulated. The Commission has determined that there are no alternative methods of achieving the objectives of the proposed rulemaking and that the benefits of the proposed rulemaking outweigh the costs.

**10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**

For R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Computer Draw and Purchase of Bonus Points, subsection (N) was changed to replace the term "mail" with "deliver" to make the rule more concise.

For R12-4-108. Management Unit Boundaries, references to US 89 and US 89A and AZ 89 and AZ89A were corrected in Units 7, 11M, 12B, 20A, 34A, 35B, and 36B.

For R12-4-116. Issuance of Limited-Entry Permit-tag, references to "authorized agent" were removed. In addition, subsection (I)(2) was amended to clarify the bag limit allowances are specific to big game.

For R12-4-120. Issuance, Sale, and Transfer of Special Big Game License-tags, the time in which an organization must submit the required information is changed from 30-days to 60-days in order to allow persons regulated by the rule adequate time to submit the required information.

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

The Department received the following public and stakeholder comments in response to the proposed rulemaking:

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

The Department received the following public and stakeholder comments in response to the proposed rulemaking:

**September 22, 2020:** The Arizona Wildlife Federation (AWF), a 501(c) 3 non-profit corporation, was founded in 1923 to promote the management of Arizona's wildlife and natural resources based on the principles of sound science and best governance. The AWF got its start as the Arizona Game Protection Association and celebrated 97 years of Arizona wildlife conservation activity in 2020. As a valued Arizona wildlife conservation organization, we are providing comments to the August 28, 2020 Notice of proposed rulemaking. In general, we are pleased to observe that the majority of the rule changes add clarity and update many of the various rules' language. In particular we are supportive of a bonus point credit for a newly proposed Conservation Education course and including an option to accrue Sandhill Crane hunt bonus points. We note the Conservation Education course does not seem to address hunters between ages 14 to 18 and would recommend addressing that age gap. We are also supportive of the revised language in R12-4-118(D) that allows an authorized nonprofit organization to turn tags back that have been donated to them and allowing the Department to reallocate those hunt opportunities. However, we have concerns with the entirely new revised language proposed in R12-4-116 for new concept of the issuance of Limited-Entry Permit-tags in high demand. We can support the Commission issuance of these new minimal in number additional tags as long as they will not diminish the current 3-tags per species that fund the very successful \$2.7M Habitat Partnership Program. We find subsection (J) requires additional clarification as to who and what constitutes an "authorized agent." In our review of the definitions provided in A.R.S. § 17-101 and R12-4-101 we were unable to find a definition for "authorized agent." We found a definition for "nonprofit" in R12-4-101 and a definition for "authorized nonprofit organization" in R-4-121; we also understand that nonprofits promoting special tags in R12-4-120 are not considered authorized agents. When a term is not defined by Title 17 or rule then the general definition used in the legal field applies and is: an agent who is legally authorized to perform transactions on behalf of the client or the power to act on behalf of another. This definition will not clearly eliminate either a nonprofit or authorized nonprofit organization from being considered an authorized agent. To ensure that the rule does not and will not allow an authorized agent to be considered a nonprofit organization or authorized nonprofit. AWF asks that it be defined in rule or statute and suggest the following definition, "Authorized Agent means a vendor or commercial business that has been awarded a contract congruent to Chapter 23 of the Arizona Procurement Code to provide services to the Arizona Game and Fish Department." Finally, we request clarifying language be included stating that an authorized agent is acting under contract and will return all funds derived by the sale of the limited entry permit-tags to the Department.

**Agency Response:** Thank you for taking the time to review the proposed rule changes and to submit your comment regarding the changes proposed to R12-4-107 and R12-4-116. The Department appreciates your support of the proposal to add Sandhill crane permits to the list of species for which bonus points may be accrued.

The proposed limited-entry event permit is established to provide the Commission greater flexibility in the hunting and angling opportunities offered to the public. Offering these opportunities will be based on the biological recommendations made for each species in a process similar to the hunt recommendation process. These opportunities will be offered in the same manner as the hunter pool, meaning a person need only submit an application in order to participate.

The intent behind including “authorized agent” in the proposed rule is to provide the Department with greater flexibility in offering these events by allowing contracted vendors to conduct the variety of draws that could occur under the new rule. However, due to concerns that wildlife organizations may play a role in this process, the term “authorized agent” is replaced by “the Department.”

**September 22, 2020:** As a valued Arizona wildlife conservation organization the Arizona Elk Society provides the following comments to the August 28, 2020 Notice of proposed rulemaking. In general, we are pleased to observe that the majority of the rule changes update language and add clarity. We are supportive of the addition of a bonus point credit for a newly proposed Conservation Education bonus point and including an option to accrue Sandhill Crane hunt bonus points. We note the Conservation Education course does not seem to address hunters between ages 14 to 18 and would recommend addressing that age gap. We also support the revised language in R12-4-118(D) that allows an authorized nonprofit organization to turn tags back that have been donated to them and allowing the Department to reallocate those hunt opportunities. We do not support changing the timeframe in which an organization is required to provide the winning bidders license information to 30 days in R12-4-120. From the time of sale it typically takes 30 to 45 days to gather all the information needed depending. This 30 day time-frame is not long enough to receive payment (usually a check), wait for the check to clear, send the paperwork to the winner to fill out, receive the winner's paperwork, and turn it into the Department. In some cases, a winning bidder uses stock transfers to pay for the tags and that also takes time to process. We suggest a minimum of 45 days, but feel 60 days is more reasonable. We do not support the change that requires the person named on the special big game license tag to purchase a valid hunting license. The "all in one package" has worked for many years and it seems petty to change it now. However, we have concerns with the entirely new revised language proposed in R12-4-116 for new concept of the issuance of Limited-Entry Permit-tags in high demand. We can support the Commission issuance of these new minimal in number additional tags as long as they will not diminish the current 3-tags per species that fund the very successful \$2.7M Habitat Partnership Program. We recommend adding definitions for "authorized agent" and "nonprofit organizations." The intent is to ensure that the rule does not and will not allow an authorized agent to be considered a nonprofit organization qualifying for the new limited entry permit-tags. We suggest the following definitions: "Authorized Agent" means

a vendor or commercial business that has been awarded a contract congruent to Chapter 23 of the Arizona Procurement Code to provide services to the Arizona Game and Fish Department. "Nonprofit" means not making or conducting activities primarily to make a profit." This would include all the various wildlife species groups, such as the Arizona Desert Bighorn Sheep Society, Arizona Deer Association, Arizona Antelope Foundation, Outdoor Experience for All, etc. We are aware adding these definitions to A.R.S. §17-101 will require minor statutory changes and we are pleased to offer our support in the upcoming 2021 Legislative Session. Finally, we request clarifying language be included stating that an authorized agent is acting under contract and will return all funds derived by the sale of the limited entry permit-tags to the Department.

**Agency Response:** Thank you for taking the time to review the proposed rule changes and to submit your comment regarding the changes proposed to R12-4-107, R12-4-116, and R12-4-120. The Department appreciates your support of the proposal to add Sandhill crane permits to the list of species for which bonus points may be accrued.

The proposed limited-entry event permit is established to provide the Commission greater flexibility in the hunting and angling opportunities offered to the public. Offering these opportunities will be based on the biological recommendations made for each species in a process similar to the hunt recommendation process. These opportunities will offered in the same manner as the hunter pool, meaning a person need only submit an application in order to participate.

The intent behind including "authorized agent" in the proposed rule is to provide the Department with greater flexibility in offering these events by allowing contracted vendors to conduct the variety of draws that could occur under the new rule. However, due to concerns that wildlife organizations may play a role in this process, the term "authorized agent" is replaced by "the Department."

After considering the comment regarding the proposed timeframe in which an organization is required to provide the winning bidders license information to the Department, the Commission proposes to extend the time-frame to 60-days. The intent of the proposed 30-day time-frame was to ensure the Department has sufficient time to deliver the special license tag to the recipient. After considering further the burden placed on the organization, the Commission believes 60-days is a fair compromise.

**September 22, 2020:** I am concerned about the term "authorized agent" pertaining to R12-4-116. Without a definition, it leaves the term too broad. I am adamantly opposed to landowner tags or anything related to that topic. I believe landowners can charge access fees to cross their private lands, but I also believe the opportunity to pursue our state's wildlife belongs with the hunter who competes with other hunters for the opportunity to take wildlife. The term "authorized agent" is just too ambiguous.

**Agency Response:** Thank you for taking the time to review the proposed rule changes and to submit your comment regarding the changes proposed to R12-4-116.

The proposed limited-entry event permit is established to provide the Commission greater flexibility in the hunting and angling opportunities offered to the public. Offering these opportunities will be based on the biological recommendations made for each species in a process similar to the hunt recommendation process. These opportunities will offered in the same manner as the hunter pool, meaning a person need only submit an application in order to participate.

The intent behind including “authorized agent” in the proposed rule is to provide the Department with greater flexibility in offering these events by allowing contracted vendors to conduct the variety of draws that could occur under the new rule. However, due to concerns that wildlife organizations may play a role in this process, the term “authorized agent” is replaced by “the Department.”

**September 27, 2020:** I do not represent any organization and the comments are solely mine. I strongly oppose the concept of limited-entry permits as defined in the proposed revision of R12-4-116. I cannot offer any constructive comments or revisions to the proposed rule change as I feel strongly that it is not within the tenets of the North American Model of Conservation. While it does not deny opportunity for all, it does allow some an extra opportunity at the expense of those not drawn. This also applies to angling and small game. I do not believe this is a proper method to generate revenue. Revenue deficiencies should be assigned as a liability to all who apply for hunts or seek angling opportunities. I am also concerned about the term "authorized agent" as noted in the rule amendment. It should be defined. I fear the intention is to allow nongovernmental organizations to be part of the tag issuing process. I am adamantly opposed to that.

**Agency Response:** Thank you for taking the time to review the proposed rule changes and to submit your comment regarding the changes proposed to R12-4-116.

The proposed limited-entry event permit is established to provide the Commission greater flexibility in the hunting and angling opportunities offered to the public. Offering these opportunities will be based on the biological recommendations made for each species in a process similar to the hunt recommendation process. These opportunities will offered in the same manner as the hunter pool, meaning a person need only submit an application in order to participate.

The intent behind including “authorized agent” in the proposed rule is to provide the Department with greater flexibility in offering these events by allowing contracted vendors to conduct the variety of draws that could occur under the new rule. However, due to concerns that wildlife organizations may play a role in this process, the term “authorized agent” is replaced by “the Department.”

For the reasons cited above, the Commission believes these limited entry events follow the tenets of the North American Model of Conservation.

**September 28, 2020:** Does the Department see any issue with R12-4-116 in regards to taking away tags (opportunity) from the average hunter in favor of a select few? It seems that if there is a budget shortfall, all hunters should share the pain equally while maintaining the application opportunities based on the population level and management of the species involved. If this is where the Department wants to go, why not charge more for hunt units where the management objective is higher quality animals and less competition from other hunters? It already is a form of limited entry is it not? I am not saying that I favor this approach either; I just do not like giving persons with more resources more or better hunting opportunities. We already do this with the auction hunts. The North American Model of Conservation is based on the wildlife belonging to all and that wildlife should be made available on a level playing field. Am I missing something here?

**Agency Response:** Thank you for taking the time to review the proposed rule changes and to submit your comment regarding the changes proposed to R12-4-116.

The proposed limited-entry event permit is established to provide the Commission greater flexibility in the hunting and angling opportunities offered to the public. Offering these opportunities will be based on the biological recommendations made for each species in a process similar to the hunt recommendation process. These opportunities will offered in the same manner as the hunter pool, meaning a person need only submit an application in order to participate.

**September 28, 2020:** Please accept these comments on behalf of the Sierra Club's Grand Canyon Chapter (SCGC). As you know, SCGC has a significant interest in Arizona's wildlife and ensuring that healthy populations of native wildlife thrive throughout our state. It is why we have spent decades working to protect habitat and promote more thoughtful management with the Arizona Game and Fish Commission. Considering how the Arizona Game and Fish Commission is selected, via the Arizona Game and Fish Commission Appointment Recommendation Board, we question the entire rule package. This change would give sport hunting groups, trophy hunting organizations, and livestock interests more control over wildlife via the limited-entry tags. This appears to take the Department in a direction that is opposite of why the Arizona Game and Fish Commission was established in the first place, to limit the political influence on decisions about wildlife and to limit special favors to political friends. If the Department does not scrap this rulemaking altogether, which we do recommend, it should at a minimum address a couple of serious flaws that could contribute to undue special interest influence on wildlife management decisions. Please delete R12-4-116(C)(1), which allows the Department to implement limited-entry permit-tags under the open season or seasons established if the Department determines, "A season for a specific terrestrial or aquatic wildlife species, or specific area of the state, is in high demand...." Demand for

limited-entry permit-tags in a specific area should not be a determinant. Again, it provides a broad opportunity for the special interests to exert excessive influence to increase these limited-entry tags. Why include a provision that wildlife taken under the authority of a limited-entry permit-tag will not count towards the established bag limit for that species? This provision makes bag limits less meaningful and will not allow the public to have an accurate picture of how many of each species are being taken. They must now both look at the number of limited-entry permit-tags and the bag limits to see if there is excessive impacts on a wildlife population when compared to survey data. The Preamble states, "Wildlife can be owned by no person and is held by the state in trust for all the people." SCGC agrees and would like this rule package amended to reflect that. Specifically, we ask the Department to remove "or its authorized agent" in R12-4-116(J). Including that provision allows the Department to further privatize wildlife by sanctioning the issuance of these tags to other entities. The Department should take its public trust responsibility for wildlife seriously and remove these provisions that allow it to delegate responsibilities to entities that are not held accountable to the public.

**September 28, 2020** (same letter submitted by two separate persons): We believe in the Department's mission "To conserve Arizona's diverse wildlife resources and manage for safe, compatible outdoor recreation opportunities for current and future generations." We wonder if this rule change is needed as it targets on such a small subset of current and future generations. In order for the Department to remain self-sustaining into the future, it is vital that the Department diversify and address the concerns of the broader constituency. Hunting activities may be declining but other outdoor recreation has increasing greatly; particularly in regards to bird watching and other wildlife watching opportunities as people are looking for safe family outdoor activities. Preservation of all native wildlife is critical to the continued health and wellbeing of this State. Outdoor recreation is a reason that many of us enjoy living and visiting here. We would like for this effort be abandoned; however, if the Commission must persist, then consider the following. Reconsider adding Sandhill Crane to the list of species for which bonus points may be purchased or accrued. Seventy-five years ago, Sandhill Cranes were declining across the country due to habitat loss and unregulated hunting. They have made a comeback, but expanding the program for a few vocal hunters without a more complete study of the impacts or a solid monitoring program would be a mistake. Sandhill Cranes attract thousands of bird watchers who contribute to the local economy. We support the clarification added to subsection (D). This will eliminate some confusion on the landowner's rights. Eliminate references to "authorize agents" in R12-4-116 and in other places in the document. The Department should take its public trust responsibility for wildlife seriously and remove these provisions that allow it to delegate responsibilities to entities that are not held accountable to the public. With the increased attention on hunting Sandhill Cranes, they should be added to R12-4-126(C) to discourage shooting Sandhill Cranes out of season and/or without a permit. Delete R12-4-116(C)(1), which allows the Department to implement limited-entry permit-tags under the open season or seasons established if the Department determines, "A season for a specific terrestrial or aquatic wildlife species, or specific area of the state, is in high demand..." Demand for special tags in a specific area should not be a determinant for these tags. Again, it provides a broad opportunity for the special interests to exert excessive influence to increase these limited-entry tags. Why are you

proposing this provision, “Wildlife taken under the authority of this limited-entry permit-tag shall not count towards the established bag limit for that species?” This provision makes bag limits much less meaningful and will not allow the public to have an accurate picture of how many of each species are being taken. They must now both look at the number of limited-entry tags and the bag limits to see if there is excessive impacts on a wildlife population when compared to survey data.

**Agency Response:** Thank you for taking the time to review the proposed rule changes and to submit your comment regarding the changes proposed to R12-4-107, R12-4-116, and R12-4-120. It is true, 75 years ago the greater Sandhill crane population was at an all-time low; in 1940 there were probably fewer than 1,000 birds remaining. However due to conservation efforts, populations have increased greatly and the Sandhill crane is the most plentiful crane alive today. The Sandhill crane is a migratory bird; migratory birds use four major migratory routes (Pacific, Central, Mississippi, and Atlantic flyways). Because of the unique biological characteristics and relative number of hunters in the flyways, the U.S. Fish and Wildlife Service (USFWS) adopted the flyway structure in 1947 for administering migratory bird resources within the U.S. In Arizona, the Pacific Flyway Council is the administrative body that forges cooperation among public wildlife agencies for the purpose of protecting and conserving migratory birds in western North America. In fact, the Pacific Flyway Council, in cooperation with the USFWS and Midcontinent Council, has one of the most robust Sandhill crane monitoring programs in place. Sandhill crane populations are counted four separate times each year and Arizona is the only state in the Pacific Flyway that is required to establish a check out station every three years; this is due to Arizona being the only state where the Rocky Mountain and Midcontinent Sandhill crane populations overlap (the Midcontinent crane population is estimated to be over 660,000 individuals). The count that takes place during the Sandhill crane breeding season is used to determine the total number of tags that may be allocated to each state for the purpose of hunting. In January 2019, 25,000 to 30,000 Sandhill cranes were found wintering at the Whitewater Draw State Wildlife Area near McNeal in southeast Arizona. It is important to note, adding a species to the list of species for which a bonus point may be accrued has no influence over the total number of tags allocated for that species. The bonus point system was established to reward loyal applicants while providing new applicants an opportunity to successfully participate in the computer draw; the intent has always been to allow every applicant a chance of drawing a tag, even when the odds are very low. The bonus point system has been successful in meeting its objective to improve odds for long-term participants. The number of applicants applying for Sandhill crane permits has increased so that the odds for drawing a permit have been significantly reduced. The addition of Sandhill crane to those species which accrue bonus points increases consistency in the manner in which other sought after permit-tags are issued. The bonus point system was established to reward loyal applicants while providing new applicants an opportunity to successfully participate in the computer draw; the intent has always been to allow every applicant a chance of drawing a tag, even when the odds are very low. The bonus point system has been successful in meeting its objective to improve odds for long-term participants. The number of applicants applying for Sandhill crane permits has increased so that the odds for drawing a permit have been

significantly reduced. The addition of Sandhill crane to those species which accrue bonus points increases consistency in the manner in which other sought after permit-tags are issued.

The proposed limited-entry event permit is established to provide the Commission greater flexibility in the hunting and angling opportunities offered to the public. Offering these opportunities will be based on the biological recommendations made for each species in a process similar to the hunt recommendation process. These opportunities will offered in the same manner as the hunter pool, meaning a person need only submit an application in order to participate.

The intent behind including “authorized agent” in the proposed rule is to provide the Department with greater flexibility in offering these events by allowing contracted vendors to conduct the variety of draws that could occur under the new rule. However, due to concerns that wildlife organizations may play a role in this process, the term “authorized agent” is replaced by “the Department.”

For the reasons cited above, the Commission believes these limited entry events follow the tenets of the North American Model of Conservation.

**September 27, 2020:** As a lifelong hunter, I oppose the proposed changes to include mountain lion and bear in R12-4-122. If a hunter is not willing and able to consume the meat of these predators, I do not believe it is ethical for s hunter to kill wildlife and absolve themselves by donating the resulting meat.

**Agency Response:** Thank you for taking the time to review the proposed rule changes and to submit your comment regarding the changes proposed to R12-4-122. Under A.R.S. § 17-240, the Department may donate wildlife that was seized by the Department, as a result of an investigation for illegal take, to public institutions and charitable organizations that will accept the game meat. The rule establishes requirements for game meat that can or cannot be donated to a public institution or charitable organization, to include who is authorized to determine when game meat is safe and appropriate for donation. The rule was adopted to provide a mechanism to prevent game meat from going to waste. Instead of discarding or wasting the seized game meat, the Department's donation program was developed with the purpose of distributing surplus meat to put healthy meals onto the tables of those in need, which helps to maintain the historical role of hunters as food providers and ensure game meat is not wasted.

**12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

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

For R12-4-105. License Dealer’s License, the rule complies with A.R.S. § 41-1037. The License Dealer’s

License described in the rule falls within the definition of “general permit” as defined under A.R.S. § 41-1001(11).

For R12-4-113. Small Game Depredation Permit, the rule complies with A.R.S. § 41-1037. The small game depredation permit described in the rule falls within the definition of “general permit” as defined under A.R.S. § 41-1001(11).

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

Federal law is not directly applicable to the subject of the rules. The rules are based on state law.

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

The Department did not receive any analyses.

**13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

Under R12-4-113, 50 C.F.R. 21.41, revised October 1, 2014.

Under R12-4-113, 50 C.F.R. 21.43, revised October 1, 2014.

**14. Whether the rule previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-4-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

The rule was not previously made, amended, or repealed as an emergency rule.

**15. The full text of the rules follows:**

**TITLE 12. NATURAL RESOURCES**  
**CHAPTER 4. GAME AND FISH COMMISSION**  
**ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS**

Section

R12-4-101. Definitions

R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Computer Draw and Purchase of Bonus Points

R12-4-105. License Dealer's License

R12-4-106. Special Licenses Licensing Time-frames

R12-4-107. Bonus Point System

R12-4-108. Management Unit Boundaries

R12-4-110. Posting and Access to State Land

R12-4-113. Small Game Depredation Permit

R12-4-114. Issuance of Nonpermit-tags and Hunt Permit-tags

R12-4-115. Restricted Nonpermit-Tags; Supplemental Hunts and Hunter Pool

R12-4-116. ~~Reward Payments~~ Renumber

R12-4-116. Issuance of Limited-Entry Permit-tag

R12-4-118. Hunt Permit-tag Surrender

R12-4-120. Issuance, Sale, and Transfer of Special Big Game License-tags

R12-4-121. ~~Big Game~~ Tag Transfer

R12-4-122. Handling, Transporting, Processing, and Storing of Game Meat Given to Public Institutions and Charitable Organizations

R12-4-124. Proof of Domicile

R12-4-125. Public Solicitation or Event on Department Property

R12-4-126. Reward Payments

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**ARTICLE 3. TAKING AND HANDLING OF WILDLIFE**

Section

R12-4-313. Lawful Methods of Take and Seasons for Aquatic Wildlife

R12-4-318. Seasons for Lawfully Taking Wild Mammals, Birds, and Reptiles

## ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

### R12-4-101. Definitions

A. In addition to the definitions provided under A.R.S. § 17-101, R12-4-301, R12-4-401, and R12-4-501, the following definitions apply to this Chapter, unless otherwise specified:

"Arizona Conservation Education" means the conservation education course provided by Arizona Game and Fish Department in hunting safety, responsibility, and conservation.

"Arizona Hunter Education" means the hunter education course provided by Arizona Game and Fish Department in hunting safety, responsibility, and conservation meeting Association of Fish and Wildlife agreed upon reciprocity standards along with Arizona-specific requirements.

"Bobcat seal" means the tag a person is required to attach to the raw pelt or unskinned carcass of any bobcat taken by trapping in Arizona or exported out of Arizona regardless of the method of take.

"Bonus point" means a credit that authorizes the Department to issue an applicant an additional computer-generated random number.

"Bow" means a long bow, flat bow, recurve bow, or compound bow of which the bowstring is drawn and held under tension entirely by the physical power of the shooter through all points of the draw cycle until the shooter purposely acts to release the bowstring either by relaxing the tension of the toes, fingers, or mouth or by triggering the release of a hand-held release aid.

"Certificate of insurance" means an official document, issued by the sponsor's and sponsor's vendors, or subcontractors insurance carrier, providing insurance against claims for injury to persons or damage to property which may arise from, or in connection with, the solicitation or event as determined by the Department.

"Cervid" means a mammal classified as a Cervidae, which includes but is not limited to caribou, elk, moose, mule deer, reindeer, wapiti, and whitetail deer; as defined in the taxonomic classification from the Integrated Taxonomic Information System, available online at [www.itis.gov](http://www.itis.gov).

"Commission Order" means a document adopted by the Commission that does one or more of the following:

- Open, close, or alter seasons,
- Open areas for taking wildlife,
- Set bag or possession limits for wildlife,
- Set the number of permits available for limited hunts, or
- Specify wildlife that may or may not be taken.

"Crossbow" means a device consisting of a bow affixed on a stock having a trigger mechanism to release the bowstring.

"Day-long" means the 24-hour period from one midnight to the following midnight.

"Department property" means those buildings or real property and wildlife areas under the jurisdiction of the Arizona Game and Fish Commission.

"Export" means to carry, send, or transport wildlife or wildlife parts out of Arizona to another state or country.

"Firearm" means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun, or other weapon that will

discharge, is designed to discharge, or may readily be converted to discharge a projectile by the action of an explosion caused by the burning of smokeless powder, black powder, or black powder substitute.

“Handgun” means a firearm designed and intended to be held, gripped, and fired by one or more hands, not intended to be fired from the shoulder, and that uses the energy from an explosive in a fixed cartridge to fire a single projectile through a barrel for each single pull of the trigger.

“Hunt area” means a management unit, portion of a management unit, or group of management units, or any portion of Arizona described in a Commission Order and not included in a management unit, opened to hunting.

“Hunt number” means the number assigned by Commission Order to any hunt area where a limited number of hunt permits are available.

“Hunt permits” means the number of hunt permit-tags made available to the public as a result of a Commission Order.

“Hunt permit-tag” means a tag for a hunt for which a Commission Order has assigned a hunt number.

“Identification number” means the number assigned to each applicant or license holder by the Department as established under R12-4-111.

“Import” means to bring, send, receive, or transport wildlife or wildlife parts into Arizona from another state or country.

“License dealer” means a business authorized to sell hunting, fishing, and other licenses as established under ~~to~~ R12-4-105.

“Limited-entry permit-tag” means a permit made available for a limited-entry fishing or hunting season.

“Live baitfish” means any species of live freshwater fish designated by Commission Order as lawful for use in taking aquatic wildlife under R12-4-317.

“Management unit” means an area established by the Commission for management purposes.

“Nonpermit-tag” means a tag for a hunt for which a Commission Order does not assign a hunt number and the number of tags is not limited.

“Nonprofit organization” means an organization that is recognized under Section 501© of the U.S. Internal Revenue Code.

“Person” has the meaning as provided under A.R.S. § 1-215.

“Proof of purchase,” for the purposes of A.R.S. § 17-331, means an original, or any authentic and verifiable form of the original, of any Department-issued license, permit, or stamp that establishes proof of actual purchase.

“Pursue” means to chase, tree, corner or hold wildlife at bay.

“Pursuit-only” means a person may pursue, but not kill, a bear, mountain lion, or raccoon on any management unit that is open to pursuit-only season, as defined under R12-4-318, by Commission Order.

“Pursuit-only permit” means a permit for a pursuit-only hunt for which a Commission Order does not assign a hunt number and the number of permits are not limited.

“Restricted nonpermit-tag” means a tag issued for a supplemental hunt as established under R12-4-115.

“Solicitation” means any activity that may be considered or interpreted as promoting, selling, or transferring products, services, memberships, or causes, or participation in an event or activity of any kind, including

organizational, educational, public affairs, or protest activities, including the distribution or posting of advertising, handbills, leaflets, circulars, posters, or other printed materials for these purposes.

"Solicitation material" means advertising, circulars, flyers, handbills, leaflets, posters, or other printed information.

"Sponsor" means the person or persons conducting a solicitation or event.

"Stamp" means a form of authorization in addition to a license that authorizes the license holder to take wildlife specified by the stamp.

"Tag" means the Department authorization a person is required to obtain before taking certain wildlife as established under A.R.S. Title 17 and 12 A.A.C. 4.

"Waterdog" means the larval or metamorphosing stage of a salamander.

"Wildlife area" means an area established under 12 A.A.C. 4, Article 8.

**B.** If the following terms are used in a Commission Order, the following definitions apply:

"Antlered" means having an antler fully erupted through the skin and capable of being shed.

"Antlerless" means not having an antler, antlers, or any part of an antler erupted through the skin.

"Bearded turkey" means a turkey with a beard that extends beyond the contour feathers of the breast.

"Buck ~~antelope~~ pronghorn" means a male pronghorn ~~antelope~~.

"Adult bull ~~buffalo~~ bison" means a male ~~buffalo~~ bison of any age or any ~~buffalo~~ bison designated by a Department employee during an adult bull ~~buffalo~~ bison hunt.

"Adult cow ~~buffalo~~ bison" means a female ~~buffalo~~ bison of any age or any ~~buffalo~~ bison designated by a Department employee during an adult cow ~~buffalo~~ bison hunt.

"Bull elk" means an antlered elk.

"Designated" means the gender, age, or species of ~~an animal~~ wildlife or the specifically identified ~~animal~~ wildlife the Department authorizes to be taken and possessed with a valid tag.

"Ram" means any male bighorn sheep.

"Rooster" means a male pheasant.

"Yearling ~~buffalo~~ bison" means any ~~buffalo~~ bison less than three years of age or any ~~buffalo~~ bison designated by a Department employee during a yearling ~~buffalo~~ bison hunt.

**R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Computer Draw and Purchase of Bonus Points**

**A.** For the purposes of this Section, "group" means all applicants who placed their names on a single application as part of the same application.

**B.** A person is eligible to apply:

1. For a hunt permit-tag if the person:

a. Is at least 10 years of age at the start of the hunt for which the person is applying;

- b. Has successfully completed a Department-sanctioned hunter education course by the start date of the hunt for which the person is applying, when the person is ~~under the age of~~ between 9 and 14 years of age;
    - c. Has not reached the bag limit established under subsection (J) for that genus; and
    - d. Is not suspended or revoked in this state as a result of an action under A.R.S. §§ 17-340 or 17-502 at the time the person submits an application.
  - 2. For a bonus point if the person:
    - a. Is at least 10 years of age by the application deadline date; and
    - b. Is not suspended or revoked in this state as a result of an action under A.R.S. §§ 17-340 or 17-502 at the time the person submits an application.
- C. An applicant shall apply at the times, locations, and in the manner and method established by the hunt permit-tag application schedule published by the Department and available at any Department office, ~~online at~~ www.azgfd.gov on the Department's website, or a license dealer.
  - 1. The Commission shall set application deadline dates for hunt permit-tag computer draw applications through the hunt permit-tag application schedule.
  - 2. The Director has the authority to extend any application deadline date if a problem occurs that prevents the public from submitting a hunt permit-tag application within the deadlines set by the Commission.
  - 3. The Commission, through the hunt permit-tag application schedule, shall designate the manner and method of submitting an application, which may require an applicant to apply online only. If the Commission requires ~~applicant's~~ applicants to use the online method, the Department shall accept paper applications only in the event of a Department systems failure.
- D. An applicant for a hunt permit-tag or a bonus point shall complete and submit a Hunt Permit-tag Application. The application form is available from any Department office, a license dealer, or ~~online at~~ www.azgfd.gov on the Department's website.
- E. An applicant shall provide the following information on the Hunt Permit-tag Application:
  - 1. The applicant's personal information:
    - a. Name;
    - b. Date of birth,
    - c. Social security number, as required under A.R.S. §§ 25-320(P) and 25-502(K);
    - d. Department identification number, when applicable;
    - e. Residency status and number of years of residency immediately preceding application, when applicable;
    - f. Mailing address, when applicable;
    - g. Physical address;
    - h. Telephone number, when available; and
    - i. E-mail address, when available;
  - 2. If the applicant possesses a valid license authorizing the take of wildlife in this state, the number of the applicant's license;

3. If the applicant does not possess a valid license at the time of the application, the applicant shall purchase a license as established under subsection (L). The applicant shall provide all of the following information on the license application portion of the Hunt Permit-tag Application:
    - a. Physical description, to include the applicant's eye color, hair color, height, and weight;
    - b. Residency status and number of years of residency immediately preceding application, when applicable;
    - c. Type of license for which the person is applying; and
  4. Certify the information provided on the application is true and accurate;
  5. An applicant who is:
    - a. Under the age of 10 and is submitting an application for a hunt other than big game is not required to have a license under this Chapter. The applicant shall indicate "youth" in the space provided for the license number on the Hunt Permit-tag Application.
    - b. Age nine or older and is submitting an application for a big game hunt is required to purchase an appropriate license as required under this Section. The applicant shall either enter the appropriate license number in the space provided for the license number on the Hunt Permit-tag Application Form or purchase a license at the time of application, as applicable.
- F.** In addition to the information required under subsection (E), an applicant shall also submit all applicable fees established under R12-4-102, as follows:
1. When applying electronically:
    - a. The permit application fee; and
    - b. The license fee, when the applicant does not possess a valid license at the time of application. The applicant shall submit payment in U.S. currency using valid credit or debit card.
    - c. If an applicant is successful in the computer draw, the Department shall charge the hunt permit-tag fee using the credit or debit card furnished by the applicant.
  2. When applying manually:
    - a. The fee for the applicable hunt permit-tag;
    - b. The permit application fee; and
    - c. The license fee if the applicant does not possess a valid license at the time of application. The applicant shall submit payment by certified check, cashier's check, or money order made payable in U.S. currency to the Arizona Game and Fish Department.
- G.** An applicant shall apply for a specific hunt or a bonus point by the current hunt number. If all hunts selected by the applicant are filled at the time the application is processed in the computer draw, the Department shall deem the application unsuccessful, unless the application is for a bonus point.
1. An applicant shall make all hunt choices for the same genus within one application.
  2. An applicant shall not include applications for different genera of wildlife in the same envelope.
- H.** An applicant shall submit only one valid application per genus of wildlife for any calendar year, except:
1. If the bag limit is one per calendar year, an unsuccessful applicant may re-apply for remaining hunt permit-tags in unfilled hunt areas, as specified in the hunt permit-tag application schedule.

2. For genera that have multiple draws within a single calendar year, a person who successfully draws a hunt permit-tag during an earlier season may apply for a later season for the same genus if the person has not taken the bag limit for that genus during a preceding hunt in the same calendar year.
  3. If the bag limit is more than one per calendar year, a person may apply for remaining hunt permit-tags in unfilled hunt areas as specified in the hunt permit-tag application schedule.
- I.** All members of a group shall apply for the same hunt numbers and in the same order of preference.
1. No more than four persons may apply as a group.
  2. The Department shall not issue a hunt permit-tag to any group member unless sufficient hunt permit-tags are available for all group members.
- J.** A person shall not apply for a hunt permit-tag for:
1. Rocky Mountain or desert bighorn sheep if the person has met the lifetime bag limit for that sub-species.
  2. ~~Buffalo~~ Bison if the person has met the lifetime bag limit for that species.
  3. Any species when the person has reached the bag limit for that species during the same calendar year for which the hunt permit-tag applies.
- K.** To participate in:
1. The computer draw system, an applicant shall possess an appropriate hunting license that shall be valid, either:
    - ~~i.~~a. On the last day of the application deadline for that computer draw, as established by the hunt permit-tag application schedule published by the Department, or
    - ~~ii.~~b. On the last day of an extended deadline date, as authorized under subsection (C)(2).
    - ~~iii.~~c. If an applicant does not possess an appropriate hunting license that meets the requirements of this subsection, the applicant shall purchase the license at the time of application.
  2. The bonus point system, an applicant shall comply with the requirements established under R12-4-107.
- L.** The Department shall reject as invalid a Hunt Permit-Tag Application not prepared or submitted in accordance with this Section or not prepared in a legible manner.
- M.** Any hunt permit-tag issued for an application that is subsequently found not to be in accordance with this Section is invalid.
- N.** The Department or its authorized agent shall ~~mail~~ deliver hunt permit-tags to successful applicants. The Department shall return application overpayments to the applicant designated "A" on the Hunt Permit-tag Application. The Department shall not refund:
1. A permit application fee.
  2. A license fee submitted with a valid application for a hunt permit-tag or bonus point.
  3. An overpayment of five dollars or less. The Department shall consider the overpayment to be a donation to the Arizona Game and Fish Fund.
- O.** The Department shall award a bonus point for the appropriate species to an applicant when the payment submitted is less than the required fees, but is sufficient to cover the application fee and, when applicable, license fee.
- P.** When the Department determines a Department error, as defined under subsection (3), caused the rejection or

denial of a valid application:

1. The Director may authorize either:
  - a. The issuance of an additional hunt permit-tag, provided the issuance of an additional hunt permit-tag will have no significant impact on the wildlife population to be hunted and the application for the hunt permit-tag would have otherwise been successful based on its random number, or
  - b. The awarding of a bonus point when a hunt permit-tag is not issued.
2. A person who is denied a hunt permit-tag or a bonus point under this subsection may appeal to the Commission as provided under A.R.S. Title 41, Chapter 6, Article 10.
3. For the purposes of this subsection, "Department error" means an internal processing error that:
  - a. Prevented a person from lawfully submitting an application for a hunt permit-tag,
  - b. Caused a person to submit an invalid application for a hunt permit-tag,
  - c. Caused the rejection of an application for a hunt permit-tag,
  - d. Failed to apply an applicant's bonus points to a valid application for a hunt permit-tag, or
  - e. Caused the denial of a hunt permit-tag.

**R12-4-105. License Dealer's License**

- A.** For the purposes of this Section, unless the context otherwise requires:

"Dealer number" means the unique number assigned by the Department to a dealer outlet.

"Dealer outlet" means a specified location authorized to sell licenses under a license dealer's license.

"License" means any hunting or fishing license, permit, stamp, or tag that may be sold by a dealer or dealer outlet under this Section.

"License dealer" means a business licensed by the Department to sell licenses from one or more dealer outlets.

"License Dealer Portal" means the secure website provided by the Department for issuing licenses and permits and accessing a license dealer's account.

- B.** A person shall not sell or issue licenses without authorization from the Department. A license dealer's license authorizes a person to issue licenses on behalf of the Department. A person is eligible to apply for a license dealer's license, provided all of the following criteria are met:

1. The person's privilege to sell licenses for the Department has not been revoked or canceled under A.R.S. §§ 17-334, 17-338, or 17-339 within the two calendar years immediately preceding the date of application;
2. The person's credit record or assets assure the Department that the value of the licenses shall be adequately protected;
3. The person agrees to assume financial responsibility for licenses provided by the Department at the maximum value established under R12-4-102, ~~less the dealer commission prescribed under A.R.S. § 17-338(B).~~

- C.** A person shall apply for a license dealer's license by submitting an application to any Department office. The application is furnished by the Department and is available at any Department office. A license dealer license applicant shall provide all of the following information on the application:

1. The principal business or corporation information:

- a. Name,
  - b. Physical address, and
  - c. Telephone number;
  - d. If not a corporation, the applicant shall provide the information required under subsections (a), (b), and (c) for each owner;
2. The contact information for the person responsible for ensuring compliance with this Section:
    - a. Name,
    - b. Business address, and
    - c. Business telephone number;
  3. Whether the applicant has previously sold licenses under A.R.S. § 17-334;
  4. Whether the applicant is seeking renewal of an existing license dealer's license;
  5. Credit references and a statement of assets and liabilities; and
  6. Dealer outlet information:
    - a. Name,
    - b. Physical address,
    - c. Telephone number, and
    - d. Name of the person responsible for ensuring compliance with this Section at each dealer outlet.
- D.** A license dealer may request to add dealer outlets to the license dealer's license, at any time during the license year, by submitting the application form containing the information required under subsection (C) to the Department and paying the fee established under R12-4-102.
- E.** An applicant who is denied a license dealer's license under this Section may appeal to the Commission as provided under A.R.S. Title 41, Chapter 6, Article 10.
- F.** The Department shall:
1. Provide to the license dealer all licenses that the license dealer will make available to the public for sale,
  2. Authorize the license dealer to use the dealer's own license stock, or
  3. Authorize the license dealer to issue licenses and permits online via the Department's License Dealer Portal.
- G.** Upon receipt of licenses provided by the Department, the license dealer shall verify the licenses received are the licenses identified on the shipment inventory provided by the Department with the shipment.
1. Within five working days from receipt of shipment, the person performing the verification shall:
    - a. Clearly designate any discrepancies on the shipment inventory,
    - b. Sign and date the shipping inventory, and
    - c. Return the signed shipping inventory to the Department.
  2. The Department shall verify any discrepancies identified by the license dealer and credit or debit the license dealer's inventory accordingly.
- H.** A license dealer shall maintain an inventory of licenses for sale to the public at each outlet.
- I.** A license dealer's license holder shall transmit to the Department all collected license or permit fees established under R12-4-102.

1. A license dealer's license holder may collect and retain a reasonable and commensurate fee for its services.
2. Each license dealer's license holder shall identify to the public the Department's license fees separately from any other costs.

~~I.~~J. A license dealer may request additional licenses in writing or verbally.

1. The request shall include:
  - a. The name of the license dealer,
  - b. The assigned dealer number,
  - c. A list of the licenses needed, and
  - d. The name of the person making the request.
2. Within 10 calendar days from receipt of a request, the Department shall provide the licenses requested, unless:
  - a. The license dealer failed to acknowledge licenses previously provided to the license dealer, as required under subsection (G);
  - b. The license dealer failed to transmit license fees, as required under subsection (J); or
  - c. The license dealer is not in compliance with this Section and all applicable statutes and rules.

~~J.~~K. A license dealer shall transmit to the Department all license fees collected by the tenth day of each month, ~~less the dealer commission~~ prescribed under A.R.S. § 17-338(B)(A). Failure to comply with the requirements of this subsection shall result in the cancelation of the license dealer's license, as authorized under A.R.S. § 17-338(A).

~~K.~~L. A license dealer shall submit a monthly report to the Department by the tenth day of each month, as prescribed under A.R.S. § 17-339.

1. The monthly report form is furnished by the Department.
2. A monthly report is required regardless of whether or not activities were performed.
3. Failure to submit the monthly report in compliance with this subsection shall be cause to cancel the license dealer's license.
4. The license dealer shall include in the monthly report all of the following information for each outlet:
  - a. Name of the dealer;
  - b. The assigned dealer number;
  - c. Reporting period;
  - d. Number of sales and dollar amount of sales for reporting period, by type of license sold;
  - ~~e. Dollar amount of commission authorized under A.R.S. § 17-338(B);~~
  - ~~f.~~e. Debit and credit adjustments for previous reporting periods, if any;
  - ~~g.~~f. Number of affidavits received for which a duplicate license was issued under R12-4-103;
  - ~~h.~~g. List of lost or missing licenses; and
  - ~~i.~~h. Printed name and signature of the preparer.
5. In addition to the information required under subsection ~~(K)~~(L), the license dealer shall also provide the affidavit for each duplicate license issued by the dealer during the reporting period.
  - a. The affidavit is furnished by the Department and is included in the license book.

- b. A license dealer who fails to submit the affidavit for a duplicate license issued by the license dealer shall remit to the Department the actual cash value of the original license replaced.
- L. The Department shall provide written notice of suspension and demand the return of all inventory within five calendar days from any license dealer who:
  - 1. Fails to transmit monies due the Department under A.R.S. § 17-338 by the deadline established under subsection (J);
  - 2. Issues to the Department more than one check with insufficient funds during a calendar year; or
  - 3. Otherwise fails to comply with this Section and all applicable statutes and rules.
- M. As prescribed under A.R.S. § 17-338, the actual cash value of licenses not returned to the Department is due and payable to the Department within 15 working days from the date the Department provides written notice to the license dealer. This includes, but is not limited to:
  - 1. Licenses not returned upon termination of business by a license dealer; or
  - 2. Licenses reported by a dealer outlet or discovered by the Department to be lost, missing, stolen, or destroyed for any reason.
- N. In addition to those violations that may result in revocation, suspension, or cancelation of a license dealer's license as prescribed under A.R.S. §§ 17-334, 17-338, and 17-339, the Commission may revoke a license dealer's license if the license dealer or an employee of the license dealer is convicted of counseling, aiding, or attempting to aid any person in obtaining a fraudulent license.

**R12-4-106. Special Licenses Licensing Time-frames**

- A. For the purposes of this Section, the following definitions apply:
  - “Administrative review time-frame” has the same meaning as prescribed under A.R.S. § 41-1072(1).
  - “License” means any permit or authorization issued by the Department and listed under subsection (H).
  - “Overall time-frame” has the same meaning as prescribed under A.R.S. § 41-1072(2).
  - “Substantive review time-frame” has the same meaning as prescribed under A.R.S. § 41-1072(3).
- B. As required under A.R.S. § 41-1072 et seq., within the overall time-frames listed in the table below, the Department shall either:
  - 1. Grant a license to an applicant after determining the applicant meets all of the criteria required by statute and the governing rule; or
  - 2. Deny a license to an applicant when the Department determines the applicant does not meet all of the criteria required by statute and the governing rule.
    - a. The Department may deny a license at any point during the review process if the information provided by the applicant demonstrates the applicant is not eligible for the license as prescribed under statute or the governing rule.
    - b. The Department shall issue a written denial notice when it is determined that an applicant does not meet all of the criteria for the license.
    - c. The written denial notice shall provide:

- i. The Department's justification for the denial, and
  - ii. When a hearing or appeal is authorized, an explanation of the applicant's right to a hearing or appeal.
- C. During the overall time-frame:
  - 1. The applicant and the Department may agree in writing to extend the overall time-frame.
  - 2. The substantive review time-frame shall not be extended by more than 25% of the overall time-frame.
- D. An applicant may withdraw an application at any time.
- E. The administrative review time-frame shall begin upon the Department's receipt of an application.
  - 1. During the administrative review time-frame, the Department may return to the applicant, without denial, an application that is missing any of the information required under R12-4-409 and the rule governing the specific license. The Department shall issue to the applicant a written notice that identifies all missing information and indicates the applicant has 30 days in which to ~~return~~ provide the missing information.
  - 2. The administrative review time-frame and the overall time-frame listed for the applicable license under this Section are suspended from the date on the notice until the date the Department receives the missing information.
  - 3. If an applicant fails to respond to a request for missing information within 30 days, the Department shall consider the application withdrawn.
- F. The substantive review time-frame shall begin when the Department determines an application is complete.
  - 1. During the substantive review time-frame, the Department may make one comprehensive written request for additional information. The written notice shall:
    - a. Identify the additional information, and
    - b. Indicate the applicant has 30 days in which to submit the additional information.
    - c. The Department and the applicant may mutually agree in writing to allow the agency to submit supplemental requests for additional information.
    - d. If an applicant fails to respond to a request for additional information within 30 days, the Department shall consider the application withdrawn.
  - 2. The substantive review time-frame and the overall time-frame listed for the applicable license under this Section are suspended from the date on the request until the date the Department receives the additional information.
- G. If the last day of the time-frame period falls on a Saturday, Sunday, or an official State holiday, the Department shall consider the next business day the time-frame period's last day. All periods listed are:
  - 1. Calendar days, and
  - 2. Maximum time periods.
- H. The Department may grant or deny a license in less time than specified below.

Name of Special License	Governing Rule	Administrative Review Time-frame	Substantive Review Time-frame	Overall Time-frame

Aquatic Wildlife Stocking <u>Permit License</u>	R12-4-410	10 days	170 days	180 days
Authorization for Use of Drugs on Wildlife	R12-4-309	20 days	70 days	90 days
Challenged Hunter Access/Mobility Permit	R12-4-217	1 day	29 days	30 days
Crossbow Permit	R12-4-216	1 day	29 days	30 days
Disabled Veteran's License	R12-4-202	1 day	29 days	30 days
Fishing Permits	R12-4-310	10 days	20 days	30 days
Game Bird License	R12-4-414	10 days	20 days	30 days
Guide License	R12-4-208	10 days	20 days	30 days
License Dealer's License	R12-4-105	10 days	20 days	30 days
Live Bait Dealer's License	R12-4-411	10 days	20 days	30 days
Pioneer License	R12-4-201	1 day	29 days	30 days
Private Game Farm License	R12-4-413	10 days	20 days	30 days
Scientific <del>Collecting</del> <u>Activity Permit License</u>	R12-4-418	10 days	20 days	30 days
Small Game Depredation Permit	R12-4-113	10 days	20 days	30 days
Sport Falconry License	R12-4-422	10 days	20 days	30 days
Taxidermy Registration	R12-4-204	10 days	20 days	30 days
Watercraft Agents	R12-4-509	10 days	20 days	30 days
White Amur Stocking License	R12-4-424	10 days	20 days	30 days
Wildlife Holding License	R12-4-417	10 days	20 days	30 days
Wildlife Rehabilitation License	R12-4-423	10 days	50 days	60 days
Wildlife Service License	R12-4-421	10 days	50 days	60 days

Zoo License	R12-4-420	10 days	20 days	30 days
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**R12-4-107. Bonus Point System**

A. For the purpose of this Section, the following definitions apply:

“Bonus point hunt number” means the hunt number assigned in a Commission Order for use by an applicant who is applying for a bonus point only.

“Loyalty bonus point” means a bonus point awarded to a person who has submitted a valid application for a hunt permit-tag or a bonus point for a specific genus identified in subsection (B) at least once annually for a consecutive five-year period.

B. The bonus point system grants a person one random number entry in each computer draw for ~~antelope~~, bear, bighorn sheep, ~~buffalo~~ bison, deer, elk, javelina, pronghorn, Sandhill crane, or turkey for each bonus point that person has accumulated under this Section.

1. Each bonus point random number entry is in addition to the entry normally granted under R12-4-104.
2. When processing a “group” application, as defined under R12-4-104, the Department shall use the average number of bonus points accumulated by all persons in the group, rounded to the nearest whole number. If the average number of bonus points is equal to or greater than .5, the total will be rounded to the next higher number.
3. The Department shall credit a bonus point under an applicant's Department identification number for the genus on the application.
4. The Department shall not transfer bonus points between persons or genera.

C. The Department shall award one bonus point to an applicant who submits a valid Hunt Permit-tag Application provided the following apply:

1. The application is unsuccessful in the computer draw or the application is for a bonus point only;
2. The application is not for a hunt permit-tag leftover after the computer draw and available on a first-come, first-served basis as established under R12-4-114; and
3. The applicant either provides the appropriate hunting license number on the application, or submits an application and fees for the applicable license with the Hunt Permit-tag Application Form, as applicable.

D. An applicant who purchases a bonus point only shall:

1. Submit a valid Hunt Permit-tag Application, as prescribed under R12-4-104, ~~with the assigned bonus point hunt number for the particular genus as the first choice hunt number on the application; at the times, locations, and in the manner and method established by the schedule published by the Department and available at any Department office, on the Department's website, or a license dealer.~~
  - a. ~~The~~ When the application is submitted for a hunt permit-tag or bonus point, the Department shall reject any application that:
    - ~~a.i.~~ Indicates the bonus point only hunt number as any choice other than the first-choice, or
    - ~~b.ii.~~ Includes any other hunt number on the application;
    - iii. Includes more than one Hunt Permit-tag Application per genus per computer draw, or



Department within 10 business days of course completion. Course paperwork must be received by the Department no less than 30 days before the computer draw application deadline, as specified in the hunt permit-tag application schedule in order for the Department to assign hunter education bonus points in the next computer draw.

c. Any person who is nine years of age or older may participate in a hunter education course or the Department's conservation education course. When the person is under 10 years of age, the hunter education completion card and certificate shall become valid on the person's 10th birthday.

~~3-d.~~ The Department shall not award hunter education bonus points for any of the following specialized hunter education courses:

~~a-i.~~ Bowhunter Education,

~~b-ii.~~ Trapper Education, or

~~e-iii.~~ Advanced Hunter Education.

**K.** The Department provides an applicant's total number of accumulated bonus points on the Department's application web site website or IVR telephone system.

1. If a person believes the total number of accumulated bonus points is incorrect, the person may request proof of compliance with this Section, from the Department, to prove Department error.

2. In the event of an error, the Department shall correct the person's record.

**L.** The following provisions apply to the loyalty bonus point program:

1. An applicant who submits a valid application at least once a year for a hunt permit-tag or a bonus point for a specific genus consecutively for a five-year period shall accrue a loyalty bonus point for that genus.

2. Except as established under subsection (N), once a loyalty bonus point is accrued, the applicant shall retain the loyalty bonus point provided the applicant annually submits an application, with funds sufficient to cover all application fees and applicable license fees for each applicant listed on the application, for a hunt permit-tag or a bonus point for the genus for which the loyalty bonus point was accrued.

3. An applicant who fails to apply in any calendar year for a hunt permit-tag or bonus point for the genus for which the loyalty bonus point was accrued shall forfeit the loyalty bonus point for that genus.

4. A loyalty bonus point is accrued in addition to all other bonus points.

**M.** A military member, military reserve member, member of the National Guard, or emergency response personnel with a public agency may request the reinstatement of any expended bonus points for a successful Hunt Permit-tag Application.

1. To request reinstatement of expended bonus points under these circumstances, an applicant shall submit all of the following information to the Arizona Game and Fish Department, Draw Section, 5000 W. Carefree Highway, Phoenix, AZ 85086:

a. Evidence of mobilization or change in duty status, such as a letter from the public agency or official orders; or

b. An official declaration of a state of emergency from the public agency or authority making the declaration of emergency, if applicable; and

- c. The valid, unused hunt permit-tag.
  - 2. The Department shall deny requests post-marked after the beginning date of the hunt for which the hunt permit-tag is valid, unless the person also submits, with the request, evidence of mobilization, activation, or a change in duty status that precluded the applicant from submitting the hunt permit-tag before the beginning date of the hunt.
  - 3. Under A.R.S. § 17-332(E), no refunds for a license or hunt permit-tag will be issued to an applicant who applies for reinstatement of bonus points under this subsection.
  - 4. Reinstatement of bonus points under this subsection is not subject to the requirements established under R12-4-118.
- N. It is unlawful for a person to purchase or accrue a bonus point by fraud or misrepresentation and any bonus point so obtained shall be removed from the person's Department record.

**R12-4-108. Management Unit Boundaries**

- A. For the purpose of this Section, parentheses mean "also known as," and the following definitions shall apply:
- 1. "FH" means "forest highway," ~~a paved road.~~
  - 2. "FR" means "forest road," ~~an unpaved road.~~
  - 3. "Hwy" means "Highway."
  - "I-8" means Interstate Highway 8.
  - "I-10" means Interstate Highway 10.
  - "I-15" means Interstate Highway 15.
  - "I-17" means Interstate Highway 17.
  - "I-19" means Interstate Highway 19.
  - "I-40" means Interstate Highway 40.
  - 4. "mp" means "milepost."
- B. The state is divided into units for the purpose of managing wildlife. Each unit is identified by a number, or a number and letter. For the purpose of this Section, Indian reservation land contained within any management unit is not under the jurisdiction of the Arizona Game and Fish Commission or the Arizona Game and Fish Department.
- C. Management unit descriptions are as follows:
- Unit 1 – Beginning at the New Mexico state line and U.S. Hwy 60; west on U.S. Hwy 60 to Vernon Junction; southerly on the Vernon-McNary road (FR 224) to the White Mountain Apache Indian Reservation boundary; east and south along the reservation boundary to Black River; east and north along Black River to the east fork of Black River; north along the east fork to Three Forks; and continuing north and east on the Three Forks-Williams Valley Alpine Rd. (FR 249) to U.S. Hwy 180; east on U.S. Hwy 180 to the New Mexico state line; north along the state line to U.S. Hwy 60.
- Unit 2A – Beginning at St. Johns on U.S. Hwy 191 (AZ Hwy 61); north on U.S. Hwy 191 (AZ Hwy 61) to the Navajo Indian Reservation boundary; westerly along the reservation boundary to AZ Hwy 77; south on AZ

Hwy 77 to Exit 292 on I-40; west on the westbound lane of I-40 to Exit 286; south on AZ Hwy 77 to U.S. Hwy 180; southeast on U.S. Hwy 180 to AZ Hwy 180A; south on AZ Hwy 180A to AZ Hwy 61; east on AZ Hwy 61 to U.S. Hwy 180 (AZ Hwy 61); east to U.S. Hwy 191 at St. Johns; except those portions that are sovereign tribal lands of the Zuni Tribe.

Unit 2B – Beginning at Springerville; east on U.S. Hwy 60 to the New Mexico state line; north along the state line to the Navajo Indian Reservation boundary; westerly along the reservation boundary to U.S. Hwy 191 (AZ Hwy 61); south on U.S. Hwy 191 (U.S. Hwy 180) to Springerville.

Unit 2C – Beginning at St. Johns on U.S. Hwy 191 (AZ Hwy 61); west on to AZ Hwy 61 Concho; southwest on AZ Hwy 61 to U.S. Hwy 60; east on U.S. Hwy 60 to U.S. Hwy 191 (U.S. Hwy 180); north on U.S. Hwy 191 (U.S. Hwy 180) to St. Johns.

Unit 3A – Beginning at the junction of U.S. Hwy 180 and AZ Hwy 77; south on AZ Hwy 77 to AZ Hwy 377; southwesterly on AZ Hwy 377 to AZ Hwy 277; easterly on AZ Hwy 277 to Snowflake; easterly on the Snowflake-Concho Rd. to U.S. Hwy 180A; north on U.S. Hwy 180A to U.S. Hwy 180; northwesterly on U.S. Hwy 180 to AZ Hwy 77.

Unit 3B – Beginning at Snowflake; southerly along AZ Hwy 77 to U.S. Hwy 60; southwesterly along U.S. Hwy 60 to the White Mountain Apache Indian Reservation boundary; easterly along the reservation boundary to the Vernon-McNary Rd. (FR 224); northerly along the Vernon-McNary Rd. to U.S. Hwy 60; west on U.S. Hwy 60 to AZ Hwy 61; northeasterly on AZ Hwy 61 to AZ Hwy 180A; northerly on AZ Hwy 180A to Concho-Snowflake Rd.; westerly on the Concho-Snowflake Rd. to Snowflake.

Unit 3C – Beginning at Snowflake; westerly on AZ Hwy 277 to AZ Hwy 260; westerly on AZ Hwy 260 to the Sitgreaves National Forest boundary with the Tonto National Forest; easterly along the Apache-Sitgreaves National Forest boundary to U.S. Hwy 60 (AZ Hwy 77); northeasterly on U.S. Hwy 60 (AZ Hwy 77) to Showlow; northerly along AZ Hwy 77 to Snowflake.

Unit 4A – Beginning on the boundary of the Apache-Sitgreaves National Forest with the Coconino National Forest at the Mogollon Rim; north along this boundary (Leonard Canyon) to East Clear Creek; northerly along East Clear Creek to AZ Hwy 99; north on AZ Hwy 99 to AZ Hwy 87; north on AZ Hwy 87 to Business I-40 (3rd St.); west on Business I-40 (3rd St.) to Hipkoe Dr.; northerly on Hipkoe Dr. to I-40; west on I-40 to mp 221.4; north to the southwest corner of the Navajo Indian Reservation boundary; east along the Navajo Indian Reservation boundary to the Little Colorado River; southerly along the Little Colorado River to Chevelon Creek; southerly along Chevelon Creek to Woods Canyon; westerly along Woods Canyon to Woods Canyon Lake Rd.; westerly and southerly along the Woods Canyon Lake Rd. to the Mogollon Rim; westerly along the Mogollon Rim to the boundary of the Apache-Sitgreaves National Forest with the Coconino National Forest.

Unit 4B -- Beginning at AZ Hwy 260 and the Sitgreaves National Forest boundary with the Tonto National Forest; northeasterly on AZ Hwy 260 to AZ Hwy 277; northeasterly on AZ Hwy 277 to Hwy 377; northeasterly on AZ Hwy 377 to AZ Hwy 77; northeasterly on AZ Hwy 77 to I-40 Exit 286; northeasterly along the westbound lane of I-40 to Exit 292; north on AZ Hwy 77 to the Navajo Indian Reservation boundary; west along the

reservation boundary to the Little Colorado River; southerly along the Little Colorado River to Chevelon Creek; southerly along Chevelon Creek to Woods Canyon; westerly along Woods Canyon to Woods Canyon Lake Rd. (FH 151); westerly and southerly along the Woods Canyon Lake Rd. (FH 151) to the Mogollon Rim; easterly along the Mogollon Rim to the intersection of AZ Hwy 260 and the Sitgreaves National Forest boundary with the Tonto National Forest.

Unit 5A – Beginning at the junction of the Sitgreaves National Forest boundary with the Coconino National Forest boundary at the Mogollon Rim; northerly along this boundary (Leonard Canyon) to East Clear Creek; northeasterly along East Clear Creek to AZ Hwy 99; north on AZ Hwy 99 to AZ Hwy 87; north on AZ Hwy 87 to Business I-40 (3rd St.); west on Business I-40 (3rd St.) to Hipkoe Dr.; north on Hipkoe Dr. to I-40; west on I-40 to the Meteor Crater Rd. (Exit 233); southerly on the Meteor Crater-Chavez Pass-Jack’s Canyon Rd. (FR 69) to AZ Hwy 87; southwesterly along AZ Hwy 87 to the Coconino-Tonto National Forest boundary; easterly along the Coconino-Tonto National Forest boundary (Mogollon Rim) to the Sitgreaves National Forest boundary with the Coconino National Forest.

Unit 5B -- Beginning at Lake Mary-Clint's Well Rd. (FH3) and Walnut Canyon (mp 337.5 on FH3); southeasterly on FH3 to AZ Hwy 87; northeasterly on AZ Hwy 87 to FR 69; westerly and northerly on FR 69 to I-40 (Exit 233); west on I-40 to Walnut Canyon (mp 210.2); southwesterly along the bottom of Walnut Canyon to Walnut Canyon National Monument; southwesterly along the northern boundary of the Walnut Canyon National Monument to Walnut Canyon; southwesterly along the bottom of Walnut Canyon to FH3 (mp 337.5).

Unit 6A - Beginning at the junction of ~~U.S.~~ AZ Hwy 89A and FR 237; southwesterly on ~~U.S.~~-AZ Hwy 89A to the Verde River; southeasterly along the Verde River to the confluence with Fossil Creek; northeasterly along Fossil Creek to Fossil Springs; southeasterly on FS trail 18 (Fossil Spring Trail) to the top of the rim; northeasterly on the rim to Nash Point on the Tonto-Coconino National Forest boundary; easterly along this boundary to AZ Hwy 87; northeasterly on AZ Hwy 87 to Lake Mary-Clint’s Well Rd. (FH3); northwesterly on FH3 to FR 132; southwesterly on FR 132 to FR 296; southwesterly on FR 296 to FR 296A; southwesterly on FR 296A to FR 132; northwesterly on FR 132 to FR 235; westerly on FR 235 to Priest Draw; southwesterly along the bottom of Priest Draw to FR 235; westerly on FR 235 to FR 235A; westerly on FR 235A to FR 235; southerly on FR 235 to FR 235K; northwesterly on FR 235K to FR 700; northerly on FR 700 to Mountaineer Rd.; west on Mountaineer Rd. to FR 237; westerly on FR 237 to ~~U.S.~~ AZ Hwy 89A except those portions that are sovereign tribal lands of the Yavapai-Apache Nation.

Unit 6B – Beginning at mp 188.5 on I-40 at a point just north of the east boundary of Camp Navajo; south along the eastern boundary of Camp Navajo to the southeastern corner of Camp Navajo; southeast approximately 1/3 mile through the forest to the forest road in section 33; southeast on the forest road to FR 231 (Woody Mountain Rd.); easterly on FR 231 to FR 533; southerly on FR 533 to ~~U.S.~~ AZ Hwy 89A; southerly on ~~U.S.~~ AZ Hwy 89A to the Verde River; northerly along the Verde River to Sycamore Creek; northeasterly along Sycamore Creek and Volunteer Canyon to the southwest corner of the Camp Navajo boundary; northerly

along the western boundary of Camp Navajo to the northwest corner of Camp Navajo; continuing north to I-40 (mp 180.0); easterly along I-40 to mp 188.5.

Unit 7 – Beginning at the junction of AZ Hwy 64 and I-40 (in Williams); easterly on I-40 to FR 171 (mp 184.4 on I-40); northerly on FR 171 to the Transwestern Gas Pipeline; easterly along the Transwestern Gas Pipeline to FR 420 (Schultz Pass Rd.); northeasterly on FR 420 to U.S. Hwy 89; across U.S. Hwy 89 to FR 545; east on FR 545 to the Sunset Crater National Monument; easterly along the southern boundary of the Sunset Crater National Monument to FR 545; east on FR 545 to the 345 KV transmission lines 1 and 2; southeasterly along the power lines to I-40 (mp 212 on I-40); east on I-40 to mp 221.4; north to the southwest corner of the Navajo Indian Reservation boundary; northerly and westerly along the reservation boundary to the Four Corners Gas Line; southwestly along the Four Corners Gas Line to U.S. Hwy 180; west on U.S. Hwy 180 to AZ Hwy 64; south on AZ Hwy 64 to I-40.

Unit 8 – Beginning at the junction of I-40 and ~~U.S.~~ AZ Hwy 89 (in Ash Fork, Exit 146); south on ~~U.S.~~ AZ Hwy 89 to the Verde River; easterly along the Verde River to Sycamore Creek; northerly along Sycamore Creek to Volunteer Canyon; northeasterly along Volunteer Canyon to the west boundary of Camp Navajo; north along the boundary to a point directly north of I-40; west on I-40 to ~~U.S.~~ AZ Hwy 89.

Unit 9 – Beginning where Cataract Creek enters the Havasupai Reservation; easterly and northerly along the Havasupai Reservation boundary to Grand Canyon National Park; easterly along the Grand Canyon National Park boundary to the Navajo Indian Reservation boundary; southerly along the reservation boundary to the Four Corners Gas Line; southwestly along the Four Corners Gas Line to U.S. Hwy 180; westerly along U.S. Hwy 180 to AZ Hwy 64; south along AZ Hwy 64 to Airpark Rd.; west and north along Airpark Rd. to the Valle-Cataract Creek Rd.; westerly along the Valle-Cataract Creek Rd. to Cataract Creek at Island Tank; northwestly along Cataract Creek to the Havasupai Reservation Boundary.

Unit 10 – Beginning at the junction of AZ Hwy 64 and I-40; westerly on I-40 to Crookton Rd. (AZ Hwy 66, Exit 139); westerly on AZ Hwy 66 to the Hualapai Indian Reservation boundary; northeasterly along the reservation boundary to Grand Canyon National Park; east along the park boundary to the Havasupai Indian Reservation; easterly and southerly along the reservation boundary to where Cataract Creek enters the reservation; southeasterly along Cataract Creek in Cataract Canyon to Island Tank; easterly on the Cataract Creek-Valle Rd. to Airpark Rd.; south and east along Airpark Rd. to AZ Hwy 64; south on AZ Hwy 64 to I-40.

Unit 11M - Beginning at the junction of Lake Mary-Clint's Well Rd (FH3) and Walnut Canyon (mp 337.5 on FH3); northeasterly along the bottom of Walnut Canyon to the Walnut Canyon National Monument boundary; northeasterly along the northern boundary of the Walnut Canyon National Monument to Walnut Canyon; northeasterly along the bottom of Walnut Canyon to I-40 (mp 210.2); east on I-40 to the 345 KV transmission lines 1&2 (mp 212 on I-40); north and northeasterly along the power line to FR 545 (Sunset Crater Rd); west along FR 545 to the Sunset Crater National Monument boundary; westerly along the southern boundary of the Sunset Crater National monument to FR 545; west on FR 545 to U.S. Hwy 89; across U.S. Hwy 89 to FR 420 (Schultz Pass Rd); southwestly on FR 420 to the Transwestern Gas Pipeline;

westerly along the Transwestern Gas Pipeline to FR 171; south on FR 171 to I-40 (mp 184.4 on I-40); east on I-40 to a point just north of the eastern boundary of the Navajo Army Depot (mp 188.5 on I-40); south along the eastern boundary of the Navajo Army Depot to the southeast corner of the Depot; southeast approximately 1/3 mile to forest road in section 33; southeasterly along that forest road to FR 231 (Woody Mountain Rd); easterly on FR 231 to FR 533; southerly on FR 533 to U.S. Hwy 89A; southerly on U.S. Hwy 89A to FR 237; northeasterly on FR 237 to Mountaineer Rd; easterly on Mountaineer Rd to FR 700; southerly on FR 700 to FR 235K; southeasterly on FR 235K to FR 235; northerly on FR 235 to FR 235A; easterly on FR 235A to FR 235; easterly on FR 235 to Priest Draw; northeasterly along the bottom of Priest Draw to FR 235; easterly on FR 235 to FR 132; southeasterly on FR 132 to FR 296A; northeasterly on FR 296A to FR 296; northeasterly on FR 296 to FR 132; northeasterly on FR 132 to FH 3; southeasterly on FH 3 to the south rim of Walnut Canyon (mp 337.5 on FH3).

Unit 12A -- Beginning at the confluence of the Colorado River and South Canyon; southerly and westerly along the Colorado River to Kanab Creek; northerly along Kanab Creek to Snake Gulch; northerly, easterly, and southerly around the Kaibab National Forest boundary to South Canyon; northeasterly along South Canyon to the Colorado River.

Unit 12B – Beginning at U.S. Hwy 89A and the Kaibab National Forest boundary near mp 566; southerly and easterly along the forest boundary to Grand Canyon National Park; northeasterly along the park boundary to Glen Canyon National Recreation area; easterly along the recreation area boundary to the Colorado River; northeasterly along the Colorado River to the Arizona-Utah state line; westerly along the state line to Kanab Creek; southerly along Kanab Creek to the Kaibab National Forest boundary; northerly, easterly, and southerly along this boundary to U.S. Hwy 89A near mp 566; except those portions that are sovereign tribal lands of the Kaibab Band of Paiute Indians.

Unit 13A – Beginning on the western edge of the Hurricane Rim at the Utah state line; southerly along the western edge of the Hurricane Rim to Mohave County Rd. 5 (the Mt. Trumbull Rd.); west along Mohave County Rd. 5 to the town of Mt. Trumbull (Bundyville); south from the town of Mt. Trumbull (Bundyville) on Mohave County Rd. 257 to BLM Rd. 1045; south on BLM Rd. 1045 to where it crosses Cold Spring Wash near Cold Spring Wash Pond; south along the bottom of Cold Spring Wash to Whitmore Wash; southerly along the bottom of Whitmore Wash to the Colorado River; easterly along the Colorado River to Kanab Creek; northerly along Kanab Creek to the Utah state line; west along the Utah state line to the western edge of the Hurricane Rim; except those portions that are sovereign tribal lands of the Kaibab Band of Paiute Indians.

Unit 13B – Beginning on the western edge of the Hurricane Rim at the Utah state line; southerly along the western edge of the Hurricane Rim to Mohave County Rd. 5 (the Mt. Trumbull Rd.); west along Mohave County Rd. 5 to the town of Mt. Trumbull (Bundyville); south from the town of Mt. Trumbull (Bundyville) on Mohave County Rd. 257 to BLM Rd. 1045; south on BLM Rd. 1045 to where it crosses Cold Spring Wash near Cold Spring Wash Pond; south along the bottom of Cold Spring Wash to Whitmore Wash; southerly along the bottom of Whitmore Wash to the Colorado River; westerly along the Colorado River to the Nevada state

line; north along the Nevada state line to the Utah state line; east along the Utah state line to the western edge of the Hurricane Rim.

Unit 15A – Beginning at Pearce Ferry on the Colorado River; southerly on the Pearce Ferry Rd. to Antares Rd.; southeasterly on Antares Rd. to AZ Hwy 66; easterly on AZ Hwy 66 to the Hualapai Indian Reservation; west and north along the west boundary of the reservation to the Colorado River; westerly along the Colorado River to Pearce Ferry; except those portions that are sovereign tribal lands of the Hualapai Indian Tribe.

Unit 15B -- Beginning at Kingman on I-40 (Exit 48); northwesterly on U.S. Hwy 93 to Hoover Dam; north and east along the Colorado River to Pearce Ferry; southerly on the Pearce Ferry Rd. to Antares Rd.; southeasterly on Antares Rd. to AZ Hwy 66; easterly on AZ Hwy 66 to Hackberry Rd.; southerly on the Hackberry Rd. to ~~its junction with U.S. Hwy 93; north on U.S. Hwy 93 to I-40 (Exit 71);~~ west on I-40 to Kingman (Exit 48).

Unit 15C – Beginning at Hoover Dam; southerly along the Colorado River to AZ Hwy 68 and Davis Dam; easterly on AZ Hwy 68 to U.S. Hwy 93; northwesterly on U.S. Hwy 93 to Hoover Dam.

Unit 15D – Beginning at AZ Hwy 68 and Davis Dam; southerly along the Colorado River to I-40; east and north on I-40 to Kingman (Exit 48); northwest on U.S. Hwy 93 to AZ Hwy 68; west on AZ Hwy 68 to Davis Dam; except those portions that are sovereign tribal lands of the Fort Mohave Indian Tribe.

Unit 16A -- Beginning at Kingman on I-40 (Exit 48); south and west on I-40 to U.S. Hwy 95 (Exit 9); southerly on U.S. Hwy 95 to the Bill Williams River; easterly along the Bill Williams and Santa Maria rivers to U.S. Hwy 93; north on U.S. Hwy 93 to I-40 (Exit 71); west on I-40 to Kingman (Exit 48).

Unit 16B -- Beginning at I-40 on the Colorado River; southerly along the Arizona-California state line to the Bill Williams River; east along the Bill Williams River to U.S. Hwy 95; north on U.S. Hwy 95 to I-40 (Exit 9); west on I-40 to the Colorado River.

Unit 17A -- Beginning at the junction of the Williamson Valley Rd. (County Road 5) and the Camp Wood Rd. (FR 21); westerly on the Camp Wood Rd. to the west boundary of the Prescott National Forest; north along the forest boundary to the Baca Grant; east, north and west around the grant to the west boundary of the Prescott National Forest; north and east along the forest boundary to the Williamson Valley Rd. (County Rd. 5, FR 6); southerly on Williamson Valley Rd. (County Rd. 5, FR 6) to the Camp Wood Rd.

Unit 17B -- Beginning at the junction of Iron Springs Rd. (County Rd. 10) and Williamson Valley Rd. (County Road 5) in Prescott; westerly on the Prescott-Skull Valley-Hillside-Bagdad Rd. to Bagdad; northeast on the Bagdad-Camp Wood Rd. (FR 21) to the Williamson Valley Rd. (County Rd. 5, FR 6); south on the Williamson Valley Rd. (County Rd. 5, FR 6) to the Iron Springs Rd.

Unit 18A – Beginning at Seligman; westerly on AZ Hwy 66 to the Hualapai Indian Reservation; southwest and west along the reservation boundary to AZ Hwy 66; southwest on AZ Hwy 66 to the Hackberry Rd.; south on the Hackberry Rd. to I-40; ~~west along I-40 to~~ U.S. Hwy 93; south on U.S. Hwy 93 to Cane Springs Wash; easterly along Cane Springs Wash to the Big Sandy River; northerly along the Big Sandy River to Trout Creek; northeast along Trout Creek to the Davis Dam-Prescott power line; southeasterly along the power line to the west boundary of the Prescott National Forest; north and east along the forest boundary to the Williamson Valley Rd. (County Rd. 5, FR 6); northerly on the Williamson Valley Rd. (County Rd. 5, FR 6)

to Seligman and AZ Hwy 66; except those portions that are sovereign tribal lands of the Hualapai Indian Tribe.

Unit 18B -- Beginning at Bagdad; southeast on AZ Hwy 96 to the Santa Maria River; southwest along the Santa Maria River to U.S. Hwy 93; northerly on U.S. Hwy 93 to Cane Springs Wash; easterly along Cane Springs Wash to the Big Sandy River; northerly along the Big Sandy River to Trout Creek; northeasterly along Trout Creek to the Davis Dam-Prescott power line; southeasterly along the power line to the west boundary of the Prescott National Forest; south along the forest boundary to the Baca Grant; east, south and west along the forest boundary; south along the west boundary of the Prescott National Forest; to the Camp Wood-Bagdad Rd.; southwesterly on the Camp Wood-Bagdad Rd. to Bagdad; except those portions that are sovereign tribal lands of the Hualapai Indian Tribe.

Unit 19A – Beginning at AZ Hwy 69 and ~~U.S.~~ AZ Hwy 89 (in Prescott); northerly on ~~U.S.~~ AZ Hwy 89 to the Verde River; easterly along the Verde River to I-17; southwesterly on the southbound lane of I-17 to AZ Hwy 69; northwesterly on AZ Hwy 69 to ~~U.S.~~ AZ Hwy 89; except those portions that are sovereign tribal lands of the Yavapai-Prescott Tribe and the Yavapai-Apache Nation.

Unit 19B – Beginning at the intersection of ~~U.S.~~ AZ Hwy 89 and AZ Hwy 69, west on Gurley St. to Grove Ave.; north on the Grove Ave. to Miller Valley Rd.; northwest on the Miller Valley Rd. to Iron Springs Rd.; northwest on the Iron Springs Rd. to the junction of Williamson Valley Rd. and Iron Springs Rd.; northerly on the Williamson Valley-Prescott-Seligman Rd. (FR 6, Williamson Valley Rd.) to AZ Hwy 66 at Seligman; east on Crookton Rd. (AZ Hwy 66) to I-40 (Exit 139); east on I-40 to ~~U.S.~~ AZ Hwy 89; south on ~~U.S.~~ AZ Hwy 89 to the junction with AZ Hwy 69; except those portions that are sovereign tribal lands of the Yavapai-Prescott Tribe.

Unit 20A – ~~Beginning at the intersection of U.S. Hwy 89 and AZ Hwy 69; west on Gurley St. to Grove Ave.; north on the Grove Ave. to Miller Valley Rd.; northwest on the Miller Valley Rd. to Iron Springs Rd.; west and south on the Iron Springs Skull Valley Kirkland Junction Rd. to U.S. Hwy 89; continue south and easterly on the Kirkland Junction Wagoner Crown King Cordes Rd. to Cordes, from Cordes southeast to I-17 (Exit 259); north on the southbound lane of I-17 to AZ Hwy 69; northwest on AZ Hwy 69 to junction of U.S. Hwy 89 at Prescott; except those portions that are sovereign tribal lands of the Yavapai Prescott Tribe.~~ Beginning at the intersection of AZ Hwy 89 and AZ Hwy 69; west on Gurley St. to Grove Ave.; north on the Grove Ave. to Miller Valley Rd., northwest on the Miller Valley Rd. to Iron Springs Rd., west and south on Iron Springs Rd. (County Road 10) to Kirkland; south and east on AZ Hwy 96 to Kirkland Junction (U.S. Hwy 89); southeasterly along Wagoner Rd. (County Road 60) to Wagoner (mp 17); from Wagoner easterly along County Road 60 (FR 362) to intersection of FR 52; easterly along FR 52 to intersection of FR 259; easterly along FR 259 to Crown King Rd. (County Road 59) at Crown King; continue easterly to the intersection of Antelope Creek Rd. cutoff (County Road 179S); northeasterly along Antelope Creek Rd. cutoff to intersection of Antelope Creek Rd. (County Road 179); northeasterly on Antelope Creek Rd. to Cordes; east on Bloody Basin Rd. (County Road 73) to I-17 (Exit 259); north on the southbound lane of I-17

to AZ Hwy 69; northwest on AZ Hwy 69 to junction of AZ Hwy 89 at Prescott; except those portions that are sovereign tribal lands of the Yavapai-Prescott Tribe.

Unit 20B -- Beginning at the Hassayampa River and U.S. Hwy 60/93 (in Wickenburg); northeasterly along the Hassayampa River to the Kirkland Junction Wagoner Crown King Cordes road (at Wagoner); southerly and northeasterly along the Kirkland Junction Wagoner Crown King Cordes Rd. (at Wagoner) to I-17 (Exit 259); south on the southbound lane of I-17 to the New River Road (Exit 232); west on the New River Road to State Hwy 74; west on AZ Hwy 74 to the junction of AZ Hwy 74 and U.S. Hwy 60/93; northwesterly on U.S. Hwy 60/93 to the Hassayampa River. Beginning at the Hassayampa River and U.S. Hwy 60/93 (at Wickenburg), northeasterly along the Hassayampa River to Wagoner (County Road 60, mp 17); from Wagoner easterly along County Road 60 (FR 362) to intersection of FR 52; easterly along FR 52 to intersection of FR 259; easterly along FR 259 to Crown King Rd. (County Road 59) at Crown King; continue easterly to intersection of Antelope Creek Rd. cutoff (County Road 179S); northeasterly along Antelope Creek Rd. cutoff to intersection of Antelope Creek Rd. (County Road 179); northeasterly on Antelope Creek Rd. to Cordes; east on Bloody Basin Rd. (County Road 73) to I-17 (Exit 259); south on the southbound lane of I-17 to New River Road (Exit 232); west on New River Road to SR 74; west on AZ Hwy 74 to junction of U.S. Hwy 60/93; northwesterly on U.S. Hwy 60/93 to the Hassayampa River (at Wickenburg).

Unit 20C -- Beginning at U.S. Hwy 60/93 and the Santa Maria River; northeasterly along the Santa Maria River to AZ Hwy 96; easterly on AZ Hwy 96 to Kirkland Junction; southeasterly along the Kirkland Junction Wagoner Crown King Cordes road to the Hassayampa River (at Wagoner); southwestly along the Hassayampa River to U.S. Hwy 60/93; northwesterly on U.S. Hwy 60/93 to the Santa Maria River. Beginning at U.S. Hwy 60/93 and the Santa Maria River; northeasterly along the Santa Maria River to AZ Hwy 96; easterly on AZ Hwy 96 to Kirkland Junction (AZ. Hwy 89); south along AZ Hwy 89 to Wagoner Rd.; southeasterly along Wagoner Rd. (County Road 60) to Wagoner (mp 17); from Wagoner southwestly along the Hassayampa River to U.S. Hwy 60/93; northwesterly on U.S. Hwy 60/93 to the Santa Maria River.

Unit 21 – Beginning on I-17 at the Verde River; southerly on the southbound lane of I-17 to the New River Road (Exit 232); east on New River Road to Fig Springs Road; northeasterly on Fig Springs Road to Mingus Rd.; Mingus Rd. to the Tonto National Forest boundary; southeasterly along this boundary to the Verde River; north along the Verde River to I-17.

Unit 22 -- Beginning at the junction of the Salt and Verde Rivers; north along the Verde River to the confluence with Fossil Creek; northeasterly along Fossil Creek to Fossil Springs; southeasterly on FS trail 18 (Fossil Spring Trail) to the top of the rim; northeasterly on the rim to Nash Point on the Tonto-Coconino National Forest boundary along the Mogollon Rim; easterly along this boundary to Tonto Creek; southerly along the east fork of Tonto Creek to the spring box, north of the Tonto Creek Hatchery, and continuing southerly along Tonto Creek to the Salt River; westerly along the Salt River to the Verde River; except those portions that are sovereign tribal lands of the Tonto Apache Tribe and the Fort McDowell Yavapai Nation.

Unit 23 – Beginning at the confluence of Tonto Creek and the Salt River; northerly along Tonto Creek to the spring box, north of the Tonto Creek Hatchery, on Tonto Creek; northeasterly along the east fork of Tonto

Creek to the Tonto-Sitgreaves National Forest boundary along the Mogollon Rim; east along this boundary to the White Mountain Apache Indian Reservation boundary; southerly along the reservation boundary to the Salt River; westerly along the Salt River to Tonto Creek.

Unit 24A – Beginning on AZ Hwy 177 in Superior; southeasterly on AZ Hwy 177 to the Gila River; northeasterly along the Gila River to the San Carlos Indian Reservation boundary; easterly, westerly and northerly along the reservation boundary to the Salt River; southwesterly along the Salt River to AZ Hwy 288; southerly on AZ Hwys 288 and 188 to U.S. Hwy 60; southwesterly on U.S. Hwy 60 to AZ Hwy 177.

Unit 24B – Beginning on U.S. Hwy 60 in Superior; northeasterly on U.S. Hwy 60 to AZ Hwy 188; northerly on AZ Hwys 188 and 288 to the Salt River; westerly along the Salt River to the Tonto National Forest boundary near Granite Reef Dam; southeasterly along Forest boundary to Forest Route 77 (Peralta Rd.); southwesterly on Forest Route 77 (Peralta Rd.) to U.S. Hwy 60; easterly on U.S. Hwy 60 to Superior.

Unit 25M – Beginning at the junction of 51st Ave. and I-10; west on I-10 to AZ Loop 303, northeasterly on AZ Loop 303 to I-17; north on I-17 to Carefree Hwy; east on Carefree Hwy to Cave Creek Rd.; northeasterly on Cave Creek Rd. to the Tonto National Forest boundary; easterly and southerly along the Tonto National Forest boundary to Fort McDowell Yavapai Nation boundary; northeasterly along the Fort McDowell Yavapai Nation boundary to the Verde River; southerly along the Verde River to the Salt River; southwesterly along the Salt River to the Tonto National Forest boundary; southerly along the Tonto National Forest boundary to Bush Hwy/Power Rd.; southerly on Bush Hwy/Power Rd. to AZ Loop 202; easterly, southerly, and westerly on AZ Loop 202 to the intersection of Pecos Rd. at I-10; west on Pecos Rd. to the Gila River Indian Community boundary; northwesterly along the Gila River Indian Community boundary to 51st Ave; northerly on 51st Ave to I-10; except those portions that are sovereign tribal lands.

Unit 26M – Beginning at the junction of I-17 and New River Rd. (Exit 232); southwesterly on New River Rd. to AZ Hwy 74; westerly on AZ Hwy 74 to U.S. Hwy 93; southeasterly on U.S. Hwy 93 to the Beardsley Canal; southwesterly on the Beardsley Canal to Indian School Rd.; west on Indian School Rd. to Jackrabbit Trail; south on Jackrabbit Trail to I-10 (Exit 121); west on I-10 to Oglesby Rd. (Exit 112); south on Oglesby Rd. to AZ Hwy 85; south on AZ Hwy 85 to the Gila River; northeasterly along the Gila River to the Gila River Indian Community boundary; southeasterly along the Gila River Indian Community boundary to AZ Hwy 347 (John Wayne Parkway); south on AZ Hwy 347 (John Wayne Parkway) to AZ Hwy 84; east on AZ Hwy 84 to Stanfield; south on the Stanfield-Cocklebur Rd. to the Tohono O’odham Nation boundary; easterly along the Tohono O’odham Nation boundary to Battaglia Rd.; east on Battaglia Rd. to Toltec Rd.; north on Toltec Rd. to I-10 (Exit 203); southeasterly on I-10 to AZ Hwy 87 (Exit 211); north on AZ Hwy 87 to AZ Hwy 287 north of Coolidge; east on AZ Hwy 287 to AZ Hwy 79; north on AZ Hwy 79 to U.S. Hwy 60; northwesterly on U.S. Highway 60 to Peralta Rd.; northeasterly along Peralta Rd. to the Tonto National Forest boundary; northwesterly along the Tonto National Forest boundary to the Salt River; northeasterly along the Salt River to the Verde River; northerly along the Verde River to the Tonto National Forest boundary; northwesterly along the Tonto National Forest boundary to Mingus Rd.; Mingus Rd. to Fig Springs

Rd.; southwesterly on Fig Springs Rd. to New River Rd.; west on New River Rd. to I-17 (Exit 232); except Unit 25M and those portions that are sovereign tribal lands.

Unit 27 – Beginning at the New Mexico state line and AZ Hwy 78; southwest on AZ Hwy 78 to U.S. Hwy 191; north on U.S. Hwy 191 to Lower Eagle Creek Rd. (Pump Station Rd.); west on the Lower Eagle Creek Rd. (Pump Station Rd.) to Eagle Creek; north along Eagle Creek to the San Carlos Apache Indian Reservation boundary; north along the San Carlos Apache Indian Reservation boundary to Black River; northeast along Black River to the East Fork of Black River; northeast along the East Fork of Black River to Three Forks-Williams Valley-Alpine Rd. (FR 249); easterly along Three Forks-Williams Valley-Alpine Rd. to U.S. Hwy 180; southeast on U.S. Hwy 180 to the New Mexico state line; south along the New Mexico state line to AZ Hwy 78.

Unit 28 – Beginning at I-10 and the New Mexico state line; north along the state line to AZ Hwy 78; southwest on AZ Hwy 78 to U.S. Hwy 191; northwest on U.S. Hwy 191 to Clifton; westerly on the Lower Eagle Creek Rd. (Pump Station Rd.) to Eagle Creek; northerly along Eagle Creek to the San Carlos Indian Reservation boundary; southerly and west along the reservation boundary to U.S. Hwy 70; southeast on U.S. Hwy 70 to U.S. Hwy 191; south on U.S. Hwy 191 to I-10 Exit 352; easterly on I-10 to the New Mexico state line.

Unit 29 – Beginning on I-10 at the New Mexico state line; westerly on I-10 to the Bowie-Apache Pass Rd.; southerly on the Bowie-Apache Pass Rd. to AZ Hwy 186; southeast on AZ Hwy 186 to AZ Hwy 181; south on AZ Hwy 181 to the West Turkey Creek-Kuykendall cutoff road; southerly on the Kuykendall cutoff road to Rucker Canyon Rd.; easterly on the Rucker Canyon Rd. to Tex Canyon Rd.; southerly on Tex Canyon Rd. to U.S. Hwy 80; northeast on U.S. Hwy 80 to the New Mexico state line; north along the state line to I-10.

Unit 30A – Beginning at the junction of the New Mexico state line and U.S. Hwy 80; south along the state line to the U.S.-Mexico border; west along the border to U.S. Hwy 191; northerly on U.S. Hwy 191 to I-10 Exit 331; northeasterly on I-10 to the Bowie-Apache Pass Rd.; southerly on the Bowie-Apache Pass Rd. to AZ Hwy 186; southeasterly on AZ Hwy 186 to AZ Hwy 181; south on AZ Hwy 181 to the West Turkey Creek - Kuykendall cutoff road; southerly on the Kuykendall cutoff road to Rucker Canyon Rd.; easterly on Rucker Canyon Rd. to the Tex Canyon Rd.; southerly on Tex Canyon Rd. to U.S. Hwy 80; northeast on U.S. Hwy 80 to the New Mexico state line.

Unit 30B – Beginning at U.S. Hwy 191 and the U.S.-Mexico border; west along the border to the San Pedro River; north along the San Pedro River to I-10; northeasterly on I-10 to U.S. Hwy 191; southerly on U.S. Hwy 191 to the U.S.-Mexico border.

Unit 31 – Beginning at Willcox Exit 340 on I-10; north on Fort Grant Rd. to Brookerson Rd.; north on Brookerson Rd. to Ash Creek Rd.; west on Ash Creek Rd. to Fort Grant Rd.; north on Fort Grant Rd. to Bonita; northerly on the Bonita-Klondyke Rd. to the junction with Aravaipa Creek; west along Aravaipa Creek to AZ Hwy 77; northerly along AZ Hwy 77 to the Gila River; northeast along the Gila River to the San Carlos Indian Reservation boundary; south then east and north along the reservation boundary to U.S. Hwy 70; southeast on U.S. Hwy 70 to U.S. Hwy 191; south on U.S. Hwy 191 to the 352 exit on I-10; southwest on I-10 to Exit 340.

- Unit 32 – Beginning at Willcox Exit 340 on I-10; north on Fort Grant Rd. to Brookerson Rd.; north on Brookerson Rd. to Ash Creek Rd.; west on Ash Creek Rd. to Fort Grant Rd.; north on Fort Grant Rd. to Bonita; northerly on the Bonita-Klondyke Rd. to the junction with Aravaipa Creek; west along Aravaipa Creek to AZ Hwy 77; southerly along AZ Hwy 77 to the San Pedro River; southerly along the San Pedro River to I-10; northeast on I-10 to Willcox Exit 340.
- Unit 33 – Beginning at Tangerine Rd. and AZ Hwy 77; north and northeast on AZ Hwy 77 to the San Pedro River; southeast along the San Pedro River to I-10 at Benson; west on I-10 to Marsh Station Rd. (Exit 289); northwest on the Marsh Station Rd. to the Agua Verde Rd.; north on the Agua Verde Rd. to its terminus then north 1/2 mile to the Coronado National Forest boundary; north and west along the National Forest boundary; then west, north, and east along the Saguaro National Park boundary; continuing north and west along the Coronado National Forest boundary to the southern boundary of Catalina State Park; west along the southern boundary of Catalina State Park to AZ Hwy 77; north on AZ Hwy 77 to Tangerine Rd.
- Unit 34A – Beginning in Nogales at I-19 and Compound St. Grand Avenue (U.S. Highway 89); northeast on Grand Avenue (~~U.S. Hwy 89~~) to AZ Hwy 82; northeast on AZ Hwy 82 to AZ Hwy 83; northerly on AZ Hwy 83 to the Sahuarita ~~road~~ Rd. alignment; west along the Sahuarita ~~road~~ Rd. alignment to I-19 Exit 75; south on I-19 to Grand Avenue (U.S. Hwy 89).
- Unit 34B – Beginning at AZ Hwy 83 and I-10 Exit 281; easterly on I-10 to the San Pedro River; south along the San Pedro River to AZ Hwy 82; westerly on AZ Hwy 82 to AZ Hwy 83; northerly on AZ Hwy 83 to I-10 Exit 281. Unit 35A – Beginning on the U.S.-Mexico border at the San Pedro River; west along the border to Lochiel Rd.; north on Lochiel Rd. to Patagonia San Rafael Rd.; north on the Patagonia San Rafael Rd. to San Rafael Valley-FS 58 Rd.; north on the San Rafael Valley-FS 58 Rd. to Christian Ln.; north on the Christian Ln. to Ranch Rd.; east and north on the Ranch Rd. to FR 799-Canelo Pass Rd.; northeasterly on the FR 799-Canelo Pass Rd. to AZ Hwy 83; northwesterly on the AZ Hwy 83 to Elgin Canelo Rd.; northeasterly on the Elgin-Canelo Rd. to Upper Elgin Rd.; north on the Upper Elgin Rd. to AZ Hwy 82; easterly on AZ Hwy 82 to the San Pedro River; south along the San Pedro River to the U.S.-Mexico border.
- Unit 35B – Beginning at Grand Avenue (~~U.S. Hwy 89~~) at the U.S.-Mexico border in Nogales; east along the U.S.-Mexico border to Lochiel Rd.; north on the Lochiel Rd. to Patagonia San Rafael Rd.; north on the Patagonia San Rafael Rd. to San Rafael Valley-FS 58 Rd.; north on the San Rafael Valley-FS 58 Rd. to Christian Ln.; north on the Christian Ln. to Ranch Rd.; east and north on the Ranch Rd. to FR 799-Canelo Pass Rd.; northeasterly on FR 799-Canelo Pass Rd. to AZ Hwy 83; northwesterly on the AZ Hwy 83 to Elgin Canelo Rd.; north on the Elgin Canelo Rd. to Upper Elgin Rd.; north on the Upper Elgin Rd. to AZ Hwy 82; southwest on AZ Hwy 82 to Grand Avenue; southwest on Grand Avenue to the U.S.-Mexico border.
- Unit 36A – Beginning at the junction of Sandario Rd. and AZ Hwy 86; southwest on AZ Hwy 86 to AZ Hwy 286; southerly on AZ Hwy 286 to the Arivaca-Sasabe Rd.; southeasterly on the Arivaca-Sasabe Rd. to the town of Arivaca; from the town of Arivaca northeasterly on the Arivaca Rd. to I-19; north on I-19 to the southern boundary of the San Xavier Indian Reservation boundary; westerly and northerly along the reservation boundary to the Sandario road alignment; north on Sandario Rd. to AZ Hwy 86.

- Unit 36B – Beginning at I-19 and Compound St.; southeasterly on Compound St. to Sonoita Ave.; north on Sonoita Ave. to Crawford St.; southeasterly on Crawford St. to Grand Avenue (U.S. Hwy 89) in Nogales; southwest on Grand Avenue to the U.S.-Mexico border; west along the U.S.-Mexico border to AZ Hwy 286; north on AZ Hwy 286 to the Arivaca-Sasabe Rd.; southeasterly on the Arivaca-Sasabe Rd. to the town of Arivaca; from the town of Arivaca northeasterly on the Arivaca Rd. to I-19; south on I-19 to Grand Avenue (U.S. Hwy 89).
- Unit 36C – Beginning at the junction of AZ Hwy 86 and AZ Hwy 286; southerly on AZ Hwy 286 to the U.S.-Mexico border; westerly along the border to the east boundary of the Tohono O’odham (Papago) Indian Reservation; northerly along the reservation boundary to AZ Hwy 86; easterly on AZ Hwy 86 to AZ Hwy 286.
- Unit 37A -- Beginning at the junction of I-10 and Tangerine Rd. (Exit 240); southeast on I-10 to Avra Valley Rd. (Exit 242); west on Avra Valley Rd. to Sandario Rd.; south on Sandario Rd. to AZ Hwy 86; southwest on AZ Hwy 86 to the Tohono O’odham Nation boundary; north, east, and west along this boundary to Battaglia Rd.; east on Battaglia Rd. to Toltec Rd.; north on Toltec Rd. to I-10 (Exit 203); southeast on I-10 to AZ Hwy 87 (Exit 211); north on AZ Hwy 87 to AZ Hwy 287; east on AZ Hwy 287 to AZ Hwy 79 at Florence; southeast on AZ Hwy 79 to its junction with AZ Hwy 77; south on AZ Hwy 77 to Tangerine Rd.; west on Tangerine Rd. to I-10.
- Unit 37B – Beginning at the junction of AZ Hwy 79 and AZ Hwy 77; northwest on AZ Hwy 79 to U.S. Hwy 60; east on U.S. Hwy 60 to AZ Hwy 177; southeast on AZ Hwy 177 to AZ Hwy 77; southeast and southwest on AZ Hwy 77 to AZ Hwy 79.
- Unit 38M – Beginning at the junction of I-10 and Tangerine Rd. (Exit 240); southeast on I-10 to Avra Valley Rd. (Exit 242); west on Avra Valley Rd. to Sandario Rd.; south on Sandario Rd. to the San Xavier Indian Reservation boundary; south and east along the reservation boundary to I-19; south on I-19 to Sahuarita Rd. (Exit 75); east on Sahuarita Rd. to AZ Hwy 83; north on AZ Hwy 83 to I-10 (Exit 281); east on I-10 to Marsh Station Rd. (Exit 289); northwest on Marsh Station Rd. to the Agua Verde Rd.; north on the Agua Verde Rd. to its terminus, then north 1/2 mile to the Coronado National Forest boundary; north and west along the National Forest boundary, then west, north, and east along the Saguaro National Park boundary; continuing north and west along the Coronado National Forest boundary to the southern boundary of Catalina State Park; west along the southern boundary of Catalina State Park to AZ Hwy 77; north on AZ Hwy 77 to Tangerine Rd.; west on Tangerine Rd. to I-10.
- Unit 39 -- Beginning at AZ Hwy 85 and the Gila River; east along the Gila River to the western boundary of the Gila River Indian Community; southeasterly along this boundary to AZ Hwy 347 (John Wayne Parkway); south on AZ Hwy 347 (John Wayne Parkway) to AZ Hwy 84; east on AZ Hwy 84 to Stanfield; south on the Stanfield-Cocklebur Rd. to I-8; westerly on I-8 to Exit 87; northerly on the Agua Caliente Rd. to the Hyder Rd.; northeasterly on Hyder Rd. to 555th Ave.; north on 555th Ave. to Lahman Rd.; east on Lahman Rd., which becomes Agua Caliente Rd.; northeasterly on Agua Caliente Rd. to Old Hwy 80; northeasterly on Old

Hwy 80 to Arizona Hwy 85; southerly on AZ Hwy 85 to the Gila River; except those portions that are sovereign tribal lands of the Tohono O'odham Nation and the Ak-Chin Indian Community.

Unit 40A – Beginning at Ajo; southeasterly on AZ Hwy 85 to Why; southeasterly on AZ Hwy 86 to the Tohono O'odham (Papago) Indian Reservation; northerly and easterly along the reservation boundary to the Cocklebur-Stanfield Rd.; north on the Cocklebur-Stanfield Rd. to I-8; westerly on I-8 to AZ Hwy 85; southerly on AZ Hwy 85 to Ajo.

Unit 40B – Beginning at Gila Bend; westerly on I-8 to the Colorado River; southerly along the Colorado River to the Mexican border at San Luis; southeasterly along the border to the Cabeza Prieta National Wildlife Refuge; northerly, easterly and southerly around the refuge boundary to the Mexican border; southeast along the border to the Tohono O'odham (Papago) Indian Reservation; northerly along the reservation boundary to AZ Hwy 86; northwesterly on AZ Hwy 86 to AZ Hwy 85; north on AZ Hwy 85 to Gila Bend; except those portions that are sovereign tribal lands of the Cocopah Tribe.

Unit 41 – Beginning at I-8 and U.S. Hwy 95 (in Yuma); easterly on I-8 to exit 87; northerly on the Agua Caliente Rd. to the Hyder Rd.; northeasterly on Hyder Rd. to 555th Ave.; north on 555th Ave. to Lahman Rd.; east on Lahman Rd., which becomes Agua Caliente Rd.; northeasterly on Agua Caliente Rd. to Old Hwy 80; northeasterly on Old Hwy 80 to Arizona Hwy 85; northerly on AZ Hwy 85 to Oglesby Rd.; north on Oglesby Rd. to I-10; westerly on I-10 to Exit 45; southerly on Vicksburg-Kofa National Wildlife Refuge Rd. to the Refuge boundary; easterly, southerly, westerly, and northerly along the boundary to the Castle Dome Rd.; southwestly on the Castle Dome Rd. to U.S. Hwy 95; southerly on U.S. Hwy 95 to I-8.

Unit 42 – Beginning at the junction of the Beardsley Canal and U.S. Hwy 93 (~~U.S. AZ~~89, U.S. 60); northwesterly on U.S. Hwy 93 to AZ Hwy 71; southwestly on AZ Hwy 71 to U.S. Hwy 60; westerly on U.S. Hwy 60 to Aguila; south on the Eagle Eye Rd. to the Salome-Hassayampa Rd.; southeasterly on the Salome-Hassayampa Rd. to I-10 (Exit 81); easterly on I-10 to Jackrabbit Trail (Exit 121); north along Jackrabbit Trail to the Indian School road; east along Indian School Rd. to the Beardsley Canal; northeasterly along the Beardsley Canal to U.S. Hwy 93.

Unit 43A – Beginning at U.S. Hwy 95 and the Bill Williams River; west along the Bill Williams River to the Arizona-California state line; southerly to the south end of Cibola Lake; northerly and easterly on the Cibola Lake Rd. to U.S. Hwy 95; south on U.S. Hwy 95 to the Stone Cabin-King Valley Rd. (King Rd.); east along the Stone Cabin-King Valley Rd. (King Rd.) to the west boundary of the Kofa National Wildlife Refuge; northerly along the refuge boundary to the Crystal Hill Rd. (Blevens Rd.); northwesterly on the Crystal Hill Rd. (Blevens Rd.) to U.S. Hwy 95; northerly on U.S. Hwy 95 to the Bill Williams River; except those portions that are sovereign tribal lands of the Colorado River Indian Tribes.

Unit 43B – Beginning at the south end of Cibola Lake; southerly along the Arizona-California state line to I-8; southeasterly on I-8 to U.S. Hwy 95; easterly and northerly on U.S. Hwy 95 to the Castle Dome road; northeast on the Castle Dome Rd. to the Kofa National Wildlife Refuge boundary; north along the refuge boundary to the Stone Cabin-King Valley Rd. (King Rd.); west along the Stone Cabin-King Valley Rd. (King

- Rd.) to U.S. Hwy 95; north on U.S. Hwy 95 to the Cibola Lake Rd.; west and south on the Cibola Lake Rd. to the south end of Cibola Lake; except those portions that are sovereign tribal lands of the Quechan Tribe.
- Unit 44A – Beginning at U.S. Hwy 95 and the Bill Williams River; south along U.S. Hwy 95 to AZ Hwy 72; southeasterly on AZ Hwy 72 to Vicksburg; south on the Vicksburg-Kofa National Wildlife Refuge Rd. to I-10; easterly on I-10 to the Salome-Hassayampa Rd. (Exit 81); northwesterly on the Salome-Hassayampa Rd. to Eagle Eye Rd.; northeasterly on Eagle Eye Rd. to Aguila; east on U.S. Hwy 60 to AZ Hwy 71; northeasterly on AZ Hwy 71 to U.S. Hwy 93; northwesterly on U.S. Hwy 93 to the Santa Maria River; westerly along the Santa Maria and Bill Williams rivers to U.S. Hwy 95; except those portions that are sovereign tribal lands of the Colorado River Indian Tribes.
- Unit 44B – Beginning at Quartzsite; south on U.S. Hwy 95 to the Crystal Hill Rd. (Blevens Rd.); east on the Crystal Hill Rd. (Blevens Rd.) to the Kofa National Wildlife Refuge; north and east along the refuge boundary to the Vicksburg-Kofa National Wildlife Refuge Rd.; north on the Vicksburg-Kofa National Wildlife Refuge Rd. to AZ Hwy 72; northwest on AZ Hwy 72 to U.S. Hwy 95; south on U.S. Hwy 95 to Quartzsite.
- Unit 45A – Beginning at the junction of the Stone Cabin-King Valley Rd. (King Rd.) and Kofa National Wildlife Refuge boundary; east on the Stone Cabin-King Valley Rd. (King Rd.) to O-O Junction; north from O-O Junction on the Kofa Mine Rd. to the Evening Star Mine; north on a line over Polaris Mountain to Midwell-Alamo Spring-Kofa Cabin Rd. (Wilbanks Rd.); north on the Midwell-Alamo Spring-Kofa Cabin Rd. (Wilbanks Rd.) to the El Paso Natural Gas Pipeline Rd.; north on a line from the junction to the north boundary of the Kofa National Wildlife Refuge; west and south on the boundary line to Stone Cabin-King Valley Rd. (King Rd.).
- Unit 45B -- Beginning at O-O Junction; north from O-O Junction on the Kofa Mine Rd. to the Evening Star Mine; north on a line over Polaris Mountain to Midwell-Alamo Spring-Kofa Cabin Rd. (Wilbanks Rd.); north on the Midwell-Alamo Spring-Kofa Cabin Rd. (Wilbanks Rd.) to the El Paso Natural Gas Pipeline Rd.; north on a line from the junction to the north Kofa National Wildlife Refuge boundary; east to the east refuge boundary; south and west along the Kofa National Wildlife Refuge boundary to the Stone Cabin-King Valley Rd. (Wellton-Kofa Rd./Ave 40E); north and west on the Stone Cabin-King Valley Rd. (Wellton-Kofa Rd./Ave 40E) to O-O Junction.
- Unit 45C -- Beginning at the junction of the Stone Cabin-King Valley Rd. (King Rd.) and Kofa National Wildlife Refuge; south, east, and north along the refuge boundary to the Stone Cabin-King Valley Rd. (King Rd.); north and west on the Stone Cabin-King Valley Rd. (King Rd.) to the junction of the Stone Cabin-King Valley Rd. (King Rd.) and Kofa National Wildlife Refuge boundary.
- Unit 46A -- That portion of the Cabeza Prieta National Wildlife Refuge east of the Yuma-Pima County line.
- Unit 46B -- That portion of the Cabeza Prieta National Wildlife Refuge west of the Yuma-Pima County line.

**R12-4-110. Posting and Access to State Land**

**A.** For the purpose of this Section:

- ‡ “Corrals,” “feed lots,” or “holding pens” mean completely fenced areas used to contain livestock for purposes

other than grazing.

~~2-~~ “Existing road” means any maintained or unmaintained road, way, highway, trail, or path that has been used for motorized vehicular travel, and clearly shows or has a history of established vehicle use, and is not currently closed by the Commission.

~~3-~~ “State lands” means all land owned or held in trust by the state that is managed by the State Land Department and lands that are owned or managed by the Game and Fish Commission.

**B.** In addition to the prohibition against posting proscribed under A.R.S. § 17-304, a person shall not lock a gate, construct a fence, place an obstacle, or otherwise commit an act that denies legally available access to or use of any existing road upon state lands by persons lawfully taking or retrieving wildlife or conducting any activities that are within the scope of and take place while lawfully hunting or fishing.

1. A person in violation of this Section shall take immediate corrective action to remove any lock, fence, or other obstacle unlawfully preventing access to state lands.

2. If immediate corrective action is not taken, a representative of the Department may remove any unlawful posting and remove any lock, fence, or other obstacle that unlawfully prevents access to state lands.

3. In addition, the Department may take appropriate legal action to recover expenses incurred in the removal of any unlawful posting or obstacle that prevented access to state land.

**C.** The provisions of this Section do not allow any person to trespass upon private land to gain access to any state land.

**D.** A person may post state lands as closed to hunting, fishing, or trapping without further action by the Commission when the state land is within one-quarter mile of any:

1. Occupied residence, cabin, lodge, or other building; or

2. Corrals, feed lots, or holding pens containing concentrations of livestock other than for grazing purposes.

3. Subsection (D) does not authorize any person to deny lawful access to state land in any way.

**E.** The Commission may grant permission to lock, tear down, or remove a gate or close a road or trail that provides legally available access to state lands for persons lawfully taking wildlife or conducting any activities that are within the scope of and take place while lawfully hunting or fishing if access to such lands is provided by a reasonable alternate route.

1. Under R12-4-610, the Director may grant a permit to a state land lessee to temporarily lock a gate or close an existing road that provides access to state lands if the taking of wildlife will cause unreasonable interference during a critical livestock or commercial operation. This permit shall not exceed 30 days.

2. Applications for permits for more than 30 days shall be submitted to the Commission for approval.

3. If a permit is issued to temporarily close a road or gate, a copy of the permit shall be posted at the point of the closure during the period of the closure.

**F.** A person may post state lands other than those referenced under subsection (D) as closed to hunting, fishing, or trapping, provided the person has obtained a permit from the Commission authorizing the closure. A person possessing a permit authorizing the closure of state lands shall post signs in compliance with A.R.S. 17-304(C). The Commission may permit the closure of state land when it is necessary:

1. Because the taking of wildlife constitutes an unusual hazard to permitted users;
  2. To prevent unreasonable destruction of plant life or habitat; or
  3. For proper resource conservation, use, or protection, including but not limited to high fire danger, excessive interference with mineral development, developed agricultural land, or timber or livestock operations.
- G.** A person shall submit an application for posting state land to prohibit hunting, fishing, or trapping under subsection (F), or to close an existing road under subsection (E), as required under R12-4-610. If an application to close state land to hunting, fishing, or trapping is made by a person other than the state land lessee, the Department shall provide notice to the lessee and the State Land Commissioner before the Commission considers the application. The state land lessee or the State Land Commissioner shall file any objections with the Department, in writing, within 30 days after receipt of notice, after which the matter shall be submitted to the Commission for determination.
- H.** A person may use a vehicle on or off a road to pick up lawfully taken big game ~~animals~~.
- I.** The closing of state land to hunting, fishing, or trapping shall not restrict any other permitted use of the land.
- J.** State trust land may be posted with signs that read "State Land No Trespassing," but such posting shall not prohibit access to such land by any person lawfully taking or retrieving wildlife or conducting any activities that are within the scope of and take place while lawfully hunting or fishing.
- K.** When hunting, fishing, or trapping on state land, a license holder shall not:
1. Break or remove any lock or cut any fence to gain access to state land;
  2. Open and not immediately close a gate;
  3. Intentionally or wantonly destroy, deface, injure, remove, or disturb any building, sign, equipment, marker, or other property;
  4. Harvest or remove any vegetative or mineral resources or object of archaeological, historic, or scientific interest;
  5. Appropriately, mutilate, deface, or destroy any natural feature, object of natural beauty, antiquity, or other public or private property;
  6. Dig, remove, or destroy any tree or shrub;
  7. Gather or collect renewable or non-renewable resources for the purpose of sale or barter unless specifically permitted or authorized by law; ~~or~~
  8. Frighten or chase domestic livestock or wildlife, or endanger the lives or safety of others when using a motorized vehicle or other means; or
  9. Operate a motor vehicle off road or on any road closed to the public by the Commission or landowner, except to retrieve a lawfully taken big game ~~animal~~.

**R12-4-113. Small Game Depredation Permit**

- A.** The Department shall issue a small game depredation permit authorizing the take of small game and the allowable methods of take only after the Department has determined all other remedies prescribed under A.R.S. § 17-239(A), (B), and (C) have been exhausted and the take of the small game is necessary to alleviate the property

damage. A small game depredation permit is:

1. A complimentary permit.
  2. Not valid for the take of migratory birds unless the permit holder:
    - a. Obtains and possesses a federal special purpose permit under 50 C.F.R. 21.41, revised October 1, 2014, which is incorporated by reference; or
    - b. Is exempt from permitting requirements under 50 C.F.R. 21.43, revised October 1, 2014, which is incorporated by reference.
    - c. For subsections (A)(2)(a) and (b), the incorporated material is available at any Department office, online at [www.gpoaccess.gov](http://www.gpoaccess.gov), or it may be ordered from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000. This incorporation by reference does not include any later amendments or editions of the incorporated material.
- B.** A person desiring a small game depredation permit shall submit to the Department an application requesting the permit. The application form is furnished by the Department and is available at any Department office and ~~online at [www.azgfd.gov](http://www.azgfd.gov)~~ on the Department's website. The person shall provide all of the following information on the form:
1. Full name or, when submitted by a municipality, the name of the agency and agency contact;
  2. Mailing address;
  3. Telephone number or, when submitted by a municipality, agency contact number;
  4. E-mail address, when available, or, when submitted by a municipality, agency contact e-mail address;
  5. Description of property damage suffered;
  6. Species of ~~animal~~ wildlife causing the property damage; and
  7. Area the permit would be valid for.
- C.** Within 30 days of completion of the activities authorized by the small game depredation permit, the permit holder shall submit a report to the Department providing all of the following.
1. The number of individuals removed;
  2. The location the individuals were removed from;
  3. The date of the removal; and
  4. The method of removal.

**R12-4-114. Issuance of Nonpermit-tags and Hunt Permit-tags**

- A.** The Department provides numbered tags for sale to the public. The Department shall ensure each tag:
1. Includes a transportation and shipping permit as prescribed under A.R.S. §§ 17-332 and 17-371, and
  2. Clearly identifies the ~~animal~~ wildlife for which the tag is valid.
- B.** If the Commission establishes a big game season for which a hunt number is not assigned, the Department or its authorized agent, or both, shall sell nonpermit-tags.
1. A person purchasing a nonpermit-tag shall provide all of the following information to a Department office or license dealer at the time of purchase; the applicant's:

- a. Name,
  - b. Mailing address, and
  - c. Department identification number.
2. An applicant shall not obtain nonpermit-tags in excess of the bag limit established by Commission Order when it established the season for which the nonpermit-tags are valid.
- C. If the number of hunt permits for a species in a particular hunt area must be limited, a Commission Order establishes a hunt number for that hunt area and a hunt permit-tag is required to take the species in that hunt area.
1. A person applying for a hunt permit-tag shall submit an application as described under R12-4-104.
  2. The Department shall determine whether a hunt permit-tag will be issued to an applicant as follows:
    - a. The Department shall reserve a maximum of 20% of the hunt permit-tags for each hunt number, except as established under subsection (C)(2)(b), for ~~antelope~~, bear, deer, elk, javelina, pronghorn, Sandhill crane, and turkey and reserve a maximum of 20% of the hunt permit-tags for all hunt numbers combined statewide for bighorn sheep and ~~buffalo~~ bison to issue to persons who have bonus points and shall issue the hunt permit-tags as established under subsection (C)(2)(c).
    - b. For ~~antelope~~, bear, deer, elk, javelina, pronghorn, Sandhill crane, and turkey, the Department shall reserve one hunt permit-tag for any hunt number with fewer than five, but more than one, hunt permit-tags and shall issue the tag as established under subsection (C)(2)(c). When this occurs, the Department shall adjust the number of available hunt permit-tags in order to ensure the total number of hunt permit-tags available does not exceed the 20% maximum specified in subsection (C)(2)(a).
    - c. The Department shall issue the reserved hunt permit-tags for hunt numbers that eligible applicants designate as their first or second choices. The Department shall issue the reserved hunt permit-tags by random selection:
      - i. First, to eligible applicants with the highest number of bonus points for that genus;
      - ii. Next, if there are reserved hunt permit-tags remaining, to eligible applicants with the next highest number of bonus points for that genus; and
      - iii. If there are still tags remaining, to the next eligible applicants with the next highest number of bonus points; continuing in the same manner until all of the reserved tags have been issued or until there are no more applicants for that hunt number who have bonus points.
    - d. The Department shall ensure that all unreserved hunt permit-tags are issued by random selection:
      - i. First, to hunt numbers designated by eligible applicants as their first or second choices; and
      - ii. Next, to hunt numbers designated by eligible applicants as their third, fourth, or fifth choices.
    - e. Before each of the three passes listed under (C)(2)(c)(i), (ii), and (iii), each application is processed through the Department's random number generator program. A random number is assigned to each application; an additional random number is assigned to each application for each group bonus point, including the ~~Hunter~~ Education and Loyalty bonus points. Only the lowest random number generated for an application is used in the computer draw process. A new random number is generated for each application for each pass of the computer draw.

- f. If the bag limit is more than one per calendar year, or if there are unissued hunt permit-tags remaining after the random computer draw, the Department shall ensure these hunt permit-tags are available on a first-come, first-served basis as specified in the annual hunt permit-tag application schedule.
- D. A person may purchase hunt permit-tags equal to the bag limit for a genus.
    - 1. A person shall not exceed the established bag limit for that genus.
    - 2. A person shall not apply for any additional hunt-permit-tags if the person has reached the bag limit for that genus during the same calendar year.
    - 3. A person who surrenders a tag in compliance with R12-4-118 is eligible to apply for another hunt permit-tag for the same genus during the same calendar year, provided the person has not reached the bag limit for that genus.
  - E. The Department shall make available to nonresidents:
    - 1. For bighorn sheep and ~~buffalo~~ bison, no more than one hunt permit-tag or 10% of the total hunt permit-tags, whichever is greater, for bighorn sheep or ~~buffalo~~ bison in any computer draw. The Department shall not make available more than 50% nor more than two bighorn sheep or ~~buffalo~~ bison hunt permit-tags of the total in any hunt number.
    - 2. For ~~antelope~~, antlered deer, bull elk, pronghorn, Sandhill crane, or turkey, no more than 10%, rounded down to the next lowest number, of the total hunt permit-tags in any hunt number. If a hunt number for ~~antelope~~, antlered deer, bull elk, pronghorn, Sandhill crane, or turkey has 10 or fewer hunt permit-tags, no more than one hunt permit-tag will be made available unless the hunt number has only one hunt permit-tag, then that tag shall only be available to a resident.
  - F. The Commission may, at a public meeting, increase the number of hunt permit-tags issued to nonresidents in a computer draw when necessary to meet management objectives.
  - G. The Department shall not issue under subsection (C)(2)(c), more than half of the hunt permit-tags made available to nonresidents under subsection (E).
  - H. A nonresident cap established under this Section applies only to hunt permit-tags issued by computer draw under subsections (C)(2)(c) and (d).

**R12-4-115. Restricted Nonpermit-Tags; Supplemental Hunts and Hunter Pool**

- A. For the purposes of this Section, the following definitions apply:
  - “Companion tag” means a restricted nonpermit-tag valid for a supplemental hunt prescribed by Commission Order that exactly matches the season dates and open areas of another big game hunt, for which a hunt number is assigned and hunt permit-tags are issued through the computer draw.
  - “Emergency season” means a season established for reasons constituting an immediate threat to the health, safety or management of wildlife or its habitat, or public health or safety.
  - “Management objectives” means goals, recommendations, or guidelines contained in Department or Commission-approved wildlife management plans, which include hunt guidelines, operational plans, or hunt recommendations;

“Hunter pool” means all persons who have submitted an application for a supplemental hunt.

“Restricted nonpermit-tag” means a permit limited to a season for a supplemental hunt established by the Commission for the following purposes:

Take of depredating wildlife as authorized under A.R.S. § 17-239;

Take of wildlife under an Emergency Season; or

Take of wildlife under a population management hunt if the Commission has prescribed nonpermit-tags by Commission Order for the purpose of meeting management objectives because regular seasons are not, have not been, or will not be sufficient or effective to achieve management objectives.

- B.** The Commission shall, by Commission Order, open a season or seasons and prescribe a maximum number of restricted nonpermit-tags to be made available under this Section.
- C.** The Department shall implement a population management hunt under the open season or seasons established under subsection (B) if the Department determines the:
  - 1. Regular seasons have not met or will not meet management objectives;
  - 2. Take of wildlife is necessary to meet management objectives; and
  - 3. Issuance of a specific number of restricted nonpermit-tags is likely to meet management objectives.
- D.** To implement a population management hunt established by Commission Order, the Department shall:
  - 1. Select season dates, within the range of dates listed in the Commission Order;
  - 2. Select specific hunt areas, within the range of hunt areas listed in the Commission Order;
  - 3. Select the legal ~~animal~~ wildlife that may be taken from the list of legal ~~animals~~ wildlife identified in the Commission Order;
  - 4. Determine the number of restricted nonpermit-tags that will be issued from the maximum number of tags authorized in the Commission Order.
    - a. The Department shall not issue more restricted nonpermit-tags than the maximum number prescribed by Commission Order.
    - b. A restricted nonpermit-tag is valid only for the supplemental hunt for which it is issued.
- E.** The provisions of R12-4-104, R12-4-107, R12-4-114, and R12-4-609 do not apply to a supplemental hunt.
- F.** If the Department anticipates the normal fee structure will not generate adequate participation, then the Department may reduce restricted nonpermit-tag fees up to 75%, as authorized under A.R.S. § 17-239(D).
- G.** A supplemental hunt application submitted in accordance with this Section does not invalidate any other application submitted by the person for a hunt permit-tag.
  - 1. The Department shall not accept a group application, as defined under R12-4-104, for a restricted nonpermit-tag.
  - 2. An applicant shall not apply for or obtain a restricted nonpermit-tag to take wildlife in excess of the bag limit established by Commission Order.
  - 3. The issuance of a restricted nonpermit-tag does not authorize a person to exceed the bag limit established by Commission Order.
- H.** To participate in a supplemental hunt, a person shall:

1. Obtain a restricted nonpermit-tag as prescribed under this Section, and
  2. Possess a valid hunting license. If the applicant does not possess a valid license or the license will expire before the supplemental hunt, the applicant shall purchase an appropriate license.
- I. The Department or its authorized agent shall maintain a hunter pool for supplemental hunts other than companion tag hunts.
1. The Department shall purge and renew the hunter pool on an annual basis.
  2. An applicant for a restricted nonpermit-tag under this subsection shall submit a hunt permit-tag application to the Department for each desired species. The application is available at any Department office, an authorized agent, or ~~online at www.azgfd.gov~~ on the Department's website. The applicant shall provide all of the following information on the application:
    - a. The applicant's:
      - i. Name;<sub>2</sub>
      - ii. Department identification number, when applicable;
      - ~~iii.~~ Mailing address;<sub>2</sub>
      - ~~ii-iv.~~ Number of years of residency immediately preceding application;<sub>2</sub>
      - ~~iv-v.~~ Date of birth;<sub>2</sub>
      - vi. Social Security Number, as required under A.R.S. §§ 25-320(P) and 25-502(K); and
      - ~~v-vii.~~ Daytime and evening telephone numbers,
    - b. The species that the applicant would like to hunt, if selected,
    - c. The applicant's hunting license number.
  3. In addition to the requirements established under subsection (I)(2), at the time of application the applicant shall submit the application fee required under R12-4-102. A separate application and application fee is required for each species the applicant submits an application for.
  4. When issuing a restricted nonpermit-tag, the Department or its authorized agent shall randomly select applicants from the hunter pool.
    - a. The Department or its authorized agent shall attempt to contact each randomly-selected applicant ~~by telephone~~ at least three times within a 24-hour period.
    - b. If an applicant cannot be contacted or is unable to participate in the supplemental hunt, the Department or its authorized agent shall return the application to the hunter pool and draw another application.
    - c. In compliance with subsection (D)(4), the Department or its authorized agent shall select no more applications after the number of restricted nonpermit-tags establish by Commission Order are issued.
  5. The Department shall reserve a restricted nonpermit-tag for an applicant only for the period specified by the Department when contact is made with the applicant. If an applicant fails to purchase the nonpermit-tag within the specified period, the Department or its authorized agent shall:
    - a. Remove the person's application from the hunter pool, and
    - b. Offer that restricted nonpermit-tag to another person whose application is drawn from the hunter pool as established under this Section.

6. A person who participates in a supplemental hunt through the hunter pool shall be removed from the supplemental hunter pool for the genus for which the person participated. A hunter pool applicant who is selected and who wishes to participate in a supplemental hunt shall submit the following to the Department to obtain a restricted nonpermit-tag:
    - a. The fee for the tag as established under R12-4-102 or subsection (F) if the fee has been reduced, and
    - b. The applicant's hunting license number. The applicant shall possess an appropriate license that is valid at the time of the supplemental hunt. The applicant shall purchase a license at the time of application when:
      - i. The applicant does not possess a valid license, or
      - ii. The applicant's license will expire before the supplemental hunt.
  7. A person who participates in a supplemental hunt shall not reapply for the hunter pool for that genus until the hunter pool is renewed.
- J.** The Department shall only make a companion tag available to a person who possesses a matching hunt permit-tag and not a person from the hunter pool. Authorization to issue a companion tag occurs when the Commission establishes a hunt in Commission Order under subsection (B).
1. The requirements of subsection (D) are not applicable to a companion tag issued under this subsection.
  2. To obtain a companion tag under this subsection, an applicant shall submit a hunt permit-tag application to the Department. The application is available at any Department office and ~~online at [www.azgfd.gov](http://www.azgfd.gov)~~ on the Department's website. The applicant shall provide all of the following information on the application, the applicant's:
    - a. Name,
    - b. Mailing address,
    - c. Department identification number, and
    - d. Hunt permit-tag number, to include the hunt number and permit number, corresponding with the season dates and open areas of the supplemental hunt.
  3. In addition to the requirements established under subsection (J)(2), at the time of application the applicant shall:
    - a. Provide verification that the applicant lawfully obtained the hunt permit-tag for the hunt described under this subsection by presenting the hunt permit-tag to a Department office for verification, and
    - b. Submit all applicable fees required under R12-4-102.

**R12-4-116. ~~Reward Payments~~ Issuance of Limited-Entry Permit-tag**

- ~~**A.** Subject to the restrictions prescribed under A.R.S. § 17-315, a person may claim a reward from the Department when the person provides information that leads to an arrest through the Operation Game Thief Program. The person who reports the unlawful activity will then become eligible to receive a reward as established under subsections (C) and (D), provided funds are available in the Wildlife Theft Prevention Fund and:~~
- ~~1. The person who reported the violation provides the Operation Game Thief control number issued by~~

- ~~Department law enforcement personnel, as established under subsection (B);~~
- ~~2. The information provided relates to a violation of any provisions of A.R.S. Title 17, A.A.C. Title 12, Chapter 4, or federal wildlife laws enforced by and under the jurisdiction of the Department, but not on Indian Reservations;~~
  - ~~3. The person did not first provide information during a criminal investigation or judicial proceeding; and~~
  - ~~4. The person who reports the violation is not:
    - ~~a. The person who committed the violation;~~
    - ~~b. A peace;~~
    - ~~c. A Department employee; or~~
    - ~~d. An immediate family member of a Department employee.~~~~
- B.** ~~The Department shall inform the person providing information regarding a wildlife violation of the procedure for claiming a reward if the information results in an arrest. The Department shall also provide the person with the control number assigned to the reported violation.~~
- C.** ~~Reward payments for information that results in an arrest for the reported violation are as follows:~~
- ~~1. For cases that involve antelope, eagles, bear, bighorn sheep, buffalo, deer, elk, javelina, mountain lion, turkey, or endangered or threatened wildlife as defined under R12-4-401, \$500;~~
  - ~~2. For cases that involve wildlife that are not listed under subsection (C)(1), a minimum of \$50, not to exceed \$150; and~~
  - ~~3. For cases that involve any wildlife, an additional \$1,000 may be made available based on:
    - ~~a. The value of the information;~~
    - ~~b. The unusual value of the wildlife;~~
    - ~~c. The number of individual animals taken;~~
    - ~~d. Whether or not the person who committed the unlawful act was arrested for commercialization of wildlife; and~~
    - ~~e. Whether or not the person who committed the unlawful act is a repeat offender.~~~~
- D.** ~~If more than one person independently provides information or evidence that leads to an arrest for a violation, the Department may divide the reward payment among the persons who provided the information if the total amount of the reward payment does not exceed the maximum amount of a monetary reward established under subsections (C) or (E);~~
- E.** ~~Notwithstanding subsection (C), the Department may offer and pay a reward up to the minimum civil damage value of the wildlife unlawfully taken, wounded or killed, or unlawfully possessed as prescribed under A.R.S. § 17-314, if the Department believes that an enhanced reward offer is merited due to the specific circumstances of the case.~~
- A.** For the purposes of this Section, limited-entry permit-tags may be for terrestrial or aquatic species, or specific areas for terrestrial or aquatic species.
- B.** The Commission may, by Commission Order, open a limited-entry season or seasons and prescribe a maximum number of limited-entry permit-tags to be made available under this Section.

- C. The Department may implement limited-entry permit-tags under the open season or seasons established in subsection (B) if the Department determines:
1. A season for a specific terrestrial or aquatic wildlife species, or specific area of the state, is in high demand;
  2. Issuance of a specific number of limited-entry permit-tags will not adversely affect management objectives for a species or area;
  3. Surrendered hunt permit-tags, already approved by Commission Order, are available from hunts with high demand.
- D. To implement a limited-entry season established by Commission Order, the Department shall:
1. Select season dates, within the range of dates listed in the Commission Order;
  2. Select specific areas, within the range of areas listed in the Commission Order;
  3. Select the legal wildlife that may be taken from the list of legal wildlife identified in the Commission Order;
  4. Determine the number of limited-entry permit-tags that will be issued from the maximum number authorized in the Commission Order.
    - a. The Department shall not issue more limited-entry permit-tags than the maximum number prescribed by Commission Order.
    - b. A limited-entry permit-tag is valid only for the limited-entry season for which it is issued.
- E. The provisions of R12-4-104, R12-4-107, R12-4-114, and R12-4-609 do not apply to limited-entry seasons.
- F. A limited-entry permit-tag application submitted in accordance with this Section does not invalidate any other application submitted by the person for a hunt permit-tag.
- G. The Department shall not accept a group application, as defined under R12-4-104, for a limited-entry season.
- H. To participate in a limited-entry season, a person shall:
1. Obtain a limited-entry permit-tag as prescribed under this Section, and
  2. Possess a valid hunting, fishing or combination license at the time the limited-entry permit-tag is awarded. If the applicant does not possess a valid license or the license will expire before the limited-entry season, the applicant shall purchase an appropriate license. A valid hunting, fishing or combination license is not required at the time of application.
- I. A limited-entry permit-tag is valid only for the person named on the permit-tag, for the season dates on the permit-tag, and the species for which the permit-tag is issued.
1. Possession of a limited-entry permit-tag shall not invalidate any other hunt permit-tag for that species.
  2. Big game taken under the authority of this limited-entry permit-tag shall not count towards the established bag limit for that species.
- J. The Department shall maintain the applications submitted for limited-entry permit-tags.
1. An applicant for a limited-entry season under this subsection shall submit a limited-entry permit-tag application to the Department for each limited-entry season established. The application is available at any Department office and on the Department's website. The applicant shall provide all of the following information on the application:
    - a. The applicant's personal information:

- i. Name.
  - ii. Date of birth.
  - iii. Social security number, as required under A.R.S. §§ 25-320(P) and 25-502(K), when applicable;
  - iv. Department identification number, when applicable;
  - v. Residency status and number of years of residency immediately preceding application, when applicable;
  - vi. Mailing address, when applicable;
  - vii. Physical address;
  - viii. Telephone number, when available; and
  - ix. Email address, when available;
- b. The limited-entry season the applicant would like to participate in, and
  - c. Certify the information provided on the application is true and accurate.
2. In addition to the requirements established under subsection (J)(1), at the time of application the applicant shall submit the application fee required under R12-4-102. A separate application and application fee are required for each limited-entry season an applicant submits an application for.
  3. When issuing a limited-entry permit-tag for a terrestrial or aquatic wildlife species, the Department shall randomly select applicants for each designated limited-entry season.
  4. When issuing a limited-entry permit-tag for a particular water, the Department shall randomly select applicants for each date limited-entry permit-tags are available until no more are available for that date.
  5. In compliance with subsection (D)(4), the Department shall select no more applications after the number of limited-entry permits establish by Commission Order are issued.

**R12-4-118. Hunt Permit-tag Surrender**

- A. The Commission authorizes the Department to implement a tag surrender program if the Director finds:
  1. The Department has the administrative capacity to implement the program;
  2. There is public interest in such a program; or
  3. The tag surrender program is likely to meet the Department's revenue objectives.
- B. The tag surrender program is limited to a person who has a valid and active membership in a Department membership program.
  1. The Department may establish a membership program that offers a person various products and services.
  2. The Department may establish different membership levels based on the type of products and services offered and set prices for each level.
    - a. The lowest membership level may include the option to surrender one hunt permit-tag during the membership period.
    - b. A higher membership level may include the option to surrender more than one hunt permit-tag during the membership period.
  3. The Department may establish terms and conditions for the membership program in addition to the following:

- a. Products and services to be included with each membership level.
  - b. Membership enrollment is available online only and requires a person to create a portal account.
  - c. Membership is not transferable.
  - d. No refund shall be made for the purchase of a membership, unless an internal processing error resulted in the collection of erroneous fees.
- C. The tag surrender program is restricted to the surrender of an original, unused hunt permit-tag obtained through a computer draw.
- 1. A person must have a valid and active membership in the Department's membership program with at least one unredeemed tag surrender that was valid:
    - a. On the application deadline date for the computer draw in which the hunt permit-tag being surrendered was drawn, and
    - b. At the time of tag surrender.
  - 2. A person who chooses to surrender an original, unused hunt permit-tag shall do so prior to the close of business the day before the hunt begins for which the tag is valid.
  - 3. A person may surrender an unused hunt permit-tag for a specific species only once before any bonus points accrued for that species must be expended.
- D. ~~To~~ A person who wants to surrender an original, unused hunt permit-tag, a person or an authorized nonprofit organization that wants to return a donated original, unused hunt permit-tag shall comply with all of the following conditions:
- 1. ~~A person shall submit~~ Submit a completed application form to any Department office. The application form is available at any Department office and ~~online at [www.azgfd.gov](http://www.azgfd.gov)~~ on the Department's website. The applicant shall provide all of the following information on the application form:
    - a. The applicant's:
      - i. Name,
      - ii. Mailing address,
      - iii. Department identification number,
      - iv. Membership number,
    - b. Applicable hunt number,
    - c. Applicable hunt permit-tag number, and
    - d. Any other information required by the Department.
  - 2. A person shall surrender the original, unused hunt permit-tag as required under subsection (C) in the manner described by the Department as indicated on the application form.
- E. Upon receipt of an original, unused hunt permit-tag surrendered in compliance with this Section, the Department shall:
- 1. Restore the person's bonus points that were expended for the surrendered tag, and
  - 2. Award the bonus point the person would have accrued had the person been unsuccessful in the computer draw for the surrendered tag.

3. Not refund any fees the person paid for the surrendered tag, as prohibited under A.R.S. § 17-332(E).
- F.** The Department may, at its sole discretion, re-issue or destroy the surrendered original, unused hunt permit-tag. When re-issuing a tag, the Department may use any of the following methods in no order of preference:
1. Re-issuing the surrendered tag, beginning with the highest membership level in the Department's membership program, to a person who has a valid and active membership in that membership level and who would have been next to receive a tag for that hunt number, as evidenced by the random numbers assigned during the Department's computer draw process;
  2. Re-issuing the surrendered tag to a person who has a valid and active membership in any tier of the Department's membership program with a tag surrender option and who would have been next to receive a tag for that hunt number, as evidenced by the random numbers assigned during the Department's computer draw process;
  3. Re-issuing the surrendered tag to an eligible person who would have been next to receive a tag for that hunt number, as evidenced by the random numbers assigned during the Department's computer draw process; or
  4. Offering the surrendered tag through the first-come, first-served process.
- G.** For subsections (F)(1), (2), and (3); if the Department cannot contact a person qualified to receive a tag or the person declines to purchase the surrendered tag, the Department shall make a reasonable attempt to contact and offer the surrendered tag to the next person qualified to receive a tag for that hunt number based on the assigned random number during the Department's computer draw process. This process will continue until the surrendered tag is either purchased or the number of persons qualified is exhausted. For the purposes of subsections (G) and (H), the term "qualified" means a person who satisfies the conditions for re-issuing a surrendered tag as provided under the selected re-issuing method.
- H.** When the re-issuance of a surrendered tag involves a group application and one or more members of the group is qualified under the particular method for re-issuing the surrendered tag, the Department shall offer the surrendered tag first to the applicant designated "A" if qualified to receive a surrendered tag.
1. If applicant "A" chooses not to purchase the surrendered tag or is not qualified, the Department shall offer the surrendered tag to the applicant designated "B" if qualified to receive a surrendered tag.
  2. This process shall continue with applicants "C" and then "D" until the surrendered tag is either purchased or all qualified members of the group application choose not to purchase the surrendered tag.
- I.** A person who receives a surrendered tag shall submit the applicable tag fee as established under R12-4-102 and provide their valid hunting license number.
1. A person receiving the surrendered tag as established under subsections (F)(1), (2), and (3) shall expend all bonus points accrued for that genus, except any accrued ~~Hunter~~ Hunter Education and loyalty bonus points.
  2. The applicant shall possess a valid hunting license at the time of purchasing the surrendered tag and at the time of the hunt for which the surrendered tag is valid. If the person does not possess a valid license at the time the surrendered tag is offered, the applicant shall purchase a license in compliance with R12-4-104.
  3. The issuance of a surrendered tag does not authorize a person to exceed the bag limit established by Commission Order.

4. It is unlawful for a person to purchase a surrendered tag when the person has reached the bag limit for that genus during the same calendar year.
- J.** A person is not eligible to petition the Commission under R12-4-611 for reinstatement of any expended bonus points, except as authorized under R12-4-107(M).
- K.** For the purposes of this Section and R12-4-121, “valid and active membership” means a paid and unexpired membership in any level of the Department’s membership program.

**R12-4-120. Issuance, Sale, and Transfer of Special Big Game License-tags**

- A.** An incorporated nonprofit organization that is tax exempt under section 501(c) seeking special big game license-tags as authorized under A.R.S. § 17-346 shall submit a proposal to the Director of the Arizona Game and Fish Department from March 1 through May 31 preceding the year when the tags may be legally used. The proposal shall include all of the following information for each member of the organization coordinating the proposal:
  1. The name of the organization making the proposal and the:
    - a. Name;
    - b. Mailing address;
    - c. E-mail address, when available; and
    - d. Telephone number;
  2. Organization's previous involvement with wildlife management;
  3. Organization's conservation objectives;
  4. Number of special big game license-tags and the species requested;
  5. Purpose to be served by the issuance of these tags;
  6. Method or methods by which the tags will be marketed and sold;
  7. Proposed fund raising plan;
  8. Estimated amount of money to be raised and the rationale for that estimate;
  9. Any special needs or particulars relevant to the marketing of the tags;
  10. A copy of the organization's articles of incorporation and evidence that the organization has tax-exempt status under Section 501(c) of the Internal Revenue Code, unless a current and correct copy is already on file with the Department;
  11. Statement that the person or organization submitting the proposal agrees to the conditions established under A.R.S. § 17-346 and this Section;
  12. Printed name and signature of the president and secretary-treasurer of the organization or their equivalent; and
  13. Date of signing.
- B.** The Director shall return to the organization any proposal that does not comply with the requirements established under A.R.S. § 17-346 and this Section. Because proposals are reviewed for compliance after the May 31 deadline, an organization that receives a returned proposal cannot resubmit a corrected proposal, but may submit a proposal that complies with the requirements established under A.R.S. § 17-346 and this Section the following year.

- C.** The Director shall submit all timely and valid proposals to the Commission for consideration.
1. In selecting an organization, the Commission shall consider the:
    - a. Written proposal;
    - b. Proposed uses for tag proceeds;
    - c. Qualifications of the organization as a fund raiser;
    - d. Proposed fund raising plan;
    - e. Organization's previous involvement with wildlife management; and
    - f. Organization's conservation objectives.
  2. The Commission may accept any proposal in whole or in part and may reject any proposal if it is in the best interest of wildlife to do so.
  3. Commission approval and issuance of any special big game license-tag is contingent upon compliance with this Section.
- D.** A successful organization shall agree in writing to all of the following:
1. To underwrite all promotional and administrative costs to sell and transfer each special big game license-tag;
  2. To transfer all proceeds to the Department within 90 days of the date that the organization sells or awards the tag;
  3. To sell and transfer each special big game license-tag as described in the proposal; and
  4. To provide the Department with the name, address, and physical description of each person to whom a special big game license-tag is ~~transferred~~ to be issued within 60 days of the sale.
- E.** The Department and the successful organization shall coordinate on:
1. The specific projects or purposes identified in the proposal;
  2. The arrangements for the deposit of the proceeds, the accounting procedures, and final audit; and
  3. The dates when the wildlife project or purpose will be accomplished.
- F.** The Department shall dedicate all proceeds generated by the sale or transfer of a special big game license-tag to the management of the species for which the tag was issued.
1. A special license-tag shall not be issued until the Department receives all proceeds from the sale of license-tags.
  2. The Department shall not refund proceeds.
- G.** A special big game license-tag is valid only for the person named on the tag, for the season dates on the tag, and for the species for which the tag was issued.
1. A hunting license is ~~not~~ required for the tag to be valid.
  2. Possession of a special big game license-tag shall not invalidate any other big game tag or application for any other big game tag.
  3. Wildlife taken under the authority of a special big game license-tag shall not count towards the established bag limit for that species.
- H.** A person who wins the special big game license-tag through auction or raffle is prohibited from selling the special big game license-tag to another person.

**R12-4-121. Big Game Tag Transfer**

**A.** For the purposes of this Section:

“Authorized nonprofit organization” means a nonprofit organization approved by the Department to receive donated unused tags.

“Unused tag” means a ~~big game~~ hunt permit-tag, limited-entry permit-tag, nonpermit-tag, or special license tag that has not been attached to any ~~animal~~ wildlife.

**B.** A parent, grandparent, or guardian issued a ~~big game~~ hunt permit-tag, limited-entry permit-tag, nonpermit-tag, or special license tag may transfer the unused tag to the parent's, grandparent's, or guardian's minor child or grandchild.

1. A parent, grandparent, or guardian issued a tag may transfer the unused tag to a minor child or grandchild at any time prior to the end of the season for which the unused tag was issued.

2. A parent, grandparent, or guardian may transfer the unused tag by providing all of the following documentation in person at any Department office:

- a. Proof of ownership of the unused tag to be transferred,
- b. The unused tag, and
- c. The minor's valid hunting license.

3. If a parent, grandparent, or legal guardian is deceased, the personal representative of the person's estate may transfer an unused tag to an eligible minor. The person acting as the personal representative shall present:

- a. The deceased person's death certificate, and
- b. Proof of the person's authority to act as the personal representative of the deceased person's estate.

4. To be eligible to receive an unused tag from a parent, grandparent, or legal guardian, the minor child shall meet the criteria established under subsection (D).

5. A minor child or grandchild receiving an unused tag from a parent, grandparent, or legal guardian shall be accompanied into the field by any grandparent, parent, or legal guardian of the minor child.

**C.** A person issued a tag or the person's legal representative may donate the unused tag to a an authorized nonprofit organization for use by a minor child with a life threatening medical condition or permanent physical disability or a veteran of the Armed Forces of the United States with a service-connected disability.

1. The person or legal representative who donates the unused tag shall provide the authorized nonprofit organization with a written statement indicating the unused tag is voluntarily donated to the organization.

2. An authorized nonprofit organization receiving a donated tag under this subsection may transfer the unused tag to an eligible minor child or veteran by contacting any Department office.

- a. To obtain a transfer, the nonprofit organization shall:
  - i. Provide proof of donation of the unused tag to be transferred;
  - ii. Provide the unused tag;
  - iii. Provide proof of the minor child's or veteran's valid hunting license.

b. To be eligible to receive a donated unused tag from an authorized nonprofit organization, a minor child

shall meet the criteria established under subsection (D).

3. A person who donates an original, unused hunt permit-tag issued in a computer drawing to an authorized nonprofit organization may submit a request to the Department for the reinstatement of the bonus points expended for that unused tag, provided all of the following conditions are met:
  - a. The person has a valid and active membership in the Department's membership program with at least one unredeemed tag surrender on the application deadline date, for the computer draw in which the hunt permit-tag being surrendered was drawn, and at the time of tag surrender.
  - b. The person submits a completed application form as described under R12-4-118;
  - c. The person provides acceptable proof to the Department that the tag was transferred to an authorized nonprofit organization; and
  - d. The person submits the request to the Department:
    - i. No later than 60 days after the date on which the tag was donated to an authorized nonprofit organization; and
    - ii. No less than 30 days prior to the computer draw application deadline for that genus, as specified in the hunt permit-tag application schedule.
- D.** To receive an unused tag authorized under subsections (B) or (C), an eligible minor child shall meet the following criteria:
  1. Possess a valid hunting license,
  2. Has not reached the applicable annual or lifetime bag limit for that genus, and
  3. Is 10 to 17 years of age on the date of the transfer. A minor child under the age of 14 shall have satisfactorily completed a Department-sanctioned hunter education course before the beginning date of the hunt.
- E.** To receive an unused tag authorized under subsection (C), an eligible veteran of the Armed Forces of the United States with a service-connected disability shall meet the following criteria:
  1. Possess a valid hunting license, and
  2. Has not reached the applicable annual or lifetime bag limit for that genus.
- F.** A nonprofit organization is eligible to apply for authorization to receive a donated unused tag, provided the nonprofit organization:
  1. Is qualified under section 501(c)(3) of the United States Internal Revenue Code, and
  2. Affords opportunities and experiences to:
    - a. Children with life-threatening medical conditions or physical disabilities, or
    - b. Veterans with service-connected disabilities.
  3. This authorization ~~is valid for a period of one year,~~ shall remain in effect unless revoked by the Department for noncompliance with the requirements established under A.R.S. § 17-332 or this Section.
  4. A nonprofit organization shall apply for authorization by submitting an application to any Department office. The application form is furnished by the Department and is available at any Department office. A nonprofit organization shall provide all of the following information on the application:
    - a. Nonprofit organization's information:

- i. Name,
    - ii. Physical address,
    - iii. Telephone number;
  - b. Contact information for the person responsible for ensuring compliance with this Section:
    - i. Name,
    - ii. Address,
    - iii. Telephone number;
  - c. Signature of the president and secretary-treasurer of the organization or their equivalents; and
  - d. Date of signing.
5. In addition to the application, a nonprofit organization shall provide all of the following:
- a. A copy of the organization's articles of incorporation and evidence that the organization has tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, unless a current and correct copy is already on file with the Department;
  - b. Document identifying the organization's mission;
  - c. A letter stating how the organization will participate in the Big Game Tag Transfer program; and
  - d. A statement that the person or organization submitting the application agrees to the conditions established under A.R.S. § 17-332 and this Section.
6. An applicant who is denied authorization to receive donated tags under this Section may appeal to the Commission as provided under A.R.S. Title 41, Chapter 6, Article 10.

**R12-4-122. Handling, Transporting, Processing, and Storing of Game Meat Given to Public Institutions and Charitable Organizations**

- A.** Under A.R.S. § 17-240 and this Section, the Department may donate the following wildlife, except that the Department shall not donate any portion of ~~an animal~~ wildlife killed in a collision with a motor vehicle or ~~an animal~~ wildlife that died subsequent to immobilization by any chemical agent:
- 1. Big game, ~~except bear or mountain lion~~;
  - 2. Upland game birds;
  - 3. Migratory game birds;
  - 4. Game fish.
- B.** The Director shall not authorize an employee to handle game meat for the purpose of this Section until the employee has satisfactorily completed a course designed to give the employee the expertise necessary to protect game meat recipients from diseased or unwholesome meat products. A Department employee shall complete a course that is either conducted or approved by the State Veterinarian. The employee shall provide a copy of a certificate that demonstrates satisfactory completion of the course to the Director.
- C.** Only an employee authorized by the Director shall determine if game meat is safe and appropriate for donation. An authorized Department employee shall inspect and field dress each donated carcass before transporting it. The Department shall not retain the game meat in storage for more than 48 continuous hours before transporting it,

and shall reinspect the game meat for wholesomeness before final delivery to the recipient.

D. Final processing and storage is the responsibility of the recipient.

**R12-4-124. Proof of Domicile**

- A. An applicant may be required to present acceptable proof of domicile in Arizona to the Department upon request. For the purposes of this rule, "current address" means the address an applicant inhabits at the time of application for any license, permit, stamp, or tag offered by the Department.
- B. Acceptable proof of domicile establishes a person's true, fixed, and permanent home and principal residence. Acceptable proof ~~of~~ to aid in establishing a person's domicile in Arizona may include, but is not limited to, one or more of the following lawfully obtained documents:
1. Arizona Driver's License displaying a current address;
  2. Arizona Resident State Income Tax Return filing;
  3. Arizona school records containing satisfactory proof of identity and relationship of the parent or guardian to the minor child, when applicable;
  4. Arizona Voter Registration Card displaying a current address;
  - ~~5. Certified copy of an Arizona court order such as an order of probation, parole, or mandatory release;~~
  - ~~6.5.~~ Selective Service Registration Acknowledgement Card ~~indicating an~~ displaying a current address in Arizona;
  - ~~7.6.~~ Social Security Administration document indicating an address in Arizona; or
  - ~~8.7.~~ Current ~~documents~~ document or order issued by the U.S. military to an active-duty military service member ~~indicating~~ identifying Arizona as state of legal residence or ~~an address in Arizona~~ duty station.
- C. In the event one of the documents listed under subsection (B) alone is not sufficient proof of domicile, additional documents may be required.

**~~R12-4-116.~~ R12-4-126. Reward Payments**

- A. Subject to the restrictions prescribed under A.R.S. § 17-315, a person may claim a reward from the Department when the person provides information that leads to an arrest through the Operation Game Thief Program. The person who reports the unlawful activity will then become eligible to receive a reward as established under subsections (C) and (D), provided funds are available in the Wildlife Theft Prevention Fund and:
1. The person who reported the violation provides the Operation Game Thief control number issued by Department law enforcement personnel, as established under subsection (B);
  2. The information provided relates to a violation of any provisions of A.R.S. Title 17, A.A.C. Title 12, Chapter 4, or federal wildlife laws enforced by and under the jurisdiction of the Department, but not on Indian Reservations;
  3. The person did not first provide information during a criminal investigation or judicial proceeding; and
  4. The person who reports the violation is not:
    - a. The person who committed the violation;
    - b. A peace officer, including wildlife managers and game rangers;

- c. A Department employee; or
  - d. An immediate family member of a Department employee.
- B.** The Department shall inform the person providing information regarding a wildlife violation of the procedure for claiming a reward if the information results in an arrest. The Department shall also provide the person with the control number assigned to the reported violation.
- C.** Reward payments for information that results in an arrest for the reported violation are as follows:
- 1. For cases that involve ~~antelope~~, eagles, bear, bighorn sheep, ~~buffalo~~ bison, deer, elk, javelina, mountain lion, pronghorn, turkey, or endangered or threatened wildlife as defined under R12-4-401, \$500, to be increased by an additional amount of at least \$50, but not to exceed \$500, when vandalism impacting recreational access or wildlife habitat is also involved;
  - 2. For cases that involve wildlife that are not listed under subsection (C)(1), a minimum of \$50, not to exceed \$150, to be increased by an additional amount of at least \$50, but not to exceed \$500, when vandalism impacting recreational access or wildlife habitat is also involved; and
  - 3. For cases that involve any wildlife and damage to wildlife habitat, an additional \$1,000 may be made available based on:
    - a. The value of the information;
    - b. The unusual value of the wildlife;
    - c. The number of ~~individual animals~~ individuals taken;
    - d. Whether or not the person who committed the unlawful act was arrested for commercialization of wildlife; and
    - e. Whether or not the person who committed the unlawful act is a repeat offender.
- D.** If more than one person independently provides information or evidence that leads to an arrest for a violation, the Department may divide the reward payment among the persons who provided the information if the total amount of the reward payment does not exceed the maximum amount of a monetary reward established under subsections (C) or (E);
- E.** Notwithstanding subsection (C), the Department may offer and pay a reward up to the minimum civil damage value of the wildlife unlawfully taken, wounded or killed, or unlawfully possessed as prescribed under A.R.S. § 17-314, if the Department believes that an enhanced reward offer is merited due to the specific circumstances of the case.

**R12-4-127. Civil Liability for Loss of Wildlife**

- A.** In order to compensate the state for the value of lost or injured wildlife, the Commission may, pursuant to A.R.S. § 17-314, impose a civil penalty against any person for unlawfully taking, wounding, killing or possessing wildlife. Any civil penalties so imposed shall be equal to or greater than the applicable statutory-minimum sums found in A.R.S. § 17-314(A). The Commission may impose a civil penalty above the statutory-minimum sums where it has determined that the value of the lost or injured wildlife exceeds the statutory-minimum sums.
- B.** The Commission shall annually establish the value of lost or injured wildlife using objective and measurable

economic criteria. When doing so, the Commission may consider objective economic criteria recommended by the Department or any other person.

- C.** The Department shall recommend the value of lost or injured wildlife to the Commission by aggregating the following objective and measurable economic factors:
1. The average dollar amount spent by an individual hunter in pursuit of the same species. This amount shall be calculated using information from the most recent National Survey of Fishing, Hunting and Wildlife-Associated Recreation conducted by the U.S. Fish and Wildlife Service and measures hunting and fishing expenditures, in combination with hunter harvest data gathered by the Department. This information shall be available on the Department's website.
  2. The average dollar amount spent by an individual in an effort to view wildlife. This amount shall be calculated using information from the most recent National Survey of Fishing, Hunting and Wildlife-Associated Recreation conducted by the U.S. Fish and Wildlife Service and measures wildlife viewing expenditures, in combination with hunter harvest data gathered by the Department. This information shall be available on the Department's website.
  3. The average body weight in pounds of meat for the unlawfully taken or possessed species multiplied by the average price per pound of ground meat for that same species or a similar species. Average body weight in pounds of meat shall be calculated using the average body weight for the wildlife taken, minus 30% of the average weight to account for the weight of the head, hide, offal, and bone.
  4. When new data is not available, the Department may use Consumer Price Index (CPI) calculations to update the above factors in terms of U.S. dollars.
- D.** The most recent wildlife values established by the Commission shall be available on the Department's website.

**R12-4-313. Lawful Methods of Take and Seasons for Aquatic Wildlife**

- A.** Subject to the restrictions of this Section, a person may take aquatic wildlife during the day or night using artificial light as prescribed under A.R.S. § 17-301. When a fish die-off is imminent or when otherwise deemed appropriate, the Commission may designate a special season by Commission Order to allow fish to be taken by hand or by any hand-held, non-motorized implement that does not discharge a projectile.
- B.** A person who possesses a valid Arizona fishing license may take aquatic wildlife by angling or simultaneous fishing as defined under R12-4-301 with any bait, artificial fly, or lure subject to the following restrictions:
1. Except for sunfish of the genus *Lepomis*, the flesh of game fish may not be used as bait.
  2. Live baitfish, as defined under R12-4-101, may only be used in designated areas prescribed by Commission Order; and designated areas may subsequently be closed or restricted by Commission Order.
  3. Waterdogs may not be used as live bait in that portion of Santa Cruz County lying east and south of State Highway 82 or that portion of Cochise County lying west of the San Pedro River and south of State Highway 82.
  4. Shall not use more than two lines at any one time.
  5. The Commission may further restrict the lawful methods of take on particular waters by designating one or

more of the following special seasons by Commission Order:

- a. An “artificial flies and lures” season in which only artificial flies and lures may be used in designated areas,
  - b. A “barbless hooks” season in which only the use of barbless or single-point barbless hooks may be used in designated areas,
  - c. An “immediate kill or release” season in which a person must kill and retain the designated species as part of the person’s bag limit or immediately release the wildlife,
  - d. A “catch and immediate release” in which a person must immediately release the designated species, ~~or~~
  - e. An “immediate kill” season in which a person must immediately kill and retain the designated species as part of the person’s bag limit, or
  - f. A "limited-entry" season in which a limited number of permits is made available to the public for a designated species, a particular water, or both.
- C. In addition to angling, a person who possesses a valid Arizona fishing license may also take the following aquatic wildlife using the following methods:
1. A hybrid device is lawful for the take of aquatic wildlife provided all components of the device are authorized for the take of that species under this subsection.
  2. Carp (*Cyprinus carpio*), buffalofish, mullet, tilapia, goldfish, and shad may be taken by:
    - a. Bow and arrow,
    - b. Crossbow,
    - c. Snare,
    - d. Gig,
    - e. Spear or spear gun, or
    - f. Snagging,
  3. A person shall not use any of the methods of take listed under subsection (C)(2) within 200 yards of a designated swimming area as indicated by way of posted signs or notices.
  4. Except for snagging, a person shall not use any of the methods of take listed under subsection (C)(2) within 200 yards of any boat dock or fishing pier.
  5. Striped bass may be taken by spear or spear gun in waters designated by Commission Order.
  6. Catfish may be taken by bow and arrow or crossbow in waters designated by Commission Order.
  7. Amphibians, soft-shelled turtles, mollusks, and crustaceans may be taken by minnow trap, crayfish net, hand, or with any hand-held, non-motorized implement that does not discharge a projectile, unless otherwise permitted under this Section.
  8. In addition to the methods described under subsection (C)(7), bullfrogs may be taken by:
    - a. Bow and arrow,
    - b. Crossbow,
    - c. Pneumatic weapon, or
    - d. Slingshot.

9. Live baitfish may be taken for personal use as bait by:
    - a. A cast net not to exceed a radius of 4 feet measured from the horn to the leadline;
    - b. A minnow trap, as defined under R12-4-301;
    - c. A seine net not to exceed 10 feet in length and 4 feet in width; or
    - d. A dip net.
  10. In addition to the methods described under subsection (C)(7), crayfish may be taken with the following devices:
    - a. A trap not more than 3 feet in the greatest dimension,
    - b. A dip net as defined under R12-4-301, or
    - c. A seine net not larger than 10 feet in length and 4 feet in width.
  11. The Commission may further restrict the lawful methods of take on particular waters by designating one or more of the following special seasons by Commission Order:
    - a. A "snagging" season in which a person may use this method only at times and locations designated by Commission Order, or
    - b. A "spear or spear gun" season in which a person may use this method only at times and locations designated by Commission Order.
- D.** Aquatic wildlife taken in violation of this Section is unlawfully taken.

**R12-4-318. Seasons for Lawfully Taking Wild Mammals, Birds, and Reptiles**

- A.** Methods of lawfully taking wild mammals, birds, and reptiles during seasons designated by Commission Order as "general" seasons are designated under R12-4-304.
1. Lawful devices are defined under R12-4-101 and R12-4-301.
  2. Lawful devices are listed under this Section by the range of effectiveness, from greatest range to least range.
  3. A hybrid device may be used in a general season, provided:
    - a. All components of the hybrid device are designated as lawful for a given species under R12-4-304, and
    - b. No components are prohibited under R12-4-303.
- B.** Methods of lawfully taking big game during seasons designated by Commission Order as "special" are designated under R12-4-304. "Special" seasons are open only to a person who possesses a special big game license tag authorized under A.R.S. § 17-346 and R12-4-120.
- C.** When designated by Commission Order, the following seasons have specific requirements and lawful methods of take more restrictive than those for general and special seasons, as established under this Section. While taking the species authorized by the season, a person participating in:
1. A "CHAMP" season shall be a challenged hunter access/mobility permit holder as established under R12-4-217.
  2. A "youth-only hunt" shall be under the age of 18. A youth hunter whose 18th birthday occurs during a "youth-only hunt" for which the youth hunter has a valid permit or tag may continue to participate for the duration of that "youth-only hunt."

3. A "pursuit-only" season may use dogs to pursue bears, mountain lions, or raccoons as designated by Commission Order, but shall not kill or capture the quarry.
  - a. A person participating in a "pursuit-only" season shall possess and, at the request of Department personnel, produce an appropriate and valid hunting license and any required tag or pursuit-only permit for taking the animal wildlife pursued, even though there shall be no kill.
  - b. Pursuit is allowed regardless of whether a person has met the bag limit established under R12-4-104(J) for that genus.
  - c. A person does not commit an offense under A.R.S. § 17-309 where the person causes or allows a dog to pursue a bear, mountain lion, or raccoon when all of the following apply:
    - i. A pursuit-only season for the wildlife pursued is authorized by Commission Order;
    - ii. The person possesses a valid hunting license and tag;
    - iii. The bear, mountain lion, or raccoon is not injured or killed in the course of the pursuit.
4. A "restricted season" may use any lawful method authorized for a specific species under R12-4-304, except dogs may not be used to pursue the wildlife for which the season was established.
5. An "archery-only" season shall not use any other weapons, including crossbows or bows with a device that holds the bow in a drawn position except as authorized under R12-4-216. A person participating in an "archery-only" season may use one or more of the following methods or devices if authorized under R12-4-304 as lawful for the species hunted:
  - a. Bows and arrows, and
  - b. Falconry.
6. A "handgun, archery, and muzzleloader (HAM)" season may use one or more of the following methods or devices if authorized under R12-4-304 as lawful for the species hunted:
  - a. Muzzleloading rifles,
  - b. Handguns,
  - c. Muzzleloading handguns,
  - d. Bows and arrows,
  - e. Crossbows or bows to be drawn and held with an assisting device, and
  - f. Pre-charged pneumatic weapons capable of holding and discharging a single projectile .35 caliber or larger.
7. A "muzzleloader" season may use one or more of the following methods or devices if authorized under R12-4-304 as lawful for the species hunted:
  - a. Muzzleloading rifles or muzzleloading handguns,
  - b. Bows and arrows, and
  - c. Crossbows or bows to be drawn and held with an assisting device.
8. A "limited weapon" season may use one or more of the following methods or devices for taking wildlife, if authorized under R12-4-304 as lawful for the species hunted:
  - a. Bows and arrows,

- b. Crossbows or bows to be drawn and held with an assisting device,
  - c. Pneumatic weapons capable of holding and discharging a single projectile .25 caliber or smaller,
  - d. Hand-propelled projectiles,
  - e. Any trap except foothold traps,
  - f. Slingshots,
  - g. Dogs,
  - h. Falconry,
  - i. Nets, or
  - j. Capture by hand.
9. A "limited weapon hand or hand-held implement" season may use one or more of the following methods or devices for taking wildlife, if authorized under R12-4-304 as lawful for the species hunted:
- a. Catch-pole,
  - b. Hand,
  - c. Snake hook, or
  - d. Snake tongs.
10. A "limited weapon-pneumatic" season may use one or more of the following methods or devices for taking wildlife, if authorized under R12-4-304 as lawful for the species hunted:
- a. Pneumatic weapons discharging a single projectile .25 caliber or smaller,
  - b. Hand-propelled projectiles,
  - c. Slingshots,
  - d. Dogs,
  - e. Falconry,
  - f. Nets, or
  - g. Capture by hand.
11. A "limited weapon-rimfire" season may use one or more of the following methods or devices for taking wildlife, if authorized under R12-4-304 as lawful for the species hunted:
- a. Rifled firearms using rimfire cartridges,
  - b. Shotgun shooting shot or slug,
  - c. Bows and arrows,
  - d. Crossbows or bows to be drawn and held with an assisting device,
  - e. Pneumatic weapons,
  - f. Hand-propelled projectiles,
  - g. Any trap except foothold traps,
  - h. Slingshots,
  - i. Dogs,
  - j. Falconry,
  - k. Nets, or

1. Capture by hand.
12. A "limited weapon-shotgun" season may use one or more of the following methods or devices for taking wildlife, if authorized under R12-4-304 as lawful for the species hunted:
  - a. Shotgun shooting shot or slug,
  - b. Muzzleloading shotgun,
  - c. Bows and arrows,
  - d. Crossbows or bows to be drawn and held with an assisting device,
  - e. Pneumatic weapons,
  - f. Hand-propelled projectiles,
  - g. Any trap except foothold traps,
  - h. Slingshots,
  - i. Dogs,
  - j. Falconry,
  - k. Nets, or
  - l. Capture by hand.
13. A "limited weapon-shotgun shooting shot" season may use one or more of the following methods or devices for taking wildlife, if authorized under R12-4-304 as lawful for the species hunted:
  - a. Shotgun shooting shot,
  - b. Muzzleloading shotgun shooting shot,
  - c. Bows and arrows,
  - d. Crossbows or bows to be drawn and held with an assisting device,
  - e. Pneumatic weapons,
  - f. Hand-propelled projectiles,
  - g. Any trap except foothold traps,
  - h. Slingshots,
  - i. Dogs,
  - j. Falconry,
  - k. Nets, or
  - l. Capture by hand.
14. A "falconry-only" season shall be a falconer licensed under R12-4-422 unless exempt under A.R.S. § 17-236(C) or R12-4-407. A falconer participating in a "falconry-only" season shall use no other method of take except falconry.
15. A "raptor capture" season shall be a falconer licensed under R12-4-422 unless exempt under R12-4-407.
16. A "limited-entry" season means any hunting opportunity for which a limited number of permits is made available to the public.

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 4. GAME AND FISH COMMISSION**

**ARTICLE OR RULE NUMBERS**

**ECONOMIC, SMALL BUSINESS AND CONSUMER IMPACT STATEMENT**

**R12-4-101, R12-4-102, R12-4-104, R12-4-105, R12-4-106, R12-4-107**

**R12-4-108, R12-4-110, R12-4-113, R12-4-114, R12-4-115, R12-4-116, R12-4-118, R12-4-120,**

**R12-4-121, R12-4-122, R12-4-124, R12-4-125, R12-4-126, R12-4-127, R12-4-313, AND R12-4-318**

**A. The economic, small business and consumer impact summary:**

**1. Identification of the proposed rulemaking:**

The Arizona Game and Fish Commission (Commission) proposes to amend its Article 1 rules, addressing definitions and general provisions to enact amendments developed during the preceding Five-year Review Report. The amendments proposed in the five-year review report are designed to clarify current rule language; protect public health and safety and private property rights; facilitate job growth and economic development; support the tenets of the North American Model of Wildlife Conservation; enable the Department to provide better customer service; and reduce regulatory and administrative burdens wherever possible. After evaluating the scope and effectiveness of the proposed amendments specified in the review, the Commission proposes additional amendments to further implement the original proposals.

Arizona's great abundance and diversity of native wildlife can be attributed to careful management and the important role of the conservation programs developed by the Arizona Game and Fish Department. The Department's management of both game and nongame species as a public resource depends on sound science and active management. As trustee, the state has no power to delegate its trust duties and no freedom to transfer trust ownership or management of assets to private establishments. Without strict agency oversight and management, the fate of many of our native species would be in jeopardy. Wildlife can be owned by no person and is held by the state in trust for all the people.

An exemption from Executive Order 2019-01 was provided for this rulemaking by Hunter Moore, Natural Resource Policy Advisor, Governor's Office, in an email dated September 23, 2019.

In addition to making minor grammatical and nonsubstantive amendments intended to make rules clearer and more concise; and replacing references to the Department website url with "Department's website" and the terms "antelope" with "pronghorn," "buffalo" with "bison," and "animal" with "wildlife," where appropriate; the Commission proposes the following substantive amendments:

**R12-4-101. Definitions**, the rule establishes definitions that assist the persons regulated by the rule and members of the public in understanding the unique terms that are used throughout 12 A.A.C. Chapter 4.

The Commission proposes to amend the rule to define "Arizona Conservation Education," "Arizona Hunter Education," "limited-entry permit-tag," "pursue," "pursuit-only," and "pursuit-only permit" to further implement amendments made to R12-4-107, R12-4-102, R12-4-313, and R12-4-318.

The Commission proposed to amend the rule to define terms used in multiple Game and Fish Commission rules and Commission Orders: "bow," "cervid," "crossbow," "export," "handgun," "import," "nonprofit organization," and "person" to clarify the Commission's intent and foster consistent interpretation of Commission rules. These changes are proposed as a result of customer comments received by the Department.

**R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Computer Draw and Purchase of Bonus Points**, the rule prescribes application requirements for the purchase of a bonus point and the issuance of hunt permit-tags; meaning a permit-tag for which the Commission has assigned a hunt number.

The Commission proposes to amend the rule only to remove the Department website Uniform Resource Location (url) and simply reference "Department's website" to ensure the rule remains concise in the event the Department's url should change.

**R12-4-105. License Dealer's License**, the rule establishes definitions, eligibility criteria, application procedures, license holder requirements, authorized activities, and prohibited activities for a license dealer's license.

During the Second Regular Session of the 53rd Arizona State Legislature, the Legislature amended A.R.S. § 17-338 to remove the five % commission license dealers were authorized to retain as compensation for selling Game and Fish licenses to the public and to allow license dealers to collect and retain a reasonable fee as determined by the license dealer. The Commission proposes to amend the rule to align it with statute.

A person may purchase hunting and fishing licenses online, using the Department's online license sales system. This means any unauthorized person has the ability to sell Department's licenses, which is unlawful under A.R.S. § 17-334. The Commission proposes to amend the rule to establish a person who is not authorized to sell licenses on behalf of the Department is prohibited from selling Department-issued hunting and fishing licenses.

**R12-4-106. Special Licenses Licensing Time-frames**, the rule establishes the time-frames during which the agency will either grant or deny a special license.

In 2015, the Commission amended the Article 4 rules (live wildlife) to replace references to "permit" with "license." The Commission proposes to amend the rule to replace references to "aquatic wildlife stocking permit" with "aquatic wildlife stocking license" and "scientific collecting permit" with "scientific activity license" to increase consistency between Commission rules.

**R12-4-107. Bonus Point System**, the rule establishes requirements for applying for and maintaining bonus points, which may improve an applicant's draw odds for big game computer draws.

The Department recently programmed the computer draw to allow the issuance of Sandhill crane permit-tags; this was previously accomplished by a manual draw process. In addition, the number of applicants for Sandhill crane tags has increased, and there is some interest in establishing a bonus point for Sandhill crane. The Commission proposes to amend the rule to add Sandhill crane to the list of species for which bonus

points may be purchased or accrued. This change is in response to customer comments received by the Department.

A youth under the age of 10 may take wildlife without a license when accompanied by a person 18 years of age or older holding a valid hunting license during an open season; however this exemption does not apply to big game species. Because a license and the appropriate hunt permit-tag are required to take big game, no person under age 10 may hunt big game in Arizona; this is consistent with other states practices (the average age is 14). An applicant who is under the age of 14 and applying for a big game hunt must complete an Arizona Hunter Education course before the beginning date of that hunt. The Department is aware that there is some confusion as to when a youth may take the hunter education course. The Commission proposes to amend the rule to clarify that a person who is 9 years of age or older may take the Arizona Hunter Education course and shall be awarded one permanent bonus point for each big game species upon the successful completion of the course. This change is in response to customer comments received by the Department.

The Commission proposes to amend the rule to establish an Arizona Conservation Education course. The Arizona Conservation Education course will satisfy the education requirement for obtaining a permanent education bonus point for persons age of 18 and older. The class will not qualify as a hunter education course reciprocal with other states. Persons between the ages of 10-14 who wish to hunt big game would still be required to attend the Arizona Hunter Education Course and be awarded a permanent education bonus point upon graduation of that course.

The primary reasoning behind the Department's Hunter Education Permanent Bonus Point is that incentivizing Arizona hunters to complete hunter education allows Arizona to reap the benefits of hunter education; creating safer hunters and reducing the potential for hunting incidents. Arizona Hunter Education Program analysis shows that the Department consistently has 13-19% of graduates attending hunter education courses for the sole purpose of acquiring the bonus point. In an effort to increase the percentage of seat availability in Arizona Hunter Education courses for those who are required to attend and have equal or greater participation by persons who are attending solely for the bonus point, the Commission proposes to amend the rule to establish an Arizona Conservation Education course. The Arizona Conservation Education course would become the requirement for obtaining a permanent education bonus point and would not qualify as a hunter education course reciprocal with other states. Persons between the ages of 10-13 who wish to hunt big game would still be required to attend the Arizona Hunter Education Course and be awarded a permanent education bonus point upon graduation of that course. This change is in response to customer comments received by the Department.

A youth under the age of 10 may take wildlife without a license when accompanied by a person 18 years of age or older holding a valid hunting license during an open season; this exemption does not apply to big game species. Because a license and the appropriate hunt permit-tag are required to take big game, no person under age 10 may hunt big game in Arizona; this is consistent with other states practices (the average age is 14). An applicant who is under the age of 14 and applying for a big game hunt must complete a hunter education course before the beginning date of that hunt. The Department is aware that there is some confusion

as to when a youth may take the hunter education course. The Commission proposes to amend the rule to clarify that a person who is 9 years of age or older may take the Arizona hunter education certification course and shall be awarded one permanent bonus point for each big game species upon the successful completion of the course. This change is in response to customer comments received by the Department.

The Commission proposes to establish an extended bonus point period to allow a person who was unable to apply for a hunt permit-tag before the computer draw deadline to apply for a bonus point only during a bonus-point only application timeline. This change is in response to customer comments received by the Department.

Under A.R.S. § 17-341, it is unlawful for a person to knowingly purchase, apply for, accept, obtain or use, by fraud or misrepresentation a license, permit, tag or stamp to take wildlife and that a license or permit so obtained is void and of no effect from the date of issuance. In 2013, the rule was amended to establish that it is unlawful for a person to purchase a bonus point by fraud or misrepresentation and any bonus point so obtained shall be removed from the person's Department record to increase consistency between statute and rule. This amendment did not address bonus points that were accrued as a result of fraud or misrepresentation. The Commission proposes to amend the rule to specify that any bonus point fraudulently obtained, whether purchased or *accrued*, shall be removed from the person's Department record.

**R12-4-108. Management Unit Boundaries**, the rule establishes Game Management Unit boundaries for the preservation and management of wildlife. These units define the areas where it is legal to hunt and are essential to the Department's licensing, hunt permit-tag and law enforcement operations.

Because landmarks change over time due to environmental factors, as local opinion changes regarding its destination, or the names of places and things change due to political or historical factors, the Commission proposes to amend the rule to address boundary description changes and update Management Unit boundaries to conform to the Arizona Department of Transportation's Highway System. These amendments will provide additional clarity and maintain recreational opportunities for both hunters and outdoor recreationists.

**R12-4-110. Posting and Access to State Land**, the rule prescribes the required conduct on State trust lands by licensed sportsmen and also ensures hunter access is not unlawfully blocked.

The Department is aware of ongoing issues with illegally locked gates in certain areas of the state and works with the State land Department to correct these situations on a case-by-case basis. The Commission proposes to amend the rule to clarify that, although a person may close land to hunting, fishing, and trapping; a person may not deny lawful access to State land.

**R12-4-113. Small Game Depredation Permit**, the rule establishes authorized activities and application requirements for the no-fee small game depredation permit authorized under A.R.S. § 17-239(D).

The Commission proposes to amend the rule to require a person issued a small game depredation permit to report what species and how many individuals were removed from a location. This amendment would allow the Department to gather information about any significant numbers of individuals removed that might be used as a source for translocations, a place to direct hunters, or other management actions, when desired.

**R12-4-114. Issuance of Nonpermit-tags and Hunt Permit-tags**, the rule prescribes the hunt permit-tag structure, conditions under which the Commission may issue tags, application procedures, and distribution and use of hunt permit- and nonpermit-tags.

The Commission proposes to amend the rule to replace the term "antelope" with "pronghorn" as this is the current reference for the species.

The Department recently programmed the computer draw to allow the issuance of Sandhill crane permit-tags; this was previously accomplished by a manual draw process. The Commission also proposes to amend the rule to include Sandhill crane. This change is in response to customer comments received by the Department.

**R12-4-115. Restricted Nonpermit-tags; Supplemental Hunts and Hunter Pool**, the rule establishes the Commission's authority to implement a supplemental hunt when necessary to achieve management objectives and the requirements for the supplemental hunter pool, comprised of persons who may be called upon to receive restricted nonpermit-tags when a supplemental hunt is authorized by the Commission.

The Commission proposes to remove language referencing the Department contacting the applicant by telephone to allow the Department to utilize other methods, such as email, to contact a supplemental hunter pool applicant and to make the rule more concise. The Commission proposes to establish that a separate application and fee is required for each species the applicant submits an application for. This is similar to the process used by other western states.

The Commission proposes to require a hunter pool applicant to provide their Social Security Number to ensure compliance with A.R.S. §§ 25-320(P) and 25-502(K), which requires the Department to record the social security number of each applicant that applies for a hunt permit-tag issued through an automated drawing system. The Department intends to develop an automated system for notifying persons entered in the hunter pool that is similar to the draw. It will ensure the random selection of applicants is a transparent process and archive the information for future reference.

**R12-4-116. Reward Payments**, the Commission proposes to renumber the rule to R12-4-126 and amend the rule to establish the reward payments to be paid for information received regarding attendant acts of vandalism to increase consistency between statute and rule.

**R12-4-116. Issuance of Limited-entry Permit-tags**, the rule is adopted to prescribe the limited-entry permit-tag structure, conditions under which the Commission may issue tags, application procedures, distribution process, and use of limited-entry permit-tags.

The Commission proposes to establish limited-entry angling and hunting events. The Commission envisions these events occurring at either high demand locations, such as Becker Lake, or for high demand species, such as Mearn's quail.

**R12-4-118. Hunt Permit-tag Surrender**, the rule establishes the requirements necessary to implement a tag surrender program, to include the establishment of a membership program and the requirements and limitations for the surrender of an unused hunt permit-tag.

The Commission proposes to amend the rule to establish a process that allows a nonprofit organization to return a donated original, unused hunt permit-tag to the Department when the nonprofit organization is unable to find a recipient who can use the donated hunt permit-tag. This would provide the Department with the opportunity to reissue the tag. This change is in response to customer comment received by the Department.

The Commission proposes to amend the following rules to remove the Department website Uniform Resource Location (url) and simply reference "Department's website" to ensure the rule remains concise in the event the Department's url should change.

**For R12-4-120. Issuance, Sale, and Transfer of Special Big Game License-tags**, the rule prescribes procedures and requirements for the application and issuance of special big game license-tags, including the selection criteria for choosing applicants (incorporated nonprofit organizations) who are awarded such tags as authorized under A.R.S. § 17-346.

These tags are typically made available to the public through auctions or raffles. Every dollar raised from each species tag goes directly to the management of that species through wildlife and habitat management/projects. However, there are concerns over the length of time it takes for the auctioning organization to provide the winning bidders license information to the Department. This is problematic because the special big game license-tags are valid from August 15 of the year the special big game license-tags was won until August 14 the following year. When an organization delays providing the required information to the Department, the winning bidder loses hunting days. The Commission proposes to amend the rule to specify an organization shall submit the winning bidder's license information to the Department within 30 days of the close of the raffle or auction.

In addition, there are concerns over the winning bidder reselling the special big game license tag to another person. In an effort to maintain the integrity of the auction and raffle and make the auction and raffle process more transparent the Commission proposes to amend the rule to prohibit the winning bidder from reselling the special big game license tag to another person.

The Commission also proposes to require the person named on the special big game license tag to possess a valid hunting license to increase consistency between Commission rules.

**R12-4-121. Big Game Tag Transfer**, the rule prescribes the requirements necessary to process an unused big game tag transfer as authorized under A.R.S. § 17-332.

The Commission proposes to establish limited-entry angling and hunting events and the permits and tags associated with those events. The Commission believes a person issued one of these permits or tags should be able to donate or transfer the permit or tag as authorized under this rule. Because the Commission envisions issuing limited entry permits for aquatic wildlife, big game, game birds, and small game, the Commission proposes to amend the rule to remove references to big game and incorporate the limited-entry permits and tags.

The Commission proposes to amend the rule to establish that once it is determined a nonprofit meets the statutory qualifications, the authorization to receive donated unused tags will remain in effect until revoked by the Department. This change is in response to customer comments received by the Department.

**R12-4-122. Handling, Transporting, Processing and Storing of Game Meat Given to Public Institutions and Charitable Organizations**, the rule establishes which species of wildlife may be donated and the necessary requirements for donating game meat to a public institution or charitable organization, to include who is authorized to determine when game meat is safe and appropriate for donation. Instead of discarding or wasting game meat harvested, the Department donation program was developed with the purpose of distributing surplus meat to put healthy meals onto the tables of those in need, which help to maintain the historical role of hunters as food providers and ensure game meat is not wasted.

The Commission proposes to amend the rule to allow the donation of bear and mountain lion meat in compliance with A.R.S. § 17-240 and to ensure edible game meat does not go to waste.

**R12-4-124. Proof of Domicile**, the rule establishes the documents a person may use to provide acceptable "proof of domicile."

In legal terms, "domicile" is considered the status or attribution of being a lawful permanent resident in a particular jurisdiction. A person may have several residences, but only one domicile. While there are persons who seek to take advantage of the system by claiming residency in Arizona in order to purchase a resident license instead of the nonresident license (offered at a higher cost), there are more persons who are simply confused as to what constitutes residency. There is also some confusion between a military service member's "home of record" and "state of legal residence." The military considers the military service member's home of residence to be the place from which they entered the military; it is not necessarily their domicile. For example, a person was born in Maryland and lived there until they went to college in Florida; then they entered the military while still living in Florida. Florida is listed as that person's home of record. In addition, military spouses do not have a home of record. The military considers the person's state of legal residence to be the place where the service member thinks of as home; the state where military service member's intends to make their permanent home after leaving the military. For these reasons, the Commission proposes to amend the rule to define "current address" and clarify rule language to make the rule more concise.

The Department is aware of instances where a person has attempted to use outdated documents as proof of residency. For example, an expired driver license with an old address may be used as proof of domicile. The Commission proposes to amend the rule to require a person to present a valid document that contains a current address.

In addition, there are times where more than one document is needed to fully establish a person's domicile. The Commission proposes to amend the rule to clarify that more than one document may be required to fully establish the persons domicile. In addition, when a person is cited by a member of law enforcement, the officer records the information given by the person. There is no follow-up action taken to ensure the information provided is valid; as a result, this information may continue to be used throughout the

court process and be included in court-issued documentation. For this reason, the Commission proposes to remove a certified copy of a court order from the list of acceptable proof of domicile.

**R12-4-126. Reward Payments**, the rule establishes the requirements necessary for reward payments to include the schedule of reward payments.

Through Operation Game Thief, a person can receive a reward when a tip they provide results in an arrest for a violation of a Game and Fish law or rule. Under A.R.S. § 17-315(B)(1), reward payments may also be to persons who report attendant acts of vandalism when they occurred in conjunction with a "take" violation.

**R12-4-127. Civil Liability for Loss of Wildlife**, the rule is adopted to prescribe the civil liability values for the loss of wildlife when a person convicted of unlawfully taking, wounding, or killing wildlife or unlawfully in possession of unlawfully taken wildlife.

Under A.R.S. 17-314, authorizes the Commission to bring a civil action against a person convicted of unlawfully taking, wounding, or killing wildlife or unlawfully in possession of unlawfully taken wildlife in an effort to recover damages suffered due to the loss of the illegally taken wildlife; and establishes the minimum sums for damages (loss of wildlife). In the event the wildlife taken was of exceptional value, the Commission has the authority to establish sums greater than the minimum sums prescribed under statute. Over the years, the Department employed a number of methods to determine damages, which included evaluating empirical data, obtaining estimates from taxidermists, benchmarking with other fish and wildlife agencies, etc. In 2018, the Commission directed the Department to establish an objective and consistent process for determining the dollar value of the loss of wildlife. The Commission believes the proposed rule creates a method using reasonable factors to ensure damages are determined fairly and consistently.

**R12-4-313. Lawful Methods of Take and Seasons for Aquatic Wildlife**, the objective of the rule is to establish lawful devices and methods a person may use to take aquatic wildlife and establish seasons to allow the Department to achieve management plans and goals for the preservation and harvest of fish.

The Commission proposes to amend the rule to establish a limited-entry season for fishing events. The Commission envisions these events occurring at high demand locations owned by the Department, such as Becker Lake or for high demand species. In another rulemaking, the Commission proposes to charge an application fee for entry into these types of events whenever they are offered. The application fee would be in addition to any other required license, permit, stamp, or tag fee.

**R12-4-318. Seasons for Lawfully Taking Wild Mammals, Birds, and Reptiles**, the objective of the rule is to establish special restrictions and requirements for various hunt structures in order to allow the Department to achieve management goals for the preservation and harvest of wildlife, while at the same time providing maximum wildlife-oriented recreational opportunities for the public.

Because the definition of take under A.R.S. § 17-101 includes the term "pursuing," the Commission proposes to clarify the pursuit-only season to address concerns regarding unlawful take of wildlife in excess of bag limit.

The Commission proposes to amend the rule to establish a limited-entry season for hunting events. The

Commission envisions these events occurring at high demand locations or for high demand species. In another rulemaking, the Commission proposes to charge an application fee for entry into these types of events whenever they are offered. The application fee would be in addition to any other required license, permit, stamp, or tag fee.

**(a) The conduct and its frequency of occurrence that the rule is designed to change:**

Overall, the Commission believes the amendments proposed in this rulemaking result in rules that are either less burdensome or have no significant impact on the regulated community. Therefore, this subsection will address only those rules deemed to have a significant impact on the regulated community.

**R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Computer Draw and Purchase of Bonus Points.**

A person who fails to submit a Hunt Application on or before the computer draw deadline for any one of the three draw applications periods also misses the opportunity to purchase a bonus point for that year and, when applicable, loses any accrued loyalty points. The Commission is unable to establish the frequency of occurrence as there is currently no mechanism in place to track the number of persons who miss the deadline.

**R12-4-107. Bonus Point System**

Persons between the ages of 10 to 14 are unable to attend the required Arizona Hunter Education Course and receive proof of attendance in order to hunt big game. Often, the young persons parent will purchase a big game tag for their child, only to learn later about the Arizona Hunter Education requirement. They then scramble to find an available class before the hunt starts. While the Department has made a number of changes to the rule to address this issue, current data indicates approximately 20% of the current attendees of the hunter education course are over the age of 18 and their primary reason for taking the Arizona Hunter Education course is to accrue the permanent bonus points. This has a negative impact on persons who need to take and pass the course in order to hunt big game in Arizona.

**R12-4-115. Restricted Nonpermit-tags; Supplemental Hunts and Hunter Pool**

The Department's Draw Unit expends significant resources when attempting to contact hunter pool applicants by telephone as required under the rule. In some cases, the Draw Unit is not able to contact all prospective applicants for the available restricted nonpermit-tags before the supplemental hunt begins. Hunter pool applicants miss an opportunity to hunt and the Department loses an opportunity to generate additional revenue.

**(b) The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:**

Overall, the Commission believes the amendments propose in rulemaking result in rules that are either less burdensome or have no significant impact on the regulated community. Therefore, this subsection will address only those rules deemed to have significant impact on the regulated community. For the rules identified below, the Commission believes the targeted conduct identified in paragraph (A)(1)(a) will continue to occur and may increase if the rule is not amended as proposed above:

**R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Computer Draw and Purchase of Bonus Points.**

Hunter satisfaction is negatively impacted when a person misses a draw deadline, a person loses the opportunity to accrue a bonus point and may lose any accrued loyalty points. The Department's Customer Service Unit and Draw Unit expend resources responding to calls for up to two weeks after each draw deadline regarding a person missing the draw deadline and/or questioning why they have lost their loyalty bonus point.

**(c) The estimated change in frequency of the targeted conduct expected from the rule change:**

The Commission anticipates the rule changes will prevent or diminish the frequency of the targeted conduct. While it is not possible to quantify the actual change in frequency of the targeted conduct expected from the rule changes, the Commission believes that over time, through continued outreach, education, and enforcement of the rule changes identified in paragraph (A)(1)(a), the frequency of the targeted conduct will be significantly reduced.

**2. Brief summary of the information included in the economic, small business and consumer impact statement.**

The Commission anticipates the proposed rulemaking in general will benefit persons regulated by the rule by creating more opportunities for the use of wildlife resources, with few costs, and maintaining resident hunting opportunity. The Commission believes persons regulated by the rule and the Department benefit from the proposed rulemaking through clarification of rule language governing general provisions. The Commission anticipates the proposed rulemaking may impact businesses, both large and small; however, the Commission has determined that the impact will not be significant enough to impact business revenues or payroll expenditures. The Commission anticipates the proposed rulemaking will have a minimal impact on the regulated community.

The Commission anticipates the proposed rulemaking will not impact public or private employment. The Commission anticipates the proposed rulemaking will not have a significant impact on State revenues. In addition, the rulemaking will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this State, persons, or individuals so regulated. The Commission has determined that there are no alternative methods of achieving the objectives of the proposed rulemaking and that the benefits of the proposed rulemaking outweigh the costs.

**3. The name and address of agency employees who may be contacted to submit or request additional data on the information included in the economic, small business and consumer impact statement:**

Name: Celeste Cook, Rules and Policy Manager

Address: Arizona Game and Fish Department  
5000 W. Carefree Highway  
Phoenix, AZ 85086

Telephone: (623) 236-7390

Fax: (623) 236-7677

E-mail: CCook@azgfd.gov

**B. Economic, small business and consumer impact statement shall include:**

**1. Identification of the proposed rulemaking:**

See paragraph (A)(1) above.

**2. Identification of the persons who will be directly affected by, bear the costs of or directly benefit from the proposed rulemaking:**

Overall, the Commission believes the amendments proposed in this rulemaking result in rules that are either less burdensome or have no significant impact on the regulated community. The Commission believes the general public, regulated community and the Department will benefit from the proposed rulemaking through clarification of rule language. The Commission anticipates the rulemaking will result in an overall benefit to persons regulated by the rules by reducing the burden and costs associated with the rules, by increasing clarity, and by providing better customer service to persons seeking to conduct activities authorized under the rules.

The Commission anticipates persons regulated by the rule and the Department will benefit from amendment that allows a person to purchase bonus points for an extended period of time after the computer draw deadline. This change will enable a person to maintain any accrued loyalty points and an additional bonus point for each species the person submits an application for. It is difficult to quantify the value a person places on their bonus points; however, to some persons it can be significant. This change is proposed as a result of customer comments received by the Department.

The Commission anticipates persons regulated by the rule and the Department will benefit from amendment that removes the references to the 5% commission a licensed license dealer may retain and the ability for the dealer to collect a reasonable fee because this change aligns the rule with the current statute. The Commission anticipates the Department will benefit by eliminating the confusion the conflicted language may have resulted in. In addition, because licenses may be purchased online and the issuance of hunting and fishing licenses, permits, and tags is restricted to Department offices and licensed license dealers, the Commission anticipates persons regulated by the rule and the Department will benefit from the amendment that prohibiting a person who does not possess a license dealer license issued by the Department from selling Department-issued hunting and fishing licenses will prevent persons from unknowingly violating statute and rule.

The Commission anticipates persons regulated by the rule and the Department will benefit from amendment that adds Sandhill crane to the list of species for which a person can accrue bonus points. This change will enable persons to have a better chance at being drawn for this big game species. Since the number of applicants for Sandhill crane tags has increased, there is interest in accruing bonus points for this species.

The Commission anticipates persons regulated by the rule and the Department will benefit from amendment that clarifies the minimum age a person must be before attending the Arizona Hunter Education course. Because a person must be at least ten years of age before being allowed to hunt big game in Arizona,

there is a common misconception that the person must wait until they are ten to attend the hunter education course. Clarifying the minimum age will reduce confusion.

The Commission anticipates persons regulated by the rule and the Department will benefit from amendment that specifies that any bonus point fraudulently obtained, whether purchased or *accrued*, shall be removed from the person's Department record will increase consistency with A.R.S. § 17-341, which states, it is unlawful for a person to knowingly purchase, apply for, accept, obtain or use, by fraud or misrepresentation a license, permit, tag or stamp to take wildlife and that a license or permit so obtained is void and of no effect from the date of issuance. Persons who will be impacted are only those persons who obtained and/or applied for a hunt permit-tag or bonus point unlawfully. Considering the person would not have been eligible to legally obtain the bonus point, any negative impact is reasonable.

The Commission anticipates persons regulated by the rule and the Department will benefit from amendments that update Management Unit boundaries. Hunters purchase tags that identify a specific hunting season and Management Unit, portion of a unit, or group of units; hunters rely on the unit boundary descriptions provided under R12-4-108 to ensure that they are in compliance with Game and Fish Commission laws, rules, and orders.

The Commission anticipates persons regulated by the rule and the Department will benefit from amendments that removes language referencing the Department contacting the applicant by telephone. This change will allow the Department to utilize other methods, such as email, to contact a supplemental hunter pool applicant and to make the process more efficient.

The Commission anticipates persons regulated by the rule and the Department will benefit from amendment that requires an applicant to submit a separate application/application fee for each species the applicant enters into the hunter pool. The Department intends to develop an automated system for notifying persons entered in the hunter pool that is similar to the draw. It will ensure the random selection of applicants is a transparent process and archive the information for future reference.

The Commission anticipates persons regulated by the rule and the Department will benefit from amendment that establishes the limited entry events, seasons, and the permits associated with them. The Department envisions these events will provide an opportunity for persons to fish and hunt throughout the state. These events would be outside of the regular hunt structure and made available to a small number of applicants. For example, the Commission may authorize a short season for Mearn's quail a week before the regular season opens and allow a limited number of licensed hunters to participate or stock a body of water, on or off Department property, with sport fish and allow a limited number of licensed anglers to fish there for a specified amount of time.

The Commission anticipates persons regulated by the rule and the Department will benefit from amendment that establishes the reward payments to be paid for information received regarding attendant acts of vandalism to increase consistency between statute and rule. Reporting parties will be incentivized to report acts of vandalism.

The Commission anticipates persons regulated by the rule and the Department will benefit from amendments that require an organization to submit the winning bidder's license information to the Department within 30 days of the close of the raffle or auction, prohibit the winning bidder from reselling the special big game license tag to another person, and require an applicant to possess a valid hunting license to increase consistency between Commission rules. These changes will ensure the big game special license tags process is more transparent and the Department is able to issue the special license tags more quickly. A person who wins or purchases the special big game licenses tag through a raffle or auction will benefit by being able to use their special license tag for the full year.

The Commission anticipates persons regulated by the rule and the Department will benefit from amendment that establishes that once it is determined the nonprofit meets the statutory qualifications, the authorization to receive donated unused tags will remain in effect until revoked by the Department. This change is in response to customer comments received by the Department. The nonprofit organization will not have to expend resources submitting the annual application and the Department will not expend resources reviewing the applications on an annual basis.

The Commission anticipates persons regulated by the rule and the Department will benefit from amendment that establishes that allows the Department to donate bear and mountain lion meat to public institutions and charitable organizations in compliance with A.R.S. § 17-240. This change will ensure edible game meat is not wasted.

The Commission anticipates persons regulated by the rule and the Department will benefit from amendment that define current address, clarify rule language, require a person to present a valid document that contains a current address, remove the ability to provide a certified copy of a court order from the list of acceptable proof of domicile, and clarify that more than one document may be required to fully establish the persons domicile. The term "domicile" can be confusing. Some persons believe where you live is your domicile, and this belief causes problems for persons who own or live in homes in multiple states. While there are persons who seek to take advantage of the system by claiming residency in Arizona in order to purchase a resident license instead of the nonresident license (offered at a higher cost), there are more persons who are simply confused as to what constitutes residency. Clarifying the Commission's interpretation of "domicile" will help to reduce this confusion.

The Commission anticipates persons regulated by the rule and the Department will benefit from amendment that establishes pursuit-only season and the permits associated with them. The Department manages bear and mountain lions by setting harvest thresholds. A hunter who kills a bear or mountain lion must report their harvest to the Department within 48 hours of taking the bear or mountain lion. Over time, the Department began to see a trend in harvest reporting; harvest thresholds were being reached later in the season because hunters were pursuing bears or mountain lions but were not killing them in order to allow for as much training and conditioning of their hounds as possible. This also resulted in harvest thresholds not being met. When harvest thresholds are not met, the Department must pursue additional measures in order to achieve its management goals. The hunter will benefit from a season that legally allows them to train and

condition their hounds and the Department will benefit from not having to use additional resources to address bear and mountain lion populations.

**3. Cost benefit analysis:**

**(a) The probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the proposed rulemaking:**

Overall, the Commission anticipates the proposed amendments will not have a significant impact on the Department or other agencies directly affected by the implementation and enforcement of the proposed rulemaking. The Commission has determined that the proposed rulemaking will not require any additional full-time employees to implement and enforce the proposed amendments. The principle benefit the Department will receive from the proposed rulemaking is increasing customer satisfaction. Many of these proposals originated as a result of comments submitted by the regulated community. As a result, some of the proposed amendments will create costs to the agency. The Commission believes the benefits of the rulemaking outweigh any costs.

**(b) The probable costs and benefits to a political subdivision of this State directly affected by the implementation and enforcement of the proposed rulemaking:**

The Commission anticipates the proposed amendments will have little or no impact on political subdivisions of this State.

**(c) The probable costs and benefits to businesses directly affected by the proposed rulemaking, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the proposed rulemaking:**

Overall, the Commission anticipates the proposed amendments will not affect businesses, their revenues, or their payroll expenditures. Of those that do or may have an impact, the Commission does not anticipate the impact will be significant. The Commission believes the benefits of the rulemaking outweigh any costs.

**4. General description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the proposed rulemaking.**

Overall, the Commission anticipates the proposed amendments will have no impact on private and public employment in businesses, agencies, and political subdivisions of this State. Of those that do or may have an impact, the Commission does not anticipate the impact will be significant.

**5. Statement of the probable impact of the proposed rulemaking on small businesses:**

**(a) Identification of the small businesses subject to the proposed rulemaking.**

The proposed rulemaking will impact license dealers, nonprofit organizations that may qualify as businesses, and outfitters; if these businesses qualify as small businesses.

**(b) Administrative and other costs required for compliance with the proposed rulemaking.**

Overall, the Commission anticipates the proposed amendments will not result in increased administrative and other costs for small businesses. Of those that do or may have an impact, the Commission does not anticipate the impact will be significant.

**(c) Description of the methods that the agency may use to reduce the impact on small businesses.**

The Commission believes establishing less stringent compliance requirements for small businesses is not necessary as the proposed rules do not place any additional compliance or reporting requirements on businesses.

**(d) Probable cost and benefit to private persons and consumers who are directly affected by the proposed rulemaking.**

The Commission anticipates the proposed rulemaking will benefit private persons and consumers by clarifying license and permit rules and in doing so ensuring the continued integrity of and compliance with its rules.

**6. Statement of the probable effect on state revenues.**

The Commission anticipates the proposed amendments will have little or no impact on state revenues. The Department holds that, in general, the proposed rulemaking will not impact the general fund. The Commission believes the benefits of the rulemaking outweigh any costs.

**7. Description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking including the monetizing of the costs and benefits for each option and providing rationale for not using the nonselected alternatives.**

The Commission has determined that there are no alternative methods of achieving the objectives of the proposed rulemaking.

**8. Description of any data on which a rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data. An agency advocating that any data is acceptable data has the burden of proving that the data is acceptable. For the purposes of this paragraph, "acceptable data" means empirical, replicable and testable data as evidenced in supporting documentation, statistics, reports, studies or research.**

For this rulemaking, the Commission relied on empirical data based on agency experience, observations, or inference; which included comments from agency staff who administer and enforce rules included in this rulemaking, comments from the public, historical data (i.e., meeting notes from previous rulemaking teams, refund reports, license and permit sales reports, other state agency rules, recruitment and retention reports, etc.), current processes, benchmarking with other states, and the Department's wildlife objectives. This rulemaking includes rules that govern general provisions for hunting and fishing, such as application procedures for hunt permit-tags, the computer draw, license dealers, the bonus point system, management unit boundaries, procedures for posting and access to state land, a membership program, and use of Department facilities; and the taking and handling of wildlife. The subjects the rules address are based on social sciences rather than formal sciences, thus recommendations based on empirical data using agency experience and observations is acceptable data. The Commission approached this rulemaking and the use of the documentation, statistics, and research in a methodical way, testing various approaches and trying to replicate approaches that were successful in other states.

- C. If for any reason adequate data are not reasonably available to comply with the requirements of subsection B of this section, the agency shall explain the limitations of the data and the methods that were employed in the attempt to obtain the data and shall characterize the probable impacts in qualitative terms. The absence of adequate data, if explained in accordance with this subsection, shall not be grounds for a legal challenge to the sufficiency of the economic, small business and consumer impact statement.**

The Department tasked a team of subject matter experts to review and make recommendations for rules contained within Article 1. In its review, the team considered all comments from agency staff who administer and enforce Article 1 rules, comments from the public, historical data, current processes and environment, and the Department's wildlife objectives. The team took a customer-focused approach, considering each recommendation from a resource perspective and determining whether the recommendation would cause undue harm to the state's wildlife or negatively affect the Department's wildlife objectives. The team then determined whether the request was consistent with the Department's overall mission, if it could be effectively implemented given agency resources, and if it was acceptable to the public. The Commission believes the data utilized in completing this economic, small business, and consumer statement is more than adequate.

September 22, 2020

Celeste Cook  
Rules Coordinator,  
Arizona Game & Fish Department  
5000 West Carefree Highway  
Phoenix, Arizona 85086  
[rulemaking@azgfd.gov](mailto:rulemaking@azgfd.gov) &  
[CCook@azgfd.gov](mailto:CCook@azgfd.gov).

Subject: Notice of proposed rulemaking; Title 12. Natural Resources; Chapter 4. Game and Fish Commission

To Whom It May Concern:

As a valued Arizona wildlife conservation organization we are providing comments to the August 28, 2020 Notice of proposed rulemaking; Title 12. Natural Resources; Chapter 4. Game and Fish Commission packet. In general, we are pleased to observe that the majority of the rule changes update language and add clarity. We are supportive of the addition of a bonus point credit for a newly proposed Conservation Education bonus point and including an option to accrue Sandhill Crane hunt bonus points. We did note that the Conservation Education bonus point seems to not address hunters between ages 14-18 and would suggest addressing that apparent age gap.

We are also supportive of the revised language in R12-4-118-part D. quoted here to allow an “authorized nonprofit organization” to turn tags back that have been donated to them and allowing the AGFD to reallocate those hunt opportunities.

~~To~~ A person who wants to surrender an original, unused hunt permit-tag, a person or an authorized nonprofit organization that wants to return a donated original, unused hunt permit-tag shall comply with all of the following conditions:

We are NOT supportive of changing the timeframe to 30 days for the Organizations to provide the winning bidders license info in R12-4-120. BUT we ask that the Department consider making it 60 days. From the time of sale it usually takes 30 – 45 days before we get all the information needed depending on the particular situation. This 30 days is pretty short to 1: Receive payment (usually a check), 2: waiting period for check to clear, 3: Sending paperwork for the winner to fill out, 4: receiving the paperwork, 5: turning it all into the Department. In some cases the winning bidders use stock transfers to pay for the tags and that takes extra time to process also. 45 days would be the minimum, but 60 days is reasonable.

We are also NOT supportive of the change to require the special big game license buyer to also purchase a valid hunting license. The all in one package has worked for many years and seems petty to change.

That stated we have some concern with the entirely new revised language proposed in R12-4-116 for new concept of the issuance of Limited-Entry Permit-tags in high demand. We can support the Commission issuance of these minimal additional tags as long as they do not affect the current 3-tags per species that fund the very successful \$2.7M Habitat Partnership Program. We did however find the following section J printed here requiring some additional definition of who and what constitutes an “authorized agent” highlighted in red.

**R12-4-116. Reward Payments Issuance of Limited-Entry Permit-tag**

- J. The Department or its authorized agent shall maintain the applications submitted for limited-entry permit-tags.
1. An applicant for a limited-entry season under this subsection shall submit a limited-entry permit-tag application to the Department for each limited-entry season established. The application is available at any Department office, an authorized agent, or on the Department’s website. The applicant shall provide all of the following information on the application:
    - a. The applicant’s personal information:
      - i. Name,
      - ii. Date of birth,
      - iii. Social security number, as required under A.R.S. §§ 25-320(P) and 25-502(K), when applicable;
      - iv. Department identification number, when applicable;
      - v. Residency status and number of years of residency immediately preceding application, when applicable;
      - vi. Mailing address, when applicable;
      - vii. Physical address;
      - viii. Telephone number, when available;
      - and ix. Email address, when available;
    - b. The limited-entry season the applicant would like to participate in, and
    - c. Certify the information provided on the application is true and accurate.
  2. In addition to the requirements established under subsection (J)(1), at the time of application the applicant shall submit the application fee required under R12-4-102. A separate application and application fee are required for each limited-entry season an applicant submits an application for.
  3. When issuing a limited-entry permit-tag for a terrestrial or aquatic wildlife species, the Department, or its authorized agent, shall randomly select applicants for each designated limited-entry season.
  4. When issuing a limited-entry permit-tag for a particular water, the Department or its authorized agent shall randomly select applicants for each date limited-entry permit-tags are available until no more are available for that date.
  5. In compliance with subsection (D)(4), the Department or its authorized agent shall select no more applications after the number of limited-entry permits establish by Commission Order are issued.

We recommend that Article 1 Definition and Authority of the State section 17-101 include the definitions for authorized agent and for Nonprofit organizations. Our intent with these definitions is to ensure that section J does not allow nonprofit organizations to qualify for the new limited entry permit tags as an authorized agent. Thus, to ensure that section J is not now or in the future allowing an authorized agent to be considered a nonprofit organization qualifying for the new limited entry permit-tags, we suggest that both be defined.

Some suggested language included here:

**Nonprofit; Not making or conducting activities primarily to make a profit**

(In the context of the AGFD this would include all the various wildlife species groups such as the Arizona Desert Bighorn Sheep Society, Arizona Deer Association, Arizona Antelope Foundation, Outdoor Experience for All, etc.)

**Authorized Agent; A vendor or commercial business that has been awarded a contract congruent to Chapter 23 of the Arizona Procurement Code to provide services to the Arizona Game and Fish Department**

We are fully aware that these definitions suggestions will require a minor statutory change to A.R.S 17-101. We will be pleased to support those legislative definitions changes in the upcoming 2021 legislative session.

Finally, we would request clarifying language be included in section J stating that;

1. The authorized agent is acting under contract and will return all funds derived by the sale of the limited entry permit-tags to the AGFD.

We appreciate this opportunity to provide initial comments to the proposed rule revisions process and will appreciate being included in timely updates on progress and language revisions over the next 60 days.

Yours in wildlife conservation,



Stephen Clark, Executive Director

Arizona Elk Society



Tice Supplee, President

Arizona Elk Society

cc: Ty Gray, Director, Arizona Game and Fish Department  
Commissioners (5)  
Pat Barber, Ombudsman



Arizona Wildlife Federation  
PO Box 1182  
Mesa, AZ 85211

September 22, 2020

Celeste Cook  
Rules Coordinator,  
Arizona Game & Fish Department  
5000 West Carefree Highway  
Phoenix, Arizona 85086  
[rulemaking@azgfd.gov](mailto:rulemaking@azgfd.gov) &  
[CCook@azgfd.gov](mailto:CCook@azgfd.gov).

Subject: Notice of proposed rulemaking; Title 12. Natural Resources; Chapter 4. Game and Fish Commission

Reply to: Scott Garlid, Executive Director, Arizona Wildlife Federation PO Box 1182, Mesa, Arizona 85211 [scott@azwildlife.org](mailto:scott@azwildlife.org)

To Whom It May Concern:

The Arizona Wildlife Federation (AWF), a 501(c) 3 non-profit corporation, was founded in 1923 to take politics out of Arizona's Game and Fish Management and to promote the management of Arizona's wildlife and natural resources based on the principles of sound science and best governance. The AWF got its start as the Arizona Game Protection Association and celebrated 97 years of Arizona wildlife conservation activity in 2020.

As a valued Arizona wildlife conservation organization, we are providing comments to the August 28, 2020 Notice of proposed rulemaking; Title 12. Natural Resources; Chapter 4. Game and Fish Commission packet. In general, we are pleased to observe that the majority of the rule changes add clarity and update many of the various rules' language. In particular we are supportive of a bonus point credit for a newly proposed Conservation Education course and including an option to accrue Sandhill Crane hunt bonus points. We did note that the Conservation Education course seems to not address hunters between ages 14-18 and would recommend addressing that apparent age gap.

We are also supportive of the revised language in R12-4-118-part D. quoted here to allow an "authorized nonprofit organization" to turn tags back that have been donated to them and allowing the AGFD to reallocate those hunt opportunities.

~~⊖~~ A person who wants to surrender an original, unused hunt permit-tag, ~~a person~~ or an authorized nonprofit organization that wants to return a donated original, unused hunt permit-tag shall comply with all of the following conditions:

That stated, we have some concern with the entirely new revised language proposed in R12-4-116 for new concept of the issuance of Limited-Entry Permit-tags in high demand. We can support the Commission issuance of these new minimal in number additional tags as long as they will not diminish the current 3-tags per species that fund the very successful \$2.7M Habitat Partnership Program. We did however find the following section J printed here Requiring some additional definition of who and what constitutes an “authorized agent” highlighted in red.

**R12-4-116. Reward Payments Issuance of Limited-Entry Permit-tag**

- J. The Department or its authorized agent shall maintain the applications submitted for limited-entry permit-tags.
  1. An applicant for a limited-entry season under this subsection shall submit a limited-entry permit-tag application to the Department for each limited-entry season established. The application is available at any Department office, an authorized agent, or on the Department’s website. The applicant shall provide all of the following information on the application:
    - a. The applicant’s personal information:
      - i. Name.
      - ii. Date of birth.
      - iii. Social security number, as required under A.R.S. §§ 25-320(P) and 25-502(K), when applicable; iv. Department identification number, when applicable;
      - v. Residency status and number of years of residency immediately preceding application, when applicable;
      - vi. Mailing address, when applicable; vii. Physical address;
      - viii. Telephone number, when available;
      - and ix. Email address, when available;
    - b. The limited-entry season the applicant would like to participate in, and
    - c. Certify the information provided on the application is true and accurate.
  2. In addition to the requirements established under subsection (J)(1), at the time of application the applicant shall submit the application fee required under R12-4-102. A separate application and application fee are required for each limited-entry season an applicant submits an application for.
  3. When issuing a limited-entry permit-tag for a terrestrial or aquatic wildlife species, the Department, or its authorized agent, shall randomly select applicants for each designated limited-entry season.
  4. When issuing a limited-entry permit-tag for a particular water, the Department or its authorized agent shall randomly select applicants for each date limited-entry permit-tags are available until no more are available for that date.

5. In compliance with subsection (D)(4), the Department or its authorized agent shall select no more applications after the number of limited-entry permits establish by Commission Order are issued.

In our review of Article 1 Definitions and Authority of the State section 17-101 and R12-4-101 we were unable to find the definition of what constitutes an authorized agent. We did find that R12-4-101 and R-4-121 both give definition to what is considered 1) a nonprofit and 2) an authorized nonprofit organization. We understand that nonprofits promoting special tags in R12-4-120 are not considered authorized agents.

When the term authorized agent is not defined by Title 17 or rule then the general definition used in the legal field applies and is: (an agent who is legally authorized to perform transactions on behalf of the client or the power to act on behalf of another). This definition will not clearly eliminate either a nonprofit or authorized nonprofit organization from being considered an authorized agent. To ensure that section J is not now, or in the future allowing an authorized agent to be considered a nonprofit organization or authorized nonprofit we ask that it be defined in rule or statute. Suggested draft definition language shown here in bold.

**Authorized Agent;**

**A vendor or commercial business that has been awarded a contract congruent to Chapter 23 of the Arizona Procurement Code to provide services to the Arizona Game and Fish Department.**

Finally, we request clarifying language be included in section J stating;

1. The authorized agent is acting under contract and will return all funds derived by the sale of the limited entry permit-tags to the AGFD.

We appreciate this opportunity to provide initial comments to the proposed rule revisions process and will appreciate being included in future timely updates on progress and language revisions over the next 60 days.

Yours in wildlife conservation,



Scott Garlid, Executive Director  
Arizona Wildlife Federation

cc: Ty Grey, Director, Arizona Game and Fish Department  
Commissioners (5)  
Pat Barber, Ombudsman



Celeste Cook <ccook@azgfd.gov>

**Re: Proposed changed to commission rules**

1 message

**Celeste Cook** <ccook@azgfd.gov>  
To: Gerald Perry <gperry12345@gmail.com>

Thu, Sep 24, 2020 at 8:40 AM

Hello Gerry,

Thank you for taking the time to review and comment on the proposed rulemakings.

The new rule (R12-4-116) was modeled after the language in R12-4-114 (both R12-4-104 and R12-4-114 reference the term "authorized agent"). The intent is to allow a license dealer to issue tags on behalf of the Department when deemed appropriate. The Department has no intent to allow landowners, or anyone else for that matter, to issue tags for these events.

Thank you again and make it a great day!

Best regards,

Celeste

On Tue, Sep 22, 2020 at 8:17 PM Gerald Perry <gperry12345@gmail.com> wrote:

Celeste,  
I noted the rules review process is open for changes to commission rule regarding article 4. Most of the changes seem to add clarity and are reasonable for what the commission seems to be trying to accomplish in raising revenue. However, I am concerned about the term "authorized agent" pertaining to R12-4-116. Without a definition, it leaves the term too broad.  
I am adamantly opposed to landowner tags or anything related to that topic. I believe landowners can charge access fees to cross their private lands, but I also believe the opportunity to pursue our state's wildlife belongs with the hunter who competes with other hunters for the opportunity to take wildlife.  
The term "authorized agent" is just too ambiguous.  
Sincerely,  
Gerry Perry  
GPerry12345@gmail.com

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><(((e>~...><(((e>~...><(((e>~...><(((e>~...><(((e>

**CELESTE COOK | RULES/POLICY MANAGER**  
ARIZONA GAME AND FISH DEPARTMENT  
OFFICE: **623-236-7390**  
EMAIL: [ccook@azgfd.gov](mailto:ccook@azgfd.gov)  
[azgfd.gov](http://azgfd.gov) | 5000 W. Carefree Highway, Phoenix, AZ 85086

Join our new [Conservation Membership](#) program and ensure a wildlife legacy for the future.



Celeste Cook &lt;ccook@azgfd.gov&gt;

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**Objection to changes in R12-4-122**

1 message

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**'Alan B' via Rulemaking - Game and Fish** <Rulemaking@azgfd.gov>

Sun, Sep 27, 2020 at 2:30 PM

Reply-To: Alan B &lt;skypainter@pm.me&gt;

To: "rulemaking@azgfd.gov" &lt;rulemaking@azgfd.gov&gt;

I am writing as a hunter and lifelong Arizonan to oppose the proposed changes in R12-4-122, Handling, Transporting, Processing and Storing of Game Meat Given to Public Institutions and Charitable Organizations, to include mountain lion and bear. If a hunter isn't willing and able to consume the meat of these predators, I don't believe it's ethical for that hunter to kill them and absolve themselves by donating the resulting meat.

Thanks for your consideration.

Robert Binnie  
520-333-5756  
[skypainter@pm.me](mailto:skypainter@pm.me)  
15883 N Roadrunner Ridge Lane  
Tucson, AZ 85739



Celeste Cook &lt;ccook@azgfd.gov&gt;

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**Article 1 Limited - entry permits**

1 message

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**Tom Britt** <rtquail.flagstaff@gmail.com>

Sun, Sep 27, 2020 at 11:27 AM

To: rulemaking@azgfd.gov

Please consider the following comments reference R12-4-116. I do not represent any organization and the comments are only mine.

I strongly oppose the concept of limited - entry permits as defined in the proposed revision of R12-4-116. I cannot offer any constructive comments or revisions to the proposed rule change as I feel strongly it is not within the tenets of the N.A. Model. While it does not deny opportunity for all, it does allow some an extra opportunity at the expense of those not drawn. This also applies to angling and small game.

I do not believe this is a proper method to generate revenue. Revenue deficiencies should be assigned as a liability to all who apply for hunts or seek angling opportunities.

I am also concerned about the term authorized agent as noted in the rule amendment. It should be defined. I fear its intention is to allow NGOs to be part of the tag issuing process. This I am totally opposed to.

Thank you for reviewing my comments.

Tom Britt, Flagstaff, AZ



Celeste Cook &lt;ccook@azgfd.gov&gt;

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**R12-4-116**

1 message

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**David Wolf** <dwddwolf@gmail.com>

Mon, Sep 28, 2020 at 3:56 PM

To: rulemaking@azgfd.gov

Do you see any issue with R12-4-116 in regards to taking away tags/opportunity from the average hunter in favor of a select few? Seems if there is a budget shortfall all hunters should share the pain equally while maintaining the application opportunities based on the population level and management of the species involved.

If this is where we want to go why not charge more for hunt units where the management objective is higher quality animals and less competition from other hunters? It already is a form of limited entry is it not?

Not saying I favor this approach either. I just do not like giving those with more resources more/better hunting- we already do this with the auction hunts.

The North American Model of Wildlife Management is based on the wildlife belonging to us all and that wildlife should be made available on a level playing field.

OR, Am I missing something here?

Thanks,

Dave



**SIERRA  
CLUB**

**Grand Canyon Chapter • 514 W. Roosevelt St. • Phoenix, AZ 85003**

Phone: (602) 253-8633 • Email: [grand.canyon.chapter@sierraclub.org](mailto:grand.canyon.chapter@sierraclub.org)

September 28, 2020

Arizona Game and Fish Department  
Attn: Celeste Cook, Rules and Policy Manager  
Arizona Game and Fish Department  
5000 W. Carefree Highway  
Phoenix, AZ 85086  
Submitted via email to [rulemaking@azgfd.gov](mailto:rulemaking@azgfd.gov) and [ebutler@azgfd.gov](mailto:ebutler@azgfd.gov)

RE: R12-4-116. Issuance of Limited-Entry Permit-tag

Dear Arizona Game and Fish Commission:

Thank you for the opportunity to comment on the proposed rule related to **Issuance of Limited-Entry Permit-tag**. Please accept these comments on behalf of the Sierra Club's Grand Canyon (Arizona) Chapter and our members and supporters throughout Arizona. As you know, we have significant interest in Arizona's wildlife and ensuring that healthy populations of native wildlife thrive throughout our state. It is why we have spent many decades working to protect habitat and promote more thoughtful management at the Arizona Game and Fish Commission.

Considering how the Arizona Game and Fish Commission is selected—basically many of the entities who benefit from these limited-entry tags, sport hunting organizations, select commissioners via the Arizona Game and Fish Commission Appointment Recommendation Board—we question the entire rule package. This change in selection of Commissioners occurred in 2010 and since then, no Commissioners have been appointed who come from a wildlife conservation background and the Commission lacks diversity. The Recommendation Board has interviewed few from the broader wildlife community and recommended even fewer. This has made the Commission the purview of sport hunting groups, trophy hunting organizations such as the Safari Club International, and livestock interests. Now this rule would give those same interests more control over wildlife via these limited-entry tags.

This rule package appears to take Arizona Game and Fish in a direction that is opposite of why the Arizona Game and Fish Commission was established in the first place, to limit the political influence on decisions about wildlife and to limit special favors for political friends. If the Arizona Game and Fish Department does not scrap this rule-making altogether, which we do recommend, it should at a minimum address a couple of serious flaws that could contribute to undue special interest influence on wildlife management decisions.

Please delete R12-4-116.C(1), which allows the Department to implement limited-entry permit-tags under the open season or seasons established if the Department determines, "A season for a specific terrestrial or aquatic wildlife species, or specific area of the state, is in high demand...." Demand for special tags in a specific area should not be a determinant for these tags. Again, it provides a broad opportunity for the special interests that control the Game and Fish Commission to exert excessive

influence to increase these limited-entry tags.

Why are you proposing this provision, “Wildlife taken under the authority of this limited-entry permit-tag shall not count towards the established bag limit for that species?” (R12-4-116.I(2) This provision makes bag limits much less meaningful and will not allow the Public to have an accurate picture of how many of each species are being taken. They must now both look at the number of limited-entry tags and the bag limits to see if there is excessive impacts on a wildlife population when compared to survey data.

On page NPRM - 2 of the Notice of Proposed Rule Making, it states, “Wildlife can be owned by no person and is held by the state in trust for all the people.” Sierra Club agrees and would like to see this rule package amended to reflect that. Specifically, we ask that Arizona Game and Fish remove “or its authorized agent” in in R12-4-116.J and R12-4-116.J(1), (3), (4) and (5). Including that provision in these sections allows Arizona Game and Fish to further privatize wildlife by sanctioning issuance of these tags via other entities. Arizona Game and Fish should take its public trust responsibility for wildlife seriously and remove these provisions that allow it to delegate responsibilities to entities that are not accountable to the public.

Thank you for considering our comments.

Sincerely,

A handwritten signature in black ink that reads "Sandy Bahr". The signature is written in a cursive, flowing style.

Sandy Bahr  
Chapter Director  
Sierra Club – Grand Canyon Chapter

September 28, 2020

Arizona Game and Fish Department  
Attn: Celeste Cook, Rules and Policy Manager  
Arizona Game and Fish Department  
5000 W. Carefree Highway  
Phoenix, AZ 85086

RE: Public Comments on Proposed Article 1 Amendments

Dear Arizona Game and Fish Commission:

I've lived in Arizona for over 30 years and am very active in the community and a huge supporter of wilderness and our local wildlife. I have been an advocate and reviewer for AZGFD on many occasions and thank you for the opportunity to comment on the proposed rules related to Article 1 Amendments; particularly as they relate to the limited-entry tag.

I question the need for the proposed rule changes given that it is directed at a very small percentage of special interests. As hunting has continued to decline, other outdoor recreation has broadly increased; particularly in regards to bird watching and other wildlife watching opportunities. In order for AZGFD to remain self-sustaining into the future, it is vital that this Department's commission diversify and address the concerns of the broader constituency. Preservation of all Arizona native wildlife is critical to the continued health and well being of this state, and outdoor recreation is a reason that many of us enjoy living here. Since this rule package appears to only favor a very limited number of people, I seriously question why it is even necessary and would ask that this effort be abandoned. However, if the politically motivated members of this commission must persist, then please consider the following comments:

R12-4-107. Bonus Point System:

Please reconsider the following part of the proposed rule; do not add a limited-entry tag for sandhill cranes:

"The Commission proposes to amend the rule to add sandhill crane to the list of species for which bonus points may NPRM - 4 be purchased or accrued. This change is in response to customer comments received by the Department."

Seventy-five years ago, sandhill cranes were declining across the country due to habitat loss and unregulated hunting. They've made a comeback, but expanding the program for a few vocal hunters without a more complete study of the impacts or a solid monitoring program would be a mistake. Sandhill cranes attract thousands of bird watchers who spend an abundance of money. This has been true for a long time, but with COVID social distancing guidelines, it has become an even more popular activity. Please listen to ALL your constituents.

R12-4-110. Posting and Access to State Land:

Thank you for the clarification added in Section D #3 and retaining Section E, F, and G. 3. Subsection (D) does not authorize any person to deny lawful access to state land in any way.

This will eliminate some confusion on the landowner's rights.

R12-4-116. Reward Payments Issuance of Limited-Entry Permit-tag:

Please eliminate "authorize agents" as in "J" The Department or its authorized agent shall maintain the applications submitted for limited-entry permit-tags" and at least 12 other places.

Arizona Game and Fish should take its public trust responsibility for wildlife seriously and remove these provisions that allow it to delegate responsibilities to entities that are not accountable to the public.

R12-4-116. R12-4-126. Reward Payments:

With the increased attention on sandhill cranes, they should be added to "C. 1. and/or C. 2." Reward payments for information that results in an arrest for the reported violation are as follows:

1. For cases that involve antelope, eagles, bear, bighorn sheep, buffalo bison, deer, elk, javelina, mountain lion, pronghorn, turkey, or endangered or threatened wildlife as defined under R12-4-401, \$500, to be increased by an additional amount of at least \$50, but not to exceed \$500, when vandalism impacting recreational access or wildlife habitat is also involved;
2. For cases that involve wildlife that are not listed under subsection (C)(1), a minimum of \$50, not to exceed \$150, to be increased by an additional amount of at least \$50, but not to exceed \$500, when vandalism impacting recreational access or wildlife habitat is also involved; and

This may discourage shooting Sandhill Cranes out of season and/or without a permit.

To summarize, I ask you delete/drop R12-4-116.C (1), which allows the Department to implement limited-entry permit-tags under the open season or seasons established if the Department determines, "A season for a specific terrestrial or aquatic wildlife species, or specific area of the state, is in high demand...." Demand for special tags in a specific area should not be a determinant for these tags. Again, it provides a broad opportunity for the special interests that appear to control the Game and Fish Commission to exert excessive influence to increase these limited-entry tags.

Also, why are you proposing the following provision: "Wildlife taken under the authority of this limited-entry permit-tag shall not count towards the established bag limit for that

species” (R12-4-116.I (2)? This provision makes bag limits much less meaningful and will not allow the public to have an accurate picture of how many of each species are being taken. They must now look at both the number of limited-entry tags and the bag limits to see if there are excessive impacts on a wildlife population when compared to survey data.

On page NPRM - 2 of the Notice of Proposed Rule Making, it states, “Wildlife can be owned by no person and is held by the state in trust for all the people.” I strongly agree and think this rule package should be amended to reflect that. Specifically, I ask that Arizona Game and Fish remove “or its authorized agent” in R12-4-116.J and R12-4-116.J (1), (3), (4) and (5). Including that provision in these sections allows Arizona Game and Fish to further privatize wildlife by sanctioning issuance of these tags via other entities. Arizona Game and Fish should take its public trust responsibility for wildlife seriously and remove these provisions that allow it to delegate responsibilities to entities that are not accountable to the public.

Respectfully submitted,

Shareen Goodroad

2119 E Cavalry Rd., New River, AZ 85087

Email: [scgoodroad@msn.com](mailto:scgoodroad@msn.com)



Celeste Cook &lt;ccook@azgfd.gov&gt;

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**Fwd: proposed Article 1 amendments comments**

1 message

**Erin Butler** <ebutler@azgfd.gov>

Tue, Sep 29, 2020 at 7:36 AM

To: Celeste Cook &lt;ccook@azgfd.gov&gt;, Margaret Martinez &lt;mmartinez@azgfd.gov&gt;, Matt Braun &lt;mbraun@azgfd.gov&gt;, Christopher Dean &lt;cdean@azgfd.gov&gt;, Jennifer Alspaw &lt;jalspaw@azgfd.gov&gt;, Kathy Ford &lt;kford@azgfd.gov&gt;

----- Forwarded message -----

From: **Behomes** <behomes@q.com>

Date: Mon, Sep 28, 2020 at 8:42 PM

Subject: proposed Article 1 amendments comments

To: &lt;rulemaking@azgfd.gov&gt;, &lt;ebutler@azgfd.gov&gt;

Attached please find our comments on AZGFD proposed Article 1 Amendments

Thank you,

Ann Hutchinson &amp; Paul H. McAllister

--

**ERIN BUTLER** | REGION 3 TERRESTRIAL WILDLIFE PROGRAM MANAGER  
ARIZONA GAME AND FISH DEPARTMENT

OFFICE: 928.263.8853

EMAIL: [ebutler@azgfd.gov](mailto:ebutler@azgfd.gov)[azgfd.gov](http://azgfd.gov) | 5325 N. Stockton Hill Rd., Kingman, AZ 86409Join our new [Conservation Membership](#) program and ensure a wildlife legacy for the future.**AZ GFD Rule Sep 2020-9-28 Hutchinson-McAllister.pdf**

116K

**Arizona Wildlife Federation Comments the on Arizona Game & Fish Department Notice of proposed rulemaking item 6) Request to Approve a Notice of Final Rulemaking and Economic Impact Statement Amending Article 1. Definitions and General Provisions. (12/4/20)**

Director Grey, Commission Chair Davis, and fellow Commissioners, I am Scott Garlid Executive Director of the Arizona Wildlife Federation. My comments today represent the AWF's follow-up remarks regarding Commission agenda item #6) Request to Approve a Notice of Final Rulemaking and Economic Impact Statement Amending Article 1. Definitions and General Provisions.

The Arizona Wildlife Federation (AWF), a 501(c)3 non-profit corporation was founded in 1923 to take politics out of Arizona's Game and Fish Management and to promote the management of Arizona's wildlife and natural resources based on the principles of "Sound Science". The AWF got its start as the Arizona Game Protection Association and celebrated 97 years of Arizona conservation activity in 2020.

We provided written comments regarding the rule packet to Department Rules Coordinator Celeste Cook on September 22<sup>nd</sup> 2020. In those comments we supported both a bonus point credit for a newly proposed Conservation Education course and including an option to accrue Sandhill Crane hunt bonus points. We supported allowing authorized nonprofit organizations to turn tags back that have been donated to them and allowing the AGFD to reallocate those hunt opportunities.

That stated, we had some concern with the entirely new revised language proposed in R12-4-116 for the new concept of the issuance of Limited-Entry Permit-tags in high demand. We do support the Commission issuance of these new minimal in number additional tags, as long as they do not diminish the current 3-tags per species that fund annually the very successful \$2.7M Habitat Partnership Program.

We did request some additional definition of who and what constituted an "authorized agent". The rules package today resolves that term by simply referring now to "the Department". As such we are pleased to offer our endorsement of the draft rules package before the Commission today and appreciate the Department and Commission's responsiveness to our request.

## CHAPTER 4. GAME AND FISH COMMISSION

**ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS****R12-4-101. Definitions**

A. In addition to the definitions provided under A.R.S. § 17-101, R12-4-301, R12-4-401, and R12-4-501, the following definitions apply to this Chapter, unless otherwise specified:

“Bobcat seal” means the tag a person is required to attach to the raw pelt or unskinned carcass of any bobcat taken by trapping in Arizona or exported out of Arizona regardless of the method of take.

“Bonus point” means a credit that authorizes the Department to issue an applicant an additional computer-generated random number.

“Bow” means a long bow, flat bow, recurve bow, or compound bow of which the bowstring is drawn and held under tension entirely by the physical power of the shooter through all points of the draw cycle until the shooter purposely acts to release the bowstring either by relaxing the tension of the toes, fingers, or mouth or by triggering the release of a hand-held release aid.

“Certificate of insurance” means an official document, issued by the sponsor’s and sponsor’s vendors, or subcontractors insurance carrier, providing insurance against claims for injury to persons or damage to property which may arise from, or in connection with, the solicitation or event as determined by the Department.

“Cervid” means a mammal classified as a Cervidae, which includes but is not limited to caribou, elk, moose, mule deer, reindeer, wapiti, and whitetail deer; as defined in the taxonomic classification from the Integrated Taxonomic Information System, available online at [www.itis.gov](http://www.itis.gov).

“Commission Order” means a document adopted by the Commission that does one or more of the following:

- Open, close, or alter seasons,
- Open areas for taking wildlife,
- Set bag or possession limits for wildlife,
- Set the number of permits available for limited hunts, or
- Specify wildlife that may or may not be taken.

“Crossbow” means a device consisting of a bow affixed on a stock having a trigger mechanism to release the bowstring.

“Day-long” means the 24-hour period from one midnight to the following midnight.

“Department property” means those buildings or real property and wildlife areas under the jurisdiction of the Arizona Game and Fish Commission.

“Export” means to carry, send, or transport wildlife or wildlife parts out of Arizona to another state or country.

“Firearm” means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun, or other weapon that will discharge, is designed to discharge, or may readily be converted to discharge a projectile by the action of an explosion caused by the burning of smokeless powder, black powder, or black powder substitute.

“Handgun” means a firearm designed and intended to be held, gripped, and fired by one or more hands, not intended to be fired from the shoulder, and that uses the energy from an explosive in a fixed cartridge to fire a single projectile through a barrel for each single pull of the trigger.

“Hunt area” means a management unit, portion of a management unit, or group of management units, or any portion of

Arizona described in a Commission Order and not included in a management unit, opened to hunting.

“Hunt number” means the number assigned by Commission Order to any hunt area where a limited number of hunt permits are available.

“Hunt permits” means the number of hunt permit-tags made available to the public as a result of a Commission Order.

“Hunt permit-tag” means a tag for a hunt for which a Commission Order has assigned a hunt number.

“Identification number” means the number assigned to each applicant or license holder by the Department as established under R12-4-111.

“Import” means to bring, send, receive, or transport wildlife or wildlife parts into Arizona from another state or country.

“License dealer” means a business authorized to sell hunting, fishing, and other licenses as established under R12-4-105.

“Live baitfish” means any species of live freshwater fish designated by Commission Order as lawful for use in taking aquatic wildlife under R12-4-317.

“Management unit” means an area established by the Commission for management purposes.

“Nonpermit-tag” means a tag for a hunt for which a Commission Order does not assign a hunt number and the number of tags is not limited.

“Nonprofit organization” means an organization that is recognized under Section 501(c) of the U.S. Internal Revenue Code.

“Person” has the meaning as provided under A.R.S. § 1-215.

“Proof of purchase,” for the purposes of A.R.S. § 17-331, means an original, or any authentic and verifiable form of the original, of any Department-issued license, permit, or stamp that establishes proof of actual purchase.

“Restricted nonpermit-tag” means a tag issued for a supplemental hunt as established under R12-4-115.

“Solicitation” means any activity that may be considered or interpreted as promoting, selling, or transferring products, services, memberships, or causes, or participation in an event or activity of any kind, including organizational, educational, public affairs, or protest activities, including the distribution or posting of advertising, handbills, leaflets, circulars, posters, or other printed materials for these purposes.

“Solicitation material” means advertising, circulars, flyers, handbills, leaflets, posters, or other printed information.

“Sponsor” means the person or persons conducting a solicitation or event.

“Stamp” means a form of authorization in addition to a license that authorizes the license holder to take wildlife specified by the stamp.

“Tag” means the Department authorization a person is required to obtain before taking certain wildlife as established under A.R.S. Title 17 and 12 A.A.C. 4.

“Waterdog” means the larval or metamorphosing stage of a salamander.

“Wildlife area” means an area established under 12 A.A.C. 4, Article 8.

B. If the following terms are used in a Commission Order, the following definitions apply:

CHAPTER 4. GAME AND FISH COMMISSION

“Antlered” means having an antler fully erupted through the skin and capable of being shed.

“Antlerless” means not having an antler, antlers, or any part of an antler erupted through the skin.

“Bearded turkey” means a turkey with a beard that extends beyond the contour feathers of the breast.

“Buck antelope” means a male pronghorn antelope.

“Adult bull bison” means a male bison of any age or any bison designated by a Department employee during an adult bull bison hunt.

“Adult cow bison” means a female bison of any age or any bison designated by a Department employee during an adult cow bison hunt.

“Bull elk” means an antlered elk.

“Designated” means the gender, age, or species of wild-life or the specifically identified wildlife the Department authorizes to be taken and possessed with a valid tag.

“Ram” means any male bighorn sheep.

“Rooster” means a male pheasant.

“Yearling bison” means any bison less than three years of age or any bison designated by a Department employee during a yearling bison hunt.

**Historical Note**

Amended effective May 3, 1976 (Supp. 76-3). Amended effective October 22, 1976 (Supp. 76-5). Amended effective June 29, 1978 (Supp. 78-3). Amended effective April 22, 1980 (Supp. 80-2). Former Section R12-4-01 renumbered as Section R12-4-101 without change effective August 13, 1981 (Supp. 81-4). Amended effective April 22, 1982 (Supp. 82-2). Amended subsection (A), paragraph (10) effective April 7, 1983 (Supp. 83-2). Amended effective June 4, 1987 (Supp. 87-2). Amended subsection (A) effective December 30, 1988 (Supp. 88-4). Correction, former Historical Note should read “Amended subsection (A) effective January 1, 1989, filed December 30, 1988” (Supp. 89-2). Amended effective May 27, 1992 (Supp. 92-2). Amended effective January 1, 1993; filed December 18, 1992 (Supp. 92-4). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended effective January 1, 1996; filed in the Office of the Secretary of State December 18, 1995 (Supp. 95-4). Amended by final rulemaking at 6 A.A.R. 211, effective January 1, 2000 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 610, effective April 6, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 845, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 11 A.A.R. 991, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 19 A.A.R. 826, effective July 1, 2013 (Supp. 13-2). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4). Amended by final rulemaking at 25 A.A.R. 1047, effective June 1, 2019 (Supp. 19-2).

**R12-4-102. License, Permit, Stamp, and Tag Fees**

A. A person who purchases a license, tag, stamp, or permit listed in this Section shall pay at the time of purchase all applicable fees prescribed under this Section or the fees the Director authorizes under R12-4-115.

- B. A person who applies to purchase a hunt permit-tag shall submit with the application all applicable fees using acceptable forms of payment as required under R12-4-104(F) and (G).
- C. As authorized under A.R.S. § 17-345, the license fees in this section include a \$3 surcharge, except Youth and High Achievement Scout licenses.

Hunting and Fishing License Fees	Resident	Nonresident
General Fishing License	\$37	\$55
Community Fishing License	\$24	\$24
General Hunting License	\$37	Not available
Combination Hunting and Fishing License	\$57	\$160
Youth Combination Hunting and Fishing License, fee applies until the applicant’s 18th birthday.	\$5	\$5
High Achievement Scout License, as authorized under A.R.S. § 17-336(B). Fee applies until the applicant’s 21st birthday.	\$5	Not available
Short-term Combination Hunting and Fishing License	\$15	\$20
Youth Group Two-day Fishing License	\$25	Not available

Hunt Permit-tag Fees	Resident	Nonresident
Antelope	\$90	\$550
Bear	\$25	\$150
Bighorn Sheep	\$300	\$1,800
Buffalo		
Adult Bulls or Any Buffalo	\$1,100	\$5,400
Adult Cows	\$650	\$3,250
Yearling	\$350	\$1,750
Cow or Yearling	\$650	\$3,250
Deer and Archery Deer	\$45	\$300
Youth	\$25	\$25
Elk	\$135	\$650
Youth	\$50	\$50
Javelina	\$25	\$100
Youth	\$15	\$15
Pheasant non-archery, non-falconry	Application fee only	Application fee only
Turkey and Archery Turkey	\$25	\$90
Youth	\$10	\$10
Sandhill Crane	\$10	\$10

Nonpermit-tag and Restricted Non-permit-tag Fees	Resident	Nonresident
Antelope	\$90	\$550
Bear	\$25	\$150
Buffalo		
Adult Bulls or Any Buffalo	\$1,100	\$5,400
Adult Cows	\$650	\$3,250
Yearling	\$350	\$1,750
Cow or Yearling	\$650	\$3,250
Deer	\$45	\$300

CHAPTER 4. GAME AND FISH COMMISSION

Youth	\$25	\$25
Elk	\$135	\$650
Youth	\$50	\$50
Javelina	\$25	\$100
Youth	\$15	\$15
Mountain Lion	\$15	\$75
Turkey	\$25	\$90
Youth	\$10	\$10
Sandhill Crane	\$10	\$10

Stamps and Special Use Fees	Resident	Nonresident
Arizona Colorado River Special Use Permit Stamp. For use by California and Nevada licensees	Not available	\$3
Bobcat Seal	\$3	\$3
State Migratory Bird Stamp	\$5	\$5

Other License Fees	Resident	Nonresident
Fur Dealer's License	\$115	\$115
Guide License	\$300	\$300
License Dealer's License	\$100	\$100
License Dealer's Outlet License	\$25	\$25
Taxidermist Registration	\$100	\$100
Trapping License	\$30	\$275
Youth	\$10	\$10

Administrative Fees	Resident	Nonresident
Duplicate License Fee	\$4	\$4
Application Fee	\$13	\$15

D. A person desiring a replacement of a Migratory Bird or Arizona Colorado River Special Use Permit Stamp shall repurchase the stamp.

**Historical Note**

Amended effective May 3, 1976 (Supp. 76-3). Amended effective March 31, 1977 (Supp. 77-2). Amended effective June 28, 1977 (Supp. 77-3). Amended effective October 20, 1977 (Supp. 77-5). Amended effective January 1, 1979 (Supp. 78-6). Amended effective June 4, 1979 (Supp. 79-3). Amended effective January 1, 1980 (Supp. 79-6). Amended paragraphs (1), (7) through (11), (13), (15), (29), (30), and (32) effective January 1, 1981 (Supp. 80-5). Former Section R12-4-30 renumbered as Section R12-4-102 without change effective August 13, 1981. Amended effective August 31, 1981 (Supp. 81-4). Amended effective September 15, 1982 unless otherwise noted in subsection (D) (Supp. 82-5). Amended effective January 1, 1984 (Supp. 83-4). Amended subsections (A) and (C) effective January 1, 1985 (Supp. 84-5). Amended effective January 1, 1986 (Supp. 85-5). Amended subsection (A), paragraphs (1), (2), (8) and (9) effective January 1, 1987; Amended by adding a new subsection (A), paragraph (31) and renumbering accordingly effective July 1, 1987. Both amendments filed November 5, 1986 (Supp. 86-6). Amended subsections (A) and (C) effective December 30, 1988 (Supp. 88-4). Correction, former Historical Note should read "Amended subsections (A) and (C) filed December 30, 1988, effective January 1, 1989"; Amended subsection (C) effective April 28, 1989 (Supp. 89-2). Section R12-4-102 repealed, new Section R12-4-102 filed as adopted November 26, 1990, effective January 1, 1991 (Supp. 90-4). Amended effective September 1, 1992; filed August 7, 1992 (Supp. 92-3). Amended effective January 1, 1993; filed December 18, 1993 (Supp. 92-4). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended effective December 16, 1995 (Supp. 94-4). Amended effective January 1, 1997; filed in the Office of the Secretary of State November 14, 1995 (Supp. 95-4). Amended subsection (D), paragraph (4), and subsection (E), paragraph (10), effective October 1, 1996; filed in the Office of the Secretary of State July 12, 1996 (Supp. 96-3). Amended subsection (B), paragraph (6) and subsection (E) paragraph (4), effective January 1, 1997; filed with the Office of the Secretary of State November 7, 1996 (Supp. 96-4). Amended by final rulemaking at 6 A.A.R. 211, effective January 1, 2000 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 1146, effective July 1, 2000 or January 1, 2001, as designated within the text of the Section (Supp. 00-1). Amended by final rulemaking at 9 A.A.R. 610, effective April 6, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 1157, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 10 A.A.R. 2823, effective August 13, 2004 (Supp. 04-2). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 12 A.A.R. 1391, effective June 4, 2006 (Supp. 06-2). Amended by final rulemaking at 13 A.A.R. 462, effective February 6, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 1472, effective July 12, 2011 (Supp. 11-3). Amended by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3). Amended by final rulemaking at 25 A.A.R. 1854, effective July 2, 2019 (Supp. 19-3).

ary 1, 1991 (Supp. 90-4). Amended effective September 1, 1992; filed August 7, 1992 (Supp. 92-3). Amended effective January 1, 1993; filed December 18, 1993 (Supp. 92-4). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended effective December 16, 1995 (Supp. 94-4). Amended effective January 1, 1997; filed in the Office of the Secretary of State November 14, 1995 (Supp. 95-4). Amended subsection (D), paragraph (4), and subsection (E), paragraph (10), effective October 1, 1996; filed in the Office of the Secretary of State July 12, 1996 (Supp. 96-3). Amended subsection (B), paragraph (6) and subsection (E) paragraph (4), effective January 1, 1997; filed with the Office of the Secretary of State November 7, 1996 (Supp. 96-4). Amended by final rulemaking at 6 A.A.R. 211, effective January 1, 2000 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 1146, effective July 1, 2000 or January 1, 2001, as designated within the text of the Section (Supp. 00-1). Amended by final rulemaking at 9 A.A.R. 610, effective April 6, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 1157, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 10 A.A.R. 2823, effective August 13, 2004 (Supp. 04-2). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 12 A.A.R. 1391, effective June 4, 2006 (Supp. 06-2). Amended by final rulemaking at 13 A.A.R. 462, effective February 6, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 1472, effective July 12, 2011 (Supp. 11-3). Amended by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3). Amended by final rulemaking at 25 A.A.R. 1854, effective July 2, 2019 (Supp. 19-3).

**R12-4-103. Duplicate Tags and Licenses**

- A. Under A.R.S. § 17-332(C), the Department and its license dealers may issue a duplicate license or tag to an applicant who:
  1. Pays the applicable fee prescribed under R12-4-102, and
  2. Signs an affidavit. The affidavit is furnished by the Department and is available at any Department office or license dealer.
- B. The applicant shall provide the following information on the affidavit:
  1. The applicant's personal information:
    - a. Name;
    - b. Department identification number, when applicable;
    - c. Residency status and number of years of residency immediately preceding application, when applicable;
  2. The original license or tag information:
    - a. Type of license or tag;
    - b. Place of purchase;
    - c. Purchase date, when available; and
  3. Disposition of the original tag for which a duplicate is being purchased:
    - a. The tag was not used and is lost, destroyed, mutilated, or otherwise unusable; or
    - b. The tag was placed on a harvested animal that was subsequently condemned and the carcass and all parts of the animal were surrendered to a Department employee as required under R12-4-112(B) and (C). An applicant applying for a duplicate tag under this subsection shall also submit the condemned meat duplicate tag authorization form issued by the Department.

## CHAPTER 4. GAME AND FISH COMMISSION

- C. In the event the Department is unable to verify the expiration date of the original license, the duplicate license shall expire on December 31 of the current year.
- Historical Note**
- Amended effective June 7, 1976 (Supp. 76-3). Amended effective October 20, 1977 (Supp. 77-5). Former Section R12-4-07 renumbered as Section R12-4-103 without change effective August 13, 1981 (Supp. 81-4). Amended effective January 1, 1996; filed in the Office of the Secretary of State December 18, 1995 (Supp. 95-4). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).
- R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Computer Draw and Purchase of Bonus Points**
- A. For the purposes of this Section, "group" means all applicants who placed their names on a single application as part of the same application.
- B. A person is eligible to apply:
1. For a hunt permit-tag if the person:
    - a. Is at least 10 years of age at the start of the hunt for which the person is applying;
    - b. Has successfully completed a Department-sanctioned hunter education course by the start date of the hunt for which the person is applying, when the person is under the age of 14;
    - c. Has not reached the bag limit established under subsection (J) for that genus; and
    - d. Is not suspended or revoked in this state as a result of an action under A.R.S. §§ 17-340 or 17-502 at the time the person submits an application.
  2. For a bonus point if the person:
    - a. Is at least 10 years of age by the application deadline; and
    - b. Is not suspended or revoked in this state as a result of an action under A.R.S. §§ 17-340 or 17-502 at the time the person submits an application.
- C. An applicant shall apply at the times, locations, and in the manner and method established by the hunt permit-tag application schedule published by the Department and available at any Department office, online at [www.azgfd.gov](http://www.azgfd.gov), or a license dealer.
1. The Commission shall set application deadline dates for hunt permit-tag computer draw applications through the hunt permit-tag application schedule.
  2. The Director has the authority to extend any application deadline date if a problem occurs that prevents the public from submitting a hunt permit-tag application within the deadlines set by the Commission.
  3. The Commission, through the hunt permit-tag application schedule, shall designate the manner and method of submitting an application, which may require an applicant to apply online only. If the Commission requires applicant's to use the online method, the Department shall accept paper applications only in the event of a Department systems failure.
- D. An applicant for a hunt permit-tag or a bonus point shall complete and submit a Hunt Permit-tag Application. The application form is available from any Department office, a license dealer, or online at [www.azgfd.gov](http://www.azgfd.gov).
- E. An applicant shall provide the following information on the Hunt Permit-tag Application:
1. The applicant's personal information:
    - a. Name;
    - b. Date of birth;
    - c. Social security number, as required under A.R.S. §§ 25-320(P) and 25-502(K);
    - d. Department identification number, when applicable;
    - e. Residency status and number of years of residency immediately preceding application, when applicable;
    - f. Mailing address, when applicable;
    - g. Physical address;
    - h. Telephone number, when available; and
    - i. E-mail address, when available;
  2. If the applicant possesses a valid license authorizing the take of wildlife in this state, the number of the applicant's license;
  3. If the applicant does not possess a valid license at the time of the application, the applicant shall purchase a license as established under subsection (L). The applicant shall provide all of the following information on the license application portion of the Hunt Permit-tag Application:
    - a. Physical description, to include the applicant's eye color, hair color, height, and weight;
    - b. Residency status and number of years of residency immediately preceding application, when applicable;
    - c. Type of license for which the person is applying; and
  4. Certify the information provided on the application is true and accurate;
  5. An applicant who is:
    - a. Under the age of 10 and is submitting an application for a hunt other than big game is not required to have a license under this Chapter. The applicant shall indicate "youth" in the space provided for the license number on the Hunt Permit-tag Application.
    - b. Age nine or older and is submitting an application for a big game hunt is required to purchase an appropriate license as required under this Section. The applicant shall either enter the appropriate license number in the space provided for the license number on the Hunt Permit-tag Application or purchase a license at the time of application, as applicable.
- F. In addition to the information required under subsection (E), an applicant shall also submit all applicable fees established under R12-4-102, as follows:
1. When applying electronically:
    - a. The permit application fee; and
    - b. The license fee, when the applicant does not possess a valid license at the time of application. The applicant shall submit payment in U.S. currency using valid credit or debit card.
    - c. If an applicant is successful in the computer draw, the Department shall charge the hunt permit-tag fee using the credit or debit card furnished by the applicant.
  2. When applying manually:
    - a. The fee for the applicable hunt permit-tag;
    - b. The permit application fee; and
    - c. The license fee if the applicant does not possess a valid license at the time of application. The applicant shall submit payment by certified check, cashier's check, or money order made payable in U.S. currency to the Arizona Game and Fish Department.
- G. An applicant shall apply for a specific hunt or a bonus point by the current hunt number. If all hunts selected by the applicant are filled at the time the application is processed in the com-

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- puter draw, the Department shall deem the application unsuccessful, unless the application is for a bonus point.
1. An applicant shall make all hunt choices for the same genus within one application.
  2. An applicant shall not include applications for different genera of wildlife in the same envelope.
- H.** An applicant shall submit only one valid application per genus of wildlife for any calendar year, except:
1. If the bag limit is one per calendar year, an unsuccessful applicant may re-apply for remaining hunt permit-tags in unfilled hunt areas, as specified in the hunt permit-tag application schedule.
  2. For genera that have multiple draws within a single calendar year, a person who successfully draws a hunt permit-tag during an earlier season may apply for a later season for the same genus if the person has not taken the bag limit for that genus during a preceding hunt in the same calendar year.
  3. If the bag limit is more than one per calendar year, a person may apply for remaining hunt permit-tags in unfilled hunt areas as specified in the hunt permit-tag application schedule.
- I.** All members of a group shall apply for the same hunt numbers and in the same order of preference.
1. No more than four persons may apply as a group.
  2. The Department shall not issue a hunt permit-tag to any group member unless sufficient hunt permit-tags are available for all group members.
- J.** A person shall not apply for a hunt permit-tag for:
1. Rocky Mountain or desert bighorn sheep if the person has met the lifetime bag limit for that sub-species.
  2. Buffalo if the person has met the lifetime bag limit for that species.
  3. Any species when the person has reached the bag limit for that species during the same calendar year for which the hunt permit-tag applies.
- K.** To participate in:
1. The computer draw system, an applicant shall possess an appropriate hunting license that shall be valid, either:
    - i. On the last day of the application deadline for that computer draw, as established by the hunt permit-tag application schedule published by the Department, or
    - ii. On the last day of an extended deadline date, as authorized under subsection (C)(2).
    - iii. If an applicant does not possess an appropriate hunting license that meets the requirements of this subsection, the applicant shall purchase the license at the time of application.
  2. The bonus point system, an applicant shall comply with the requirements established under R12-4-107.
- L.** The Department shall reject as invalid a Hunt Permit-Tag Application not prepared or submitted in accordance with this Section or not prepared in a legible manner.
- M.** Any hunt permit-tag issued for an application that is subsequently found not to be in accordance with this Section is invalid.
- N.** The Department or its authorized agent shall mail hunt permit-tags to successful applicants. The Department shall return application overpayments to the applicant designated "A" on the Hunt Permit-tag Application. The Department shall not refund:
1. A permit application fee.
  2. A license fee submitted with a valid application for a hunt permit-tag or bonus point.
  3. An overpayment of five dollars or less. The Department shall consider the overpayment to be a donation to the Arizona Game and Fish Fund.
- O.** The Department shall award a bonus point for the appropriate species to an applicant when the payment submitted is less than the required fees, but is sufficient to cover the application fee and, when applicable, license fee.
- P.** When the Department determines a Department error, as defined under subsection (3), caused the rejection or denial of a valid application:
1. The Director may authorize either:
    - a. The issuance of an additional hunt permit-tag, provided the issuance of an additional hunt permit-tag will have no significant impact on the wildlife population to be hunted and the application for the hunt permit-tag would have otherwise been successful based on its random number, or
    - b. The awarding of a bonus point when a hunt permit-tag is not issued.
  2. A person who is denied a hunt permit-tag or a bonus point under this subsection may appeal to the Commission as provided under A.R.S. Title 41, Chapter 6, Article 10.
  3. For the purposes of this subsection, "Department error" means an internal processing error that:
    - a. Prevented a person from lawfully submitting an application for a hunt permit-tag,
    - b. Caused a person to submit an invalid application for a hunt permit-tag,
    - c. Caused the rejection of an application for a hunt permit-tag,
    - d. Failed to apply an applicant's bonus points to a valid application for a hunt permit-tag, or
    - e. Caused the denial of a hunt permit-tag.

**Historical Note**

Amended effective May 3, 1976 (Supp. 76-3). Amended effective June 28, 1977 (Supp. 77-3). Amended effective July 24, 1978 (Supp. 78-4). Former Section R12-4-06 renumbered as Section R12-4-104 without change effective August 13, 1981. Amended subsections (N), (O), and (P) effective August 31, 1981 (Supp. 81-4). Former Section R12-4-104 repealed, new Section R12-4-104 adopted effective May 12, 1982 (Supp. 82-3). Amended subsection (D) as an emergency effective December 27, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-6). Emergency expired. Amended effective June 20, 1983 (Supp. 83-3). Amended subsection (F)(3) effective September 12, 1984. Amended subsection (F)(9) and added subsections (F)(10) and (G)(3) effective October 31, 1984 (Supp. 84-5). Amended effective May 5, 1986 (Supp. 86-3). Amended effective June 4, 1987 (Supp. 87-2). Section R12-4-104 repealed, new Section R12-4-104 adopted effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended effective January 1, 1996; filed in the Office of the Secretary of State December 18, 1995 (Supp. 95-4). Amended by final rulemaking at 6 A.A.R. 211, effective January 1, 2000 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 610, effective April 6, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 845, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 11 A.A.R. 991, effective April 2, 2005; amended by final rulemaking at 11 A.A.R. 1177, effective May 2, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 19 A.A.R. 3225, effective January 1,

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2014 (Supp. 13-3). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

**R12-4-105. License Dealer's License**

A. For the purposes of this Section, unless the context otherwise requires:

"Dealer number" means the unique number assigned by the Department to a dealer outlet.

"Dealer outlet" means a specified location authorized to sell licenses under a license dealer's license.

"License" means any hunting or fishing license, permit, stamp, or tag that may be sold by a dealer or dealer outlet under this Section.

"License dealer" means a business licensed by the Department to sell licenses from one or more dealer outlets.

"License Dealer Portal" means the secure website provided by the Department for issuing licenses and permits and accessing a license dealer's account.

B. A person is eligible to apply for a license dealer's license, provided all of the following criteria are met:

1. The person's privilege to sell licenses for the Department has not been revoked or canceled under A.R.S. §§ 17-334, 17-338, or 17-339 within the two calendar years immediately preceding the date of application;
2. The person's credit record or assets assure the Department that the value of the licenses shall be adequately protected;
3. The person agrees to assume financial responsibility for licenses provided by the Department at the maximum value established under R12-4-102, less the dealer commission prescribed under A.R.S. § 17-338(B).

C. A person shall apply for a license dealer's license by submitting an application to any Department office. The application is furnished by the Department and is available at any Department office. A license dealer license applicant shall provide all of the following information on the application:

1. The principal business or corporation information:
  - a. Name,
  - b. Physical address, and
  - c. Telephone number;
  - d. If not a corporation, the applicant shall provide the information required under subsections (a), (b), and (c) for each owner;
2. The contact information for the person responsible for ensuring compliance with this Section:
  - a. Name,
  - b. Business address, and
  - c. Business telephone number;
3. Whether the applicant has previously sold licenses under A.R.S. § 17-334;
4. Whether the applicant is seeking renewal of an existing license dealer's license;
5. Credit references and a statement of assets and liabilities; and
6. Dealer outlet information:
  - a. Name,
  - b. Physical address,
  - c. Telephone number, and
  - d. Name of the person responsible for ensuring compliance with this Section at each dealer outlet.

D. A license dealer may request to add dealer outlets to the license dealer's license, at any time during the license year, by

submitting the application form containing the information required under subsection (C) to the Department.

E. An applicant who is denied a license dealer's license under this Section may appeal to the Commission as provided under A.R.S. Title 41, Chapter 6, Article 10.

F. The Department shall:

1. Provide to the license dealer all licenses that the license dealer will make available to the public for sale,
2. Authorize the license dealer to use the dealer's own license stock, or
3. Authorize the license dealer to issue licenses and permits online via the Department's License Dealer Portal.

G. Upon receipt of licenses provided by the Department, the license dealer shall verify the licenses received are the licenses identified on the shipment inventory provided by the Department with the shipment.

1. Within five working days from receipt of shipment, the person performing the verification shall:
  - a. Clearly designate any discrepancies on the shipment inventory,
  - b. Sign and date the shipping inventory, and
  - c. Return the signed shipping inventory to the Department.
2. The Department shall verify any discrepancies identified by the license dealer and credit or debit the license dealer's inventory accordingly.

H. A license dealer shall maintain an inventory of licenses for sale to the public at each outlet.

I. A license dealer may request additional licenses in writing or verbally.

1. The request shall include:
  - a. The name of the license dealer,
  - b. The assigned dealer number,
  - c. A list of the licenses needed, and
  - d. The name of the person making the request.
2. Within 10 calendar days from receipt of a request, the Department shall provide the licenses requested, unless:
  - a. The license dealer failed to acknowledge licenses previously provided to the license dealer, as required under subsection (G);
  - b. The license dealer failed to transmit license fees, as required under subsection (J); or
  - c. The license dealer is not in compliance with this Section and all applicable statutes and rules.

J. A license dealer shall transmit to the Department all license fees collected by the tenth day of each month, less the dealer commission prescribed under A.R.S. § 17-338(B). Failure to comply with the requirements of this subsection shall result in the cancellation of the license dealer's license, as authorized under A.R.S. § 17-338(A).

K. A license dealer shall submit a monthly report to the Department by the tenth day of each month, as prescribed under A.R.S. § 17-339.

1. The monthly report form is furnished by the Department.
2. A monthly report is required regardless of whether or not activities were performed.
3. Failure to submit the monthly report in compliance with this subsection shall be cause to cancel the license dealer's license.
4. The license dealer shall include in the monthly report all of the following information for each outlet:
  - a. Name of the dealer;
  - b. The assigned dealer number;
  - c. Reporting period;
  - d. Number of sales and dollar amount of sales for reporting period, by type of license sold;

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- e. Dollar amount of commission authorized under A.R.S. § 17-338(B);
- f. Debit and credit adjustments for previous reporting periods, if any;
- g. Number of affidavits received for which a duplicate license was issued under R12-4-103;
- h. List of lost or missing licenses; and
- i. Printed name and signature of the preparer.
5. In addition to the information required under subsection (K), the license dealer shall also provide the affidavit for each duplicate license issued by the dealer during the reporting period.
- The affidavit is furnished by the Department and is included in the license book.
  - A license dealer who fails to submit the affidavit for a duplicate license issued by the license dealer shall remit to the Department the actual cash value of the original license replaced.
- L. The Department shall provide written notice of suspension and demand the return of all inventory within five calendar days from any license dealer who:
- Fails to transmit monies due the Department under A.R.S. § 17-338 by the deadline established under subsection (J);
  - Issues to the Department more than one check with insufficient funds during a calendar year; or
  - Otherwise fails to comply with this Section and all applicable statutes and rules.
- M. As prescribed under A.R.S. § 17-338, the actual cash value of licenses not returned to the Department is due and payable to the Department within 15 working days from the date the Department provides written notice to the license dealer. This includes, but is not limited to:
- Licenses not returned upon termination of business by a license dealer; or
  - Licenses reported by a dealer outlet or discovered by the Department to be lost, missing, stolen, or destroyed for any reason.
- N. In addition to those violations that may result in revocation, suspension, or cancellation of a license dealer's license as prescribed under A.R.S. §§ 17-334, 17-338, and 17-339, the Commission may revoke a license dealer's license if the license dealer or an employee of the license dealer is convicted of counseling, aiding, or attempting to aid any person in obtaining a fraudulent license.
- Historical Note**
- Amended effective June 7, 1976 (Supp. 77-3). Former Section R12-4-08 renumbered as Section R12-4-105 without change effective August 13, 1981 (Supp. 81-4). Former Section R12-4-105 repealed, new Section R12-4-105 adopted effective December 30, 1988 (Supp. 88-4). Correction, former Historical Note should read "Former Section R12-4-105 repealed, new Section R12-4-105 adopted effective January 1, 1989, filed December 30, 1988" (Supp. 89-2). Amended effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended effective January 1, 1996; filed in the Office of the Secretary of State December 18, 1995 (Supp. 95-4). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).
- R12-4-106. Special Licenses Licensing Time-frames**
- A. For the purposes of this Section, the following definitions apply:
- "Administrative review time-frame" has the same meaning as prescribed under A.R.S. § 41-1072(1).
- "License" means any permit or authorization issued by the Department and listed under subsection (H).
- "Overall time-frame" has the same meaning as prescribed under A.R.S. § 41-1072(2).
- "Substantive review time-frame" has the same meaning as prescribed under A.R.S. § 41-1072(3).
- B. As required under A.R.S. § 41-1072 et seq., within the overall time-frames listed in the table below, the Department shall either:
- Grant a license to an applicant after determining the applicant meets all of the criteria required by statute and the governing rule; or
  - Deny a license to an applicant when the Department determines the applicant does not meet all of the criteria required by statute and the governing rule.
    - The Department may deny a license at any point during the review process if the information provided by the applicant demonstrates the applicant is not eligible for the license as prescribed under statute or the governing rule.
    - The Department shall issue a written denial notice when it is determined that an applicant does not meet all of the criteria for the license.
    - The written denial notice shall provide:
      - The Department's justification for the denial, and
      - When a hearing or appeal is authorized, an explanation of the applicant's right to a hearing or appeal.
- C. During the overall time-frame:
- The applicant and the Department may agree in writing to extend the overall time-frame.
  - The substantive review time-frame shall not be extended by more than 25% of the overall time-frame.
- D. An applicant may withdraw an application at any time.
- E. The administrative review time-frame shall begin upon the Department's receipt of an application.
- During the administrative review time-frame, the Department may return to the applicant, without denial, an application that is missing any of the information required under R12-4-409 and the rule governing the specific license. The Department shall issue to the applicant a written notice that identifies all missing information and indicates the applicant has 30 days in which to return the missing information.
  - The administrative review time-frame and the overall time-frame listed for the applicable license under this Section are suspended from the date on the notice until the date the Department receives the missing information.
  - If an applicant fails to respond to a request for missing information within 30 days, the Department shall consider the application withdrawn.
- F. The substantive review time-frame shall begin when the Department determines an application is complete.
- During the substantive review time-frame, the Department may make one comprehensive written request for additional information. The written notice shall:
    - Identify the additional information, and
    - Indicate the applicant has 30 days in which to submit the additional information.

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- c. The Department and the applicant may mutually agree in writing to allow the agency to submit supplemental requests for additional information.
- d. If an applicant fails to respond to a request for additional information within 30 days, the Department shall consider the application withdrawn.
- 2. The substantive review time-frame and the overall time-frame listed for the applicable license under this Section are suspended from the date on the request until the date the Department receives the additional information.
- G. If the last day of the time-frame period falls on a Saturday, Sunday, or an official State holiday, the Department shall consider the next business day the time-frame period's last day. All periods listed are:
  - 1. Calendar days, and
  - 2. Maximum time periods.
- H. The Department may grant or deny a license in less time than specified below.

**Table 1. Time-Frames**

Name of Special License	Governing Rule	Administrative Review Time-frame	Substantive Review Time-frame	Overall Time-frame
Aquatic Wildlife Stocking Permit	R12-4-410	10 days	170 days	180 days
Authorization for Use of Drugs on Wildlife	R12-4-309	20 days	70 days	90 days
Challenged Hunter Access/Mobility Permit	R12-4-217	1 day	29 days	30 days
Crossbow Permit	R12-4-216	1 day	29 days	30 days
Disabled Veteran's License	R12-4-202	1 day	29 days	30 days
Fishing Permits	R12-4-310	10 days	20 days	30 days
Game Bird License	R12-4-414	10 days	20 days	30 days
Guide License	R12-4-208	10 days	20 days	30 days
License Dealer's License	R12-4-105	10 days	20 days	30 days
Live Bait Dealer's License	R12-4-411	10 days	20 days	30 days
Pioneer License	R12-4-201	1 day	29 days	30 days
Private Game Farm License	R12-4-413	10 days	20 days	30 days
Scientific Collecting Permit	R12-4-418	10 days	20 days	30 days
Small Game Depredation Permit	R12-4-113	10 days	20 days	30 days
Sport Falconry License	R12-4-422	10 days	20 days	30 days
Watercraft Agents	R12-4-509	10 days	20 days	30 days
Taxidermy Registration	R12-4-204	10 days	20 days	30 days
White Amur Stocking License	R12-4-424	10 days	20 days	30 days
Wildlife Holding License	R12-4-417	10 days	20 days	30 days
Wildlife Rehabilitation License	R12-4-423	10 days	50 days	60 days
Wildlife Service License	R12-4-421	10 days	50 days	60 days
Zoo License	R12-4-420	10 days	20 days	30 days

**Historical Note**

Editorial correction subsections (F) through (G) (Supp. 78-5). Former Section R12-4-09 renumbered as Section R12-4-106 without change effective August 13, 1981 (Supp. 81-4). Repealed effective May 27, 1992 (Supp. 92-2). New Section adopted June 10, 1998 (Supp. 98-2). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4). Amended by final rulemaking at 25 A.A.R. 1854, effective July 2, 2019 (Supp. 19-3).

**R12-4-107. Bonus Point System**

A. For the purpose of this Section, the following definitions apply:

“Bonus point hunt number” means the hunt number assigned in a Commission Order for use by an applicant who is applying for a bonus point only.

“Loyalty bonus point” means a bonus point awarded to a person who has submitted a valid application for a hunt permit-tag or a bonus point for a specific genus identified in subsection (B) at least once annually for a consecutive five-year period.

B. The bonus point system grants a person one random number entry in each computer draw for antelope, bear, bighorn sheep,

buffalo, deer, elk, javelina, or turkey for each bonus point that person has accumulated under this Section.

1. Each bonus point random number entry is in addition to the entry normally granted under R12-4-104.
2. When processing a “group” application, as defined under R12-4-104, the Department shall use the average number of bonus points accumulated by all persons in the group, rounded to the nearest whole number. If the average number of bonus points is equal to or greater than .5, the total will be rounded to the next higher number.
3. The Department shall credit a bonus point under an applicant’s Department identification number for the genus on the application.
4. The Department shall not transfer bonus points between persons or genera.

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- C. The Department shall award one bonus point to an applicant who submits a valid Hunt Permit-tag Application provided the following apply:
1. The application is unsuccessful in the computer draw or the application is for a bonus point only;
  2. The application is not for a hunt permit-tag leftover after the computer draw and available on a first-come, first-served basis as established under R12-4-114; and
  3. The applicant either provides the appropriate hunting license number on the application or submits an application and fees for the applicable license with the Hunt Permit-tag Application, as applicable.
- D. An applicant who purchases a bonus point only shall:
1. Submit a valid Hunt Permit-tag Application, as prescribed under R12-4-104, with the assigned bonus point hunt number for the particular genus as the first-choice hunt number on the application. The Department shall reject any application that:
    - a. Indicates the bonus point only hunt number as any choice other than the first-choice, or
    - b. Includes any other hunt number on the application;
  2. Include the applicable fees:
    - a. Application fee, and
    - b. Applicable license fee, required when the applicant does not possess a valid license at the time of application; and
  3. Submit only one Hunt Permit-tag Application per genus per computer draw.
- E. With the exception of the hunter education bonus point, each accumulated bonus point is valid only for the genus designated on the Hunt Permit-tag Application.
- F. With the exception of a permanent bonus point awarded for hunter education and a loyalty bonus point which is accrued and forfeited as established under subsection (L), a person's accumulated bonus points for a genus are expended if:
1. The person is issued a hunt permit-tag for that genus in a computer draw;
  2. The person fails to submit a Hunt Permit-tag Application for that genus for five consecutive years; or
  3. The person purchases a surrendered tag as prescribed under R12-4-118(F)(1), (2), or (3).
- G. Notwithstanding subsection (F), the Department shall restore any expended bonus points to a person who surrenders or transfers a tag in compliance with R12-4-118 or R12-4-121.
- H. An applicant issued a first-come, first-served hunt permit-tag under R12-4-114(C)(2)(e) after the computer draw does not expend bonus points for that genus.
- I. An applicant who is unsuccessful for a first-come, first-served hunt permit-tag made available by the Department after the computer draw is not eligible to receive a bonus point.
- J. The Department shall award one permanent bonus point for each genus upon a person's first graduation from a Department-sanctioned Arizona Game and Fish Department Hunter Education Course.
1. Course participants are required to provide the following information upon registration, the participants:
    - a. Name;
    - b. Mailing address;
    - c. Telephone number;
    - d. E-mail address, when available;
    - e. Date of birth; and
    - f. Department ID number, when applicable.
  2. The Arizona Game and Fish Department-certified Instructor shall submit the course paperwork to the Department within 10 business days of course completion. Course paperwork must be received by the Department no less than 30 days before the computer draw application deadline, as specified in the hunt permit-tag application schedule in order for the Department to assign hunter education bonus points in the next computer draw.
3. The Department shall not award hunter education bonus points for any of the following specialized hunter education courses:
- a. Bowhunter Education,
  - b. Trapper Education, or
  - c. Advanced Hunter Education.
- K. The Department provides an applicant's total number of accumulated bonus points on the Department's application web site or IVR telephone system.
1. If a person believes the total number of accumulated bonus points is incorrect, the person may request proof of compliance with this Section, from the Department, to prove Department error.
  2. In the event of an error, the Department shall correct the person's record.
- L. The following provisions apply to the loyalty bonus point program:
1. An applicant who submits a valid application at least once a year for a hunt permit-tag or a bonus point for a specific genus consecutively for a five-year period shall accrue a loyalty bonus point for that genus.
  2. Except as established under subsection (N), once a loyalty bonus point is accrued, the applicant shall retain the loyalty bonus point provided the applicant annually submits an application, with funds sufficient to cover all application fees and applicable license fees for each applicant listed on the application, for a hunt permit-tag or a bonus point for the genus for which the loyalty bonus point was accrued.
  3. An applicant who fails to apply in any calendar year for a hunt permit-tag or bonus point for the genus for which the loyalty bonus point was accrued shall forfeit the loyalty bonus point for that genus.
  4. A loyalty bonus point is accrued in addition to all other bonus points.
- M. A military member, military reserve member, member of the National Guard, or emergency response personnel with a public agency may request the reinstatement of any expended bonus points for a successful Hunt Permit-tag Application.
1. To request reinstatement of expended bonus points under these circumstances, an applicant shall submit all of the following information to the Arizona Game and Fish Department, Draw Section, 5000 W. Carefree Highway, Phoenix, AZ 85086:
    - a. Evidence of mobilization or change in duty status, such as a letter from the public agency or official orders; or
    - b. An official declaration of a state of emergency from the public agency or authority making the declaration of emergency, if applicable; and
    - c. The valid, unused hunt permit-tag.
  2. The Department shall deny requests post-marked after the beginning date of the hunt for which the hunt permit-tag is valid, unless the person also submits, with the request, evidence of mobilization, activation, or a change in duty status that precluded the applicant from submitting the hunt permit-tag before the beginning date of the hunt.
  3. Under A.R.S. § 17-332(E), no refunds for a license or hunt permit-tag will be issued to an applicant who applies for reinstatement of bonus points under this subsection.

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4. Reinstatement of bonus points under this subsection is not subject to the requirements established under R12-4-118.
- N. It is unlawful for a person to purchase a bonus point by fraud or misrepresentation and any bonus point so obtained shall be removed from the person's Department record.

**Historical Note**

Former Section R12-4-03 renumbered as Section R12-4-107 without change effective August 13, 1981 (Supp. 81-4). Section R12-4-107 repealed, new Section R12-4-107 adopted effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended effective July 29, 1992 (Supp. 92-3). Section R12-4-107 repealed, new Section R12-4-107 adopted effective January 1, 1999; filed with the Office of the Secretary of State February 9, 1998 (Supp. 98-1). Amended by final rulemaking at 9 A.A.R. 610, effective April 6, 2003 (Supp. 03-1). Amended by final rulemaking at 10 A.A.R. 845, effective April 3, 2004 (Supp. 04-1). Amended by final rulemaking at 11 A.A.R. 991, effective April 2, 2005 (Supp. 05-1). Amended by final rulemaking at 11 A.A.R. 991, effective April 2, 2005; amended by final rulemaking at 11 A.A.R. 1177, effective May 2, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

**R12-4-108. Management Unit Boundaries**

- A. For the purpose of this Section, parentheses mean "also known as," and the following definitions shall apply:
1. "FH" means "forest highway," a paved road.
  2. "FR" means "forest road," an unpaved road.
  3. "Hwy" means "Highway."
  4. "mp" means "milepost."
- B. The state is divided into units for the purpose of managing wildlife. Each unit is identified by a number, or a number and letter. For the purpose of this Section, Indian reservation land contained within any management unit is not under the jurisdiction of the Arizona Game and Fish Commission or the Arizona Game and Fish Department.
- C. Management unit descriptions are as follows:

Unit 1 – Beginning at the New Mexico state line and U.S. Hwy 60; west on U.S. Hwy 60 to Vernon Junction; southerly on the Vernon-McNary road (FR 224) to the White Mountain Apache Indian Reservation boundary; east and south along the reservation boundary to Black River; east and north along Black River to the east fork of Black River; north along the east fork to Three Forks; and continuing north and east on the Three Forks-Williams Valley-Alpine Rd. (FR 249) to U.S. Hwy 180; east on U.S. Hwy 180 to the New Mexico state line; north along the state line to U.S. Hwy 60.

Unit 2A – Beginning at St. Johns on U.S. Hwy 191 (AZ Hwy 61); north on U.S. Hwy 191 (AZ Hwy 61) to the Navajo Indian Reservation boundary; westerly along the reservation boundary to AZ Hwy 77; south on AZ Hwy 77 to Exit 292 on I-40; west on the westbound lane of I-40 to Exit 286; south on AZ Hwy 77 to U.S. Hwy 180; southeast on U.S. Hwy 180 to AZ Hwy 180A; south on AZ Hwy 180A to AZ Hwy 61; east on AZ Hwy 61 to U.S. Hwy 180 (AZ Hwy 61); east to U.S. Hwy 191 at St. Johns; except those portions that are sovereign tribal lands of the Zuni Tribe.

Unit 2B – Beginning at Springerville; east on U.S. Hwy 60 to the New Mexico state line; north along the state line to the Navajo Indian Reservation boundary; westerly along the reservation boundary to U.S. Hwy 191 (AZ Hwy 61); south on U.S. Hwy 191 (U.S. Hwy 180) to Springerville.

Unit 2C – Beginning at St. Johns on U.S. Hwy 191 (AZ Hwy 61); west on to AZ Hwy 61 Concho; southwest on AZ Hwy 61 to U.S. Hwy 60; east on U.S. Hwy 60 to U.S. Hwy 191 (U.S. Hwy 180); north on U.S. Hwy 191 (U.S. Hwy 180) to St. Johns.

Unit 3A – Beginning at the junction of U.S. Hwy 180 and AZ Hwy 77; south on AZ Hwy 77 to AZ Hwy 377; south-westerly on AZ Hwy 377 to AZ Hwy 277; easterly on AZ Hwy 277 to Snowflake; easterly on the Snowflake-Concho Rd. to U.S. Hwy 180A; north on U.S. Hwy 180A to U.S. Hwy 180; northwesterly on U.S. Hwy 180 to AZ Hwy 77.

Unit 3B – Beginning at Snowflake; southerly along AZ Hwy 77 to U.S. Hwy 60; southwesterly along U.S. Hwy 60 to the White Mountain Apache Indian Reservation boundary; easterly along the reservation boundary to the Vernon-McNary Rd. (FR 224); northerly along the Vernon-McNary Rd. to U.S. Hwy 60; west on U.S. Hwy 60 to AZ Hwy 61; northeasterly on AZ Hwy 61 to AZ Hwy 180A; northerly on AZ Hwy 180A to Concho-Snowflake Rd.; westerly on the Concho-Snowflake Rd. to Snowflake.

Unit 3C – Beginning at Snowflake; westerly on AZ Hwy 277 to AZ Hwy 260; westerly on AZ Hwy 260 to the Sitgreaves National Forest boundary with the Tonto National Forest; easterly along the Apache-Sitgreaves National Forest boundary to U.S. Hwy 60 (AZ Hwy 77); northeasterly on U.S. Hwy 60 (AZ Hwy 77) to Showlow; northerly along AZ Hwy 77 to Snowflake.

Unit 4A – Beginning on the boundary of the Apache-Sitgreaves National Forest with the Coconino National Forest at the Mogollon Rim; north along this boundary (Leonard Canyon) to East Clear Creek; northerly along East Clear Creek to AZ Hwy 99; north on AZ Hwy 99 to AZ Hwy 87; north on AZ Hwy 87 to Business I-40 (3rd St.); west on Business I-40 (3rd St.) to Hipkoe Dr.; northerly on Hipkoe Dr. to I-40; west on I-40 to mp 221.4; north to the southwest corner of the Navajo Indian Reservation boundary; east along the Navajo Indian Reservation boundary to the Little Colorado River; southerly along the Little Colorado River to Chevelon Creek; southerly along Chevelon Creek to Woods Canyon; westerly along Woods Canyon to Woods Canyon Lake Rd.; westerly and southerly along the Woods Canyon Lake Rd. to the Mogollon Rim; westerly along the Mogollon Rim to the boundary of the Apache-Sitgreaves National Forest with the Coconino National Forest.

Unit 4B – Beginning at AZ Hwy 260 and the Sitgreaves National Forest boundary with the Tonto National Forest; northeasterly on AZ Hwy 260 to AZ Hwy 277; northeasterly on AZ Hwy 277 to Hwy 377; northeasterly on AZ Hwy 377 to AZ Hwy 77; northeasterly on AZ Hwy 77 to I-40 Exit 286; northeasterly along the westbound lane of I-40 to Exit 292; north on AZ Hwy 77 to the Navajo Indian Reservation boundary; west along the reservation boundary to the Little Colorado River; southerly along the Little Colorado River to Chevelon Creek; southerly

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along Chevelon Creek to Woods Canyon; westerly along Woods Canyon to Woods Canyon Lake Rd. (FH 151); westerly and southerly along the Woods Canyon Lake Rd. (FH 151) to the Mogollon Rim; easterly along the Mogollon Rim to the intersection of AZ Hwy 260 and the Sitgreaves National Forest boundary with the Tonto National Forest.

Unit 5A – Beginning at the junction of the Sitgreaves National Forest boundary with the Coconino National Forest boundary at the Mogollon Rim; northerly along this boundary (Leonard Canyon) to East Clear Creek; northeasterly along East Clear Creek to AZ Hwy 99; north on AZ Hwy 99 to AZ Hwy 87; north on AZ Hwy 87 to Business I-40 (3rd St.); west on Business I-40 (3rd St.) to Hipkoe Dr.; north on Hipkoe Dr. to I-40; west on I-40 to the Meteor Crater Rd. (Exit 233); southerly on the Meteor Crater-Chavez Pass-Jack's Canyon Rd. (FR 69) to AZ Hwy 87; southwest along AZ Hwy 87 to the Coconino-Tonto National Forest boundary; easterly along the Coconino-Tonto National Forest boundary (Mogollon Rim) to the Sitgreaves National Forest boundary with the Coconino National Forest.

Unit 5B – Beginning at Lake Mary-Clint's Well Rd. (FH3) and Walnut Canyon (mp 337.5 on FH3); southeast along FH3 to AZ Hwy 87; northeasterly on AZ Hwy 87 to FR 69; westerly and northerly on FR 69 to I-40 (Exit 233); west on I-40 to Walnut Canyon (mp 210.2); southwest along the bottom of Walnut Canyon to Walnut Canyon National Monument; southwest along the northern boundary of the Walnut Canyon National Monument to Walnut Canyon; southwest along the bottom of Walnut Canyon to FH3 (mp 337.5).

Unit 6A – Beginning at the junction of U.S. Hwy 89A and FR 237; southwest along U.S. Hwy 89A to the Verde River; southeast along the Verde River to the confluence with Fossil Creek; northeasterly along Fossil Creek to Fossil Springs; southeast along FS trail 18 (Fossil Spring Trail) to the top of the rim; northeasterly on the rim to Nash Point on the Tonto-Coconino National Forest boundary; easterly along this boundary to AZ Hwy 87; northeasterly on AZ Hwy 87 to Lake Mary-Clint's Well Rd. (FH3); northwest along FH3 to FR 132; southwest along FR 132 to FR 296; southwest along FR 296 to FR 296A; southwest along FR 296A to FR 132; northwest along FR 132 to FR 235; westerly on FR 235 to Priest Draw; southwest along the bottom of Priest Draw to FR 235; westerly on FR 235 to FR 235A; westerly on FR 235A to FR 235; southerly on FR 235 to FR 235K; northwest along FR 235K to FR 700; northerly on FR 700 to Mountainaire Rd.; west on Mountainaire Rd. to FR 237; westerly on FR 237 to U.S. Hwy 89A except those portions that are sovereign tribal lands of the Yavapai-Apache Nation.

Unit 6B – Beginning at mp 188.5 on I-40 at a point just north of the east boundary of Camp Navajo; south along the eastern boundary of Camp Navajo to the southeastern corner of Camp Navajo; southeast approximately 1/3 mile through the forest to the forest road in section 33; southeast on the forest road to FR 231 (Woody Mountain Rd.); easterly on FR 231 to FR 533; southerly on FR 533 to U.S. Hwy 89A; southerly on U.S. Hwy 89A to the Verde River; northerly along the Verde River to Sycamore Creek; northeasterly along Sycamore Creek and Volunteer Canyon to the southwest corner of the Camp

Navajo boundary; northerly along the western boundary of Camp Navajo to the northwest corner of Camp Navajo; continuing north to I-40 (mp 180.0); easterly along I-40 to mp 188.5.

Unit 7 – Beginning at the junction of AZ Hwy 64 and I-40 (in Williams); easterly on I-40 to FR 171 (mp 184.4 on I-40); northerly on FR 171 to the Transwestern Gas Pipeline; easterly along the Transwestern Gas Pipeline to FR 420 (Schultz Pass Rd.); northeasterly on FR 420 to U.S. Hwy 89; across U.S. Hwy 89 to FR 545; east on FR 545 to the Sunset Crater National Monument; easterly along the southern boundary of the Sunset Crater National Monument to FR 545; east on FR 545 to the 345 KV transmission lines 1 and 2; southeasterly along the power lines to I-40 (mp 212 on I-40); east on I-40 to mp 221.4; north to the southwest corner of the Navajo Indian Reservation boundary; northerly and westerly along the reservation boundary to the Four Corners Gas Line; southwest along the Four Corners Gas Line to U.S. Hwy 180; west on U.S. Hwy 180 to AZ Hwy 64; south on AZ Hwy 64 to I-40.

Unit 8 – Beginning at the junction of I-40 and U.S. Hwy 89 (in Ash Fork, Exit 146); south on U.S. Hwy 89 to the Verde River; easterly along the Verde River to Sycamore Creek; northerly along Sycamore Creek to Volunteer Canyon; northeasterly along Volunteer Canyon to the west boundary of Camp Navajo; north along the boundary to a point directly north of I-40; west on I-40 to U.S. Hwy 89.

Unit 9 – Beginning where Cataract Creek enters the Havasupai Reservation; easterly and northerly along the Havasupai Reservation boundary to Grand Canyon National Park; easterly along the Grand Canyon National Park boundary to the Navajo Indian Reservation boundary; southerly along the reservation boundary to the Four Corners Gas Line; southwest along the Four Corners Gas Line to U.S. Hwy 180; westerly along U.S. Hwy 180 to AZ Hwy 64; south along AZ Hwy 64 to Airpark Rd.; west and north along Airpark Rd. to the Valle-Cataract Creek Rd.; westerly along the Valle-Cataract Creek Rd. to Cataract Creek at Island Tank; northwest along Cataract Creek to the Havasupai Reservation Boundary.

Unit 10 – Beginning at the junction of AZ Hwy 64 and I-40; westerly on I-40 to Crookton Rd. (AZ Hwy 66, Exit 139); westerly on AZ Hwy 66 to the Hualapai Indian Reservation boundary; northeasterly along the reservation boundary to Grand Canyon National Park; east along the park boundary to the Havasupai Indian Reservation; easterly and southerly along the reservation boundary to where Cataract Creek enters the reservation; southeast along Cataract Creek in Cataract Canyon to Island Tank; easterly on the Cataract Creek-Valle Rd. to Airpark Rd.; south and east along Airpark Rd. to AZ Hwy 64; south on AZ Hwy 64 to I-40.

Unit 11M – Beginning at the junction of Lake Mary-Clint's Well Rd (FH3) and Walnut Canyon (mp 337.5 on FH3); northeasterly along the bottom of Walnut Canyon to the Walnut Canyon National Monument boundary; northeasterly along the northern boundary of the Walnut Canyon National Monument to Walnut Canyon; northeasterly along the bottom of Walnut Canyon to I-40 (mp 210.2); east on I-40 to the 345 KV transmission lines 1&2 (mp 212 on I-40); north and northeasterly along the power line to FR 545 (Sunset Crater Rd); west along FR

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545 to the Sunset Crater National Monument boundary; westerly along the southern boundary of the Sunset Crater National monument to FR 545; west on FR 545 to US Hwy 89; across US Hwy 89 to FR 420 (Schultz Pass Rd); southwesterly on FR 420 to the Transwestern Gas Pipeline; westerly along the Transwestern Gas Pipeline to FR 171; south on FR 171 to I-40 (mp 184.4 on I-40); east on I-40 to a point just north of the eastern boundary of the Navajo Army Depot (mp 188.5 on I-40); south along the eastern boundary of the Navajo Army Depot to the southeast corner of the Depot; southeast approximately 1/3 mile to forest road in section 33; southeasterly along that forest road to FR 231 (Woody Mountain Rd); easterly on FR 231 to FR 533; southerly on FR 533 to US Hwy 89A; southerly on US Hwy 89A to FR 237; northeasterly on FR 237 to Mountaineer Rd; easterly on Mountaineer Rd to FR 700; southerly on FR 700 to FR 235K; southeasterly on FR 235K to FR 235; northerly on FR 235 to FR 235A; easterly on FR 235A to FR 235; easterly on FR 235 to Priest Draw; northeasterly along the bottom of Priest Draw to FR 235; easterly on FR 235 to FR 132; southeasterly on FR 132 to FR 296A; northeasterly on FR 296A to FR 296; northeasterly on FR 296 to FR 132; northeasterly on FR 132 to FH 3; southeasterly on FH 3 to the south rim of Walnut Canyon (mp 337.5 on FH3).

Unit 12A – Beginning at the confluence of the Colorado River and South Canyon; southerly and westerly along the Colorado River to Kanab Creek; northerly along Kanab Creek to Snake Gulch; northerly, easterly, and southerly around the Kaibab National Forest boundary to South Canyon; northeasterly along South Canyon to the Colorado River.

Unit 12B – Beginning at U.S. Hwy 89A and the Kaibab National Forest boundary near mp 566; southerly and easterly along the forest boundary to Grand Canyon National Park; northeasterly along the park boundary to Glen Canyon National Recreation area; easterly along the recreation area boundary to the Colorado River; northeasterly along the Colorado River to the Arizona-Utah state line; westerly along the state line to Kanab Creek; southerly along Kanab Creek to the Kaibab National Forest boundary; northerly, easterly, and southerly along this boundary to U.S. Hwy 89A near mp 566; except those portions that are sovereign tribal lands of the Kaibab Band of Paiute Indians.

Unit 13A – Beginning on the western edge of the Hurricane Rim at the Utah state line; southerly along the western edge of the Hurricane Rim to Mohave County Rd. 5 (the Mt. Trumbull Rd.); west along Mohave County Rd. 5 to the town of Mt. Trumbull (Bundyville); south from the town of Mt. Trumbull (Bundyville) on Mohave County Rd. 257 to BLM Rd. 1045; south on BLM Rd. 1045 to where it crosses Cold Spring Wash near Cold Spring Wash Pond; south along the bottom of Cold Spring Wash to Whitmore Wash; southerly along the bottom of Whitmore Wash to the Colorado River; easterly along the Colorado River to Kanab Creek; northerly along Kanab Creek to the Utah state line; west along the Utah state line to the western edge of the Hurricane Rim; except those portions that are sovereign tribal lands of the Kaibab Band of Paiute Indians.

Unit 13B – Beginning on the western edge of the Hurricane Rim at the Utah state line; southerly along the western edge of the Hurricane Rim to Mohave County Rd. 5

(the Mt. Trumbull Rd.); west along Mohave County Rd. 5 to the town of Mt. Trumbull (Bundyville); south from the town of Mt. Trumbull (Bundyville) on Mohave County Rd. 257 to BLM Rd. 1045; south on BLM Rd. 1045 to where it crosses Cold Spring Wash near Cold Spring Wash Pond; south along the bottom of Cold Spring Wash to Whitmore Wash; southerly along the bottom of Whitmore Wash to the Colorado River; westerly along the Colorado River to the Nevada state line; north along the Nevada state line to the Utah state line; east along the Utah state line to the western edge of the Hurricane Rim.

Unit 15A – Beginning at Pearce Ferry on the Colorado River; southerly on the Pearce Ferry Rd. to Antares Rd.; southeasterly on Antares Rd. to AZ Hwy 66; easterly on AZ Hwy 66 to the Hualapai Indian Reservation; west and north along the west boundary of the reservation to the Colorado River; westerly along the Colorado River to Pearce Ferry; except those portions that are sovereign tribal lands of the Hualapai Indian Tribe.

Unit 15B – Beginning at Kingman on I-40 (Exit 48); northwesterly on U.S. Hwy 93 to Hoover Dam; north and east along the Colorado River to Pearce Ferry; southerly on the Pearce Ferry Rd. to Antares Rd.; southeasterly on Antares Rd. to AZ Hwy 66; easterly on AZ Hwy 66 to Hackberry Rd.; southerly on the Hackberry Rd. to its junction with U.S. Hwy 93; north on U.S. Hwy 93 to I-40 (Exit 71); west on I-40 to Kingman (Exit 48).

Unit 15C – Beginning at Hoover Dam; southerly along the Colorado River to AZ Hwy 68 and Davis Dam; easterly on AZ Hwy 68 to U.S. Hwy 93; northwesterly on U.S. Hwy 93 to Hoover Dam.

Unit 15D – Beginning at AZ Hwy 68 and Davis Dam; southerly along the Colorado River to I-40; east and north on I-40 to Kingman (Exit 48); northwest on U.S. Hwy 93 to AZ Hwy 68; west on AZ Hwy 68 to Davis Dam; except those portions that are sovereign tribal lands of the Fort Mohave Indian Tribe.

Unit 16A – Beginning at Kingman on I-40 (Exit 48); south and west on I-40 to U.S. Hwy 95 (Exit 9); southerly on U.S. Hwy 95 to the Bill Williams River; easterly along the Bill Williams and Santa Maria rivers to U.S. Hwy 93; north on U.S. Hwy 93 to I-40 (Exit 71); west on I-40 to Kingman (Exit 48).

Unit 16B – Beginning at I-40 on the Colorado River; southerly along the Arizona-California state line to the Bill Williams River; east along the Bill Williams River to U.S. Hwy 95; north on U.S. Hwy 95 to I-40 (Exit 9); west on I-40 to the Colorado River.

Unit 17A – Beginning at the junction of the Williamson Valley Rd. (County Road 5) and the Camp Wood Rd. (FR 21); westerly on the Camp Wood Rd. to the west boundary of the Prescott National Forest; north along the forest boundary to the Baca Grant; east, north and west around the grant to the west boundary of the Prescott National Forest; north and east along the forest boundary to the Williamson Valley Rd. (County Rd. 5, FR 6); southerly on Williamson Valley Rd. (County Rd. 5, FR 6) to the Camp Wood Rd.

Unit 17B – Beginning at the junction of Iron Springs Rd. (County Rd. 10) and Williamson Valley Rd. (County Road 5) in Prescott; westerly on the Prescott-Skull Valley-Hillside-Bagdad Rd. to Bagdad; northeast on the

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Bagdad-Camp Wood Rd. (FR 21) to the Williamson Valley Rd. (County Rd. 5, FR 6); south on the Williamson Valley Rd. (County Rd. 5, FR 6) to the Iron Springs Rd.

Unit 18A – Beginning at Seligman; westerly on AZ Hwy 66 to the Hualapai Indian Reservation; southwest and west along the reservation boundary to AZ Hwy 66; southwest on AZ Hwy 66 to the Hackberry Rd.; south on the Hackberry Rd. to U.S. Hwy 93; south on U.S. Hwy 93 to Cane Springs Wash; easterly along Cane Springs Wash to the Big Sandy River; northerly along the Big Sandy River to Trout Creek; northeast along Trout Creek to the Davis Dam-Prescott power line; southeasterly along the power line to the west boundary of the Prescott National Forest; north and east along the forest boundary to the Williamson Valley Rd. (County Rd. 5, FR 6); northerly on the Williamson Valley Rd. (County Rd. 5, FR 6) to Seligman and AZ Hwy 66; except those portions that are sovereign tribal lands of the Hualapai Indian Tribe.

Unit 18B – Beginning at Bagdad; southeast on AZ Hwy 96 to the Santa Maria River; southwest along the Santa Maria River to U.S. Hwy 93; northerly on U.S. Hwy 93 to Cane Springs Wash; easterly along Cane Springs Wash to the Big Sandy River; northerly along the Big Sandy River to Trout Creek; northeasterly along Trout Creek to the Davis Dam-Prescott power line; southeasterly along the power line to the west boundary of the Prescott National Forest; south along the forest boundary to the Baca Grant; east, south and west along the forest boundary; south along the west boundary of the Prescott National Forest; to the Camp Wood-Bagdad Rd.; southwesterly on the Camp Wood-Bagdad Rd. to Bagdad; except those portions that are sovereign tribal lands of the Hualapai Indian Tribe.

Unit 19A – Beginning at AZ Hwy 69 and U.S. Hwy 89 (in Prescott); northerly on U.S. Hwy 89 to the Verde River; easterly along the Verde River to I-17; southwesterly on the southbound lane of I-17 to AZ Hwy 69; northwesterly on AZ Hwy 69 to U.S. Hwy 89; except those portions that are sovereign tribal lands of the Yavapai-Prescott Tribe and the Yavapai-Apache Nation.

Unit 19B – Beginning at the intersection of U.S. Hwy 89 and AZ Hwy 69, west on Gurley St. to Grove Ave.; north on the Grove Ave. to Miller Valley Rd.; northwest on the Miller Valley Rd. to Iron Springs Rd.; northwest on the Iron Springs Rd. to the junction of Williamson Valley Rd. and Iron Springs Rd.; northerly on the Williamson Valley-Prescott-Seligman Rd. (FR 6, Williamson Valley Rd.) to AZ Hwy 66 at Seligman; east on Crookton Rd. (AZ Hwy 66) to I-40 (Exit 139); east on I-40 to U.S. Hwy 89; south on U.S. Hwy 89 to the junction with AZ Hwy 69; except those portions that are sovereign tribal lands of the Yavapai-Prescott Tribe.

Unit 20A – Beginning at the intersection of U.S. Hwy 89 and AZ Hwy 69; west on Gurley St. to Grove Ave.; north on the Grove Ave. to Miller Valley Rd., northwest on the Miller Valley Rd. to Iron Springs Rd., west and south on the Iron Springs-Skull Valley-Kirkland Junction Rd. to U.S. Hwy 89; continue south and easterly on the Kirkland Junction-Wagoner-Crown King-Cordes Rd. to Cordes, from Cordes southeast to I-17 (Exit 259); north on the southbound lane of I-17 to AZ Hwy 69; northwest on AZ Hwy 69 to junction of U.S. Hwy 89 at Prescott; except those portions that are sovereign tribal lands of the Yavapai-Prescott Tribe.

Unit 20B – Beginning at the Hassayampa River and U.S. Hwy 60/93 (in Wickenburg); northeasterly along the Hassayampa River to the Kirkland Junction-Wagoner-Crown King-Cordes road (at Wagoner); southerly and northeasterly along the Kirkland Junction-Wagoner-Crown King-Cordes Rd. (at Wagoner) to I-17 (Exit 259); south on the southbound lane of I-17 to the New River Road (Exit 232); west on the New River Road to State Hwy 74; west on AZ Hwy 74 to the junction of AZ Hwy 74 and U.S. Hwy 60/93; northwesterly on U.S. Hwy 60/93 to the Hassayampa River.

Unit 20C – Beginning at U.S. Hwy 60/93 and the Santa Maria River; northeasterly along the Santa Maria River to AZ Hwy 96; easterly on AZ Hwy 96 to Kirkland Junction; southeasterly along the Kirkland Junction-Wagoner-Crown King-Cordes road to the Hassayampa River (at Wagoner); southwesterly along the Hassayampa River to U.S. Hwy 60/93; northwesterly on U.S. Hwy 60/93 to the Santa Maria River.

Unit 21 – Beginning on I-17 at the Verde River; southerly on the southbound lane of I-17 to the New River Road (Exit 232); east on New River Road to Fig Springs Road; northeasterly on Fig Springs Road to the Tonto National Forest boundary; southeasterly along this boundary to the Verde River; north along the Verde River to I-17.

Unit 22 – Beginning at the junction of the Salt and Verde Rivers; north along the Verde River to the confluence with Fossil Creek; northeasterly along Fossil Creek to Fossil Springs; southeasterly on FS trail 18 (Fossil Spring Trail) to the top of the rim; northeasterly on the rim to Nash Point on the Tonto-Coconino National Forest boundary along the Mogollon Rim; easterly along this boundary to Tonto Creek; southerly along the east fork of Tonto Creek to the spring box, north of the Tonto Creek Hatchery, and continuing southerly along Tonto Creek to the Salt River; westerly along the Salt River to the Verde River; except those portions that are sovereign tribal lands of the Tonto Apache Tribe and the Fort McDowell Yavapai Nation.

Unit 23 – Beginning at the confluence of Tonto Creek and the Salt River; northerly along Tonto Creek to the spring box, north of the Tonto Creek Hatchery, on Tonto Creek; northeasterly along the east fork of Tonto Creek to the Tonto-Sitgreaves National Forest boundary along the Mogollon Rim; east along this boundary to the White Mountain Apache Indian Reservation boundary; southerly along the reservation boundary to the Salt River; westerly along the Salt River to Tonto Creek.

Unit 24A – Beginning on AZ Hwy 177 in Superior; southeasterly on AZ Hwy 177 to the Gila River; northeasterly along the Gila River to the San Carlos Indian Reservation boundary; easterly, westerly and northerly along the reservation boundary to the Salt River; southwesterly along the Salt River to AZ Hwy 288; southerly on AZ Hwys 288 and 188 to U.S. Hwy 60; southwesterly on U.S. Hwy 60 to AZ Hwy 177.

Unit 24B – Beginning on U.S. Hwy 60 in Superior; northeasterly on U.S. Hwy 60 to AZ Hwy 188; northerly on AZ Hwys 188 and 288 to the Salt River; westerly along the Salt River to the Tonto National Forest boundary near Granite Reef Dam; southeasterly along Forest boundary to Forest Route 77 (Peralta Rd.); southwesterly on Forest

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Route 77 (Peralta Rd.) to U.S. Hwy 60; easterly on U.S. Hwy 60 to Superior.

Unit 25M – Beginning at the junction of 51st Ave. and I-10; west on I-10 to AZ Loop 303, northeasterly on AZ Loop 303 to I-17; north on I-17 to Carefree Hwy; east on Carefree Hwy to Cave Creek Rd.; northeasterly on Cave Creek Rd. to the Tonto National Forest boundary; easterly and southerly along the Tonto National Forest boundary to Fort McDowell Yavapai Nation boundary; northeasterly along the Fort McDowell Yavapai Nation boundary to the Verde River; southerly along the Verde River to the Salt River; southwesterly along the Salt River to the Tonto National Forest boundary; southerly along the Tonto National Forest boundary to Bush Hwy/Power Rd.; southerly on Bush Hwy/Power Rd. to AZ Loop 202; easterly, southerly, and westerly on AZ Loop 202 to the intersection of Pecos Rd. at I-10; west on Pecos Rd. to the Gila River Indian Community boundary; northwesterly along the Gila River Indian Community boundary to 51st Ave; northerly on 51st Ave to I-10; except those portions that are sovereign tribal lands.

Unit 26M – Beginning at the junction of I-17 and New River Rd. (Exit 232); southwesterly on New River Rd. to AZ Hwy 74; westerly on AZ Hwy 74 to U.S. Hwy 93; southeasterly on U.S. Hwy 93 to the Beardsley Canal; southwesterly on the Beardsley Canal to Indian School Rd.; west on Indian School Rd. to Jackrabbit Trail; south on Jackrabbit Trail to I-10 (Exit 121); west on I-10 to Oglesby Rd. (Exit 112); south on Oglesby Rd. to AZ Hwy 85; south on AZ Hwy 85 to the Gila River; north-easterly along the Gila River to the Gila River Indian Community boundary; southeasterly along the Gila River Indian Community boundary to AZ Hwy 347 (John Wayne Parkway); south on AZ Hwy 347 (John Wayne Parkway) to AZ Hwy 84; east on AZ Hwy 84 to Stanfield; south on the Stanfield-Cocklebur Rd. to the Tohono O'odham Nation boundary; easterly along the Tohono O'odham Nation boundary to Battaglia Rd.; east on Battaglia Rd. to Toltec Rd.; north on Toltec Rd. to I-10 (Exit 203); southeasterly on I-10 to AZ Hwy 87 (Exit 211); north on AZ Hwy 87 to AZ Hwy 287 north of Coolidge; east on AZ Hwy 287 to AZ Hwy 79; north on AZ Hwy 79 to U.S. Hwy 60; northwesterly on U.S. Highway 60 to Peralta Rd.; northeasterly along Peralta Rd. to the Tonto National Forest boundary; northwesterly along the Tonto National Forest boundary to the Salt River; northeasterly along the Salt River to the Verde River; northerly along the Verde River to the Tonto National Forest boundary; northwesterly along the Tonto National Forest boundary to Fig Springs Rd.; southwesterly on Fig Springs Rd. to New River Rd.; west on New River Rd. to I-17 (Exit 232); except Unit 25M and those portions that are sovereign tribal lands.

Unit 27 – Beginning at the New Mexico state line and AZ Hwy 78; southwest on AZ Hwy 78 to U.S. Hwy 191; north on U.S. Hwy 191 to Lower Eagle Creek Rd. (Pump Station Rd.); west on the Lower Eagle Creek Rd. (Pump Station Rd.) to Eagle Creek; north along Eagle Creek to the San Carlos Apache Indian Reservation boundary; north along the San Carlos Apache Indian Reservation boundary to Black River; northeast along Black River to the East Fork of Black River; northeast along the East Fork of Black River to Three Forks-Williams Valley-Alpine Rd. (FR 249); easterly along Three Forks-Williams Valley-Alpine Rd. to U.S. Hwy 180; southeast on

U.S. Hwy 180 to the New Mexico state line; south along the New Mexico state line to AZ Hwy 78.

Unit 28 – Beginning at I-10 and the New Mexico state line; north along the state line to AZ Hwy 78; southwest on AZ Hwy 78 to U.S. Hwy 191; northwest on U.S. Hwy 191 to Clifton; westerly on the Lower Eagle Creek Rd. (Pump Station Rd.) to Eagle Creek; northerly along Eagle Creek to the San Carlos Indian Reservation boundary; southerly and west along the reservation boundary to U.S. Hwy 70; southeast on U.S. Hwy 70 to U.S. Hwy 191; south on U.S. Hwy 191 to I-10 Exit 352; easterly on I-10 to the New Mexico state line.

Unit 29 – Beginning on I-10 at the New Mexico state line; westerly on I-10 to the Bowie-Apache Pass Rd.; southerly on the Bowie-Apache Pass Rd. to AZ Hwy 186; southeast on AZ Hwy 186 to AZ Hwy 181; south on AZ Hwy 181 to the West Turkey Creek-Kuykendall cutoff road; southerly on the Kuykendall cutoff road to Rucker Canyon Rd.; easterly on the Rucker Canyon Rd. to Tex Canyon Rd.; southerly on Tex Canyon Rd. to U.S. Hwy 80; northeast on U.S. Hwy 80 to the New Mexico state line; north along the state line to I-10.

Unit 30A – Beginning at the junction of the New Mexico state line and U.S. Hwy 80; south along the state line to the U.S.-Mexico border; west along the border to U.S. Hwy 191; northerly on U.S. Hwy 191 to I-10 Exit 331; northeasterly on I-10 to the Bowie-Apache Pass Rd.; southerly on the Bowie-Apache Pass Rd. to AZ Hwy 186; southeasterly on AZ Hwy 186 to AZ Hwy 181; south on AZ Hwy 181 to the West Turkey Creek - Kuykendall cut-off road; southerly on the Kuykendall cutoff road to Rucker Canyon Rd.; easterly on Rucker Canyon Rd. to the Tex Canyon Rd.; southerly on Tex Canyon Rd. to U.S. Hwy 80; northeast on U.S. Hwy 80 to the New Mexico state line.

Unit 30B – Beginning at U.S. Hwy 191 and the U.S.-Mexico border; west along the border to the San Pedro River; north along the San Pedro River to I-10; northeasterly on I-10 to U.S. Hwy 191; southerly on U.S. Hwy 191 to the U.S.-Mexico border.

Unit 31 – Beginning at Willcox Exit 340 on I-10; north on Fort Grant Rd. to Brookerson Rd.; north on Brookerson Rd. to Ash Creek Rd.; west on Ash Creek Rd. to Fort Grant Rd.; north on Fort Grant Rd. to Bonita; northerly on the Bonita-Klondyke Rd. to the junction with Aravaipa Creek; west along Aravaipa Creek to AZ Hwy 77; northerly along AZ Hwy 77 to the Gila River; northeast along the Gila River to the San Carlos Indian Reservation boundary; south then east and north along the reservation boundary to U.S. Hwy 70; southeast on U.S. Hwy 70 to U.S. Hwy 191; south on U.S. Hwy 191 to the 352 exit on I-10; southwest on I-10 to Exit 340.

Unit 32 – Beginning at Willcox Exit 340 on I-10; north on Fort Grant Rd. to Brookerson Rd.; north on Brookerson Rd. to Ash Creek Rd.; west on Ash Creek Rd. to Fort Grant Rd.; north on Fort Grant Rd. to Bonita; northerly on the Bonita-Klondyke Rd. to the junction with Aravaipa Creek; west along Aravaipa Creek to AZ Hwy 77; southerly along AZ Hwy 77 to the San Pedro River; southerly along the San Pedro River to I-10; northeast on I-10 to Willcox Exit 340.

Unit 33 – Beginning at Tangerine Rd. and AZ Hwy 77; north and northeast on AZ Hwy 77 to the San Pedro

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River; southeast along the San Pedro River to I-10 at Benson; west on I-10 to Marsh Station Rd. (Exit 289); northwest on the Marsh Station Rd. to the Agua Verde Rd.; north on the Agua Verde Rd. to its terminus then north 1/2 mile to the Coronado National Forest boundary; north and west along the National Forest boundary; then west, north, and east along the Saguaro National Park boundary; continuing north and west along the Coronado National Forest boundary to the southern boundary of Catalina State Park; west along the southern boundary of Catalina State Park to AZ Hwy 77; north on AZ Hwy 77 to Tangerine Rd.

Unit 34A – Beginning in Nogales at I-19 and Grand Avenue (U.S. Highway 89); northeast on Grand Avenue (U.S. Hwy. 89) to AZ Hwy 82; northeast on AZ Hwy 82 to AZ Hwy 83; northerly on AZ Hwy 83 to the Sahuarita road alignment; west along the Sahuarita road alignment to I-19 Exit 75; south on I-19 to Grand Avenue (U.S. Hwy 89).

Unit 34B – Beginning at AZ Hwy 83 and I-10 Exit 281; easterly on I-10 to the San Pedro River; south along the San Pedro River to AZ Hwy 82; westerly on AZ Hwy 82 to AZ Hwy 83; northerly on AZ Hwy 83 to I-10 Exit 281.

Unit 35A – Beginning on the U.S.-Mexico border at the San Pedro River; west along the border to Lochiel Rd.; north on Lochiel Rd. to Patagonia San Rafael Rd.; north on the Patagonia San Rafael Rd. to San Rafael Valley-FS 58 Rd.; north on the San Rafael Valley-FS 58 Rd. to Christian Ln.; north on the Christian Ln. to Ranch Rd.; east and north on the Ranch Rd. to FR 799-Canelo Pass Rd.; northeasterly on the FR 799-Canelo Pass Rd. to AZ Hwy 83; northwesterly on the AZ Hwy 83 to Elgin Canelo Rd.; northeasterly on the Elgin-Canelo Rd. to Upper Elgin Rd.; north on the Upper Elgin Rd. to AZ Hwy 82; easterly on AZ Hwy 82 to the San Pedro River; south along the San Pedro River to the U.S.-Mexico border.

Unit 35B – Beginning at Grand Avenue (U.S. Hwy 89) at the U.S.-Mexico border in Nogales; east along the U.S.-Mexico border to Lochiel Rd.; north on the Lochiel Rd. to Patagonia San Rafael Rd.; north on the Patagonia San Rafael Rd. to San Rafael Valley-FS 58 Rd.; north on the San Rafael Valley-FS 58 Rd. to Christian Ln.; north on the Christian Ln. to Ranch Rd.; east and north on the Ranch Rd. to FR 799-Canelo Pass Rd.; northeasterly on FR 799-Canelo Pass Rd. to AZ Hwy 83; northwesterly on the AZ Hwy 83 to Elgin Canelo Rd.; north on the Elgin Canelo Rd. to Upper Elgin Rd.; north on the Upper Elgin Rd. to AZ Hwy 82; southwest on AZ Hwy 82 to Grand Avenue; southwest on Grand Avenue to the U.S.-Mexico border.

Unit 36A – Beginning at the junction of Sandario Rd. and AZ Hwy 86; southwest on AZ Hwy 86 to AZ Hwy 286; southerly on AZ Hwy 286 to the Arivaca-Sasabe Rd.; southeasterly on the Arivaca-Sasabe Rd. to the town of Arivaca; from the town of Arivaca northeasterly on the Arivaca Rd. to I-19; north on I-19 to the southern boundary of the San Xavier Indian Reservation boundary; westerly and northerly along the reservation boundary to the Sandario road alignment; north on Sandario Rd. to AZ Hwy 86.

Unit 36B – Beginning at I-19 and Grand Avenue (U.S. Hwy 89) in Nogales; southwest on Grand Avenue to the

U.S.-Mexico border; west along the U.S.-Mexico border to AZ Hwy 286; north on AZ Hwy 286 to the Arivaca-Sasabe Rd.; southeasterly on the Arivaca-Sasabe Rd. to the town of Arivaca; from the town of Arivaca northeasterly on the Arivaca Rd. to I-19; south on I-19 to Grand Avenue (U.S. Hwy 89).

Unit 36C – Beginning at the junction of AZ Hwy 86 and AZ Hwy 286; southerly on AZ Hwy 286 to the U.S.-Mexico border; westerly along the border to the east boundary of the Tohono O'odham (Papago) Indian Reservation; northerly along the reservation boundary to AZ Hwy 86; easterly on AZ Hwy 86 to AZ Hwy 286.

Unit 37A – Beginning at the junction of I-10 and Tangerine Rd. (Exit 240); southeast on I-10 to Avra Valley Rd. (Exit 242); west on Avra Valley Rd. to Sandario Rd.; south on Sandario Rd. to AZ Hwy 86; southwest on AZ Hwy 86 to the Tohono O'odham Nation boundary; north, east, and west along this boundary to Battaglia Rd.; east on Battaglia Rd. to Toltec Rd.; north on Toltec Rd. to I-10 (Exit 203); southeast on I-10 to AZ Hwy 87 (Exit 211); north on AZ Hwy 87 to AZ Hwy 287; east on AZ Hwy 287 to AZ Hwy 79 at Florence; southeast on AZ Hwy 79 to its junction with AZ Hwy 77; south on AZ Hwy 77 to Tangerine Rd.; west on Tangerine Rd. to I-10.

Unit 37B – Beginning at the junction of AZ Hwy 79 and AZ Hwy 77; northwest on AZ Hwy 79 to U.S. Hwy 60; east on U.S. Hwy 60 to AZ Hwy 177; southeast on AZ Hwy 177 to AZ Hwy 77; southeast and southwest on AZ Hwy 77 to AZ Hwy 79.

Unit 38M – Beginning at the junction of I-10 and Tangerine Rd. (Exit 240); southeast on I-10 to Avra Valley Rd. (Exit 242); west on Avra Valley Rd. to Sandario Rd.; south on Sandario Rd. to the San Xavier Indian Reservation boundary; south and east along the reservation boundary to I-19; south on I-19 to Sahuarita Rd. (Exit 75); east on Sahuarita Rd. to AZ Hwy 83; north on AZ Hwy 83 to I-10 (Exit 281); east on I-10 to Marsh Station Rd. (Exit 289); northwest on Marsh Station Rd. to the Agua Verde Rd.; north on the Agua Verde Rd. to its terminus, then north 1/2 mile to the Coronado National Forest boundary; north and west along the National Forest boundary, then west, north, and east along the Saguaro National Park boundary; continuing north and west along the Coronado National Forest boundary to the southern boundary of Catalina State Park; west along the southern boundary of Catalina State Park to AZ Hwy 77; north on AZ Hwy 77 to Tangerine Rd.; west on Tangerine Rd. to I-10.

Unit 39 – Beginning at AZ Hwy 85 and the Gila River; east along the Gila River to the western boundary of the Gila River Indian Community; southeasterly along this boundary to AZ Hwy 347 (John Wayne Parkway); south on AZ Hwy 347 (John Wayne Parkway) to AZ Hwy 84; east on AZ Hwy 84 to Stanfield; south on the Stanfield-Cocklebur Rd. to I-8; westerly on I-8 to Exit 87; northerly on the Agua Caliente Rd. to the Hyder Rd.; northeasterly on Hyder Rd. to 555th Ave.; north on 555th Ave. to Lahman Rd.; east on Lahman Rd., which becomes Agua Caliente Rd.; northeasterly on Agua Caliente Rd. to Old Hwy 80; northeasterly on Old Hwy 80 to Arizona Hwy 85; southerly on AZ Hwy 85 to the Gila River; except those portions that are sovereign tribal lands of the Tohono O'odham Nation and the Ak-Chin Indian Community.

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Unit 40A – Beginning at Ajo; southeasterly on AZ Hwy 85 to Why; southeasterly on AZ Hwy 86 to the Tohono O’odham (Papago) Indian Reservation; northerly and easterly along the reservation boundary to the Cocklebur-Stanfield Rd.; north on the Cocklebur-Stanfield Rd. to I-8; westerly on I-8 to AZ Hwy 85; southerly on AZ Hwy 85 to Ajo.

Unit 40B – Beginning at Gila Bend; westerly on I-8 to the Colorado River; southerly along the Colorado River to the Mexican border at San Luis; southeasterly along the border to the Cabeza Prieta National Wildlife Refuge; northerly, easterly and southerly around the refuge boundary to the Mexican border; southeast along the border to the Tohono O’odham (Papago) Indian Reservation; northerly along the reservation boundary to AZ Hwy 86; northwesterly on AZ Hwy 86 to AZ Hwy 85; north on AZ Hwy 85 to Gila Bend; except those portions that are sovereign tribal lands of the Cocopah Tribe.

Unit 41 – Beginning at I-8 and U.S. Hwy 95 (in Yuma); easterly on I-8 to exit 87; northerly on the Agua Caliente Rd. to the Hyder Rd.; northeasterly on Hyder Rd. to 555th Ave.; north on 555th Ave. to Lahman Rd.; east on Lahman Rd., which becomes Agua Caliente Rd.; northeasterly on Agua Caliente Rd. to Old Hwy 80; northeasterly on Old Hwy 80 to Arizona Hwy 85; northerly on AZ Hwy 85 to Oglesby Rd.; north on Oglesby Rd. to I-10; westerly on I-10 to Exit 45; southerly on Vicksburg-Kofa National Wildlife Refuge Rd. to the Refuge boundary; easterly, southerly, westerly, and northerly along the boundary to the Castle Dome Rd.; southwest on the Castle Dome Rd. to U.S. Hwy 95; southerly on U.S. Hwy 95 to I-8.

Unit 42 – Beginning at the junction of the Beardsley Canal and U.S. Hwy 93 (U.S. 89, U.S. 60); northwesterly on U.S. Hwy 93 to AZ Hwy 71; southwest on AZ Hwy 71 to U.S. Hwy 60; westerly on U.S. Hwy 60 to Aguila; south on the Eagle Eye Rd. to the Salome-Hassayampa Rd.; southeasterly on the Salome-Hassayampa Rd. to I-10 (Exit 81); easterly on I-10 to Jackrabbit Trail (Exit 121); north along Jackrabbit Trail to the Indian School road; east along Indian School Rd. to the Beardsley Canal; northeasterly along the Beardsley Canal to U.S. Hwy 93.

Unit 43A – Beginning at U.S. Hwy 95 and the Bill Williams River; west along the Bill Williams River to the Arizona-California state line; southerly to the south end of Cibola Lake; northerly and easterly on the Cibola Lake Rd. to U.S. Hwy 95; south on U.S. Hwy 95 to the Stone Cabin-King Valley Rd. (King Rd.); east along the Stone Cabin-King Valley Rd. (King Rd.) to the west boundary of the Kofa National Wildlife Refuge; northerly along the refuge boundary to the Crystal Hill Rd. (Blevens Rd.); northwesterly on the Crystal Hill Rd. (Blevens Rd.) to U.S. Hwy 95; northerly on U.S. Hwy 95 to the Bill Williams River; except those portions that are sovereign tribal lands of the Colorado River Indian Tribes.

Unit 43B – Beginning at the south end of Cibola Lake; southerly along the Arizona-California state line to I-8; southeasterly on I-8 to U.S. Hwy 95; easterly and northerly on U.S. Hwy 95 to the Castle Dome road; northeast on the Castle Dome Rd. to the Kofa National Wildlife Refuge boundary; north along the refuge boundary to the Stone Cabin-King Valley Rd. (King Rd.); west along the Stone Cabin-King Valley Rd. (King Rd.) to U.S. Hwy 95;

north on U.S. Hwy 95 to the Cibola Lake Rd.; west and south on the Cibola Lake Rd. to the south end of Cibola Lake; except those portions that are sovereign tribal lands of the Quechan Tribe.

Unit 44A – Beginning at U.S. Hwy 95 and the Bill Williams River; south along U.S. Hwy 95 to AZ Hwy 72; southeasterly on AZ Hwy 72 to Vicksburg; south on the Vicksburg-Kofa National Wildlife Refuge Rd. to I-10; easterly on I-10 to the Salome-Hassayampa Rd. (Exit 81); northwesterly on the Salome-Hassayampa Rd. to Eagle Eye Rd.; northeasterly on Eagle Eye Rd. to Aguila; east on U.S. Hwy 60 to AZ Hwy 71; northeasterly on AZ Hwy 71 to U.S. Hwy 93; northwesterly on U.S. Hwy 93 to the Santa Maria River; westerly along the Santa Maria and Bill Williams rivers to U.S. Hwy 95; except those portions that are sovereign tribal lands of the Colorado River Indian Tribes.

Unit 44B – Beginning at Quartzsite; south on U.S. Hwy 95 to the Crystal Hill Rd. (Blevens Rd.); east on the Crystal Hill Rd. (Blevens Rd.) to the Kofa National Wildlife Refuge; north and east along the refuge boundary to the Vicksburg-Kofa National Wildlife Refuge Rd.; north on the Vicksburg-Kofa National Wildlife Refuge Rd. to AZ Hwy 72; northwest on AZ Hwy 72 to U.S. Hwy 95; south on U.S. Hwy 95 to Quartzsite.

Unit 45A – Beginning at the junction of the Stone Cabin-King Valley Rd. (King Rd.) and Kofa National Wildlife Refuge boundary; east on the Stone Cabin-King Valley Rd. (King Rd.) to O-O Junction; north from O-O Junction on the Kofa Mine Rd. to the Evening Star Mine; north on a line over Polaris Mountain to Midwell-Alamo Spring-Kofa Cabin Rd. (Wilbanks Rd.); north on the Midwell-Alamo Spring-Kofa Cabin Rd. (Wilbanks Rd.) to the El Paso Natural Gas Pipeline Rd.; north on a line from the junction to the north boundary of the Kofa National Wildlife Refuge; west and south on the boundary line to Stone Cabin-King Valley Rd. (King Rd.).

Unit 45B – Beginning at O-O Junction; north from O-O Junction on the Kofa Mine Rd. to the Evening Star Mine; north on a line over Polaris Mountain to Midwell-Alamo Spring-Kofa Cabin Rd. (Wilbanks Rd.); north on the Midwell-Alamo Spring-Kofa Cabin Rd. (Wilbanks Rd.) to the El Paso Natural Gas Pipeline Rd.; north on a line from the junction to the north Kofa National Wildlife Refuge boundary; east to the east refuge boundary; south and west along the Kofa National Wildlife Refuge boundary to the Stone Cabin-King Valley Rd. (Wellton-Kofa Rd./Ave 40E); north and west on the Stone Cabin-King Valley Rd. (Wellton-Kofa Rd./Ave 40E) to O-O Junction.

Unit 46A – That portion of the Cabeza Prieta National Wildlife Refuge east of the Yuma-Pima County line.

Unit 46B – That portion of the Cabeza Prieta National Wildlife Refuge west of the Yuma-Pima County line.

#### Historical Note

Amended as an emergency effective April 10, 1975 (Supp. 75-1). Amended effective March 5, 1976 (Supp. 76-2). Amended effective May 17, 1977 (Supp. 77-3). Amended effective September 7, 1978 (Supp. 78-5). Amended effective June 4, 1979 (Supp. 79-3). Former Section R12-4-10 renumbered as Section R12-4-108 without change effective August 13, 1981 (Supp. 81-4). Amended effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended effective February 4, 1993

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(Supp. 93-1). Amended effective January 1, 1996; filed in the Office of the Secretary of State December 18, 1995 (Supp. 95-4). Amended by final rulemaking at 6 A.A.R. 1146, effective July 1, 2000 (Supp. 00-1). Amended by final rulemaking at 7 A.A.R. 865, effective July 1, 2001 (Supp. 01-1). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 18 A.A.R. 1458, effective January 1, 2013 (Supp. 12-2). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

**R12-4-109. Approved Trapping Education Course Fee**

Under A.R.S. § 17-333.02(A), the provider of an approved educational course of instruction in responsible trapping and environmental ethics may collect a fee from each participant that:

1. Is reasonable and commensurate for the course, and
2. Does not exceed \$25.

**Historical Note**

Amended as an emergency effective April 10, 1975 (Supp. 75-1). Amended effective May 3, 1976 (Supp. 76-3). Editorial correction paragraph (14) (Supp. 78-5). Former Section R12-4-11 renumbered as Section R12-4-109 without change effective August 13, 1981 (Supp. 81-4). Amended by adding paragraphs (2) and (3) and renumbering former paragraphs (2) through (17) as paragraphs (4) through (19) effective May 12, 1982 (Supp. 82-3). Amended effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Section repealed by final rulemaking at 6 A.A.R. 211, effective May 1, 2000 (Supp. 99-4). New Section made by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3).

**R12-4-110. Posting and Access to State Land**

**A.** For the purpose of this Section:

1. "Corrals," "feed lots," or "holding pens" mean completely fenced areas used to contain livestock for purposes other than grazing.
2. "Existing road" means any maintained or unmaintained road, way, highway, trail, or path that has been used for motorized vehicular travel, and clearly shows or has a history of established vehicle use, and is not currently closed by the Commission.
3. "State lands" means all land owned or held in trust by the state that is managed by the State Land Department and lands that are owned or managed by the Game and Fish Commission.

**B.** In addition to the prohibition against posting prescribed under A.R.S. § 17-304, a person shall not lock a gate, construct a fence, place an obstacle, or otherwise commit an act that denies legally available access to or use of any existing road upon state lands by persons lawfully taking or retrieving wildlife or conducting any activities that are within the scope of and take place while lawfully hunting or fishing.

1. A person in violation of this Section shall take immediate corrective action to remove any lock, fence, or other obstacle unlawfully preventing access to state lands.
2. If immediate corrective action is not taken, a representative of the Department may remove any unlawful posting and remove any lock, fence, or other obstacle that unlawfully prevents access to state lands.
3. In addition, the Department may take appropriate legal action to recover expenses incurred in the removal of any unlawful posting or obstacle that prevented access to state land.

**C.** The provisions of this Section do not allow any person to trespass upon private land to gain access to any state land.

**D.** A person may post state lands as closed to hunting, fishing, or trapping without further action by the Commission when the state land is within one-quarter mile of any:

1. Occupied residence, cabin, lodge, or other building; or
2. Corrals, feed lots, or holding pens containing concentrations of livestock other than for grazing purposes.

**E.** The Commission may grant permission to lock, tear down, or remove a gate or close a road or trail that provides legally available access to state lands for persons lawfully taking wildlife or conducting any activities that are within the scope of and take place while lawfully hunting or fishing if access to such lands is provided by a reasonable alternate route.

1. Under R12-4-610, the Director may grant a permit to a state land lessee to temporarily lock a gate or close an existing road that provides access to state lands if the taking of wildlife will cause unreasonable interference during a critical livestock or commercial operation. This permit shall not exceed 30 days.
2. Applications for permits for more than 30 days shall be submitted to the Commission for approval.
3. If a permit is issued to temporarily close a road or gate, a copy of the permit shall be posted at the point of the closure during the period of the closure.

**F.** A person may post state lands other than those referenced under subsection (D) as closed to hunting, fishing, or trapping, provided the person has obtained a permit from the Commission authorizing the closure. A person possessing a permit authorizing the closure of state lands shall post signs in compliance with A.R.S. 17-304(C). The Commission may permit the closure of state land when it is necessary:

1. Because the taking of wildlife constitutes an unusual hazard to permitted users;
2. To prevent unreasonable destruction of plant life or habitat; or
3. For proper resource conservation, use, or protection, including but not limited to high fire danger, excessive interference with mineral development, developed agricultural land, or timber or livestock operations.

**G.** A person shall submit an application for posting state land to prohibit hunting, fishing, or trapping under subsection (F), or to close an existing road under subsection (E), as required under R12-4-610. If an application to close state land to hunting, fishing, or trapping is made by a person other than the state land lessee, the Department shall provide notice to the lessee and the State Land Commissioner before the Commission considers the application. The state land lessee or the State Land Commissioner shall file any objections with the Department, in writing, within 30 days after receipt of notice, after which the matter shall be submitted to the Commission for determination.

**H.** A person may use a vehicle on or off a road to pick up lawfully taken big game animals.

**I.** The closing of state land to hunting, fishing, or trapping shall not restrict any other permitted use of the land.

**J.** State trust land may be posted with signs that read "State Land No Trespassing," but such posting shall not prohibit access to such land by any person lawfully taking or retrieving wildlife or conducting any activities that are within the scope of and take place while lawfully hunting or fishing.

**K.** When hunting, fishing, or trapping on state land, a license holder shall not:

1. Break or remove any lock or cut any fence to gain access to state land;
2. Open and not immediately close a gate;

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3. Intentionally or wantonly destroy, deface, injure, remove, or disturb any building, sign, equipment, marker, or other property;
  4. Harvest or remove any vegetative or mineral resources or object of archaeological, historic, or scientific interest;
  5. Appropriate, mutilate, deface, or destroy any natural feature, object of natural beauty, antiquity, or other public or private property;
  6. Dig, remove, or destroy any tree or shrub;
  7. Gather or collect renewable or non-renewable resources for the purpose of sale or barter unless specifically permitted or authorized by law;
  8. Frighten or chase domestic livestock or wildlife, or endanger the lives or safety of others when using a motorized vehicle or other means; or
  9. Operate a motor vehicle off road or on any road closed to the public by the Commission or landowner, except to retrieve a lawfully taken big game animal.
1. Upon surrender of the condemned wildlife, the Department shall provide to the person written authorization allowing the person to purchase a duplicate hunt permit- or nonpermit-tag.
  2. The person may purchase a duplicate tag from any Department office or license dealer where the permit-tag is available.
- D.** If the duplicate tag is issued by a license dealer, the license dealer shall forward the written authorization to the Department with the report required under R12-4-105(K).

**Historical Note**

Former Section R12-4-04 renumbered as Section R12-4-112 without change effective August 13, 1981 (Supp. 81-4). Amended effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

**Historical Note**

Adopted effective June 1, 1977 (Supp. 77-3). Editorial correction subsection (F) (Supp. 78-5). Former Section R12-4-13 renumbered as Section R12-4-110 without change effective August 13, 1981 (Supp. 81-4). Amended effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

**R12-4-111. Identification Number**

A person applying for a Department identification number, as defined under R12-4-101, shall provide the person's:

1. Full name,
2. Any additional names the person has lawfully used in the past or is known by,
3. Date of birth, and
4. Mailing address.

**Historical Note**

Amended effective April 22, 1980 (Supp. 80-2). Former Section R12-4-05 renumbered as Section R12-4-111 without change effective August 13, 1981 (Supp. 81-4). Section R12-4-111 repealed effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). New Section adopted effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

**R12-4-112. Diseased, Injured, or Chemically-immobilized Wildlife**

- A.** A person who lawfully takes and possesses wildlife believed to be diseased, injured, or chemically-immobilized may request an inspection of the wildlife carcass provided:
1. The wildlife was lawfully taken and possessed under a valid hunt permit- or nonpermit-tag, and
  2. The person who took the wildlife did not create the condition.
- B.** The Department, after inspection, may condemn the carcass if it is determined the wildlife is unfit for human consumption. The Department shall condemn chemically-immobilized wildlife only when the wildlife was taken during the immobilizing drug's established withdrawal period.
- C.** The person shall surrender the entire condemned wildlife carcass and any parts thereof to the Department.

**R12-4-113. Small Game Depredation Permit**

- A.** The Department shall issue a small game depredation permit authorizing the take of small game and the allowable methods of take only after the Department has determined all other remedies prescribed under A.R.S. § 17-239(A), (B), and (C) have been exhausted and the take of the small game is necessary to alleviate the property damage. A small game depredation permit is:

1. A complimentary permit.
2. Not valid for the take of migratory birds unless the permit holder:
  - a. Obtains and possesses a federal special purpose permit under 50 C.F.R. 21.41, revised October 1, 2014, which is incorporated by reference; or
  - b. Is exempt from permitting requirements under 50 C.F.R. 21.43, revised October 1, 2014, which is incorporated by reference;
  - c. For subsections (A)(2)(a) and (b), the incorporated material is available at any Department office, online at [www.gpoaccess.gov](http://www.gpoaccess.gov), or it may be ordered from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000. This incorporation by reference does not include any later amendments or editions of the incorporated material.

- B.** A person desiring a small game depredation permit shall submit to the Department an application requesting the permit. The application form is furnished by the Department and is available at any Department office and online at [www.azgfd.gov](http://www.azgfd.gov). The person shall provide all of the following information on the form:

1. Full name or, when submitted by a municipality, the name of the agency and agency contact;
2. Mailing address;
3. Telephone number or, when submitted by a municipality, agency contact number;
4. E-mail address, when available, or, when submitted by a municipality, agency contact e-mail address;
5. Description of property damage suffered;
6. Species of animal causing the property damage; and
7. Area the permit would be valid for.

**Historical Note**

Adopted effective August 5, 1976 (Supp. 76-4). Former Section R12-4-12 renumbered as Section R12-4-113 without change effective August 13, 1981 (Supp. 81-4). Amended as an emergency effective September 20, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days

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(Supp. 85-5). Amended effective May 5, 1986 (Supp. 86-3). Section R12-4-113 repealed, new Section R12-4-113 adopted effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

**R12-4-114. Issuance of Nonpermit-tags and Hunt Permit-tags**

- A.** The Department provides numbered tags for sale to the public. The Department shall ensure each tag:
1. Includes a transportation and shipping permit as prescribed under A.R.S. §§ 17-332 and 17-371, and
  2. Clearly identifies the animal for which the tag is valid.
- B.** If the Commission establishes a big game season for which a hunt number is not assigned, the Department or its authorized agent, or both, shall sell nonpermit-tags.
1. A person purchasing a nonpermit-tag shall provide all of the following information to a Department office or license dealer at the time of purchase; the applicant's:
    - a. Name,
    - b. Mailing address, and
    - c. Department identification number.
  2. An applicant shall not obtain nonpermit-tags in excess of the bag limit established by Commission Order when it established the season for which the nonpermit-tags are valid.
- C.** If the number of hunt permits for a species in a particular hunt area must be limited, a Commission Order establishes a hunt number for that hunt area and a hunt permit-tag is required to take the species in that hunt area.
1. A person applying for a hunt permit-tag shall submit an application as described under R12-4-104.
  2. The Department shall determine whether a hunt permit-tag will be issued to an applicant as follows:
    - a. The Department shall reserve a maximum of 20% of the hunt permit-tags for each hunt number, except as established under subsection (C)(2)(b), for antelope, bear, deer, elk, javelina, and turkey and reserve a maximum of 20% of the hunt permit-tags for all hunt numbers combined statewide for bighorn sheep and buffalo to issue to persons who have bonus points and shall issue the hunt permit-tags as established under subsection (C)(2)(c).
    - b. For antelope, bear, deer, elk, javelina, and turkey, the Department shall reserve one hunt permit-tag for any hunt number with fewer than five, but more than one, hunt permit-tags and shall issue the tag as established under subsection (C)(2)(c). When this occurs, the Department shall adjust the number of available hunt permit-tags in order to ensure the total number of hunt permit-tags available does not exceed the 20% maximum specified in subsection (C)(2)(a).
    - c. The Department shall issue the reserved hunt permit-tags for hunt numbers that eligible applicants designate as their first or second choices. The Department shall issue the reserved hunt permit-tags by random selection:
      - i. First, to eligible applicants with the highest number of bonus points for that genus;
      - ii. Next, if there are reserved hunt permit-tags remaining, to eligible applicants with the next highest number of bonus points for that genus; and
      - iii. If there are still tags remaining, to the next eligible applicants with the next highest number of bonus points; continuing in the same manner until all of the reserved tags have been issued or until there are no more applicants for that hunt number who have bonus points.
- D.** A person may purchase hunt permit-tags equal to the bag limit for a genus.
1. A person shall not exceed the established bag limit for that genus.
  2. A person shall not apply for any additional hunt-permit-tags if the person has reached the bag limit for that genus during the same calendar year.
  3. A person who surrenders a tag in compliance with R12-4-118 is eligible to apply for another hunt permit-tag for the same genus during the same calendar year, provided the person has not reached the bag limit for that genus.
- E.** The Department shall make available to nonresidents:
1. For bighorn sheep and buffalo, no more than one hunt permit-tag or 10% of the total hunt permit-tags, whichever is greater, for bighorn sheep or buffalo in any computer draw. The Department shall not make available more than 50% nor more than two bighorn sheep or buffalo hunt permit-tags of the total in any hunt number.
  2. For antelope, antlered deer, bull elk, or turkey, no more than 10%, rounded down to the next lowest number, of the total hunt permit-tags in any hunt number. If a hunt number for antelope, antlered deer, bull elk, or turkey has 10 or fewer hunt permit-tags, no more than one hunt permit-tag will be made available unless the hunt number has only one hunt permit-tag, then that tag shall only be available to a resident.
- F.** The Commission may, at a public meeting, increase the number of hunt permit-tags issued to nonresidents in a computer draw when necessary to meet management objectives.
- G.** The Department shall not issue under subsection (C)(2)(c), more than half of the hunt permit-tags made available to nonresidents under subsection (E).
- H.** A nonresident cap established under this Section applies only to hunt permit-tags issued by computer draw under subsections (C)(2)(c) and (d).

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**Historical Note**

Adopted effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended effective January 1, 1993; filed December 18, 1992 (Supp. 92-4). Amended effective January 1, 1996; filed in the Office of the Secretary of State December 18, 1995 (Supp. 95-4). Amended effective January 1, 1997; filed with the Office of the Secretary of State November 7, 1996 (Supp. 96-4). Amended by final rulemaking at 9 A.A.R. 610, effective April 6, 2003 (Supp. 03-1). Amended by final rulemaking at 11 A.A.R. 1183, effective May 2, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

**R12-4-115. Restricted Nonpermit-Tags; Supplemental Hunts and Hunter Pool**

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

“Companion tag” means a restricted nonpermit-tag valid for a supplemental hunt prescribed by Commission Order that exactly matches the season dates and open areas of another big game hunt, for which a hunt number is assigned and hunt permit-tags are issued through the computer draw.

“Emergency season” means a season established for reasons constituting an immediate threat to the health, safety or management of wildlife or its habitat, or public health or safety.

“Management objectives” means goals, recommendations, or guidelines contained in Department or Commission-approved wildlife management plans, which include hunt guidelines, operational plans, or hunt recommendations;

“Hunter pool” means all persons who have submitted an application for a supplemental hunt.

“Restricted nonpermit-tag” means a permit limited to a season for a supplemental hunt established by the Commission for the following purposes:

Take of depredating wildlife as authorized under A.R.S. § 17-239;

Take of wildlife under an Emergency Season; or

Take of wildlife under a population management hunt if the Commission has prescribed nonpermit-tags by Commission Order for the purpose of meeting management objectives because regular seasons are not, have not been, or will not be sufficient or effective to achieve management objectives.

- B. The Commission shall, by Commission Order, open a season or seasons and prescribe a maximum number of restricted nonpermit-tags to be made available under this Section.
- C. The Department shall implement a population management hunt under the open season or seasons established under subsection (B) if the Department determines the:
1. Regular seasons have not met or will not meet management objectives;
  2. Take of wildlife is necessary to meet management objectives; and
  3. Issuance of a specific number of restricted nonpermit-tags is likely to meet management objectives.

- D. To implement a population management hunt established by Commission Order, the Department shall:
1. Select season dates, within the range of dates listed in the Commission Order;
  2. Select specific hunt areas, within the range of hunt areas listed in the Commission Order;
  3. Select the legal animal that may be taken from the list of legal animals identified in the Commission Order;
  4. Determine the number of restricted nonpermit-tags that will be issued from the maximum number of tags authorized in the Commission Order.
    - a. The Department shall not issue more restricted nonpermit-tags than the maximum number prescribed by Commission Order.
    - b. A restricted nonpermit-tag is valid only for the supplemental hunt for which it is issued.
- E. The provisions of R12-4-104, R12-4-107, R12-4-114, and R12-4-609 do not apply to a supplemental hunt.
- F. If the Department anticipates the normal fee structure will not generate adequate participation, then the Department may reduce restricted nonpermit-tag fees up to 75%, as authorized under A.R.S. § 17-239(D).
- G. A supplemental hunt application submitted in accordance with this Section does not invalidate any other application submitted by the person for a hunt permit-tag.
  1. The Department shall not accept a group application, as defined under R12-4-104, for a restricted nonpermit-tag.
  2. An applicant shall not apply for or obtain a restricted nonpermit-tag to take wildlife in excess of the bag limit established by Commission Order.
  3. The issuance of a restricted nonpermit-tag does not authorize a person to exceed the bag limit established by Commission Order.
- H. To participate in a supplemental hunt, a person shall:
  1. Obtain a restricted nonpermit-tag as prescribed under this Section, and
  2. Possess a valid hunting license. If the applicant does not possess a valid license or the license will expire before the supplemental hunt, the applicant shall purchase an appropriate license.
- I. The Department or its authorized agent shall maintain a hunter pool for supplemental hunts other than companion tag hunts.
  1. The Department shall purge and renew the hunter pool on an annual basis.
  2. An applicant for a restricted nonpermit-tag under this subsection shall submit a hunt permit-tag application to the Department. The application is available at any Department office, an authorized agent, or online at [www.azgfd.gov](http://www.azgfd.gov). The applicant shall provide all of the following information on the application:
    - a. The applicant's:
      - i. Name,
      - ii. Mailing address,
      - iii. Number of years of residency immediately preceding application,
      - iv. Date of birth, and
      - v. Daytime and evening telephone numbers,
    - b. The species that the applicant would like to hunt, if selected,
    - c. The applicant's hunting license number.
  3. In addition to the requirements established under subsection (I)(2), at the time of application the applicant shall submit the application fee required under R12-4-102.
  4. When issuing a restricted nonpermit-tag, the Department or its authorized agent shall randomly select applicants from the hunter pool.

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- a. The Department or its authorized agent shall attempt to contact each randomly-selected applicant by telephone at least three times within a 24-hour period.
  - b. If an applicant cannot be contacted or is unable to participate in the supplemental hunt, the Department or its authorized agent shall return the application to the hunter pool and draw another application.
  - c. In compliance with subsection (D)(4), the Department or its authorized agent shall select no more applications after the number of restricted nonpermit-tags establish by Commission Order are issued.
5. The Department shall reserve a restricted nonpermit-tag for an applicant only for the period specified by the Department when contact is made with the applicant. If an applicant fails to purchase the nonpermit-tag within the specified period, the Department or its authorized agent shall:
    - a. Remove the person's application from the hunter pool, and
    - b. Offer that restricted nonpermit-tag to another person whose application is drawn from the hunter pool as established under this Section.
  6. A person who participates in a supplemental hunt through the hunter pool shall be removed from the supplemental hunter pool for the genus for which the person participated. A hunter pool applicant who is selected and who wishes to participate in a supplemental hunt shall submit the following to the Department to obtain a restricted nonpermit-tag:
    - a. The fee for the tag as established under R12-4-102 or subsection (F) if the fee has been reduced, and
    - b. The applicant's hunting license number. The applicant shall possess an appropriate license that is valid at the time of the supplemental hunt. The applicant shall purchase a license at the time of application when:
      - i. The applicant does not possess a valid license, or
      - ii. The applicant's license will expire before the supplemental hunt.
  7. A person who participates in a supplemental hunt shall not reapply for the hunter pool for that genus until the hunter pool is renewed.
- J.** The Department shall only make a companion tag available to a person who possesses a matching hunt permit-tag and not a person from the hunter pool. Authorization to issue a companion tag occurs when the Commission establishes a hunt in Commission Order under subsection (B).
1. The requirements of subsection (D) are not applicable to a companion tag issued under this subsection.
  2. To obtain a companion tag under this subsection, an applicant shall submit a hunt permit-tag application to the Department. The application is available at any Department office and online at [www.azgfd.gov](http://www.azgfd.gov). The applicant shall provide all of the following information on the application, the applicant's:
    - a. Name,
    - b. Mailing address,
    - c. Department identification number, and
    - d. Hunt permit-tag number, to include the hunt number and permit number, corresponding with the season dates and open areas of the supplemental hunt.
  3. In addition to the requirements established under subsection (J)(2), at the time of application the applicant shall:
    - a. Provide verification that the applicant lawfully obtained the hunt permit-tag for the hunt described under this subsection by presenting the hunt permit-tag to a Department office for verification, and
    - b. Submit all applicable fees required under R12-4-102.
- Historical Note**
- Adopted effective June 13, 1977 (Supp. 77-3). Former Section R12-4-14 renumbered as Section R12-4-115 without change effective August 13, 1981 (Supp. 81-4). Former Section R12-4-115 renumbered as Section R12-4-607 without change effective December 22, 1987 (Supp. 87-4). New Section R12-4-115 adopted effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended effective January 1, 1993; filed December 18, 1992 (Supp. 92-4). Amended by final rulemaking at 9 A.A.R. 610, effective April 6, 2003 (Supp. 03-1). Amended by final rulemaking at 11 A.A.R. 991, effective April 2, 2005; amended by final rulemaking at 11 A.A.R. 1177, effective May 2, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).
- R12-4-116. Reward Payments**
- A.** Subject to the restrictions prescribed under A.R.S. § 17-315, a person may claim a reward from the Department when the person provides information that leads to an arrest through the Operation Game Thief Program. The person who reports the unlawful activity will then become eligible to receive a reward as established under subsections (C) and (D), provided funds are available in the Wildlife Theft Prevention Fund and:
    1. The person who reported the violation provides the Operation Game Thief control number issued by Department law enforcement personnel, as established under subsection (B);
    2. The information provided relates to a violation of any provisions of A.R.S. Title 17, A.A.C. Title 12, Chapter 4, or federal wildlife laws enforced by and under the jurisdiction of the Department, but not on Indian Reservations;
    3. The person did not first provide information during a criminal investigation or judicial proceeding; and
    4. The person who reports the violation is not:
      - a. The person who committed the violation,
      - b. A peace officer,
      - c. A Department employee, or
      - d. An immediate family member of a Department employee.
  - B.** The Department shall inform the person providing information regarding a wildlife violation of the procedure for claiming a reward if the information results in an arrest. The Department shall also provide the person with the control number assigned to the reported violation.
  - C.** Reward payments for information that results in an arrest for the reported violation are as follows:
    1. For cases that involve antelope, eagles, bear, bighorn sheep, buffalo, deer, elk, javelina, mountain lion, turkey, or endangered or threatened wildlife as defined under R12-4-401, \$500;
    2. For cases that involve wildlife that are not listed under subsection (C)(1), a minimum of \$50, not to exceed \$150, except for additional amounts authorized under subsection (C)(3); and
    3. For cases that involve any wildlife, an additional \$1,000 may be made available based on:

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- a. The value of the information;
  - b. The unusual value of the wildlife;
  - c. The number of individual animals taken;
  - d. Whether or not the person who committed the unlawful act was arrested for commercialization of wildlife; and
  - e. Whether or not the person who committed the unlawful act is a repeat offender.
- D.** If more than one person independently provides information or evidence that leads to an arrest for a violation, the Department may divide the reward payment among the persons who provided the information if the total amount of the reward payment does not exceed the maximum amount of a monetary reward established under subsections (C) or (E);
- E.** Notwithstanding subsection (C), the Department may offer and pay a reward up to the minimum civil damage value of the wildlife unlawfully taken, wounded or killed, or unlawfully possessed as prescribed under A.R.S. § 17-314, if the Department believes that an enhanced reward offer is merited due to the specific circumstances of the case.
- Historical Note**
- Adopted effective January 10, 1979 (Supp. 79-1). Former Section R12-4-15 renumbered as Section R12-4-116 without change effective August 13, 1981 (Supp. 81-4). Amended effective December 18, 1985 (Supp. 85-6). Section R12-4-116 repealed, new Section R12-4-116 adopted effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).
- R12-4-117. Indian Reservations**
- A state license, permit, or tag is not required to hunt or fish on any Indian reservation in this State. Wildlife lawfully taken on an Indian reservation may be transported or processed anywhere in the State if it can be identified as to species and legality as provided in A.R.S. § 17-309(A)(19). All wildlife transported anywhere in this State is subject to inspection under the provisions of A.R.S. § 17-211(E)(4).
- Historical Note**
- Former Section R12-4-02 renumbered as Section R12-4-117 without change effective August 13, 1981 (Supp. 81-4). Former Section R12-4-117 repealed, new Section R12-4-117 adopted effective April 10, 1984 (Supp. 84-2). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).
- R12-4-118. Hunt Permit-tag Surrender**
- A.** The Commission authorizes the Department to implement a tag surrender program if the Director finds:
- 1. The Department has the administrative capacity to implement the program;
  - 2. There is public interest in such a program; or
  - 3. The tag surrender program is likely to meet the Department's revenue objectives.
- B.** The tag surrender program is limited to a person who has a valid and active membership in a Department membership program.
- 1. The Department may establish a membership program that offers a person various products and services.
  - 2. The Department may establish different membership levels based on the type of products and services offered and set prices for each level.
    - a. The lowest membership level may include the option to surrender one hunt permit-tag during the membership period.
    - b. A higher membership level may include the option to surrender more than one hunt permit-tag during the membership period.
  - 3. The Department may establish terms and conditions for the membership program in addition to the following:
    - a. Products and services to be included with each membership level.
    - b. Membership enrollment is available online only and requires a person to create a portal account.
    - c. Membership is not transferable.
    - d. No refund shall be made for the purchase of a membership, unless an internal processing error resulted in the collection of erroneous fees.
- C.** The tag surrender program is restricted to the surrender of an original, unused hunt permit-tag obtained through a computer draw.
- 1. A person must have a valid and active membership in the Department's membership program with at least one unredeemed tag surrender that was valid:
    - a. On the application deadline date for the computer draw in which the hunt permit-tag being surrendered was drawn, and
    - b. At the time of tag surrender.
  - 2. A person who chooses to surrender an original, unused hunt permit-tag shall do so prior to the close of business the day before the hunt begins for which the tag is valid.
  - 3. A person may surrender an unused hunt permit-tag for a specific species only once before any bonus points accrued for that species must be expended.
- D.** To surrender an original, unused hunt permit-tag, a person shall comply with all of the following conditions:
- 1. A person shall submit a completed application form to any Department office. The application form is available at any Department office and online at [www.azgfd.gov](http://www.azgfd.gov). The applicant shall provide all of the following information on the application form:
    - a. The applicant's:
      - i. Name,
      - ii. Mailing address,
      - iii. Department identification number,
      - iv. Membership number,
    - b. Applicable hunt number,
    - c. Applicable hunt permit-tag number, and
    - d. Any other information required by the Department.
  - 2. A person shall surrender the original, unused hunt permit-tag as required under subsection (C) in the manner described by the Department as indicated on the application form.
- E.** Upon receipt of an original, unused hunt permit-tag surrendered in compliance with this Section, the Department shall:
- 1. Restore the person's bonus points that were expended for the surrendered tag, and
  - 2. Award the bonus point the person would have accrued had the person been unsuccessful in the computer draw for the surrendered tag.
  - 3. Not refund any fees the person paid for the surrendered tag, as prohibited under A.R.S. § 17-332(E).
- F.** The Department may, at its sole discretion, re-issue or destroy the surrendered original, unused hunt permit-tag. When re-

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issuing a tag, the Department may use any of the following methods in no order of preference:

1. Re-issuing the surrendered tag, beginning with the highest membership level in the Department's membership program, to a person who has a valid and active membership in that membership level and who would have been next to receive a tag for that hunt number, as evidenced by the random numbers assigned during the Department's computer draw process;
  2. Re-issuing the surrendered tag to a person who has a valid and active membership in any tier of the Department's membership program with a tag surrender option and who would have been next to receive a tag for that hunt number, as evidenced by the random numbers assigned during the Department's computer draw process;
  3. Re-issuing the surrendered tag to an eligible person who would have been next to receive a tag for that hunt number, as evidenced by the random numbers assigned during the Department's computer draw process; or
  4. Offering the surrendered tag through the first-come, first-served process.
- G.** For subsections (F)(1), (2), and (3); if the Department cannot contact a person qualified to receive a tag or the person declines to purchase the surrendered tag, the Department shall make a reasonable attempt to contact and offer the surrendered tag to the next person qualified to receive a tag for that hunt number based on the assigned random number during the Department's computer draw process. This process will continue until the surrendered tag is either purchased or the number of persons qualified is exhausted. For purposes of subsections (G) and (H), the term "qualified" means a person who satisfies the conditions for re-issuing a surrendered tag as provided under the selected re-issuing method.
- H.** When the re-issuance of a surrendered tag involves a group application and one or more members of the group is qualified under the particular method for re-issuing the surrendered tag, the Department shall offer the surrendered tag first to the applicant designated "A" if qualified to receive a surrendered tag.
1. If applicant "A" chooses not to purchase the surrendered tag or is not qualified, the Department shall offer the surrendered tag to the applicant designated "B" if qualified to receive a surrendered tag.
  2. This process shall continue with applicants "C" and then "D" until the surrendered tag is either purchased or all qualified members of the group application choose not to purchase the surrendered tag.
- I.** A person who receives a surrendered tag shall submit the applicable tag fee as established under R12-4-102 and provide their valid hunting license number.
1. A person receiving the surrendered tag as established under subsections (F)(1), (2), and (3) shall expend all bonus points accrued for that genus, except any accrued Hunter Education and loyalty bonus points.
  2. The applicant shall possess a valid hunting license at the time of purchasing the surrendered tag and at the time of the hunt for which the surrendered tag is valid. If the person does not possess a valid license at the time the surrendered tag is offered, the applicant shall purchase a license in compliance with R12-4-104.
  3. The issuance of a surrendered tag does not authorize a person to exceed the bag limit established by Commission Order.
4. It is unlawful for a person to purchase a surrendered tag when the person has reached the bag limit for that genus during the same calendar year.
- J.** A person is not eligible to petition the Commission under R12-4-611 for reinstatement of any expended bonus points, except as authorized under R12-4-107(M).
- K.** For the purposes of this Section and R12-4-121, "valid and active membership" means a paid and unexpired membership in any level of the Department's membership program.

**Historical Note**

Adopted effective April 8, 1983 (Supp. 83-2). Section R12-4-118 repealed effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). New Section made by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

**R12-4-119. Arizona Game and Fish Department Reserve**

- A.** The Commission shall establish an Arizona Game and Fish Department Reserve under A.R.S. § 17-214, consisting of commissioned reserve officers and noncommissioned reserve volunteers.
- B.** Commissioned reserve officers shall:
1. Meet and maintain the minimum qualifications and training requirements necessary for peace officer certification by the Arizona Peace Officer Standards and Training Board as prescribed under 13 A.A.C. 4, and
  2. Assist with wildlife enforcement patrols, boating enforcement patrols, off-highway vehicle enforcement patrols, special investigations, and other enforcement and related non-enforcement duties as the Director designates.
- C.** Noncommissioned reserve volunteers shall:
1. Meet qualifications that the Director determines are related to the services to be performed by the volunteer and the success or safety of the program mission, and
  2. Perform any non-enforcement duties designated by the Director for the purposes of conservation and education to maximize paid staff time.

**Historical Note**

Adopted effective September 29, 1983 (Supp. 83-5). Section R12-4-119 repealed, new Section R12-4-119 adopted effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended by final rulemaking at 8 A.A.R. 1702, effective March 11, 2002 (Supp. 02-1). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

**R12-4-120. Issuance, Sale, and Transfer of Special Big Game License-tags**

- A.** An incorporated nonprofit organization that is tax exempt under section 501(c) seeking special big game license-tags as authorized under A.R.S. § 17-346 shall submit a proposal to the Director of the Arizona Game and Fish Department from March 1 through May 31 preceding the year when the tags may be legally used. The proposal shall include all of the following information for each member of the organization coordinating the proposal:
1. The name of the organization making the proposal and the:
    - a. Name;
    - b. Mailing address;
    - c. E-mail address, when available; and
    - d. Telephone number;
  2. Organization's previous involvement with wildlife management;
  3. Organization's conservation objectives;

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4. Number of special big game license-tags and the species requested;
  5. Purpose to be served by the issuance of these tags;
  6. Method or methods by which the tags will be marketed and sold;
  7. Proposed fund raising plan;
  8. Estimated amount of money to be raised and the rationale for that estimate;
  9. Any special needs or particulars relevant to the marketing of the tags;
  10. A copy of the organization's articles of incorporation and evidence that the organization has tax-exempt status under Section 501(c) of the Internal Revenue Code, unless a current and correct copy is already on file with the Department;
  11. Statement that the person or organization submitting the proposal agrees to the conditions established under A.R.S. § 17-346 and this Section;
  12. Printed name and signature of the president and secretary-treasurer of the organization or their equivalent; and
  13. Date of signing.
- B.** The Director shall return to the organization any proposal that does not comply with the requirements established under A.R.S. § 17-346 and this Section. Because proposals are reviewed for compliance after the May 31 deadline, an organization that receives a returned proposal cannot resubmit a corrected proposal, but may submit a proposal that complies with the requirements established under A.R.S. § 17-346 and this Section the following year.
- C.** The Director shall submit all timely and valid proposals to the Commission for consideration.
1. In selecting an organization, the Commission shall consider the:
    - a. Written proposal;
    - b. Proposed uses for tag proceeds;
    - c. Qualifications of the organization as a fund raiser;
    - d. Proposed fund raising plan;
    - e. Organization's previous involvement with wildlife management; and
    - f. Organization's conservation objectives.
  2. The Commission may accept any proposal in whole or in part and may reject any proposal if it is in the best interest of wildlife to do so.
  3. Commission approval and issuance of any special big game license-tag is contingent upon compliance with this Section.
- D.** A successful organization shall agree in writing to all of the following:
1. To underwrite all promotional and administrative costs to sell and transfer each special big game license-tag;
  2. To transfer all proceeds to the Department within 90 days of the date that the organization sells or awards the tag;
  3. To sell and transfer each special big game license-tag as described in the proposal; and
  4. To provide the Department with the name, address, and physical description of each person to whom a special big game license-tag is transferred.
- E.** The Department and the successful organization shall coordinate on:
1. The specific projects or purposes identified in the proposal;
  2. The arrangements for the deposit of the proceeds, the accounting procedures, and final audit; and
  3. The dates when the wildlife project or purpose will be accomplished.
- F.** The Department shall dedicate all proceeds generated by the sale or transfer of a special big game license-tag to the management of the species for which the tag was issued.
- a. A special license-tag shall not be issued until the Department receives all proceeds from the sale of license-tags.
  - b. The Department shall not refund proceeds.
- G.** A special big game license-tag is valid only for the person named on the tag, for the season dates on the tag, and for the species for which the tag was issued.
1. A hunting license is not required for the tag to be valid.
  2. Possession of a special big game license-tag shall not invalidate any other big game tag or application for any other big game tag.
  3. Wildlife taken under the authority of a special big game license-tag shall not count towards the established bag limit for that species.

**Historical Note**

Adopted effective September 22, 1983 (Supp. 83-5). Amended effective April 7, 1987 (Supp. 87-2). Correction, balance of language in subsection (I) is deleted as certified effective April 7, 1987 (Supp. 87-4). Amended effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

**R12-4-121. Big Game Tag Transfer****A.** For the purposes of this Section:

"Authorized nonprofit organization" means a nonprofit organization approved by the Department to receive donated unused tags.

"Unused tag" means a big game hunt permit-tag, nonpermit-tag, or special license tag that has not been attached to any animal.

- B.** A parent, grandparent, or guardian issued a big game hunt permit-tag, nonpermit-tag, or special license tag may transfer the unused tag to the parent's, grandparent's, or guardian's minor child or grandchild.
1. A parent, grandparent, or guardian issued a tag may transfer the unused tag to a minor child or grandchild at any time prior to the end of the season for which the unused tag was issued.
  2. A parent, grandparent, or guardian may transfer the unused tag by providing all of the following documentation in person at any Department office:
    - a. Proof of ownership of the unused tag to be transferred,
    - b. The unused tag, and
    - c. The minor's valid hunting license.
  3. If a parent, grandparent, or legal guardian is deceased, the personal representative of the person's estate may transfer an unused tag to an eligible minor. The person acting as the personal representative shall present:
    - a. The deceased person's death certificate, and
    - b. Proof of the person's authority to act as the personal representative of the deceased person's estate.
  4. To be eligible to receive an unused tag from a parent, grandparent, or legal guardian, the minor child shall meet the criteria established under subsection (D).
  5. A minor child or grandchild receiving an unused tag from a parent, grandparent, or legal guardian shall be accompanied into the field by any grandparent, parent, or legal guardian of the minor child.

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- C. A person issued a tag or the person's legal representative may donate the unused tag to an authorized nonprofit organization for use by a minor child with a life threatening medical condition or permanent physical disability or a veteran of the Armed Forces of the United States with a service-connected disability.
1. The person or legal representative who donates the unused tag shall provide the authorized nonprofit organization with a written statement indicating the unused tag is voluntarily donated to the organization.
  2. An authorized nonprofit organization receiving a donated tag under this subsection may transfer the unused tag to an eligible minor child or veteran by contacting any Department office.
    - a. To obtain a transfer, the nonprofit organization shall:
      - i. Provide proof of donation of the unused tag to be transferred;
      - ii. Provide the unused tag;
      - iii. Provide proof of the minor child's or veteran's valid hunting license.
    - b. To be eligible to receive a donated unused tag from an authorized nonprofit organization, a minor child shall meet the criteria established under subsection (D).
  3. A person who donates an original, unused hunt permit-tag issued in a computer drawing to an authorized nonprofit organization may submit a request to the Department for the reinstatement of the bonus points expended for that unused tag, provided all of the following conditions are met:
    - a. The person has a valid and active membership in the Department's membership program with at least one unredeemed tag surrender on the application deadline date, for the computer draw in which the hunt permit-tag being surrendered was drawn, and at the time of tag surrender.
    - b. The person submits a completed application form as described under R12-4-118;
    - c. The person provides acceptable proof to the Department that the tag was transferred to an authorized nonprofit organization; and
    - d. The person submits the request to the Department:
      - i. No later than 60 days after the date on which the tag was donated to an authorized nonprofit organization; and
      - ii. No less than 30 days prior to the computer draw application deadline for that genus, as specified in the hunt permit-tag application schedule.
- D. To receive an unused tag authorized under subsections (B) or (C), an eligible minor child shall meet the following criteria:
1. Possess a valid hunting license,
  2. Has not reached the applicable annual or lifetime bag limit for that genus, and
  3. Is 10 to 17 years of age on the date of the transfer. A minor child under the age of 14 shall have satisfactorily completed a Department-sanctioned hunter education course before the beginning date of the hunt.
- E. To receive an unused tag authorized under subsection (C), an eligible veteran of the Armed Forces of the United States with a service-connected disability shall meet the following criteria:
1. Possess a valid hunting license, and
  2. Has not reached the applicable annual or lifetime bag limit for that genus.
- F. A nonprofit organization is eligible to apply for authorization to receive a donated unused tag, provided the nonprofit organization:
1. Is qualified under section 501(c)(3) of the United States Internal Revenue Code, and
  2. Affords opportunities and experiences to:
    - a. Children with life-threatening medical conditions or physical disabilities, or
    - b. Veterans with service-connected disabilities.
  3. This authorization is valid for a period of one-year, unless revoked by the Department for noncompliance with the requirements established under A.R.S. § 17-332 or this Section.
  4. A nonprofit organization shall apply for authorization by submitting an application to any Department office. The application form is furnished by the Department and is available at any Department office. A nonprofit organization shall provide all of the following information on the application:
    - a. Nonprofit organization's information:
      - i. Name,
      - ii. Physical address,
      - iii. Telephone number;
    - b. Contact information for the person responsible for ensuring compliance with this Section:
      - i. Name,
      - ii. Address,
      - iii. Telephone number;
    - c. Signature of the president and secretary-treasurer of the organization or their equivalents; and
    - d. Date of signing.
  5. In addition to the application, a nonprofit organization shall provide all of the following:
    - a. A copy of the organization's articles of incorporation and evidence that the organization has tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, unless a current and correct copy is already on file with the Department;
    - b. Document identifying the organization's mission;
    - c. A letter stating how the organization will participate in the Big Game Tag Transfer program; and
    - d. A statement that the person or organization submitting the application agrees to the conditions established under A.R.S. § 17-332 and this Section.
  6. An applicant who is denied authorization to receive donated tags under this Section may appeal to the Commission as provided under A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

Adopted effective October 10, 1986, filed September 25, 1986 (Supp. 86-5). Rule expired one year from effective date of October 10, 1986. Rule readopted without change for one year effective January 22, 1988, filed January 7, 1988 (Supp. 88-1). Rule expired effective January 22, 1989 (Supp. 89-1). New Section R12-4-121 adopted effective March 1, 1991; filed February 28, 1991 (Supp. 91-1). Repealed effective January 1, 1993; filed December 18, 1992 (Supp. 92-4). New Section made by final rulemaking at 7 A.A.R. 2732, effective July 1, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 18 A.A.R. 1195, effective June 30, 2012 (Supp. 12-2). Amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

**R12-4-122. Handling, Transporting, Processing, and Storing of Game Meat Given to Public Institutions and Charitable Organizations**

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- A. Under A.R.S. § 17-240 and this Section, the Department may donate the following wildlife, except that the Department shall not donate any portion of an animal killed in a collision with a motor vehicle or an animal that died subsequent to immobilization by any chemical agent:
1. Big game, except bear or mountain lion;
  2. Upland game birds;
  3. Migratory game birds;
  4. Game fish.
- B. The Director shall not authorize an employee to handle game meat for the purpose of this Section until the employee has satisfactorily completed a course designed to give the employee the expertise necessary to protect game meat recipients from diseased or unwholesome meat products. A Department employee shall complete a course that is either conducted or approved by the State Veterinarian. The employee shall provide a copy of a certificate that demonstrates satisfactory completion of the course to the Director.
- C. Only an employee authorized by the Director shall determine if game meat is safe and appropriate for donation. An authorized Department employee shall inspect and field dress each donated carcass before transporting it. The Department shall not retain the game meat in storage for more than 48 continuous hours before transporting it, and shall reinspect the game meat for wholesomeness before final delivery to the recipient.
- D. Final processing and storage is the responsibility of the recipient.
5. Certified copy of an Arizona court order such as an order of probation, parole, or mandatory release;
  6. Selective Service Registration Acknowledgement Card indicating an address in Arizona;
  7. Social Security Administration document indicating an address in Arizona; or
  8. Current documents issued by the U.S. military indicating Arizona as state of residence or an address in Arizona.

**Historical Note**

New Section made by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

**R12-4-125. Public Solicitation or Event on Department Property**

- A. All Department buildings, properties, and wildlife areas are designated non-public forums and are closed to all solicitations and events unless permitted by the Department.
- B. A solicitation or event on Department property shall not:
1. Conflict with the Department's mission; or
  2. Constitute partisan political activity, the activity of a political campaign, or influence in any way an election or the results thereof.
- C. A request for permission to conduct a solicitation or event on Department property shall be directed to the responsible Regional Supervisor or Branch Chief who shall initially determine whether an application is required for the solicitation or event.
- D. If it is determined that an application is required, the person may apply for a solicitation or event permit by submitting a completed solicitation or event application to any Department office or Department Headquarters, Director's Office, at 5000 W. Carefree Hwy, Phoenix, AZ 85086. The application form is furnished by the Department and available at all Department offices.
1. An applicant shall submit an application:
    - a. Not more than six months prior to the solicitation or event; and
    - b. Not less than 14 days prior to the desired date of the solicitation or event for solicitations other than the posting of advertising, handbills, leaflets, circulars, posters, or other printed materials; or
    - c. Not less than 10 days prior to the desired date of the solicitation or event for solicitations involving only the posting of advertising, handbills, leaflets, circulars, posters, or other printed materials.
  2. An applicant shall provide all of the following information on the application:
    - a. Sponsor's name, address, and telephone number;
    - b. Sponsor's e-mail address, when available;
    - c. Contact person's name and telephone number, when the sponsor is an organization;
    - d. Proposed date of the solicitation or event;
    - e. Specific, proposed location for the solicitation or event;
    - f. Starting and approximate concluding times;
    - g. General description of the solicitation or event's purpose;
    - h. Anticipated number of attendees, when applicable;
    - i. Amount of fees to be charged to attendees, when applicable;
    - j. Detailed description of any activity that will occur at the solicitation or event, including a detailed map of the solicitation or event and any equipment that will be used, e.g., tents, tables, etc.;

**Historical Note**

Adopted effective August 6, 1991 (Supp. 91-3).  
Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1).

**R12-4-123. Expenditure of Funds**

- A. The Director may expend funds available through appropriations, licenses, gifts, or other sources, in compliance with applicable laws and rules, and:
1. For purposes designated by lawful Commission agreements and Department guidelines;
  2. In agreement with budgets approved by the Commission;
  3. In agreement with budgets appropriated by the legislature;
  4. With regard to a gift, for purposes designated by the donor, the Director shall expend undesignated donations for a public purpose in furtherance of the Department's responsibilities and duties.
- B. The Director shall ensure that the Department implements internal management controls to comply with subsection (A) and to deter unlawful use or expenditure of funds.

**Historical Note**

Adopted effective July 12, 1996 (Supp. 96-3). Amended by final rulemaking at 12 A.A.R. 291, effective March 11, 2006 (Supp. 06-1).

**R12-4-124. Proof of Domicile**

- A. An applicant may be required to present acceptable proof of domicile in Arizona to the Department upon request.
- B. Acceptable proof of domicile in Arizona may include, but is not limited to, one or more of the following lawfully obtained documents:
1. Arizona Driver's License;
  2. Arizona Resident State Income Tax Return filing;
  3. Arizona school records containing satisfactory proof of identity and relationship of the parent or guardian to the minor child, when applicable;
  4. Arizona Voter Registration Card;

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- k. Copies of any solicitation materials to be distributed to the public or to be posted on Department property;
  - l. Copy of a current and valid license issued by the Arizona Department of Liquor Licenses and Control, required when the applicant intends to sell alcohol at the solicitation or event; and
  - m. The contact person's signature and date. The person's signature on the application certifies that the sponsor:
    - i. Assumes risk of injury to persons or property;
    - ii. Agrees to hold harmless the state of Arizona, its officials, Departments, employees, and agents against all claims arising from the use of Department facilities;
    - iii. Assumes responsibility for any damages or clean-up costs due to the solicitation or event, solicitation or event cleanup, or solicitation or event damage repair; and
    - iv. Agrees to surrender the premises in a clean and orderly condition.
- E.** The Department may take any of the following actions to the extent necessary and in the best interest of the State:
1. Require the sponsor to furnish all necessary labor, material, and equipment for the solicitation or event;
  2. Require the sponsor to post a deposit against damage and cleanup expense;
  3. Require indemnification of the state of Arizona, its Departments, agencies, officers, and employees;
  4. Require the sponsor to carry adequate insurance and provide certificates of insurance to the Department not less than ten business days before the solicitation or event. A certificate of insurance for a solicitation or event shall name the state of Arizona, its Departments, agencies, boards, commissions, officers, agents, and employees as additional insureds;
  5. Require the sponsor to enter into written agreements with any vendors and subcontractors and require vendors and subcontractors to provide certificates of insurance to the Department not less than ten business days before the solicitation or event. A certificate of insurance for a solicitation or event shall name the state of Arizona, its Departments, agencies, boards, commissions, officers, agents, and employees as additional insureds;
  6. Require the sponsor to provide medical support, security, and sanitary services, including public restrooms; and
  7. Impose additional conditions not otherwise specified under this Section on the conduct of the solicitation or event.
- F.** The Department may consider the following criteria when determining whether any of the actions in subsection (E) are necessary and in the best interest of the state:
1. Previous experience with similar solicitations or events;
  2. Deposits required for similar solicitations or events in Arizona;
  3. Risk data; and
  4. Medical, sanitary, and security services required for similar solicitations or events in Arizona and the cost of those services.
- G.** The Department shall designate the hours of use for Department property.
- H.** The Department shall inspect the solicitation or event site at the conclusion of activities and document any damage or cleanup costs incurred because of the solicitation or event. The sponsor shall be responsible for any cleanup or damage costs associated with the solicitation or event.
- I.** The sponsor shall not allow, without the express written permission of the Department, the possession, use, or consumption of alcoholic beverages at the solicitation or event site. When the Department provides written permission for the possession, use, or consumption of alcoholic beverages at the solicitation or event site, the sponsor shall provide to the Department:
1. A copy of a current and valid license issued by the Arizona Department of Liquor Licenses and Control to the sponsor and vendor, required when the applicant intends to sell alcohol at the solicitation or event; and
  2. A liquor liability rider, included with the insurance certificate required under subsection (E)(4).
- J.** The sponsor shall not allow unlawful possession or use of drugs at the solicitation or event site.
- K.** The Department shall deny an application for any of the following reasons:
1. The solicitation or event interferes with the work of an employee or the daily business of the Department;
  2. The solicitation or event conflicts with the time, place, manner, or duration of other approved or pending solicitations or events;
  3. The content of the solicitation or event conflicts with or is unrelated to the Department's activities or its mission;
  4. The solicitation or event presents a risk of injury or illness to persons or risk of damage to property;
  5. The sponsor cannot demonstrate adequate compliance with applicable local, state, or federal laws, ordinances, codes, or regulations, or
  6. The sponsor has not complied with the requirements of the application process or this Section.
- L.** At all times, the Department reserves the right to immediately remove or cause to be removed all obstructions or other hazards of the solicitation or event that could damage state property, inhibit egress, or poses a safety risk. The Department also reserves the right to immediately remove or cause to be removed any person damaging state property, inhibiting egress, or posing a threat to public health and safety.
- M.** The Department may revoke approval of a solicitation or event due to emergency circumstances or for failure to comply with this Section.
- N.** The Department shall send written notice of the denial or revocation of an approved permit. The notice shall contain the reason for the denial or revocation.
- O.** A sponsor:
1. Is liable to the Department for damage to Department property and any expense arising out of the sponsor's use of Department property.
  2. Shall post solicitation material only in designated posting areas.
  3. Shall ensure that a solicitation or event on Department property causes the minimum infringement of use to the public and government operation.
  4. Shall modify or terminate a solicitation or event, upon request by the Department, if the Department determines that the solicitation or event unacceptably infringes on the Department's operations or causes an unacceptable risk of liability exposure to the State.
- P.** When conducting an event on Department property, a sponsor shall:
1. Park or direct vehicles in designated parking areas.
  2. Obey all posted requirements and restrictions.
  3. Designate one person to act as a monitor for every 50 persons anticipated to attend the solicitation or event. The monitor shall act as a contact person for the Department for the purposes of the solicitation or event.

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4. Ensure that all safety standards, guidelines, and requirements are followed.
  5. Implement additional safety requirements upon request by the Department.
  6. Ensure all obstructions and hazards are eliminated.
  7. Ensure trash and waste is properly disposed of throughout the solicitation or event.
- Q.** The Department shall revoke or terminate the solicitation or event if a sponsor fails to comply with a Department request or any one of the following minimum safety requirements:
1. All solicitation or event activities shall comply with all applicable federal, state, and local laws, ordinances, codes, statutes, rules, and regulations.
  2. The layout of the solicitation or event shall ensure that emergency vehicles will have access at all times.
  3. The Department may conduct periodic safety checks throughout the solicitation or event.
- R.** This Section does not apply to government agencies.

**Historical Note**

New Section made by emergency rulemaking at 10 A.A.R. 4777, effective November 4, 2004 for 180 days (Supp. 04-4). Emergency expired (Supp. 05-2). New Section renumbered from R12-4-804 and amended by final rulemaking at 21 A.A.R. 3025, effective January 2, 2016 (Supp. 15-4).

**ARTICLE 2. LICENSES; PERMITS; STAMPS; TAGS****R12-4-201. Pioneer License**

- A.** A pioneer license grants all of the hunting and fishing privileges of a combination hunting and fishing license. The pioneer license is only available at a Department office.
- B.** The pioneer license is a complimentary license and is valid for the license holder's lifetime.
- C.** A person who is age 70 or older and has been a resident of Arizona for at least 25 consecutive years immediately preceding application may apply for a pioneer license by submitting an application to the Department. The application form is furnished by the Department and is available at any Department office and online at [www.azgfd.gov](http://www.azgfd.gov). A pioneer license applicant shall provide all of the following information on the application:
1. The applicant's personal information:
    - a. Name;
    - b. Date of birth;
    - c. Physical description, to include the applicant's eye color, hair color, height, and weight;
    - d. Department identification number, when applicable;
    - e. Residency status and number of years of residency immediately preceding application, when applicable;
    - f. Mailing address, when applicable;
    - g. Physical address;
    - h. Telephone number, when available; and
    - i. E-mail address, when available;
  2. Affirmation that:
    - a. The applicant is 70 years of age or older and has been a resident of this state for 25 or more consecutive years immediately preceding application for the license; and
    - b. The information provided on the application is true and accurate.
  3. Applicant's signature and date. The applicant's signature shall be either notarized or witnessed by a Department employee,
- D.** In addition to the requirements listed under subsection (C), an applicant for a pioneer license shall also submit any one of the following documents at the time of application:
1. Valid U.S. passport;
  2. Original or certified copy of the applicant's birth certificate;
  3. Original or copy of a valid government-issued driver's license; or
  4. Original or copy of a valid government-issued identification card.
- E.** All information and documentation provided by the applicant is subject to Department verification. The Department shall return the original or certified copy of a document to the applicant after verification.
- F.** The Department shall deny a pioneer license when the applicant:
1. Fails to meet the criteria prescribed under A.R.S. § 17-336(A)(1),
  2. Fails to comply with this Section, or
  3. Provides false information on the application.
- G.** The Department shall provide written notice to the applicant stating the reason for the denial. The applicant may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Ch 6, Article 10.
- H.** A pioneer license holder may request a no-fee duplicate of the paper license provided:
1. The license was lost or destroyed;
  2. The license holder submits a written request to the Department for a no-fee duplicate paper license; and
  3. The Department's records indicate a pioneer license was previously issued to that person.
- I.** A person issued a pioneer license prior to January 1, 2014 shall be entitled to the privileges established under subsection (A).

**Historical Note**

Former Section R12-4-31 renumbered as Section R12-4-201 without change effective August 13, 1981. New Section R12-4-201 amended effective August 31, 1981 (Supp. 81-4). Amended subsection (B) effective December 9, 1985 (Supp. 85-6). Amended subsections (D) and (E), and changed application for a Pioneer License effective September 24, 1986 (Supp. 86-5). Former Section repealed, new Section adopted effective December 22, 1989 (Supp. 89-4). Amended effective January 1, 1995; filed in the Office of the Secretary of State December 9, 1994 (Supp. 94-4). Amended by final rulemaking at 12 A.A.R. 212, effective March 11, 2006 (Supp. 06-1). Amended by final rulemaking at 19 A.A.R. 3225, effective January 1, 2014 (Supp. 13-3). Amended by final rulemaking at 20 A.A.R. 3045, effective January 3, 2015 (Supp. 14-4).

**R12-4-202. Disabled Veteran's License**

- A.** A disabled veteran's license grants all of the hunting and fishing privileges of a combination hunting and fishing license. The disabled veteran's license is only available at a Department office.
- B.** The disabled veteran's license is a complimentary license and is valid for a three-year period from the issue date or the license holder's lifetime, as established under subsection (F).
- C.** An eligible applicant is a disabled veteran who:
1. Has been a resident of Arizona for at least one year immediately preceding application, and
  2. Is receiving compensation from the United States government for permanent service-connected disabilities rated as 100% disabling. Eligibility for the disabled veteran's

Article 1. Definitions and General Provisions  
Article 3. Taking and Handling of Wildlife  
Definitions of Terms

**1-215. Definitions**

In the statutes and laws of this state, unless the context otherwise requires:

1. "Action" includes any matter or proceeding in a court, civil or criminal.
2. "Adopted rule" means a final rule as defined in section 41-1001.
3. "Adult" means a person who has attained eighteen years of age.
4. "Alternative fuel" means:
  - (a) Electricity.
  - (b) Solar energy.
  - (c) Liquefied petroleum gas, natural gas, hydrogen or a blend of hydrogen with liquefied petroleum or natural gas that complies with any of the following:
    - (i) Is used in an engine that is certified to meet at a minimum the United States environmental protection agency low emission vehicle standard pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.
    - (ii) Is used in an engine that is certified by the engine modifier to meet the addendum to memorandum 1-A of the United States environmental protection agency as printed in the federal register, volume 62, number 207, October 27, 1997, pages 55635 through 55637.
    - (iii) Is used in an engine that is the subject of a waiver for that specific engine application from the United States environmental protection agency's memorandum 1-A addendum requirements and that waiver is documented to the reasonable satisfaction of the director of the department of environmental quality.
  - (d) Only for vehicles that use alcohol fuels before August 21, 1998, alcohol fuels that contain not less than eighty-five per cent alcohol by volume.
  - (e) A combination of at least seventy per cent alternative fuel and no more than thirty per cent petroleum based fuel that operates in an engine that meets the United States environmental protection agency low emission vehicle standard pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94 and that is certified by the engine manufacturer to consume at least seventy per cent alternative fuel during normal vehicle operations.
5. "Bribe" means anything of value or advantage, present or prospective, asked, offered, given, accepted or promised with a corrupt intent to influence, unlawfully, the person to whom it is given in that person's action, vote or opinion, in any public or official capacity.
6. "Child" or "children" as used in reference to age of persons means persons under eighteen years of age.
7. "Clean burning fuel" means:
  - (a) An emulsion of water-phased hydrocarbon fuel that contains not less than twenty per cent water by volume and that complies with any of the following:
    - (i) Is used in an engine that is certified to meet at a minimum the United States environmental protection agency low emission vehicle standard pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.
    - (ii) Is used in an engine that is certified by the engine modifier to meet the addendum to memorandum 1-A

of the United States environmental protection agency as printed in the federal register, volume 62, number 207, October 27, 1997, pages 55635 through 55637.

- (iii) Is used in an engine that is the subject of a waiver for that specific engine application from the United States environmental protection agency's memorandum 1-A addendum requirements and that waiver is documented to the reasonable satisfaction of the director of the department of environmental quality.
  - (b) A diesel fuel substitute that is produced from nonpetroleum renewable resources if the qualifying volume of the nonpetroleum renewable resources meets the standards for California diesel fuel as adopted by the California air resources board pursuant to 13 California Code of Regulations sections 2281 and 2282 in effect on January 1, 2000, the diesel fuel substitute meets the registration requirement for fuels and additives established by the United States environmental protection agency pursuant to section 211 of the clean air act as defined in section 49-401.01 and the use of the diesel fuel substitute complies with the requirements listed in 10 Code of Federal Regulations part 490, as printed in the federal register, volume 64, number 96, May 19, 1999.
  - (c) A diesel fuel that complies with all of the following:
    - (i) Contains a maximum of fifteen parts per million by weight of sulfur.
    - (ii) Meets ASTM D975.
    - (iii) Meets the registration requirements for fuels and additives established by the United States environmental protection agency pursuant to section 211 of the clean air act as defined in section 49-401.01.
    - (iv) Is used in an engine that is equipped or has been retrofitted with a device that has been certified by the California air resources board diesel emission control strategy verification procedure, the United States environmental protection agency voluntary diesel retrofit program or the United States environmental protection agency verification protocol for retrofit catalyst, particulate filter and engine modification control technologies for highway and nonroad use diesel engines.
  - (d) A blend of unleaded gasoline that contains at minimum eighty-five per cent ethanol by volume or eighty-five per cent methanol by volume.
  - (e) Neat methanol.
  - (f) Neat ethanol.
8. "Corruptly" means a wrongful design to acquire or cause some pecuniary or other advantage to the person guilty of the act or omission referred to, or to some other person.
  9. "Daytime" means the period between sunrise and sunset.
  10. "Depose" includes every manner of written statement under oath or affirmation.
  11. "Federal poverty guidelines" means the poverty guidelines as updated annually in the federal register by the United States department of health and human services.
  12. "Grantee" includes every person to whom an estate or interest in real property passes, in or by a deed.
  13. "Grantor" includes every person from or by whom an estate or interest in real property passes, in or by a deed.
  14. "Includes" or "including" means not limited to and is not a term of exclusion.

15. "Inhabitant" means a resident of a city, town, village, district, county or precinct.
16. "Issue" as used in connection with descent of estates includes all lawful, lineal descendants of the ancestor.
17. "Knowingly":
  - (a) Only a knowledge that the facts exist that bring the act or omission within the provisions of the statute using such word.
  - (b) Does not require any knowledge of the unlawfulness of the act or omission.
18. "Magistrate" means an officer having power to issue a warrant for the arrest of a person charged with a public offense and includes the chief justice and justices of the supreme court, judges of the superior court, justices of the peace and police magistrates in cities and towns.
19. "Majority" or "age of majority" as used in reference to age of persons means the age of eighteen years or more.
20. "Malice" and "maliciously" mean a wish to vex, annoy or injure another person, or an intent to do a wrongful act, established either by proof or presumption of law.
21. "Minor" means a person under the age of eighteen years.
22. "Minor children" means persons under the age of eighteen years.
23. "Month" means a calendar month unless otherwise expressed.
24. "Neglect", "negligence", "negligent" and "negligently" import a want of such attention to the nature or probable consequence of the act or omission as a prudent man ordinarily bestows in acting in his own concerns.
25. "Nighttime" means the period between sunset and sunrise.
26. "Oath" includes an affirmation or declaration.
27. "Peace officers" means sheriffs of counties, constables, marshals, policemen of cities and towns, commissioned personnel of the department of public safety, personnel who are employed by the state department of corrections and the department of juvenile corrections and who have received a certificate from the Arizona peace officer standards and training board, peace officers who are appointed by a multicounty water conservation district and who have received a certificate from the Arizona peace officer standards and training board, police officers who are appointed by community college district governing boards and who have received a certificate from the Arizona peace officer standards and training board, police officers who are appointed by the Arizona board of regents and who have received a certificate from the Arizona peace officer standards and training board, police officers who are appointed by the governing body of a public airport pursuant to section 28-8426 and who have received a certificate from the Arizona peace officer standards and training board and special agents from the office of the attorney general, or of a county attorney, and who have received a certificate from the Arizona peace officer standards and training board.
28. "Person" includes a corporation, company, partnership, firm, association or society, as well as a natural person. When the word "person" is used to designate the party whose property may be the subject of a criminal or public offense, the term includes the United States, this state, or any territory, state or country, or any political subdivision of this state that may lawfully own any property, or a public or private corporation, or partnership or association. When the word "person" is used to designate the violator or offender of any law, it includes corporation, partnership or any association of persons.

29. "Personal property" includes money, goods, chattels, dogs, things in action and evidences of debt.
30. "Population" means the population according to the most recent United States decennial census.
31. "Process" means a citation, writ or summons issued in the course of judicial proceedings.
32. "Property" includes both real and personal property.
33. "Real property" is coextensive with lands, tenements and hereditaments.
34. "Registered mail" includes certified mail.
35. "Seal" as used in reference to a paper issuing from a court or public office to which the seal of such court or office is required to be affixed means an impression of the seal on that paper, an impression of the seal affixed to that paper by a wafer or wax, a stamped seal, a printed seal, a screened seal or a computer generated seal.
36. "Signature" or "subscription" includes a mark, if a person cannot write, with the person's name written near it and witnessed by a person who writes the person's own name as witness.
37. "State", as applied to the different parts of the United States, includes the District of Columbia, this state and the territories.
38. "Testify" includes every manner of oral statement under oath or affirmation.
39. "United States" includes the District of Columbia and the territories.
40. "Vessel", as used in reference to shipping, includes ships of all kinds, steamboats, steamships, barges, canal boats and every structure adapted to navigation from place to place for the transportation of persons or property.
41. "Wilfully" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or believes that the person's conduct is of that nature or that the circumstance exists.
42. "Will" includes codicils.
43. "Workers' compensation" means workmen's compensation as used in article XVIII, section 8, Constitution of Arizona.
44. "Writ" means an order or precept in writing issued in the name of the state or by a court or judicial officer.
45. "Writing" includes printing.

#### **17-101. Definitions**

**A.** In this title, unless the context otherwise requires:

1. "Angling" means taking fish by one line and not more than two hooks, by one line and one artificial lure, which may have attached more than one hook, or by one line and not more than two artificial flies or lures.
2. "Bag limit" means the maximum limit, in number or amount, of wildlife that any one person may lawfully take during a specified period of time.
3. "Closed season" means the time during which wildlife may not be lawfully taken.
4. "Commission" means the Arizona game and fish commission.
5. "Department" means the Arizona game and fish department.
6. "Device" means any net, trap, snare, salt lick, scaffold, deadfall, pit, explosive, poison or stupefying substance, crossbow, firearm, bow and arrow, or other implement used for taking wildlife. Device does not include a raptor or any equipment used in the sport of falconry.

7. "Domicile" means a person's true, fixed and permanent home and principal residence. Proof of domicile in this state may be shown as prescribed by rule by the commission.
8. "Falconry" means the sport of hunting or taking quarry with a trained raptor.
9. "Fishing" means to lure, attract or pursue aquatic wildlife in such a manner that the wildlife may be captured or killed.
10. "Fur dealer" means any person engaged in the business of buying for resale the raw pelts or furs of wild mammals.
11. "Guide" means a person who meets any of the following:
  - (a) Advertises for guiding services.
  - (b) Holds himself out to the public for hire as a guide.
  - (c) Is employed by a commercial enterprise as a guide.
  - (d) Accepts compensation in any form commensurate with the market value in this state for guiding services in exchange for aiding, assisting, directing, leading or instructing a person in the field to locate and take wildlife.
  - (e) Is not a landowner or lessee who, without full fair market compensation, allows access to the landowner's or lessee's property and directs and advises a person in taking wildlife.
12. "License classification" means a type of license, permit, tag or stamp authorized under this title and prescribed by the commission by rule to take, handle or possess wildlife.
13. "License year" means the twelve-month period between January 1 and December 31, inclusive, or a different twelve-month period as prescribed by the commission by rule.
14. "Nonresident", for the purposes of applying for a license, permit, tag or stamp, means a citizen of the United States or an alien who is not a resident.
15. "Open season" means the time during which wildlife may be lawfully taken.
16. "Possession limit" means the maximum limit, in number or amount of wildlife, that any one person may possess at one time.
17. "Resident", for the purposes of applying for a license, permit, tag or stamp, means a person who is:
  - (a) A member of the armed forces of the United States on active duty and who is stationed in:
    - (i) This state for a period of thirty days immediately preceding the date of applying for a license, permit, tag or stamp.
    - (ii) Another state or country but who lists this state as the person's home of record at the time of applying for a license, permit, tag or stamp.
  - (b) Domiciled in this state for six months immediately preceding the date of applying for a license, permit, tag or stamp and who does not claim residency privileges for any purpose in any other state or jurisdiction.
  - (c) A youth who resides with and is under the guardianship of a person who is a resident.
18. "Road" means any maintained right-of-way for public conveyance.
19. "Statewide" means all lands except those areas lying within the boundaries of state and federal refuges, parks

and monuments, unless specifically provided differently by commission order.

20. "Take" means pursuing, shooting, hunting, fishing, trapping, killing, capturing, snaring or netting wildlife or placing or using any net or other device or trap in a manner that may result in capturing or killing wildlife.
21. "Taxidermist" means any person who engages for hire in mounting, refurbishing, maintaining, restoring or preserving any display specimen.
22. "Traps" or "trapping" means taking wildlife in any manner except with a gun or other implement in hand.
23. "Wild" means, in reference to mammals and birds, those species that are normally found in a state of nature.
24. "Wildlife" means all wild mammals, wild birds and the nests or eggs thereof, reptiles, amphibians, mollusks, crustaceans and fish, including their eggs or spawn.
25. "Youth" means a person who is under eighteen years of age.
26. "Zoo" means a commercial facility open to the public where the principal business is holding wildlife in captivity for exhibition purposes.

**B.** The following definitions of wildlife shall apply:

1. Aquatic wildlife means fish, amphibians, mollusks, crustaceans and soft-shelled turtles.
2. Big game means wild turkey, deer, elk, pronghorn (antelope), bighorn sheep, bison (buffalo), peccary (javelina), bear and mountain lion.
3. Fur-bearing animals means muskrats, raccoons, otters, weasels, bobcats, beavers, badgers and ringtail cats.
4. Game fish means trout of all species, bass of all species, catfish of all species, sunfish of all species, northern pike, walleye and yellow perch.
5. Game mammals means deer, elk, bear, pronghorn (antelope), bighorn sheep, bison (buffalo), peccary (javelina), mountain lion, tree squirrel and cottontail rabbit.
6. Migratory game birds means wild waterfowl, including ducks, geese and swans, sandhill cranes, all coots, all gallinules, common snipe, wild doves and bandtail pigeons.
7. Nongame animals means all wildlife except game mammals, game birds, fur-bearing animals, predatory animals and aquatic wildlife.
8. Nongame birds means all birds except upland game birds and migratory game birds.
9. Nongame fish means all the species of fish except game fish.
10. Predatory animals means foxes, skunks, coyotes and bobcats.
11. Raptors means birds that are members of the order of falconiformes or strigiformes and includes falcons, hawks, owls, eagles and other birds that the commission may classify as raptors.
12. Small game means cottontail rabbits, tree squirrels, upland game birds and migratory game birds.
13. Trout means all species of the family salmonidae, including grayling.
14. Upland game birds means quail, partridge, grouse and pheasants.

**R12-4-101. Definitions**

- A.** In addition to the definitions provided under A.R.S. § 17-101, R12-4-301, R12-4-401, and R12-4-501, the following definitions apply to this Chapter, unless otherwise specified:

"Bobcat seal" means the tag a person is required to attach to the raw pelt or unskinned carcass of any bobcat taken by trapping in Arizona or exported out of Arizona regardless of the method of take.

"Bonus point" means a credit that authorizes the Department to issue an applicant an additional computer-generated random number.

"Bow" means a long bow, flat bow, recurve bow, or compound bow of which the bowstring is drawn and held under tension entirely by the physical power of the shooter through all points of the draw cycle until the shooter purposely acts to release the bowstring either by relaxing the tension of the toes, fingers, or mouth or by triggering the release of a hand-held release aid.

"Certificate of insurance" means an official document, issued by the sponsor's and sponsor's vendors, or subcontractors insurance carrier, providing insurance against claims for injury to persons or damage to property which may arise from, or in connection with, the solicitation or event as determined by the Department.

"Cervid" means a mammal classified as a Cervidae, which includes but is not limited to caribou, elk, moose, mule deer, reindeer, wapiti, and whitetail deer; as defined in the taxonomic classification from the Integrated Taxonomic Information System, available online at [www.itis.gov](http://www.itis.gov).

"Commission Order" means a document adopted by the Commission that does one or more of the following:

- Open, close, or alter seasons,
- Open areas for taking wildlife,
- Set bag or possession limits for wildlife,
- Set the number of permits available for limited hunts, or
- Specify wildlife that may or may not be taken.

"Crossbow" means a device consisting of a bow affixed on a stock having a trigger mechanism to release the bowstring.

"Day-long" means the 24-hour period from one midnight to the following midnight.

"Department property" means those buildings or real property and wildlife areas under the jurisdiction of the Arizona Game and Fish Commission.

"Export" means to carry, send, or transport wildlife or wildlife parts out of Arizona to another state or country.

"Firearm" means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun, or other weapon that will discharge, is designed to discharge, or may readily be converted to discharge a projectile by the action of an explosion caused by the burning of smokeless powder, black powder, or black powder substitute.

"Handgun" means a firearm designed and intended to be held, gripped, and fired by one or more hands, not intended to be fired from the shoulder, and that uses the energy from an explosive in a fixed cartridge to fire a single projectile through a barrel for each single pull of the trigger.

"Hunt area" means a management unit, portion of a management unit, or group of management units, or any portion of Arizona described in a Commission Order and not included in a management unit, opened to hunting.

"Hunt number" means the number assigned by Commission Order to any hunt area where a limited number of hunt permits are available.

"Hunt permits" means the number of hunt permit-tags made available to the public as a result of a Commission

Order.

"Hunt permit-tag" means a tag for a hunt for which a Commission Order has assigned a hunt number.

"Identification number" means the number assigned to each applicant or license holder by the Department as established under R12-4-111.

"Import" means to bring, send, receive, or transport wildlife or wildlife parts into Arizona from another state or country.

"License dealer" means a business authorized to sell hunting, fishing, and other licenses as established under R12-4-105.

"Live baitfish" means any species of live freshwater fish designated by Commission Order as lawful for use in taking aquatic wildlife under R12-4-317.

"Management unit" means an area established by the Commission for management purposes.

"Nonpermit-tag" means a tag for a hunt for which a Commission Order does not assign a hunt number and the number of tags is not limited.

"Nonprofit organization" means an organization that is recognized under Section 501(c) of the U.S. Internal Revenue Code.

"Person" has the meaning as provided under A.R.S. § 1-215.

"Proof of purchase," for the purposes of A.R.S. § 17-331, means an original, or any authentic and verifiable form of the original, of any Department-issued license, permit, or stamp that establishes proof of actual purchase.

"Restricted nonpermit-tag" means a tag issued for a supplemental hunt as established under R12-4-115.

"Solicitation" means any activity that may be considered or interpreted as promoting, selling, or transferring products, services, memberships, or causes, or participation in an event or activity of any kind, including organizational, educational, public affairs, or protest activities, including the distribution or posting of advertising, handbills, leaflets, circulars, posters, or other printed materials for these purposes.

"Solicitation material" means advertising, circulars, flyers, handbills, leaflets, posters, or other printed information.

"Sponsor" means the person or persons conducting a solicitation or event.

"Stamp" means a form of authorization in addition to a license that authorizes the license holder to take wildlife specified by the stamp.

"Tag" means the Department authorization a person is required to obtain before taking certain wildlife as established under A.R.S. Title 17 and 12 A.A.C. 4.

"Waterdog" means the larval or metamorphosing stage of a salamander.

"Wildlife area" means an area established under 12 A.A.C. 4, Article 8.

**B.** If the following terms are used in a Commission Order, the following definitions apply:

"Antlered" means having an antler fully erupted through the skin and capable of being shed.

"Antlerless" means not having an antler, antlers, or any part of an antler erupted through the skin.

"Bearded turkey" means a turkey with a beard that extends beyond the contour feathers of the breast.

"Buck antelope" means a male pronghorn antelope.

"Adult bull bison" means a male bison of any age or any bison designated by a Department employee during an adult bull bison hunt.

"Adult cow bison" means a female bison of any age or any bison designated by a Department employee during an adult cow bison hunt.

"Bull elk" means an antlered elk.

"Designated" means the gender, age, or species of wildlife or the specifically identified wildlife the Department authorizes to be taken and possessed with a valid tag.

"Ram" means any male bighorn sheep.

"Rooster" means a male pheasant.

"Yearling bison " means any bison less than three years of age or any bison designated by a Department employee during a yearling bison hunt.

### **R12-4-301. Definitions**

In addition to the definitions provided under A.R.S. § 17-101 and R12-4-101, the following definitions apply to this Article unless otherwise specified:

“Administer” means to apply a drug directly to wildlife by injection, inhalation, ingestion, or any other means.

“Aircraft” means any contrivance used for flight in the air or any lighter-than-air contrivance, including unmanned aircraft systems also known as drones.

“Artificial flies and lures” means man-made devices intended as visual attractants to catch fish. Artificial flies and lures does not include living or dead organisms or edible parts of those organisms, natural or prepared food stuffs, or chemicals or organic materials intended to create a scent, flavor, or chemical stimulant to the device regardless of whether it is added or applied during or after the manufacturing process.

“Barbless hook” means any fish hook manufactured without barbs or on which the barbs have been completely closed or removed.

“Body-gripping trap” means a device designed to capture an animal by gripping the animal’s body.

“Confinement trap” means a device designed to capture wildlife alive and hold it without harm.

“Crayfish net” means a net that does not exceed 36 inches on a side or in diameter and is retrieved by means of a hand-held line.

“Deadly weapon” has the same meaning as provided under A.R.S. § 13-3101.

“Device” has the same meaning as provided under A.R.S. § 17-101.

“Dip net” means any net, excluding the handle, that is no greater than three feet in the greatest dimension, that is hand-held, non-motorized, and the motion of the net is caused by the physical effort of the person.

“Drug” means any chemical substance, other than food or mineral supplements, that affects the structure or biological function of wildlife.

“Edible portions of game meat” means, for:

Upland game birds, migratory game birds and wild turkey: breast.

Bear, bighorn sheep, bison, deer, elk, javelina, mountain lion, and pronghorn antelope: front quarters, hind

quarters, loins (backstraps), neck meat, and tenderloins.

Game fish: fillets of the fish.

“Evidence of legality” means the wildlife is accompanied by the applicable license, tag, stamp, or permit required by law and is identifiable as the “legal wildlife” prescribed by Commission Order, which may include evidence of species, gender, antler or horn growth, maturity, and size.

“Foothold trap” means a device designed to capture an animal by the leg or foot.

“Hybrid device” means a device with a combination of components from two or more lawful devices and is used for the take of wildlife, such as but not limited to a firearm, pneumatic weapon, or slingshot that shoots arrows or bolts.

“Instant kill trap” means a device designed to render an animal unconscious and insensitive to pain quickly with inevitable subsidence into death without recovery of consciousness.

“Land set” means any trap used on land rather than in water.

“Live-action trail camera” means an unmanned device capable of transmitting images, still photographs, video, or satellite imagery, wirelessly to a remote device such as but not limited to a computer, smart phone, or tablet. This does not include a trail camera that only records photographic or video data and stores the data for later use, provided the device is not capable of transmitting data wirelessly.

“Minnow trap” means a trap with dimensions that do not exceed 12 inches in depth, 12 inches in width, and 24 inches in length.

“Muzzleloading handgun” means a firearm intended to be fired from the hand, incapable of firing fixed ammunition, and loaded with black powder or synthetic black powder and a single projectile.

“Muzzleloading rifle” means a firearm intended to be fired from the shoulder, incapable of firing fixed ammunition, having a single barrel, and loaded through the muzzle with black powder or synthetic black powder and a single projectile.

“Muzzleloading shotgun” means a firearm intended to be fired from the shoulder, incapable of firing fixed ammunition, having a single or double smooth barrel and loaded through the muzzle with black powder or synthetic black powder and using ball shot as a projectile.

“Paste-type bait” means a partially liquefied substance used as a lure for animals.

“Pneumatic weapon” means a device that fires a projectile by means of air pressure or compressed gas. This does not include tools that are common in the construction and art trade such as, but not limited to, nail and rivet guns.

“Pre-charged pneumatic weapon” means an air gun or pneumatic weapon that is charged from a high compression source such as an air compressor, air tank, or internal or external hand pump.

“Prohibited possessor” has the same meaning as provided under A.R.S. § 13-3101.

“Prohibited weapon” has the same meaning as provided under A.R.S. § 13-3101.

“Rifle” means a firearm intended to be fired from the shoulder that uses the energy from an explosive in a fixed cartridge to fire a single projectile through a rifled bore for each single pull of the trigger. This does not include a pre-charged pneumatic weapon.

“Shotgun” means a firearm intended to be fired from the shoulder and that uses the energy from an explosive in

a fixed shotgun shell to fire either ball shot or a single projectile through a smooth bore or rifled barrel for each pull of the trigger.

“Sight-exposed bait” means a carcass, or parts of a carcass, lying openly on the ground or suspended in a manner so that it can be seen from above by a bird. This does not include a trap flag, dried or bleached bone with no attached tissue, or less than two ounces of paste-type bait.

“Simultaneous fishing” means taking fish by using only two lines at one time and not more than two hooks or two artificial flies or lures per line.

“Single-point barbless hook” means a fishhook with a single point, manufactured without barbs, or on which the barbs have been completely closed or removed. This does not include a treble fishhook.

“Sinkbox” means a low-floating device with a depression that affords a hunter a means of concealment beneath the surface of the water.

“Smart device” means any device equipped with a target-tracking system or an electronically-controlled, electronically-assisted, or computer-linked trigger or release. This includes but is not limited to smart rifles.

“Trap flag” means an attractant made from materials other than animal parts that is suspended at least three feet above the ground.

“Water set” means any trap used and anchored in water rather than on land.

Article 1. Definitions and General Provisions  
Statutory Authority

**17-101. Definitions**

**A.** In this title, unless the context otherwise requires:

1. "Angling" means taking fish by one line and not more than two hooks, by one line and one artificial lure, which may have attached more than one hook, or by one line and not more than two artificial flies or lures.
2. "Bag limit" means the maximum limit, in number or amount, of wildlife that any one person may lawfully take during a specified period of time.
3. "Closed season" means the time during which wildlife may not be lawfully taken.
4. "Commission" means the Arizona game and fish commission.
5. "Department" means the Arizona game and fish department.
6. "Device" means any net, trap, snare, salt lick, scaffold, deadfall, pit, explosive, poison or stupefying substance, crossbow, firearm, bow and arrow, or other implement used for taking wildlife. Device does not include a raptor or any equipment used in the sport of falconry.
7. "Domicile" means a person's true, fixed and permanent home and principal residence. Proof of domicile in this state may be shown as prescribed by rule by the commission.
8. "Falconry" means the sport of hunting or taking quarry with a trained raptor.
9. "Fishing" means to lure, attract or pursue aquatic wildlife in such a manner that the wildlife may be captured or killed.
10. "Fur dealer" means any person engaged in the business of buying for resale the raw pelts or furs of wild mammals.
11. "Guide" means a person who meets any of the following:
  - (a) Advertises for guiding services.
  - (b) Holds himself out to the public for hire as a guide.
  - (c) Is employed by a commercial enterprise as a guide.
  - (d) Accepts compensation in any form commensurate with the market value in this state for guiding services in exchange for aiding, assisting, directing, leading or instructing a person in the field to locate and take wildlife.
  - (e) Is not a landowner or lessee who, without full fair market compensation, allows access to the landowner's or lessee's property and directs and advises a person in taking wildlife.
12. "License classification" means a type of license, permit, tag or stamp authorized under this title and prescribed by the commission by rule to take, handle or possess wildlife.
13. "License year" means the twelve-month period between January 1 and December 31, inclusive, or a different twelve-month period as prescribed by the commission by rule.
14. "Nonresident", for the purposes of applying for a license, permit, tag or stamp, means a citizen of the United States or an alien who is not a resident.
15. "Open season" means the time during which wildlife may be lawfully taken.
16. "Possession limit" means the maximum limit, in number or amount of wildlife, that any one person may possess at one time.

17. "Resident", for the purposes of applying for a license, permit, tag or stamp, means a person who is:
  - (a) A member of the armed forces of the United States on active duty and who is stationed in:
    - (i) This state for a period of thirty days immediately preceding the date of applying for a license, permit, tag or stamp.
    - (ii) Another state or country but who lists this state as the person's home of record at the time of applying for a license, permit, tag or stamp.
  - (b) Domiciled in this state for six months immediately preceding the date of applying for a license, permit, tag or stamp and who does not claim residency privileges for any purpose in any other state or jurisdiction.
  - (c) A youth who resides with and is under the guardianship of a person who is a resident.
18. "Road" means any maintained right-of-way for public conveyance.
19. "Statewide" means all lands except those areas lying within the boundaries of state and federal refuges, parks and monuments, unless specifically provided differently by commission order.
20. "Take" means pursuing, shooting, hunting, fishing, trapping, killing, capturing, snaring or netting wildlife or placing or using any net or other device or trap in a manner that may result in capturing or killing wildlife.
21. "Taxidermist" means any person who engages for hire in mounting, refurbishing, maintaining, restoring or preserving any display specimen.
22. "Traps" or "trapping" means taking wildlife in any manner except with a gun or other implement in hand.
23. "Wild" means, in reference to mammals and birds, those species that are normally found in a state of nature.
24. "Wildlife" means all wild mammals, wild birds and the nests or eggs thereof, reptiles, amphibians, mollusks, crustaceans and fish, including their eggs or spawn.
25. "Youth" means a person who is under eighteen years of age.
26. "Zoo" means a commercial facility open to the public where the principal business is holding wildlife in captivity for exhibition purposes.

**B.** The following definitions of wildlife shall apply:

1. Aquatic wildlife means fish, amphibians, mollusks, crustaceans and soft-shelled turtles.
2. Big game means wild turkey, deer, elk, pronghorn (antelope), bighorn sheep, bison (buffalo), peccary (javelina), bear and mountain lion.
3. Fur-bearing animals means muskrats, raccoons, otters, weasels, bobcats, beavers, badgers and ringtail cats.
4. Game fish means trout of all species, bass of all species, catfish of all species, sunfish of all species, northern pike, walleye and yellow perch.
5. Game mammals means deer, elk, bear, pronghorn (antelope), bighorn sheep, bison (buffalo), peccary (javelina), mountain lion, tree squirrel and cottontail rabbit.
6. Migratory game birds means wild waterfowl, including ducks, geese and swans, sandhill cranes, all coots, all gallinules, common snipe, wild doves and bandtail pigeons.

7. Nongame animals means all wildlife except game mammals, game birds, fur-bearing animals, predatory animals and aquatic wildlife.
8. Nongame birds means all birds except upland game birds and migratory game birds.
9. Nongame fish means all the species of fish except game fish.
10. Predatory animals means foxes, skunks, coyotes and bobcats.
11. Raptors means birds that are members of the order of falconiformes or strigiformes and includes falcons, hawks, owls, eagles and other birds that the commission may classify as raptors.
12. Small game means cottontail rabbits, tree squirrels, upland game birds and migratory game birds.
13. Trout means all species of the family salmonidae, including grayling.
14. Upland game birds means quail, partridge, grouse and pheasants.

**17-102. Wildlife as state property; exceptions**

Wildlife, both resident and migratory, native or introduced, found in this state, except fish and bullfrogs impounded in private ponds or tanks or wildlife and birds reared or held in captivity under permit or license from the commission, are property of the state and may be taken at such times, in such places, in such manner and with such devices as provided by law or rule of the commission.

**17-211. Director; selection; removal; powers and**

- A. The commission shall appoint a director of the Arizona game and fish department, who shall be the chief administrative officer of the game and fish department. The director shall receive compensation as determined pursuant to section 38-611. The director shall be selected on the basis of administrative ability and general knowledge of wildlife management. The director shall act as secretary to the commission, and shall serve at the pleasure of the commission. The director shall not hold any other office, and shall devote the entire time to the duties of office.
- B. The commission shall prepare an examination for the post of director to comply with the requirements of this title. The examination shall be conducted at the offices of the commission at the capital to establish an active list of eligible applicants. The director shall be selected from those scoring satisfactory grades and having other qualities deemed advisable by the commission. The commission may call for additional examinations from time to time for selection of a new list of eligible applicants to fill a vacancy.
- C. Subject to title 41, chapter 4, article 4, the director may appoint employees necessary to carry out the purposes of this title, when funds for the payment of their salaries are appropriated. Department employees shall be located in different sections of the state where their services are most needed. Compensation for persons appointed shall be as determined pursuant to section 38-611.
- D. The director shall:
  1. Have general supervision and control of all activities, functions and employees of the department.
  2. Enforce all provisions of this title, including all commission rules.

3. Collaborate with the state forester in presentations to legislative committees on issues associated with forest management and wildfire prevention and suppression as provided by section 37-622, subsection B.

**E.** Game rangers and wildlife managers may, in addition to other duties:

1. Execute all warrants issued for a violation of this title.
2. Execute subpoenas issued in any matter arising under this title.
3. Search without warrant any aircraft, boat, vehicle, box, game bag or other package where there is sufficient cause to believe that wildlife or parts of wildlife are possessed in violation of law.
4. Inspect all wildlife taken or transported and seize all wildlife taken or possessed in violation of law, or showing evidence of illegal taking.
5. Seize as evidence devices used illegally in taking wildlife and hold them subject to the provisions of section 17-240.
6. Generally exercise the powers of peace officers with primary duties the enforcement of this title.
7. Seize devices that cannot be lawfully used for the taking of wildlife and are being so used and hold and dispose of them pursuant to section 17-240.

**17-214. Arizona game and fish department reserve; members; powers and duties; compensation**

- A.** The commission may establish a volunteer organization known as the Arizona game and fish department reserve and prescribe the qualifications for membership. Members of the reserve serve at the pleasure of the director who has general supervision and control of all reserve activities.
- B.** The reserve shall assist the department as an auxiliary body and perform such duties in the areas of education, conservation and enforcement as the commission prescribes by rule or regulation. The director may designate qualified reservists as peace officers in the same manner and with the same powers as game rangers and wildlife managers. Such reservists are not entitled to participate in the public safety personnel retirement system pursuant to title 38, chapter 5, article 4.
- C.** Members of the reserve are not eligible to receive compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2. Members of the reserve are deemed to be employees of this state for the purpose of coverage under Arizona workers' compensation pursuant to title 23, chapter 6.

### **17-231. General powers and duties of the commission**

#### **A.** The commission shall:

1. Adopt rules and establish services it deems necessary to carry out the provisions and purposes of this title.
2. Establish broad policies and long-range programs for the management, preservation and harvest of wildlife.
3. Establish hunting, trapping and fishing rules and prescribe the manner and methods that may be used in taking wildlife, but the commission shall not limit or restrict the magazine capacity of any authorized firearm.
4. Be responsible for the enforcement of laws for the protection of wildlife.
5. Provide for the assembling and distribution of information to the public relating to wildlife and activities of the department.
6. Prescribe rules for the expenditure, by or under the control of the director, of all funds arising from appropriation, licenses, gifts or other sources.
7. Exercise such powers and duties necessary to carry out fully the provisions of this title and in general exercise powers and duties that relate to adopting and carrying out policies of the department and control of its financial affairs.
8. Prescribe procedures for use of department personnel, facilities, equipment, supplies and other resources in assisting search or rescue operations on request of the director of the division of emergency management.
9. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

#### **B.** The commission may:

1. Conduct investigations, inquiries or hearings in the performance of its powers and duties.
2. Establish game management units or refuges for the preservation and management of wildlife.
3. Construct and operate game farms, fish hatcheries, fishing lakes or other facilities for or relating to the preservation or propagation of wildlife.
4. Expend funds to provide training in the safe handling and use of firearms and safe hunting practices.
5. Remove or permit to be removed from public or private waters fish which hinder or prevent propagation of game or food fish and dispose of such fish in such manner as it may designate.
6. Purchase, sell or barter wildlife for the purpose of stocking public or private lands and waters and take at any time in any manner wildlife for research, propagation and restocking purposes or for use at a game farm or fish hatchery and declare wildlife salable when in the public interest or the interest of conservation.
7. Enter into agreements with the federal government, with other states or political subdivisions of the state and with private organizations for the construction and operation of facilities and for management studies, measures or procedures for or relating to the preservation and propagation of wildlife and expend funds for carrying out such agreements.

8. Prescribe rules for the sale, trade, importation, exportation or possession of wildlife.
  9. Expend monies for the purpose of producing publications relating to wildlife and activities of the department for sale to the public and establish the price to be paid for annual subscriptions and single copies of such publications. All monies received from the sale of such publications shall be deposited in the game and fish publications revolving fund.
  10. Contract with any person or entity to design and produce artwork on terms that, in the commission's judgment, will produce an original and valuable work of art relating to wildlife or wildlife habitat.
  11. Sell or distribute the artwork authorized under paragraph 10 of this subsection on such terms and for such price as it deems acceptable.
  12. Consider the adverse and beneficial short-term and long-term economic impacts on resource dependent communities, small businesses and the state of Arizona, of policies and programs for the management, preservation and harvest of wildlife by holding a public hearing to receive and consider written comments and public testimony from interested persons.
  13. Adopt rules relating to range operations at public shooting ranges operated by and under the jurisdiction of the commission, including the hours of operation, the fees for the use of the range, the regulation of groups and events, the operation of related range facilities, the type of firearms and ammunition that may be used at the range, the safe handling of firearms at the range, the required safety equipment for a person using the range, the sale of firearms, ammunition and shooting supplies at the range, and the authority of range officers to enforce these rules, to remove violators from the premises and to refuse entry for repeat violations.
  14. Solicit and accept grants, gifts or donations of money or other property from any source, which may be used for any purpose consistent with this title.
- C.** The commission shall confer and coordinate with the director of water resources with respect to the commission's activities, plans and negotiations relating to water development and use, restoration projects under the restoration acts pursuant to chapter 4, article 1 of this title, where water development and use are involved, the abatement of pollution injurious to wildlife and in the formulation of fish and wildlife aspects of the director of water resources' plans to develop and utilize water resources of the state and shall have jurisdiction over fish and wildlife resources and fish and wildlife activities of projects constructed for the state under or pursuant to the jurisdiction of the director of water resources.
- D.** The commission may enter into one or more agreements with a multi-county water conservation district and other parties for participation in the lower Colorado river multispecies conservation program under section 48-3713.03, including the collection and payment of any monies authorized by law for the purposes of the lower Colorado river multispecies conservation program.

**17-234. Open or closed seasons; bag limits; possession limits**

The commission shall by order open, close or alter seasons and establish bag and possession limits for wildlife, but a commission order to open a season shall be issued not less than ten days prior to such opening date. The order may apply statewide or to any portion of the state. Closed season shall be in effect unless opened by commission order.

**17-239. Wildlife depredations; investigations; corrective measures; disposal; reports; judicial review**

- A. Any person suffering property damage from wildlife may exercise all reasonable measures to alleviate the damage, except that reasonable measures shall not include injuring or killing game mammals, game birds or wildlife protected by federal law or regulation unless authorized under subsection D of this section. A person may not retain or sell any portion of an animal taken pursuant to this subsection except as provided in section 3-2403.
- B. Any person suffering such property damage, after resorting to the relief as is provided in subsection A of this section, may file a written report with the director, advising the director of the damage suffered, and the species of animals causing the damage, and the director shall immediately order an investigation and report by an employee trained in the handling of wild animal depredation.
- C. The department shall provide technical advice and assist in the necessary anti-depredation measures recommended in the report, including trapping, capturing and relocating animals.
- D. If harvest of animals is found to be necessary to relieve damage, the commission may establish special seasons or special bag limits, and either set reduced fees or waive any or all license fees required by this title, to crop that wildlife. If the commission determines that this cropping by hunters is impractical, it may issue a special permit for taking that wildlife to the landowner, lessee, livestock operator or municipality suffering damage, provided that the edible portions, or other portions as prescribed by the commission, of all the wildlife taken by the person suffering damage are turned over to an agent of the department for delivery to a public institution or charitable organization.
- E. Except as provided in section 41-1092.08, subsection H, in the event any person suffering property damage from wildlife is dissatisfied with the final decision of the commission, the person may seek judicial review pursuant to title 12, chapter 7, article 6.

**17-240. Disposition of wildlife; devices; unlawful devices; notice of intention to destroy; waiting period; destruction; jurisdiction of recovery actions; disposition of unclaimed property**

- A. Wildlife seized under this title may be disposed of in such manner as the commission or the court may prescribe, except that the edible portions shall be given to public institutions or charitable organizations. In consultation with the department of health services and the chief veterinary meat inspector, the commission shall adopt rules for the handling, transportation, processing and storing of game meat given to public institutions and charitable organizations.
- B. Devices, excepting firearms, which cannot be used lawfully for the taking of wildlife and being so used at the time seized may be destroyed. Notice of intention to destroy such devices as prescribed in this section must be

sent by registered mail to the last known address of the person from whom seized if known and posted in three conspicuous places within the county wherein seized, two of said notices being posted in the customary place for posting public notices about the county courthouse of said county. Such device shall be held by the department for thirty days after such posting and mailing, and if no action is commenced to recover possession of such device within such time, the same shall be summarily destroyed by the department, or if such device shall be held by the court in any such action to have been used for the taking of wildlife, then such device shall be summarily destroyed by the department immediately after the decision of the court has become final. The justice court shall have jurisdiction of any such actions or proceedings commenced to recover the possession of such devices.

- C. Devices other than those referred to in subsection B, including firearms seized under this title shall, after final disposition of the case, be returned to the person from whom the device was seized. If the person from whom the device was seized cannot be located or ascertained, the device seized shall be retained by the department at least ninety days after final disposition of the case, and all devices so held by the department may be:
  - 1. Sold annually.
  - 2. Destroyed only if considered a prohibited or defaced weapon, as defined in section 13-3101, except that any seized firearm registered in the national firearms registry and transfer records of the United States treasury department or has been classified as a curio or relic by the United States treasury department shall not be destroyed.
- D. If no complaint is filed pursuant to this title, the device shall be returned to the person from whom seized within thirty days from the date seized.
- E. A complete report of all wildlife and devices seized by the department showing a description of the items, the person from whom it was seized, if known, and a record of the disposition shall be kept by the department. The money derived from the sale of any devices shall be deposited in the game and fish fund.

**17-250. Wildlife diseases; order of director; violation; classification; rule making exemption**

- A. If a wildlife disease is suspected or documented in freeranging or captive wildlife, the director may issue orders that are necessary to minimize or eliminate the threat from the disease. The director may also order or direct an employee of the department to:
  - 1. After notification of and in coordination with the state veterinarian, establish quarantines and the boundary of the quarantine.
  - 2. Destroy wildlife as necessary to prevent the spread of any infectious, contagious or communicable disease.
  - 3. Control the movement of wildlife, wildlife carcasses or wildlife parts that may be directly related to spreading or disseminating diseases that pose a health threat to animals or humans.
  - 4. Require any individual who has taken wildlife, who is in possession of wildlife or who maintains wildlife under a license issued by the department to submit the wildlife or parts for disease testing.
- B. On finding there is reason to believe an infectious, contagious or communicable disease is present, the director may require an employee of the department to enter any place where wildlife may be located and take custody

of the wildlife for purposes of disease testing. If search warrants are required by law, the director shall apply for and obtain warrants for entry to carry out the requirements of this subsection.

- C. A person who violates any lawful order issued under this section is guilty of a class 2 misdemeanor.
- D. An order issued under this section is exempt from title 41, chapter 6, article 3, except that the director shall promptly file a copy of the order with the secretary of state for publication in the Arizona administrative register pursuant to section 41-1013.

**17-304. Prohibition by landowner on hunting; posting; exception**

- A. Landowners or lessees of private land who desire to prohibit hunting, fishing or trapping on their lands without their written permission shall post such lands closed to hunting, fishing or trapping using notices or signboards.
- B. State or federal lands including those under lease may not be posted except by consent of the commission.
- C. The notices or signboards shall meet all of the following criteria:
  - 1. Be not less than eight inches by eleven inches with plainly legible wording in capital and bold-faced lettering at least one inch high.
  - 2. Contain the words "no hunting", "no trapping" or "no fishing" either as a single phrase or in any combination.
  - 3. Be conspicuously placed on a structure or post at least four feet above ground level at all points of vehicular access, at all property or fence corners and at intervals of not more than one-quarter mile along the property boundary, except that a post with one hundred square inches or more of orange paint may serve as the interval notices between property or fence corners and points of vehicular access. The orange paint shall be clearly visible and shall cover the entire aboveground surface of the post facing outward and on both lateral sides from the closed area.
- D. The entry of any person for the taking of wildlife shall not be grounds for an action for criminal trespassing pursuant to section 13-1502 unless either:
  - 1. The land has been posted pursuant to this section and the notices and signboards also contain the words "no trespassing".
  - 2. The person knowingly remains unlawfully on any real property after a reasonable request to leave by the owner or any other person having lawful control over the property or the person knowingly disregards reasonable notice prohibiting trespass at the person's entry to any real property.

**17-309. Violations; classification**

- A. Unless otherwise prescribed by this title, it is unlawful for a person to:
  - 1. Violate any provision of this title or any rule adopted pursuant to this title.
  - 2. Take, possess, transport, release, buy, sell or offer or expose for sale wildlife except as expressly permitted by this title.
  - 3. Destroy, injure or molest livestock, growing crops, personal property, notices or signboards, or other improvements while hunting, trapping or fishing.

4. Discharge a firearm while taking wildlife within one-fourth mile of an occupied farmhouse or other residence, cabin, lodge or building without permission of the owner or resident.
  5. Take a game bird, game mammal or game fish and knowingly permit an edible portion thereof to go to waste, except as provided in section 17-302.
  6. Take big game, except bear or mountain lion, with the aid of dogs.
  7. Make more than one use of a shipping permit or coupon issued by the commission.
  8. Obtain a license or take wildlife during the period for which the person's license has been revoked or suspended or the person has been denied a license.
  9. Litter hunting and fishing areas while taking wildlife.
  10. Take wildlife during the closed season.
  11. Take wildlife in an area closed to the taking of that wildlife.
  12. Take wildlife with an unlawful device.
  13. Take wildlife by an unlawful method.
  14. Take wildlife in excess of the bag limit.
  15. Possess wildlife in excess of the possession limit.
  16. Possess or transport any wildlife or parts of the wildlife that was unlawfully taken.
  17. Possess or transport the carcass of big game without a valid tag being attached.
  18. Use the edible parts of any game mammal or any part of any game bird or nongame bird as bait.
  19. Possess or transport the carcass or parts of a carcass of any wildlife that cannot be identified as to species and legality.
  20. Take game animals, game birds and game fish with an explosive compound, poison or any other deleterious substances.
  21. Import into this state or export from this state the carcass or parts of a carcass of any wildlife unlawfully taken or possessed.
- B.** Unless a different or other penalty or punishment is specifically prescribed, a person who violates any provision of this title, or who violates or fails to comply with a lawful order or rule of the commission, is guilty of a class 2 misdemeanor.
- C.** A person who knowingly takes any big game during a closed season or who knowingly possesses, transports or buys any big game that was unlawfully taken during a closed season is guilty of a class 1 misdemeanor.
- D.** A person is guilty of a class 6 felony who knowingly:
1. Barter, sells or offers for sale any big game or parts of big game taken unlawfully.
  2. Barter, sells or offers for sale any wildlife or parts of wildlife unlawfully taken during a closed season.
  3. Barter, sells or offers for sale any wildlife or parts of wildlife imported or purchased in violation of this title or a lawful rule of the commission.
  4. Assists another person for monetary gain with the unlawful taking of big game.
  5. Takes or possesses wildlife while under permanent revocation under section 17-340, subsection B, paragraph 3.

- E. A peace officer who knowingly fails to enforce a lawful rule of the commission or this title is guilty of a class 2 misdemeanor.

**17-315. Wildlife theft prevention fund; authorized expenditures**

- A. The wildlife theft prevention fund is established consisting of:
  - 1. Monies received from civil penalties pursuant to section 17-314.
  - 2. Money received from donations to the fund.
  - 3. Monies appropriated by the legislature for the purposes provided in this article.
  - 4. Monies received as fines, forfeitures and penalties collected for violations of this title.
- B. Monies in the wildlife theft prevention fund shall be expended only for the following purposes:
  - 1. The financing of reward payments to persons, other than peace officers, game and fish department personnel and members of their immediate families, responsible for information leading to the arrest of any person for unlawfully taking, wounding or killing, possessing, transporting or selling wildlife and attendant acts of vandalism. The commission shall establish the schedule of rewards to be paid for information received and payment shall be made from monies available for this purpose.
  - 2. The financing of a statewide telephone reporting system under the name of "operation game thief", which shall be established by the director under the guidance of the commission.
  - 3. The promotion of the public recognition and awareness of the wildlife theft prevention program.
  - 4. Investigations of the unlawful taking, possession, or use of wildlife.
  - 5. Investigations of fraud related to licenses, permits, tags or stamps.
- C. The wildlife theft prevention fund shall be expended in conformity with the laws governing state financial operations. Balances remaining at the end of the fiscal year are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

**17-331. License or proof of purchase required; violation of child support order**

- A. Except as provided by this title, rules prescribed by the commission or commission order, a person shall not take any wildlife in this state without a valid license or a commission approved proof of purchase. The person shall carry the license or proof of purchase and produce it on request to any game ranger, wildlife manager or peace officer.
- B. A certificate of noncompliance with a child support order issued pursuant to section 25-518 invalidates any license or proof of purchase issued to the support obligor for taking wildlife in this state and prohibits the support obligor from applying for any additional licenses issued by an automated drawing system under this title.
- C. On receipt of a certificate of compliance with a child support order from the court pursuant to section 25-518 and without further action:
  - 1. Any license or proof of purchase issued to the support obligor for taking wildlife that was previously invalidated by a certificate of noncompliance and that has not otherwise expired shall be reinstated.

2. Any ineligibility to apply for any license issued by an automated drawing system shall be removed.

**17-332. Form and content of license; duplicate licenses; transfer of license prohibited; exceptions; period of validity**

- A. Licenses and license materials shall be prepared by the department and may be furnished and charged to dealers that are authorized to issue licenses. Each license shall be issued in the name of the department and signed in a manner provided by rule adopted by the commission. With each license authorizing the taking of big game, the department shall provide such tags as the commission may prescribe, which the licensee shall attach to the big game animal in the manner prescribed by the commission. The commission shall limit the number of big game permits issued to nonresidents in a random drawing to ten percent or fewer of the total hunt permits, but in extraordinary circumstances, at a public meeting the commission may increase the number of permits issued to nonresidents in a random drawing if, on separate roll call votes, the members of the commission unanimously:
  1. Support the finding of a specifically described extraordinary circumstance.
  2. Adopt the increased number of nonresident permits for the hunt.
- B. The commission shall issue with each license a shipping permit entitling the holder of the license to a shipment of game or fish as provided by article 4 of this chapter.
- C. It is unlawful, except as provided by the commission, for any person to apply for or obtain in any one license year more than one original license permitting the taking of big game. A duplicate license or tag may be issued by the department or by a license dealer if the person requesting such a license or tag furnishes the information deemed necessary by the commission.
- D. A license or permit is not transferable and may not be used by anyone except the person to whom the license or permit was issued, except that:
  1. The commission may prescribe the manner and conditions of transferring and using permits and tags under this paragraph, including an application process for a qualified organization, to allow a person to transfer the person's big game permit or tag to a qualified organization for use by:
    - (a) A minor child who has a life-threatening medical condition or a permanent physical disability. If a child with a physical disability is under fourteen years of age, the child must satisfactorily complete the Arizona hunter education course or another comparable hunter education course that is approved by the director.
    - (b) A veteran of the armed forces of the United States who has a service-connected disability. For the purposes of this paragraph:
      - (i) "Disability" means a permanent physical impairment that substantially limits one or more major life activities and that requires the assistance of another person or a mechanical device for physical mobility.
      - (ii) "Qualified organization" means a nonprofit organization that is qualified under section 501(c)(3) of the United States internal revenue code and that affords opportunities and experiences to

children with life-threatening medical conditions or with physical disabilities or to veterans with service-connected disabilities.

2. A parent, grandparent or legal guardian may allow the parent's, grandparent's or guardian's minor child or minor grandchild to use the parent's, grandparent's or guardian's big game permit or tag to take big game pursuant to the following requirements:
  - (a) The parent, grandparent or guardian must transfer the permit or tag to the minor child in a manner prescribed by the commission.
  - (b) The minor child must possess a valid hunting license and, if under fourteen years of age, must satisfactorily complete, before the beginning of the hunt, the Arizona hunter education course or another comparable hunter education course that is approved by the director.
  - (c) Any big game that is taken counts toward the minor child's bag limit.
- E. Refunds may not be made for the purchase of a license or permit.
- F. Licenses are valid for a license year as prescribed in rule by the commission. Lifetime licenses and benefactor licenses are valid for the lifetime of the licensee.

**17-333. License classifications; fees; reduced-fee and complimentary licenses; annual report; review**

- A. The commission shall prescribe by rule license classifications that are valid for the taking or handling of wildlife, fees for licenses, permits, tags and stamps and application fees.
- B. The commission may temporarily reduce or waive any fee prescribed by rule under this title on the recommendation of the director.
- C. The commission may reduce the fees of licenses and issue complimentary licenses, including the following:
  1. A complimentary license to a pioneer who is at least seventy years of age and who has been a resident of this state for twenty-five or more consecutive years immediately before applying for the license. The pioneer license is valid for the licensee's lifetime, and the commission may not require renewal of the license.
  2. A complimentary license to a veteran of the Armed Forces of the United States who has been a resident of this state for one year or more immediately before applying for the license and who receives compensation from the United States government for a permanent service-connected disability rated as one hundred percent disabling.
  3. A license for a reduced fee to a veteran of the United States Armed Forces who has been a resident of this state for one year or more immediately before applying for the license and who receives compensation from the United States government for a service-connected disability.
  4. A youth license for a reduced fee to a resident of this state who is a member of the boy scouts of America who has attained the rank of eagle scout or a member of the girl scouts of the USA who has received the gold award.
- D. All monies collected pursuant to this section shall be deposited, pursuant to sections 35-146 and 35-147, in the game and fish fund established by section 17-261.

- E. On or before December 31 of each year, the commission shall submit an annual report to the president of the senate, the speaker of the house of representatives, the chairperson of the senate natural resources, energy and water committee and the chairperson of the house of representatives energy, environment and natural resources committee, or their successor committees, that includes information relating to license classifications, fees for licenses, permits, tags and stamps and any other fees that the commission prescribes by rule. The joint legislative audit committee may assign a committee of reference to hold a public hearing and review the annual report submitted by the commission.

**17-333.02. Trapping license; education; exemption**

- A. A person applying for a trapping license must successfully complete a trapping education course conducted or approved by the department before being issued a trapping license. The department shall conduct or approve an educational course of instruction in responsible trapping and environmental ethics. The course shall include instruction on the history of trapping, trapping ethics, trapping laws, techniques in safely releasing nontarget animals, trapping equipment, wildlife management, proper catch handling, trapper health and safety and considerations and ethics intended to avoid conflicts with other public land users. A person must pass a written examination to successfully complete the course. The department shall not approve a trapping education course conducted by any person, agency, corporation or other organization for which a fee is charged greater than an amount the commission determines per person.
- B. A person who is born before January 1, 1967 or who has completed, from and after December 31, 1987 and before March 1, 1993, the voluntary trapper education course on responsible trapping conducted in cooperation with the Arizona game and fish department is exempt from subsection A of this section.

**17-334. Sale of licenses**

Hunting, fishing and other licenses shall be issued by such person as may be designated license dealers by the commission. The commission may suspend or revoke a dealer's license for failure to comply with rules specified by commission order.

**17-335. Blind resident; fishing license exemption**

A blind resident may fish without a license and is entitled to the same privileges as the holder of a valid license.

**17-335.01. Lifetime hunting and fishing licenses and trout stamps; fees**

- A. For the purposes of this title, the commission may prescribe by rule a lifetime license and a benefactor license and privileges associated with the taking and handling of fish and wildlife in this state pursuant to section 17-333. All monies derived from the sale of lifetime licenses and benefactor licenses shall be deposited, pursuant to sections 35-146 and 35-147, in the wildlife endowment fund established by section 17-271.
- B. A lifetime license, benefactor license and trout stamp may be denied or suspended pursuant to, and for the offenses described in, section 17-340.

- C. A lifetime license, benefactor license and trout stamp remain valid if the licensee subsequently resides outside this state, but the licensee must pay the nonresident fee to purchase any additional privileges, including stamps, permits and tags required to hunt and fish in this state. Limits set by the commission on issuing nonresident stamps, permits or tags do not apply to stamps, permits or tags sold to a lifetime licensee.

**17-337. Hunting and fishing licenses; armed forces members and spouses**

A member or spouse of a member of the armed forces of the United States who is on active duty and stationed in this state for either permanent or temporary duty may purchase a resident license permitting the taking of wildlife.

**17-338. Remission of fees from sale of licenses and permits; violation; classification**

- A. License dealers shall transmit to the department all license and permit fees collected and furnish such information as the commission prescribes by rule. The failure to transmit these fees within thirty days after the deadline the commission prescribes by rule is cause to cancel a license dealer's license. The knowing failure to transmit all collected license and permit fees within thirty days is a class 2 misdemeanor.
- B. A license dealer may collect and retain a reasonable fee as determined by the license dealer in addition to the fee charged to issue the license or permit.

**17-339. Reports and returns by license dealers; noncompliance; classification**

- A. Each license dealer shall by January 10, or on demand of the commission or department, return to the department:
  - 1. All duplicate stubs, unused licenses, permits and big game tags.
  - 2. All due and unremitted license and permit fees collected.
  - 3. A full and complete report of the licenses, permits and big game tags returned.
- B. The failure to make such return within thirty days shall automatically cancel the license dealer's license, and intentional failure to comply with the provisions of this section is a class 1 misdemeanor. Any license dealer who makes a false or fraudulent return or report or who fails to submit returns, reports or all due and unremitted fees as required under this section with the intent of defrauding the department is guilty of a class 6 felony.

**17-342. Colorado river special use permit**

- A. A person taking fish or amphibians for purposes other than for profit from or while on a boat or other floating device on all waters of the Colorado river south of the Nevada-Arizona boundary shall have in his possession a valid angling or fishing license issued by either the state of Arizona or the state of California. In addition to one of the above described licenses, such person shall have in his possession a valid California or Arizona-Colorado river special use permit, as provided by sections 17-343 and 17-344, which shall be obtained on payment of a fee to be fixed by the commission at not to exceed four dollars. Such a permit shall not be required to take fish or amphibians from canals, drains or ditches used to carry water from the Colorado river for irrigation or domestic purposes.

- B. A person having in his possession a valid Arizona fishing license must have a California-Colorado river special use permit to legally fish the waters described in subsection A of this section. A person having in his possession a valid California angling license must have an Arizona-Colorado river special use permit to legally fish the waters described in subsection A of this section. Such special use permit when accompanied by the proper license will allow the holder to fish in any portion of such waters and permit him to enter the waters from any point.
- C. Shore line fishing does not require a Colorado river special use permit as long as the fisherman remains on the shore of the state from which he holds a valid license and does not embark on the water.

#### **17-345. Surcharges; purposes**

In addition to any other fees, the commission may impose and collect:

1. A surcharge on a license, permit, tag and stamp as the commission prescribes by rule. Monies collected pursuant to this paragraph shall be segregated from other fees and deposited in the conservation development fund.
2. Surcharges on Arizona-Colorado river special use permits, California-Colorado river special use permits and Nevada-Colorado river special use permits issued in this state as provided by sections 17-342, 17-343 and 17-344. The amount of the surcharges shall be determined by the commission. A surcharge under this paragraph is to be used solely for the purpose of the lower Colorado river multispecies conservation program under section 48-3713.03. Any monies collected pursuant to this paragraph shall be segregated from other revenues and deposited, pursuant to sections 35-146 and 35-147, in a fund designated as the Colorado river special use permit clearing account. Each month, on notification by the department, the state treasurer shall pay all of the monies in the clearing account to an account designated by a multi-county county water conservation district established under title 48, chapter 22 to be used solely for the lower Colorado river multispecies conservation program and for no other purpose.

#### **17-346. Special big game license tags**

In addition to any license tags issued under section 17-333, the commission may issue special big game license tags in the name of an incorporated nonprofit organization that is dedicated to wildlife conservation. No more than three special big game license tags may be issued for each species of big game in a license year. Notwithstanding section 17-332, subsection D, an organization that receives special big game license tags issued under this section may sell and transfer them if all proceeds of the sale are used in this state for wildlife management.

#### **17-371. Transportation, possession and sale of wildlife and wildlife parts**

- A. A person may transport in his possession his legally taken wildlife, or may authorize the transportation of his legally taken big game, provided such big game or any part thereof has attached thereto a valid transportation permit issued by the department. Such wildlife shall be transported in such manner that it may be inspected by authorized persons upon demand until the wildlife is packaged or stored. Species of wildlife, other than game

species, may be transported in any manner unless otherwise specified by the commission. A person possessing a valid license may transport lawfully taken wildlife other than big game given to him but in no event shall any person possess more than one bag or possession limit.

- B.** A holder of a resident license shall not transport from a point within to a point without the state any big game species or parts thereof without first having obtained a special permit issued by the department or its authorized agent.
- C.** Migratory birds may be possessed and transported in accordance with the migratory bird treaty act (40 Stat. 755; 16 United States Code sections 703 through 711) and regulations under that act.
- D.** A holder of a sport falconry license may transport one or more raptors that the person lawfully possesses under terms and conditions prescribed by the commission. Regardless of whether a person holds a sport falconry license and as provided by section 17-236, subsection C, the person may transport for sport falconry purposes one or more raptors that are not listed pursuant to the migratory bird treaty act.
- E.** Heads, horns, antlers, hides, feet or skin of wildlife lawfully taken, or the treated or mounted specimens thereof, may be possessed, sold and transported at any time, except that migratory birds may be possessed and transported only in accordance with federal regulations.

**17-452. Restrictions on motor vehicle use; recommendations; agreements; rules**

- A.** When the commission determines that the operation of motor vehicles within a certain area, except private land, is or may be damaging to wildlife reproduction, wildlife management or wildlife habitat of such area, the commission, with the concurrence of the land management agency involved and after a public hearing, may order such area closed to motor vehicles for not more than five years from the date of such closure, provided that all roads in such area shall remain open unless specifically closed.
- B.** The commission may also recommend that particular areas of land be set aside or made available for the use of recreational vehicles.
- C.** The commission may enter into agreements with landowners and agencies controlling areas that the commission has made recommendations on pursuant to subsection B. Any such agreement shall stipulate the restrictions, prohibitions and permitted uses of motor vehicles in such area and the duties of the commission and such landowner or agency relating to the enforcement of the terms of such agreement.
- D.** The commission shall adopt rules pursuant to title 41, chapter 6 to carry out the provisions of this section.

**17-453. Notices of restrictions; posting; publication**

- A.** For all areas specified under agreements pursuant to section 17-452, the commission shall cause notices of the restrictions, prohibitions or permitted uses of such area to be posted, prior to the effective date of such restrictions, prohibitions or permitted uses, on the main traveled roads and highways entering such area and such locations that the commission deems appropriate.
- B.** In addition to the posted notices required by subsection A of this section, the commission shall cause a notice of such restrictions, prohibitions or permitted uses, together with a description of the area, to be published three

times in a newspaper of general circulation in the state prior to the effective date of such restrictions, prohibitions or permitted uses.

#### **17-454. Prohibition against vehicle travel**

No person shall drive a motor operated vehicle cross-country on public or private lands where such cross-country driving is prohibited by rule or regulation or, in the case of private lands, by proper posting.

#### **17-455. Exceptions**

- A.** The restrictions, prohibitions or permitted uses established pursuant to section 17-452 shall not apply to:
  - 1. Public employees acting in the scope of their employment.
  - 2. Valid licensees and permittees of state agencies and land management agencies. Holders of such licenses and permits shall be limited to the specific purposes and areas of travel for which such licenses or permits were issued or granted.
  - 3. Necessary travel within or across restricted or prohibited land by employees and agents of public utilities, subject to Arizona corporation commission (or any successor agency) or federal power commission regulation, of suppliers of water or power acting as agents of the federal government, and employees or agents of mining companies exercising rights pursuant to any state or federal mining law or regulation. Other persons who are regularly engaged in prospecting or mineral exploration shall upon application be issued vehicular access permits by the director.
  - 4. A licensed hunter who enters an area solely to pick up a big game animal which he has legally killed.
- B.** Emergency situations, such as fire or other disasters, or when otherwise necessary to protect life or property shall not require a permit.
- C.** Parking and camping shall be allowed along open roads in closed areas, except that no vehicle shall be parked or operated at a distance greater than three hundred feet from such roads.

#### **25-320. Child support; factors; methods of payment; additional enforcement provisions; definitions**

- A.** In a proceeding for dissolution of marriage, legal separation, maintenance or child support, the court may order either or both parents owing a duty of support to a child, born to or adopted by the parents, to pay an amount reasonable and necessary for support of the child, without regard to marital misconduct.
- B.** If child support has not been ordered by a child support order and if the court deems child support appropriate, the court shall direct, using a retroactive application of the child support guidelines to the date of filing a dissolution of marriage, legal separation, maintenance or child support proceeding, the amount that the parents shall pay for the past support of the child and the manner in which payment shall be paid, taking into account any amount of temporary or voluntary support that has been paid. Retroactive child support is enforceable in any manner provided by law.
- C.** If the parties lived apart before the date of the filing for dissolution of marriage, legal separation, maintenance or child support and if child support has not been ordered by a child support order, the court may order child

support retroactively to the date of separation, but not more than three years before the date of the filing for dissolution of marriage, legal separation, maintenance or child support. The court must first consider all relevant circumstances, including the conduct or motivation of the parties in that filing and the diligence with which service of process was attempted on the obligor spouse or was frustrated by the obligor spouse. If the court determines that child support is appropriate, the court shall direct, using a retroactive application of the child support guidelines, the amount that the parents must pay for the past support of the child and the manner in which payments must be paid, taking into account any amount of temporary or voluntary support that has been paid.

- D.** The supreme court shall establish guidelines for determining the amount of child support. The amount resulting from the application of these guidelines is the amount of child support ordered unless a written finding is made, based on criteria approved by the supreme court, that application of the guidelines would be inappropriate or unjust in a particular case. The supreme court shall review the guidelines at least once every four years to ensure that their application results in the determination of appropriate child support amounts. The supreme court shall base the guidelines and criteria for deviation from them on all relevant factors, considered together and weighed in conjunction with each other, including:
1. The financial resources and needs of the child.
  2. The financial resources and needs of the custodial parent.
  3. The standard of living the child would have enjoyed if the child lived in an intact home with both parents to the extent it is economically feasible considering the resources of each parent and each parent's need to maintain a home and to provide support for the child when the child is with that parent.
  4. The physical and emotional condition of the child, and the child's educational needs.
  5. The financial resources and needs of the noncustodial parent.
  6. The medical support plan for the child. The plan should include the child's medical support needs, the availability of medical insurance or services provided by the Arizona health care cost containment system and whether a cash medical support order is necessary.
  7. Excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of community, joint tenancy and other property held in common.
  8. The duration of parenting time and related expenses.
- E.** Even if a child is over the age of majority when a petition is filed or at the time of the final decree, the court may order support to continue past the age of majority if all of the following are true:
1. The court has considered the factors prescribed in subsection D of this section.
  2. The child is severely mentally or physically disabled as demonstrated by the fact that the child is unable to live independently and be self-supporting.
  3. The child's disability began before the child reached the age of majority.
- F.** If a child reaches the age of majority while the child is attending high school or a certified high school equivalency program, support shall continue to be provided during the period in which the child is actually attending high school or the equivalency program but only until the child reaches nineteen years of age unless

the court enters an order pursuant to subsection E of this section. Notwithstanding any other law, a parent paying support for a child over the age of majority pursuant to this section is entitled to obtain all records related to the attendance of the child in the high school or equivalency program.

- G.** If a personal check for support payments and handling fees is rightfully dishonored by the payor bank or other drawee, the person obligated to pay support shall make any subsequent support payments and handling fees only by cash, money order, cashier's check, traveler's check or certified check. If a person required to pay support other than by personal check demonstrates full and timely payment for twenty-four consecutive months, that person may pay support by personal check if these payments are for the full amount, are timely tendered and are not rightfully dishonored by the payor bank or other drawee.
- H.** Subsection G of this section does not apply to payments made by means of an assignment.
- I.** If after reasonable efforts to locate the obligee the clerk or support payment clearinghouse is unable to deliver payments for the period prescribed in section 25-503 due to the failure of the person to whom the support has been ordered to be paid to notify the clerk or support payment clearinghouse of a change in address, the clerk or support payment clearinghouse shall not deliver further payments and shall return the payments to the obligor consistent with the requirements of section 25-503.
- J.** An order for child support shall assign responsibility for providing medical insurance for the child who is the subject of the support order to one of the parents and shall assign responsibility for the payment of any medical costs of the child that are not covered by insurance according to the child support guidelines. Each parent shall provide information to the court regarding the availability of medical insurance for the child that is accessible and available at a reasonable cost. In title IV-D cases, the parent responsible pursuant to court order for providing medical insurance for the child shall notify the child support enforcement agency in the department of economic security if medical insurance has been obtained or if the child is no longer covered under an insurance plan.
- K.** If the court finds that neither parent has the ability to obtain medical insurance for the child that is accessible and available at a reasonable cost, the court shall:
  1. In a title IV-D case, in accordance with established title IV-D criteria, establish a reasonable monthly cash medical support order to be paid by the obligor. If medical assistance is being provided to a child under title XIX of the social security act, cash medical support is assigned to the state pursuant to section 46-407. On verification that the obligor has obtained private insurance, the cash medical support order terminates by operation of law on the first day of the month after the policy's effective date or on the date the court, or the department in a title IV-D case, is notified that insurance has been obtained, whichever is later. If the private insurance terminates, the cash medical support order automatically resumes by operation of law on the first day of the month following the termination date of the policy.
  2. Order one parent to provide medical insurance when it becomes accessible and available at a reasonable cost.
  3. Order that medical costs in excess of the cash medical support amount shall be paid by each parent according to the percentage assigned for payment of uninsured costs.

- L. In a title IV-D case, if the court orders the noncustodial parent to obtain medical insurance the court shall also set an alternative cash medical support order to be paid by that parent if the child is not covered under an insurance plan within ninety days after entry of the order or if the child is no longer covered by insurance. The court shall not order the custodial parent to pay cash medical support.
- M. In title IV-D cases the superior court shall accept for filing any documents that are received through electronic transmission if the electronically reproduced document states that the copy used for the electronic transmission was certified before it was electronically transmitted.
- N. The court shall presume, in the absence of contrary testimony, that a parent is capable of full-time employment at least at the applicable state or federal adult minimum wage, whichever is higher. This presumption does not apply to noncustodial parents who are under eighteen years of age and who are attending high school.
- O. An order for support shall provide for an assignment pursuant to sections 25-504 and 25-323.
- P. Each licensing board or agency that issues professional, recreational or occupational licenses or certificates shall record on the application the social security number of the applicant and shall enter this information in its database in order to aid the department of economic security in locating parents or their assets or to enforce child support orders. This subsection does not apply to a license that is issued pursuant to title 17 and that is not issued by an automated drawing system. If a licensing board or agency allows an applicant to use a number other than the social security number on the face of the license or certificate while the licensing board or agency keeps the social security number on file, the licensing board or agency shall advise an applicant of this fact.
- Q. The factors prescribed pursuant to subsection D of this section are stated for direction to the supreme court. Except pursuant to subsection E of this section and sections 25-501 and 25-809, The superior court shall not consider the factors when making child support orders, independent of the child support guidelines.
- R. For the purposes of this section:
  1. "Accessible" means that insurance is available in the geographic region where the child resides.
  2. "Child support guidelines" means the child support guidelines that are adopted by the state supreme court pursuant to 42 United States Code sections 651 through 669B.
  3. "Date of separation" means the date the married parents ceased to cohabit.
  4. "Reasonable cost" means an amount that does not exceed the higher of five per cent of the gross income of the obligated parent or an income-based numeric standard that is prescribed in the child support guidelines.
  5. "Support" has the same meaning prescribed in section 25-500.
  6. "Support payments" means the amount of money ordered by the court to be paid for the support of the minor child or children.

**25-502. Jurisdiction, venue and procedure; additional enforcement provisions**

- A. The superior court has original jurisdiction in proceedings brought by the department, its agents, a person having physical custody of a child or a party to the case to establish, enforce or modify the duties of support as prescribed in this chapter. All such proceedings are civil actions except as provided in section 25-511.

Proceedings to enforce the duties of support as prescribed in this chapter may be originated in the county of residence of the respondent or the petitioner or of the child or children who are the subject of the action.

- B.** A proceeding to establish support must originate in the county where the child resides or, if the child resides out of state, the county of this state where the party filing the petition to establish support resides, if either of the following applies:
  - 1. An action does not exist under this title.
  - 2. Paternity was established without a court order pursuant to section 36-334.
- C.** A person or the department or its agent must file a petition to establish or modify a child support order in the superior court in the county of the last order issued under this title if an order exists in this state. If a person wishes the case transferred to the county of this state where the child resides or, if the child resides out of state, the county of this state where the party requesting the transfer resides, the person must file a request for transfer with the clerk of the superior court that issued the last order.
- D.** A request for transfer pursuant to subsection C of this section must include a petition or motion regarding support, a statement of payments in default, if applicable, and the transmittal fee prescribed in section 12-284. The responding party may object to the transfer by filing an objection and affidavit within twenty days after service of the request to transfer.
- E.** If the clerk does not receive an objection and affidavit pursuant to subsection D of this section, the clerk shall issue the transfer order and transfer the proceeding and all related court files to the other county within thirty days after service of the request to transfer. If the clerk receives an objection and affidavit within the time prescribed in subsection D of this section, the clerk shall notify all parties of the date of the hearing at least ten days before the hearing date. The court may hear evidence relevant only to the issue of the transfer. If after that hearing the court orders the transfer, the clerk shall transfer the proceeding and court files within ten days after the order. The county to which the transfer is made retains the court files and venue for all purposes and the transferring county shall not retain a copy of those files.
- F.** The county to which a transfer is made pursuant to subsection D or E of this section shall proceed as if the proceeding was brought in that county originally. A judgment from that county has the same effect and may be enforced or modified as a judgment from the original county.
- G.** The party who petitioned for transfer must pay the postadjudication fee prescribed in section 12-284 to the county to which the proceeding was transferred within ten days after the date the clerk of the court mails the notice of the requirement to pay the postadjudication fee. If the party does not pay the fee by that date, the transfer order is automatically nullified and the court clerk shall return the proceeding and all related court files to the original county.
- H.** Except as provided in section 25-510, in title IV-D cases the superior court shall accept for filing any documents that are received through electronic transmission if the electronically reproduced document states that the copy used for the electronic transmission was certified before it was electronically transmitted.
- I.** On filing of the petition and, if applicable, after a transfer is completed, the court shall issue an order requiring the responding party to appear at the time and place set for the hearing on the petition. Service of the order and

a copy of the petition shall be as provided in the Arizona rules of family law procedure. If the responding party receives notice of a hearing but fails to appear, the court may issue a child support arrest warrant as provided in article 5 of this chapter and shall require that the responding party pay at the time of arrest an amount set by the court to secure the responding party's release from custody pending an appearance at the next scheduled hearing. The court also may find the party to be in contempt of court pursuant to section 12-864.01 and set an amount to be paid to purge the contempt. Any purge amount set by the court shall supersede the amount required to be set to secure the responding party's release, and the responding party shall pay only the purge amount as a condition of release from custody. Any amounts paid under this section shall be deposited with the clerk of the court or the support payment clearinghouse and credited first to the responding party's current child support obligation and then to arrearages. The court may grant a default judgment for arrearages on a prima facie showing of the amount due.

- J.** The department or its agent or a parent, guardian or custodian may file with the clerk of the superior court a request to establish child support. The request must include a proposed order, the worksheet for child support and a notice of the right to request a hearing within twenty days after service in this state or within thirty days after service outside this state. The request, proposed order, worksheet and notice shall be served pursuant to the Arizona rules of family law procedure on all parties, and in a title IV-D case, on the department or its agent. In a title IV-D case, the department or its agent may serve all parties by certified mail, return receipt requested. If a party does not request a hearing within the time prescribed by this subsection, the court shall review the proposed order and worksheet and enter an appropriate order or set the matter for a hearing. In a title IV-D case, the department or its agent shall enforce the order.
- K.** Each licensing board or agency that issues professional, recreational or occupational licenses or certificates shall record on the application the social security number of the applicant and shall enter this information in its database in order to aid the department of economic security in locating parents or their assets or to enforce child support orders. This subsection does not apply to a license that is issued pursuant to title 17 and that is not issued by an automated drawing system. If a licensing board or agency allows an applicant to use a number other than the social security number on the face of the license or certificate while the licensing board or agency keeps the social security number on file, the licensing board or agency shall advise an applicant of this fact.

**25-518. Child support arrearage; license suspension; hearing**

- A.** A court shall send a certificate of noncompliance to the board or agency ordering the suspension or denial of a driver license or recreational license if the court finds from the evidence presented at a hearing to enforce a child support order that the obligor has wilfully failed to pay child support, continues after notice pursuant to section 25-517, subsection A to wilfully fail to pay child support and is at least six months in arrears.
- B.** If the obligor has complied with the support order since the suspension or denial, the obligor may petition the court for a hearing. If the obligor establishes at the review hearing that the obligor is in compliance with the support order or a court ordered plan for payment of arrearages, the court shall send a certificate of compliance

to the board or agency. Except for licenses issued under title 17, the obligor may then apply for license reinstatement and shall pay all applicable fees.

- C. In a title IV-D case, the department or its agent may file with the clerk of the superior court an affidavit indicating that the obligor is in compliance with the support order or the child support obligation. Within five business days after the affidavit is filed, the clerk shall send a notice of compliance to the obligor by first class mail. The clerk shall send a copy of the notice of compliance to the department and the licensing board or agency.
- D. Except for licenses issued under title 17, the board or agency shall suspend or deny the license of the licensee within thirty days after receiving the notice of noncompliance from the court. The board or agency shall not lift the suspension until the board or agency receives a certificate of compliance from the court. Notwithstanding section 41-1064, subsection C and section 41-1092.11, subsection B, the board or agency is not required to conduct a hearing. The board or agency shall notify the department in writing or by any other means prescribed by the department of all suspensions within ten days after the suspension. The information shall include the name, address, date of birth and social security number of the licensee and the license category.
- E. A certificate of noncompliance without further action invalidates a license to take wildlife in this state and prohibits the obligor from applying for a license issued by an automated drawing system under title 17. The court shall send a copy of the certificate of noncompliance to the department of economic security, and the department of economic security shall notify the Arizona game and fish department of all obligors against whom a notice of noncompliance has been issued and who have applied for a license issued by an automated drawing system.
- F. Notwithstanding this section, the title IV-D agency or its agent may send a certificate of noncompliance to a board or agency to order it to suspend an obligor's professional or occupational license if the obligor:
  - 1. Has willfully failed to pay child support, continues after notice pursuant to section 25-517, subsection D to willfully fail to pay child support and is at least six months in arrears.
  - 2. Requested an administrative review and the determination confirms that the obligor is required to pay child support and has willfully failed to pay and that either the obligor did not request a hearing on the determination or the determination was upheld after a hearing.
  - 3. Failed to respond to the notice pursuant to section 25-517, subsection D.
- G. If the obligor has paid all arrearages or if the obligor has entered into a written agreement with the title IV-D agency or its agent, the title IV-D agency shall issue a notice of compliance to the licensing board or agency.

#### **41-1005. Exemptions**

- A. This chapter does not apply to any:
  - 1. Rule that relates to the use of public works, including streets and highways, under the jurisdiction of an agency if the effect of the order is indicated to the public by means of signs or signals.
  - 2. Order or rule of the Arizona game and fish commission that does the following:
    - (a) Opens, closes or alters seasons or establishes bag or possession limits for wildlife.

- (b) Establishes a fee pursuant to section 5-321, 5-322 or 5-327.
- (c) Establishes a license classification, fee or application fee pursuant to title 17, chapter 3, article 2.
- 3. Rule relating to section 28-641 or to any rule regulating motor vehicle operation that relates to speed, parking, standing, stopping or passing enacted pursuant to title 28, chapter 3.
- 4. Rule concerning only the internal management of an agency that does not directly and substantially affect the procedural or substantive rights or duties of any segment of the public.
- 5. Rule that only establishes specific prices to be charged for particular goods or services sold by an agency.
- 6. Rule concerning only the physical servicing, maintenance or care of agency owned or operated facilities or property.
- 7. Rule or substantive policy statement concerning inmates or committed youths of a correctional or detention facility in secure custody or patients admitted to a hospital, if made by the state department of corrections, the department of juvenile corrections, the board of executive clemency or the department of health services or a facility or hospital under the jurisdiction of the state department of corrections, the department of juvenile corrections or the department of health services.
- 8. Form whose contents or substantive requirements are prescribed by rule or statute, and instructions for the execution or use of the form.
- 9. Capped fee-for-service schedule adopted by the Arizona health care cost containment system administration pursuant to title 36, chapter 29.
- 10. Fees prescribed by section 6-125.
- 11. Order of the director of water resources adopting or modifying a management plan pursuant to title 45, chapter 2, article 9.
- 12. Fees established under section 3-1086.
- 13. Fees established under sections 41-2144 and 41-2189.
- 14. Rule or other matter relating to agency contracts.
- 15. Fees established under section 32-2067 or 32-2132.
- 16. Rules made pursuant to section 5-111, subsection A.
- 17. Rules made by the Arizona state parks board concerning the operation of the Tonto natural bridge state park, the facilities located in the Tonto natural bridge state park and the entrance fees to the Tonto natural bridge state park.
- 18. Fees or charges established under section 41-511.05.
- 19. Emergency medical services protocols except as provided in section 36-2205, subsection B.
- 20. Fee schedules established pursuant to section 36-3409.
- 21. Procedures of the state transportation board as prescribed in section 28-7048.
- 22. Rules made by the state department of corrections.
- 23. Fees prescribed pursuant to section 32-1527.
- 24. Rules made by the department of economic security pursuant to section 46-805.
- 25. Schedule of fees prescribed by section 23-908.

26. Procedure that is established pursuant to title 23, chapter 6, article 6.
  27. Rules, administrative policies, procedures and guidelines adopted for any purpose by the Arizona commerce authority pursuant to chapter 10 of this title if the authority provides, as appropriate under the circumstances, for notice of an opportunity for comment on the proposed rules, administrative policies, procedures and guidelines.
  28. Rules made by a marketing commission or marketing committee pursuant to section 3-414.
  29. Administration of public assistance program monies authorized for liabilities that are incurred for disasters declared pursuant to sections 26-303 and 35-192.
  30. User charges, tolls, fares, rents, advertising and sponsorship charges, services charges or similar charges established pursuant to section 28-7705.
  31. Administration and implementation of the hospital assessment pursuant to section 36-2901.08, except that the Arizona health care cost containment system administration must provide notice and an opportunity for public comment at least thirty days before establishing or implementing the administration of the assessment.
  32. Rules made by the Arizona department of agriculture to adopt and implement the provisions of the federal milk ordinance as prescribed by section 3-605.
- B.** Notwithstanding subsection A, paragraph 21 of this section, at such time as the federal highway administration authorizes the privatization of rest areas, the state transportation board shall make rules governing the lease or license by the department of transportation to a private entity for the purposes of privatization of a rest area.
  - C.** Coincident with the making of a final rule pursuant to an exemption from the applicability of this chapter under this section, another statute or session law, the agency shall file a copy of the rule with the secretary of state for publication pursuant to section 41-1012 and provide a copy to the council.
  - D.** Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the Arizona board of regents and the institutions under its jurisdiction, except that the Arizona board of regents shall make policies or rules for the board and the institutions under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies or rules proposed.
  - E.** Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the Arizona state schools for the deaf and the blind, except that the board of directors of all the state schools for the deaf and the blind shall adopt policies for the board and the schools under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies proposed for adoption.
  - F.** Unless otherwise required by law, articles 2, 3, 4 and 5 of this chapter do not apply to the state board of education, except that the state board of education shall adopt policies or rules for the board and the institutions under its jurisdiction that provide, as appropriate under the circumstances, for notice of and opportunity for comment on the policies or rules proposed for adoption. In order to implement or change any rule, the state board of education shall provide at least two opportunities for public comment.

#### **41-1072. Definitions**

In this article, unless the context otherwise requires:

1. "Administrative completeness review time frame" means the number of days from agency receipt of an application for a license until an agency determines that the application contains all components required by statute or rule, including all information required to be submitted by other government agencies. The administrative completeness review time frame does not include the period of time during which an agency provides public notice of the license application or performs a substantive review of the application.
2. "Overall time frame" means the number of days after receipt of an application for a license during which an agency determines whether to grant or deny a license. The overall time frame consists of both the administrative completeness review time frame and the substantive review time frame.
3. "Substantive review time frame" means the number of days after the completion of the administrative completeness review time frame during which an agency determines whether an application or applicant for a license meets all substantive criteria required by statute or rule. Any public notice and hearings required by law shall fall within the substantive review time frame.

**41-1073. Time frames; exception**

- A. No later than December 31, 1998, an agency that issues licenses shall have in place final rules establishing an overall time frame during which the agency will either grant or deny each type of license that it issues. Agencies shall submit their overall time frame rules to the governor's regulatory review council pursuant to the schedule developed by the council. The council shall schedule each agency's rules so that final overall time frame rules are in place no later than December 31, 1998. The rule regarding the overall time frame for each type of license shall state separately the administrative completeness review time frame and the substantive review time frame.
- B. If a statutory licensing time frame already exists for an agency but the statutory time frame does not specify separate time frames for the administrative completeness review and the substantive review, by rule the agency shall establish separate time frames for the administrative completeness review and the substantive review, which together shall not exceed the statutory overall time frame. An agency may establish different time frames for initial licenses, renewal licenses and revisions to existing licenses.
- C. The submission by the department of environmental quality of a revised permit to the United States environmental protection agency in response to an objection by that agency shall be given the same effect as a notice granting or denying a permit application for licensing time frame purposes. For the purposes of this subsection, "permit" means a permit required by title 49, chapter 2, article 3.1 or section 49-426.
- D. In establishing time frames, agencies shall consider all of the following:
  1. The complexity of the licensing subject matter.
  2. The resources of the agency granting or denying the license.
  3. The economic impact of delay on the regulated community.
  4. The impact of the licensing decision on public health and safety.
  5. The possible use of volunteers with expertise in the subject matter area.
  6. The possible increased use of general licenses for similar types of licensed businesses or facilities.
  7. The possible increased cooperation between the agency and the regulated community.

8. Increased agency flexibility in structuring the licensing process and personnel.

**E.** This article does not apply to licenses issued either:

1. Pursuant to tribal state gaming compacts.
2. Within seven days after receipt of initial application.
3. By a lottery method.

**41-2752. State competition with private enterprise prohibited; exceptions; definition**

- A.** A state agency shall not engage in the manufacturing, processing, sale, offering for sale, rental, leasing, delivery, dispensing, distributing or advertising of goods or services to the public that are also offered by private enterprise unless specifically authorized by law other than administrative law and executive orders.
- B.** A state agency shall not offer or provide goods or services to the public for or through another state agency or a local agency, including by intergovernmental or interagency agreement, in violation of this section or section 41-2753.
- C.** The restrictions on activities that compete with private enterprise contained in this section do not apply to:
1. The development, operation and management of state parks, historical monuments and hiking or equestrian trails.
  2. Correctional industries established and operated by the state department of corrections if the prices charged for products sold by the correctional industries are not less than the actual cost of producing and marketing the product plus a reasonable allowance for overhead and administrative costs.
  3. The office of tourism.
  4. The Arizona highways magazine, operated by the department of transportation.
  5. Printing and distributing information to the public if the agency is otherwise authorized to do so, and printing or copying public records or other material relating to the public agency's public business and recovering through fees and charges the costs of such printing, copying and distributing.
  6. The department of public safety.
  7. The construction, maintenance and operation of state transportation facilities.
  8. The development, distribution, maintenance, support, licensing, leasing or sale of computer software by the department of transportation.
  9. Agreements executed by the Arizona health care cost containment system administration with other states to design, develop, install and operate information technology systems and related services or other administrative services pursuant to section 36-2925.
  10. Agreements executed by the department of economic security with other states to design, develop, install and operate support collection technology systems and related services. The department shall deposit, pursuant to sections 35-146 and 35-147, monies received pursuant to this paragraph in the public assistance collections fund established by section 46-295.

11. Educational, vocational, treatment, training or work programs of the department of juvenile corrections and contracts between the department of juvenile corrections and this state, a political subdivision of this state or a private entity in order to provide employment or vocational educational experience.
  12. The aflatoxin control technologies of the cotton research and protection council.
  13. The lease or sublease of lands or buildings by the department of economic security pursuant to section 41-1958.
  14. The Arizona commerce authority.
  15. The Arizona game and fish commission, but only for the sale of goods or services and not firearms.
  16. The lease or sublease of lands or buildings by the department of child safety pursuant to section 8-460.
  17. Agreements executed by the department of child safety with other states to design, develop, install and operate support collection technology systems and related services. The department shall deposit, pursuant to sections 35-146 and 35-147, monies received pursuant to this paragraph in the child safety collections fund established by section 8-461.
  18. The lease or sublease of state hospital lands or buildings by the department of health services.
  19. The sale or lease of software, computer systems or intellectual property developed by the department of education or associated services provided for the sale or lease of software, computer systems or intellectual property by the department of education. The department shall deposit, pursuant to sections 35-146 and 35-147, sixty percent of the profit from the monies generated pursuant to this paragraph in the state general fund and the remaining forty percent in the department of education intellectual property fund established by section 15-231.04. The department of education may not transfer or expend monies or personnel resources for the purposes of marketing or soliciting goods or services authorized pursuant to this paragraph that were appropriated and authorized for other functions and programs of the department of education.
- D.** The restrictions on activities that compete with private enterprise contained in subsection A of this section do not apply to community colleges and universities under the jurisdiction of a governing board.
- E.** For the purposes of this section, "profit" means any monies generated from the sale or lease of goods and services after accounting for the costs paid by this state, including appropriations from the state general fund.

**D-3**

**BOARD OF EXAMINERS FOR NURSING CARE INSTITUTION ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS**

Title 4, Chapter 33, Articles 1, 5, and 7

**Amend:** R4-33-501, R4-33-503

**Repeal:** R4-33-105, R4-33-504

**New Section:** R4-33-707



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - REGULAR RULEMAKING

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**MEETING DATE:** February 2, 2021

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** January 11, 2021

**SUBJECT:** **BOARD OF EXAMINERS FOR NURSING CARE INSTITUTION  
ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS**  
Title 4, Chapter 33, Articles 1, 5, and 7

**Amend:** R4-33-501, R4-33-503

**Repeal:** R4-33-105, R4-33-504

**New Section:** R4-33-707

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### **Summary:**

This regular rulemaking from the Board of Examiners for Nursing Care Institution Administrators and Assisted Living Facility Managers (Board) seeks to amend two rules in Title 4, Chapter 33 Article 5, repeal two rules in Articles 1 and 5, and add one new section to Article 7.

Specifically, the Board is amending R4-33-501 related to continuing education requirements to consolidate procedures for requesting and granting an extension to complete continuing education requirements previously found in R4-33-504, and subsequently repealing R4-33-504.

The Board is amending R4-33-503 to allow the Board to audit a licensee or certificate holder for compliance with the continuing education requirement at any time.

Furthermore, under Laws 2020, Chapter 73, the legislature added A.R.S. § 36-446.16 authorizing individuals to obtain training for employment as an assisted living facility caregiver through on-the-job training. The legislation required the Board to prescribe standards for the on-the-job training. The Board indicates this rulemaking prescribes the required standards in the proposed new section R4-33-707.

Finally, the Board is repealing R4-33-105 related to hearing procedures.

1. **Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?**

The Board cites both general and specific statutory authority for these rules.

2. **Do the rules establish a new fee or contain a fee increase?**

The Board indicates this rulemaking does not establish a new fee or contain a fee increase.

3. **Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely upon?**

The Board did not review or rely on any study in conducting this rulemaking.

4. **Summary of the agency's economic impact analysis:**

The Board states the primary economic benefit results from the statutory change. The Board indicates there will be positive benefits for individuals who train for employment as an assisted living facility caregiver on the job. These individuals will have the benefit of being employed while training and may receive the training without charge from their employing assisted living facility.

The Board states the only direct economic impact from this rulemaking will be on owners of assisted living facilities that decide to implement an on-the-job (OTJ) training program for caregivers. These owners will be required to comply with the standards established in the rulemaking. The rulemaking may indirectly impact the 48 owners of assisted living facility caregiver non-OTJ training programs who may see the number of participants in the non-OTJ training programs decrease as a result of OTJ training opportunities.

5. **Has the agency analyzed the costs and benefits of the rulemaking and determined that the rules impose the least burden and costs to those who are regulated?**

The Board believes the standards developed are the least intrusive and least costly possible. The Board was required by statute to develop the standards for implementing an OTJ training program for caregivers at assisted living facilities. The Board minimized intrusiveness

and costs by making the standards for an OTJ program similar to those previously established for other kinds of assisted living facility caregiver training programs.

**6. What are the economic impacts on stakeholders?**

The Board states it incurred the minimal cost of establishing the OTJ programs standards in this rulemaking and will incur the minimal cost of implementing them. The Board states the cost of implementation will be offset by the fee required from the owner of an assisted living facility that chooses to implement an OTJ training program. The Board indicates no political subdivision is directly affected by the rulemaking. The Board states owners of assisted living facilities that choose to implement an OTJ training program will have to comply with the standards established in the rulemaking. The Board states there will be no impact on private or public employment.

**7. Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

In response to public comment, the Board amended the Notice of Proposed Rulemaking language for R4-33-707(C)(5)(f) to simply reference A.R.S. § 36-446.16(A)(1)(v) in the Notice of Final Rulemaking, rather than include language from A.R.S. § 36-446.16(A)(1)(v), to clarify the Board's intention. It is Council staff's position that this revision does not constitute a substantial change as defined in A.R.S. § 41-1025.

**8. Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

The Board received one written comment and one oral comment at oral proceedings held on December 1, 2020 which are summarized in Section 11 of the Notice of Final Rulemaking along with the Board's responses. A copy of the written comment and summary of the oral comment have also been provided with this rulemaking package for your consideration. It is Council staff's position that the Board adequately addressed the comments related to the proposed amendments.

**9. Do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

Not applicable. The Board indicates that Board approval of on the job training programs does not require the issuance of a permit or license. Furthermore, the Board indicates that it does not license assisted living facilities or caregivers

**10. Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

Not applicable. The Board states that there is no applicable federal law related to training of assisted living facility caregivers.

## **11. Conclusion**

This regular rulemaking from the Board seeks to amend R4-33-501 related to continuing education requirements to consolidate procedures for requesting and granting an extension to complete continuing education requirements previously found in R4-33-504, and subsequently repealing R4-33-504. The Board also seeks to amend R4-33-503 to allow the Board to audit a licensee or certificate holder for compliance with the continuing education requirement at any time. Furthermore, under Laws 2020, Chapter 73, the legislature added A.R.S. § 36-446.16 authorizing individuals to obtain training for employment as an assisted living facility caregiver through on-the-job training. The legislation required the Board to prescribe standards for the on-the-job training. The Board indicates this rulemaking prescribes the required standards in the proposed new section R4-33-707. Finally, the Board is repealing R4-33-105 related to hearing procedures.

The Board is seeking the standard 60-day delayed effective date pursuant to A.R.S. § 41-1032(A). Council staff recommends approval of this rulemaking.



BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS AND  
ASSISTED LIVING FACILITY MANAGERS

**Douglas A. Ducey**  
Governor

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**Allen Imig**  
Executive Director

December 21, 2020

Ms. Nicole Sornsins, Chair  
The Governor's Regulatory Review Council  
100 North 15th Avenue, Ste. 305  
Phoenix, AZ 85007

**Re: A.A.C. Title 4. Professions and Occupations**  
**Chapter 33. Board of Examiners for Nursing Care Institution**  
**Administrators and Assisted Living Facility Managers**

Dear Ms. Sornsins:

The attached final rule package is submitted for review and approval by the Council. The following information is provided for Council's use in reviewing the rule package:

- A. Close of record date: The rulemaking record was closed on December 4, 2020, following a period for public comment and an oral proceeding. This rule package is being submitted within the 120 days provided by A.R.S. § 41-1024(B).
- B. Relation of the rulemaking to a five-year-review report: The rulemaking does not relate to a five-year-review report.
- C. New fee: The rulemaking does not establish a new fee.
- D. Fee increase: The rulemaking does not increase an existing fee.
- E. Immediate effective date: An immediate effective date is not requested.
- F. Certification regarding studies: I certify that the preamble accurately discloses the Board did not review or rely on a study in its evaluation of or justification for any rule in this rulemaking.
- G. Certification that the preparer of the EIS notified the JLBC of the number of new full-time employees necessary to implement and enforce the rule: I certify that none of the rules in this rulemaking will require a state agency to employ a new full-time employee. No notification was provided to JLBC.
- H. List of documents enclosed:
  - 1. Cover letter signed by the Executive Director;
  - 2. Notice of Final Rulemaking including the preamble, table of contents, and rule text;
  - 3. Economic, Small Business, and Consumer Impact Statement

Sincerely,

Allen Imig  
Executive Director

**NOTICE OF FINAL RULEMAKING**  
**TITLE 4. PROFESSIONS AND OCCUPATIONS**  
**CHAPTER 33. BOARD OF EXAMINERS FOR NURSING CARE INSTITUTION**  
**ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS**

**PREAMBLE**

**1. Articles, Parts, and Sections Affected**

**Rulemaking Action**

R4-33-105	Repeal
R4-33-501	Amend
R4-33-503	Amend
R4-33-504	Repeal
R4-33-707	New Section

**2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. § 36-446.03(A)

Implementing statute: A.R.S. §§ 36-446.03(O) and 36-446.16

**3. The effective date for the rules:**

As specified under A.R.S. § 41-1032(A), the rule will be effective 60 days after the rule package is filed with the Office of the Secretary of State.

**a. If the agency selected a date earlier than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**

Not applicable

**b. If the agency selected a date later than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**

Not applicable

**4. Citation to all related notices published in the Register to include the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**

Notice of Rulemaking Docket Opening: 26 A.A.R. 2097, October 9, 2020

Notice of Proposed Rulemaking: 26 A.A.R. 2737, October 23, 2020

**5. The agency's contact person who can answer questions about the rulemaking:**

Name: Allen Imig, Executive Director

Address: Board of Examiners for Nursing Care Administrators and Assisted Living Facility  
Managers  
1740 West Adams Street, Suite 2490  
Phoenix, AZ 85007

Telephone: (602) 364-2273

Fax: (602) 542-8316

E-mail: allen.imig@aznciaboard.us

**6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**

Under Laws 2020, Chapter 73, the legislature added A.R.S. § 36-446.16 authorizing individuals to obtain training for employment as an assisted living facility caregiver through on-the-job training. The legislation required the Board to prescribe standards for the on-the-job training. This rulemaking prescribes the required standards.

R4-33-105 and R4-33-504 are repealed to comply with paragraph 2 of Executive Order 2020-02. An exemption from Executive Order 2020-02 was provided by Trista Guzman Glover in an e-mail dated August 31, 2020.

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

The Board did not review or rely on any study in its evaluation of or justification for any rule in this rulemaking.

**8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. A summary of the economic, small business, and consumer impact:**

The primary economic benefit results from the statutory change. There will be positive benefits for individuals who train for employment as an assisted living facility caregiver on the job. These individuals will have the benefit of being employed while training and may receive the training without charge from their employing assisted living facility. The change may negatively impact owners of assisted living facility caregiver training programs who may see the number of participants decrease as a result of on-the-job training opportunities.

**10. A description of any changes between the proposed rulemaking, including supplemental notices, and the final rulemaking:**

In response to a public comment, the Board made the change described in item 11.

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

Pam Koester of Arizona LeadingAge attended the oral proceeding on December 1, 2020, and spoke on behalf of other not-for-profit organizations dedicated to providing services to Arizona seniors. Karen Barno of the Arizona Assisted Living Federation of America submitted a written comment.

COMMENT	BOARD'S ANALYSIS	BOARD ACTION
<p>R4-33-707(C)(5)(b)(i) and (ii):            These subsections are duplicative. Subsection (C)(5)(b)(ii) should be removed from the rulemaking because a person who participates in an OTJ caregiver training program may not be employed as a caregiver. (Koester and Barno)</p>	<p>The Board respectfully disagrees. Subsection (C)(5)(b)(i) says only that an individual who participates in an OTJ training program is employed at the assisted living facility. This subsection is designed to ensure that OTJ training at an assisted living facility is not open to individuals from other assisted living facilities.</p> <p>Because an individual who participates in an OTJ training program provides caregiving services while doing so, subsection (C)(5)(b)(ii) is designed to ensure that the individual receives the pay and benefits associated with being a caregiver. The Board understands that the individual may have been employed in another position before</p>	<p>No change</p>

	beginning the OTJ caregiver training. However, by definition, an individual participating in OTJ training is “on the job” in which the individual is training and needs to be paid accordingly.	
R4-33-707(C)(5)(f): The language in this subsection differs from that in statute. Statute uses “may” while the subsection uses “will.” The subsection seems to require the manager of record to provide direct supervision. (Koester)	That interpretation is inconsistent with the Board’s intent. To clarify this issue, the rule language is amended to simply reference statute.	The subsection is changed as follows: NPR: An acknowledgment that, as specified in A.R.S. § 36-446.16(A)(1)(v), no more than 31 of the 62 hours of OTJ training will be under the direct supervision of the manager of record. NFR: An acknowledgment that the OTJ training program complies with A.R.S. § 36-446.16(A)(1)(v) regarding direct supervision of the OTJ training program by the manager of record.

**12. All agencies shall list any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

None

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

The Board's approval of an OTJ training program for assisted living facility caregivers is not a general permit. The Board approves only training programs it determines meet the specified standards. The Board does not license assisted living facilities or caregivers.

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

There is no federal law directly applicable to the training of assisted living facility caregivers.

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

No analysis was submitted.

**13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**

None

**14. Whether the rule was previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the *Register* as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

No rule in the rule package was previously made, amended, or repealed as an emergency rule.

**15. The full text of the rules follows:**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**  
**CHAPTER 33. BOARD OF EXAMINERS FOR NURSING CARE INSTITUTION**  
**ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS**  
**ARTICLE 1. GENERAL**

Section

R4-33-105. ~~Hearing Procedures~~ Repealed

**ARTICLE 5. CONTINUING EDUCATION**

Section

R4-33-501. Continuing Education Requirement; Extension of Time

R4-33-503. Audit of Compliance and Sanction for Noncompliance with Continuing Education Requirement

R4-33-504. ~~Extension of Time to Complete the Continuing Education Requirement~~ Repealed

**ARTICLE 7. ASSISTED LIVING FACILITY CAREGIVER TRAINING PROGRAMS**

Section

R4-33-707. Minimum Standards for an Assisted Living Facility On-the-job Caregiver Training Program

## ARTICLE 1. GENERAL

### **R4-33-105. Hearing Procedures Repealed**

~~As required under A.R.S. § 36-446.07(J), the Board shall conduct all hearings according to the procedures in A.R.S. Title 41, Chapter 6, Article 10 and rules issued by the Office of Administrative Hearings.~~

## ARTICLE 5. CONTINUING EDUCATION

### **R4-33-501. Continuing Education Requirement; Extension of Time**

- A.** Continuing education is a prerequisite of license or certificate renewal.
1. A licensed administrator shall obtain 50 credit hours of Board-approved continuing education during each biennial period. During the biennial period in which an administrator is initially licensed, the administrator shall obtain two credit hours of Board-approved continuing education for each month or part of a month remaining in the biennial period.
  2. A certified manager shall obtain 24 credit hours of Board-approved continuing education during each biennial period. During the biennial period in which a manager is initially certified, the manager shall obtain one credit hour of Board-approved continuing education for each month or part of a month remaining in the biennial period.
- B.** The Board shall award credit hours in an approved continuing education as follows:
1. Seminar or workshop. One credit hour of continuing education for each contact hour;
  2. Course at an accredited educational institution. Fifteen credit hours of continuing education for each course hour;
  3. Attendance at a business meeting of a national health care organization or of a state association affiliated with a national health care organization. One-half credit hour of continuing education for each business meeting attended;
  4. Self-study, online, or correspondence course. Approved credit hours of continuing education requested by the course provider;
  5. Serving as a preceptor. Two credit hours of continuing education for each month that an administrator serves as an AIT preceptor; and
  6. Teaching a Board-approved continuing education. One credit hour of continuing education for each hour taught.
- C.** The Board shall limit the number of credit hours of Board-approved continuing education awarded as follows:
1. No more than 40 percent of the required credit hours may be obtained using self-study, online, or correspondence courses;

2. No more than 50 percent of the required credit hours may be obtained from serving as an AIT preceptor;
  3. Hours may be obtained for teaching a particular continuing education only once during each biennial period; and
  4. Hours that exceed the minimum required for a biennial period may not be carried over to a subsequent biennial period.
- D.** An administrator or manager shall obtain a certificate or other evidence of attendance from the provider of each continuing education attended that includes the following:
1. Name of the administrator or manager;
  2. License or certificate number of the administrator or manager;
  3. Name of the continuing education;
  4. Name of the continuing education provider;
  5. Date, time, and location of the continuing education; and
  6. Number of credit hours in the continuing education.
- E.** An administrator or manager shall maintain the evidence of attendance described in subsection (D) for three years and make the evidence available to the Board under R4-33-503 and as otherwise required under this Chapter.
- F.** To obtain an extension of time under A.R.S. § 36-446.07(G) to complete the continuing education requirement, an administrator or manager shall submit to the Board a written request that includes the following:
1. Ending date of the requested extension.
  2. Continuing education completed during the current biennial period and the documentation required under subsection (D).
  3. Proof of registration for additional continuing education that is sufficient to enable the administrator or manager to fulfill the continuing education requirement before the end of the requested extension, and
  4. Administrator's or manager's attestation that the continuing education obtained under the extension will be reported only to fulfill the current renewal requirement and will not be reported on a subsequent renewal application.
- G.** The Board shall grant an extension of time within seven days after receiving a request for an extension of time if the request:
1. Specifies an ending date no later than October 31.
  2. Includes the required documentation and attestation.
  3. Is submitted no sooner than April 30, and

4. Will facilitate the safe and professional regulation of nursing care institutions or assisted living facilities in this state.

**R4-33-503. Audit of Compliance and Sanction for Noncompliance with Continuing Education Requirement**

**A.** The Board may audit a licensee or certificate holder for compliance with the continuing education requirement at any time.

**B.** When notice of the need to renew a license or certificate is provided, the Board shall also provide notice of an audit of continuing education records to a random sample of administrators or managers. An administrator or manager subject to a continuing education audit shall submit the documentation required under R4-33-501(D) at the same time that the administrator or manager submits the renewal application required under R4-33-206 or R4-33-405. If an administrator or manager fails to submit the required documentation with the renewal application on or before June 30, the license or certificate expires unless the administrator or manager obtains an extension of time in which to complete the continuing education requirement ~~under R4-33-504.~~

**R4-33-504. Extension of Time to Complete the Continuing Education Requirement Repealed**

**A.** ~~To obtain an extension of time under A.R.S. § 36-446.07(G) to complete the continuing education requirement, an administrator or manager shall submit to the Board a written request that includes the following:~~

- ~~1. Ending date of the requested extension;~~
- ~~2. Continuing education completed during the current biennial period and the documentation required under R4-33-501(D);~~
- ~~3. Proof of registration for additional continuing education that is sufficient to enable the administrator or manager to fulfill the continuing education requirement before the end of the requested extension; and~~
- ~~4. Administrator's or manager's attestation that the continuing education obtained under the extension will be reported only to fulfill the current renewal requirement and will not be reported on a subsequent renewal application.~~

**B.** ~~The Board shall grant an extension of time within seven days after receiving a request for an extension of time if the request:~~

- ~~1. Specifies an ending date no later than October 31;~~
- ~~2. Includes the required documentation and attestation;~~
- ~~3. Is submitted no sooner than April 30; and~~

4. ~~Will facilitate the safe and professional regulation of nursing care institutions or assisted living facilities in this state.~~

**R4-33-707. Minimum Standards for an Assisted Living Facility On-the-job Caregiver Training Program**

**A. In this Section:**

1. “Direct supervision” has the same meaning as specified at A.R.S. § 36-446.16(C).
2. “Five years of experience,” as used in A.R.S. § 36-446.16(A)(1)(a)(v), means a certified assisted living facility manager has been the manager of record for at least five years at an assisted living facility.
3. “Manager of record” means a certified assisted living facility manager for whom notice of appointment is provided under R4-33-410.
4. “OTJ” means on-the-job, a form of training that provides an employee with knowledge and skills essential to adequate job performance.

**B. Before implementing an OTJ training program, the owner of the assisted living facility at which the OTJ training program will be implemented shall apply to the Board to have the OTJ training program approved.**

**C. To apply for Board approval under subsection (B), the owner of the assisted living facility shall submit an application packet that contains:**

1. Name, address, telephone number, and e-mail address of the owner of the assisted living facility;
2. Name, telephone number, e-mail address, and certificate number of the assisted living facility manager of record;
3. A statement of who will be responsible for providing oversight of the OTJ training program. If oversight will be provided by someone other than the owner or manager of record, the name, telephone number, e-mail address, and occupational license number of the individual who will be responsible;
4. License number of the assisted living facility at which the OTJ training program will be provided;
5. A written description of the OTJ training program that includes:
  - a. A statement of pre-requisites for being employed by the assisted living facility and becoming a participant in the OTJ training program including any criminal background or drug testing required;
  - b. An acknowledgment that the OTJ training program will be provided only to individuals who:
    - i. Are employed at the assisted living facility;

- ii. Are being paid and receiving the same benefits as other caregivers employed at the assisted living facility;
    - iii. Have a valid fingerprint clearance card; and
    - iv. Have a current food-handler's card issued by the county in which the individual lives;
  - c. A statement of whether any hours of the OTJ training program will involve classroom instruction and if so, the number of hours and curriculum subjects, as specified in R4-33-703(C), that will be taught by classroom instruction;
  - d. An acknowledgement that none of the hours of the OTJ training program will be taught by distance learning;
  - e. An acknowledgement that the OTJ training program will consist of at least 62 hours of training covering all the curriculum subjects specified in R4-33-703(C); and
  - f. An acknowledgment that the OTJ training program complies with A.R.S. § 36-446.16(A)(1)(v) regarding direct supervision of the OTJ training program by the manager of record.
6. A copy of the license or certificate, as specified in A.R.S. § 36-446.16(A)(1), of each health professional who will provide direct supervision of the OTJ training program;
  7. A copy of written policies and procedures regarding:
    - a. Ensuring each individual in the OTJ training program receives at least 62 hours of training covering all the curriculum subjects specified in R4-33-703(C);
    - b. Examining and evaluating each individual as specified in R4-33-702(H);
    - c. Maintaining records of the OTJ training provided to each individual as specified in R4-33-702(A)(2)(d);
    - d. Termination of or quitting by an individual participating in the OTJ training program;
    - e. Criteria for completing the OTJ training program and procedure for ensuring each individual in the OTJ training program is informed of the criteria; and
    - f. Frequency and documentation of updating the written policies and procedures;
  8. A copy of a skills checklist used to verify that each individual in the OTJ training program acquires the skills listed in R4-33-703(C) and necessary to function competently as an assisted living facility caregiver;
  9. A copy of the evidence of completion provided within 15 days to each individual who completes the OTJ training program;
  10. A copy of the written information provided to each individual in the OTJ training program regarding how and to whom to submit a complaint regarding a grade, quality of training, failure to comply with this Section, discrimination, termination, or other issue;

11. The fee specified at R4-33-104(D); and
  12. Signature of the owner of the assisted living facility at which the OTJ training program will be provided attesting that the information provided is complete and accurate.
- D.** After receiving Board approval of the OTJ training program, the owner of the assisted living facility for which the approval was provided shall ensure the following responsibilities are performed:
1. Within 15 days after an individual completes the OTJ training program, provide to the Board the information specified in R4-33-702(A)(5)(a), (b), (g), and (h); and
  2. Maintain the following records in the caregiver's permanent employee file:
    - a. A copy of the caregiver's fingerprint clearance card and food-handler's card required under subsection (C)(5);
    - b. Written documentation, signed by and with the license number of the health professional providing direct supervision, of each hour of OTJ training provided to the caregiver;
    - c. A copy of the caregiver's completed skills checklist required under subsection (C)(8);
    - d. Results of the state-approved written examination taken by the caregiver showing the caregiver achieved the grade specified in R4-33-702(A)(2)(b);
    - e. Copy of the evidence of completion issued to the caregiver with the caregiver's signed and dated acknowledgement of receipt; and
    - f. A copy of any complaint submitted by the caregiver and records showing how the complaint was resolved.
- E.** The owner of an assisted living facility with a Board-approved OTJ training program shall allow the Board to conduct periodic evaluation, as described in R4-33-702(J), of the OTJ training program.
- F.** The approval of an OTJ training program expires one year after the date of approval. If the approval expires, the owner of the assisted living facility shall ensure the OTJ training program ceases. To renew approval of the OTJ training program, the owner of the assisted living facility shall submit to the Board a renewal application packet, which is available on the Board's web site, and the fee specified under R4-33-104(D).
- G.** The provisions of R4-33-706 are applicable to an OTJ training program.

**ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT<sup>1</sup>**

**TITLE 4. PROFESSIONS AND OCCUPATIONS**

**CHAPTER 33. BOARD OF EXAMINERS FOR NURSING CARE INSTITUTION**

**ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS**

1. Identification of the rulemaking:

Under Laws 2020, Chapter 73, the legislature added A.R.S. § 36-446.16 authorizing individuals to obtain training for employment as an assisted living facility caregiver through on-the-job (OTJ) training. The legislation required the Board to prescribe standards for the OTJ training. This rulemaking prescribes the required standards.

a. The conduct and its frequency of occurrence that the rule is designed to change:

Until the rulemaking is completed, the Board will not have fulfilled the legislative requirement that it prescribe standards for OTJ training for assisted living facility caregivers.

b. The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:

It is not good government for an agency not to comply with a legislative directive.

c. The estimated change in frequency of the targeted conduct expected from the rule change:

When the rulemaking is completed, the Board will have prescribed standards for OTJ training for assisted living facility caregivers and be in compliance with the legislature's directive.

2. A brief summary of the information included in the economic, small business, and consumer impact statement:

The primary economic benefit results from the statutory change. There will be positive benefits for individuals who train for employment as an assisted living facility caregiver on the job. These individuals will have the benefit of being employed while training and may receive the training without charge from their employing assisted living facility.

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<sup>1</sup> If adequate data are not reasonably available, the agency shall explain the limitations of the data, the methods used in an attempt to obtain the data, and characterize the probable impacts in qualitative terms. (A.R.S. § 41-1055(C)).

The only direct economic impact from this rulemaking will be on owners of assisted living facilities that decide to implement an OTJ training program for caregivers. These owners will be required to comply with the standards established in the rulemaking.

The rulemaking may indirectly impact the 48 owners of assisted living facility caregiver non-OTJ training programs who may see the number of participants in the non-OTJ training programs decrease as a result of OTJ training opportunities. Data collected since issuance of EO2020-28<sup>2</sup> show that those who participate in a non-OTJ caregiver training program have a first-time examination pass rate of 80 percent while those who participate in an OTJ caregiver training program have a first-time examination pass rate of 63 percent.

3. The person to contact to submit or request additional data on the information included in the economic, small business, and consumer impact statement:

Name: Allen Imig, Executive Director

Address: Board of Examiners for Nursing Care Administrators and Assisted Living  
Facility Managers  
1740 West Adams Street, Suite 2490  
Phoenix, AZ 85007

Telephone: (602) 364-2273

Fax: (602) 542-8316

E-mail: allen.imig@aznciaboard.us

4. Persons who will be directly affected by, bear the costs of, or directly benefit from the rulemaking:

The only persons that will be directly affected by, bear the costs of, and directly benefit from the rulemaking are owners of assisted living facilities that decide to implement an OTJ training program for caregivers and the Board. The owners will benefit from having the services of individuals training as caregivers during implementation of an OTJ training program. The owners will incur the cost of applying to the Board for approval of the OTJ training program and ensuring the OTJ training program complies with the standards established by the Board in this rulemaking.

The Board does not license the caregivers who may participate in an OTJ training program and does not license assisted living facilities. The Board does not know how many owners of

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<sup>2</sup> Executive Order 2020-28, issued April 14, 2020, On the Job Training for Assisted Living Facility Caregivers.

assisted living facilities will choose to implement an OTJ training program but 38 have chosen to do so under EO2020-28. Some of those may choose not to continue with OTJ training under the rules because of the application, fee, and standards involved. The Board estimates that 30 owners of assisted living facilities may choose to participate under the rules.

The Board incurred the minimal cost of establishing the OTJ training program standards in this rulemaking and will incur the minimal cost of implementing them. The cost of implementation will be offset by the fee required from the owner of an assisted living facility that chooses to implement an OTJ training program.

5. Cost-benefit analysis:

- a. Costs and benefits to state agencies directly affected by the rulemaking including the number of new full-time employees at the implementing agency required to implement and enforce the proposed rule:

The Board is the only state agency directly affected by the rulemaking. Its costs and benefits are identified in item 4. The Board will not require a new full-time employee to implement and enforce the rulemaking.

- b. Costs and benefits to political subdivisions directly affected by the rulemaking:

No political subdivision is directly affected by the rulemaking.

- c. Costs and benefits to businesses directly affected by the rulemaking:

Owners of assisted living facilities that choose to implement an OTJ training program will be directly affected by the rulemaking. Their costs and benefits are identified in item 4.

6. Impact on private and public employment:

There will be no impact on private or public employment.

7. Impact on small businesses<sup>3</sup>:

- a. Identification of the small business subject to the rulemaking:

Some owners of assisted living facilities are small businesses.

- b. Administrative and other costs required for compliance with the rulemaking:

An owner of an assisted living facility that chooses to implement an OTJ training program will incur the following costs for compliance with the rulemaking:

- Complete an application and apply to the Board for approval of the OTJ training program;
- Pay a fee for Board approval of the OTJ training program;

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<sup>3</sup> Small business has the meaning specified in A.R.S. § 41-1001(21).

- Design the OTJ training program consistent with the standards established by the Board;
- Ensure training is provided only by individuals qualified under A.R.S. § 36-446.16;
- Establish required written policies and procedures;
- Evaluate the skills developed by and knowledge of caregivers in the OTJ training program;
- Maintain required records;
- Allow the Board to conduct periodic evaluation of the OTJ training program; and
- Renew Board approval of the OTJ program annually.

c. Description of methods that may be used to reduce the impact on small businesses:

The Board believes it is not possible to reduce the impact of the OTJ training standards established on small businesses. The standards are designed to protect the health and safety of a vulnerable population. This protection requires that all caregivers directly providing care for the vulnerable population have the same training regardless of whether they are receiving the training at a large or small business.

8. Cost and benefit to private persons and consumers who are directly affected by the rulemaking:

No private persons or consumers will be directly affected by the rulemaking.

9. Probable effects on state revenues:

Ten percent of the fees paid by owners of assisted living facilities to obtain Board approval and renewal of an OTJ training program will be contributed to the state general fund. If the Board's assumption is correct that approximately 30 owners of assisted living facilities will seek this approval, the Board will receive \$45,000 in initial application fees and \$39,000 in annual renewal fees. As a result, the effect on state revenue will range from \$3,900 to \$4,500 per year.

10. Less intrusive or less costly alternative methods considered:

The Board believes the standards developed are the least intrusive and least costly possible. The Board was required by statute to develop the standards for implementing an OTJ training program for caregivers at assisted living facilities. The Board minimized intrusiveness and costs by making the standards for an OTJ training program similar to those previously established for other kinds of assisted living facility caregiver training programs.



From: **Karen Barno** <[KSBarno@azalfa.org](mailto:KSBarno@azalfa.org)>  
Date: Tue, Nov 24, 2020 at 2:40 PM  
Subject: Re: OJT rules question  
To: Allen Imig <[allen.imig@aznciaboard.us](mailto:allen.imig@aznciaboard.us)>

I realized that after I sent the email. I was looking at things the old way not the new more progressive way. Makes perfect sense. Thanks.

On Nov 24, 2020, at 2:35 PM, Allen Imig <[allen.imig@aznciaboard.us](mailto:allen.imig@aznciaboard.us)> wrote:

The point of on the job training is for that facility to train their own employees, not other communities employees.

Allen Imig  
Executive Director  
NCIA/ALFM Board of Examiners  
602-542-8156

On Tue, Nov 24, 2020 at 2:26 PM Karen Barno <[KSBarno@azalfa.org](mailto:KSBarno@azalfa.org)> wrote:  
So if a Provider trains people from another community they would need to go on the training communities payroll?

On Nov 24, 2020, at 2:16 PM, Allen Imig <[allen.imig@aznciaboard.us](mailto:allen.imig@aznciaboard.us)> wrote:

The intent is that the person is an employee of the facility, being paid (not necessarily at the same rate) and getting benefits as other caregivers might be getting. Other words, not volunteers, another facilities employees, other non-employees, etc,

Does that make sense?

Allen Imig  
Executive Director  
NCIA/ALFM Board of Examiners  
602-542-8156

On Tue, Nov 24, 2020 at 1:57 PM Karen Barno <[KSBarno@azalfa.org](mailto:KSBarno@azalfa.org)> wrote:

His there, I am sorry this took so long to send. It seems the OJT rules hearing date is creeping up. The Arizona ALFA board met Friday and requested that we ask for the line 5 b.ii. to be rewritten.

Not all people within the center/home will be a caregiver when going through the class. Some could be working in housekeeping, F&B, Maintenance etc. Paying them caregiver waging for a brief moment in time could be a logistical challenge. If the line could read for examples 'paid at the rate they are currently earning in the center/home UNLESS hired specially to take the OJT course.'

I believe that is what that Line is trying to say but is not clear to all who read it.

Agree?

Karen

10:41 AM  
(13 minutes  
ago)

**Allen Imig**

to me

Here are notes from Oral proceeding.

Pam Koester spoke regarding R4-33-707(C)(5)(b)(ii). that this part should be stuck from the rules, an OTJ employee is not paid the same as caregivers. If a housekeeper is doing OTJ they will still be paid as a housekeeper and not as a caregiver. Don't want the Board telling businesses how much to pay employees.

Pam also addressed R4-33-707(C)(5)(f) Her Board members read it differently than the statute. The statute says, may do 31 hours. The rule reads, will do. They read it to say a manager must do 31 hours of the training.

Let me know what needs to be done next.

Thanks,

Allen Imig  
Executive Director  
NCIA/ALFM Board of Examiners  
602-542-8156

CHAPTER 33. BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS

**ARTICLE 1. GENERAL**

**R4-33-101. Definitions**

The definitions in A.R.S. § 36-446 apply to this Chapter. Additionally, in this Chapter, unless otherwise specified:

“Accredited” means approved by the North Central Association of Colleges and Secondary Schools, New England Association of Schools and Colleges, Middle States Association of Colleges and Secondary Schools, Northwest Association of Schools and Colleges, Southern Association of Colleges and Schools, or Western Association of Schools and Colleges.

“ACHCA” means the American College of Health Care Administrators.

“Administrator” has the meaning prescribed at A.R.S. § 36-446 and means an individual licensed under this Chapter.

“Administrator in training” or “AIT” means an individual who is taking an AIT program to be licensed as an administrator for a nursing care institution.

“AIT program” means a training that the Board approves after determining that the training meets the standards at R4-33-302.

“Applicant” means an individual who applies to the Board to be licensed as an administrator of a nursing care institution, to be certified as a manager of an assisted living facility, or for approval of a continuing education.

“Application package” means the forms, documents, and fees that the Board requires an applicant to submit or have submitted on the applicant’s behalf.

“Arizona examination” means a measure of an applicant’s knowledge of Arizona statutes and rules regarding nursing care institution administration or assisted living facility management.

“Biennial period” means July 1 of an even-numbered year through June 30 of the next even-numbered year for an administrator and July 1 of an odd-numbered year through June 30 of the next odd-numbered year for a manager.

“Contact hour” means an hour during which an administrator or manager is physically present at a continuing education or a manager is physically present at a required initial training.

“Continuing education” means a planned educational course or program that the Board approves under R4-33-502.

“Good standing” means an individual licensed by the state is not subject to any disciplinary action or consent order, and not currently under investigation for alleged unprofessional conduct.

“Health care institution” means every place, institution, building or agency, whether organized for profit or not, which provides facilities with medical services, nursing services, health screening services, other health-related services, supervisory care services, personal care services or directed care services and includes home health agencies as defined in A.R.S. § 36-151 and hospice services agencies. A.R.S. § 36-401.

“Manager” means an assisted living facility manager, as defined at A.R.S. § 36-446, who is certified under this Chapter.

“NAB” means the National Association of Long Term Care Administrator Boards.

“Party” has the same meaning as prescribed in A.R.S. § 41-1001.

“Preceptor” means a practicing nursing care institution administrator who helps to develop a new professional in the field of long-term care administration by tutoring the new professional.

“Qualified instructor” means a person who meets one or more of the following criteria:

A registered nurse, licensed under A.R.S. Title 32, Chapter 15;

An instructor employed by an accredited college or university, or health care institution to teach a health-care related course; or

A person or entity that has sufficient education and training to be qualified to teach a health-care related course.

“Work experience in a health-related field” means employment in a health care institution or in the professional fields of medicine, nursing, social work, gerontology, or other closely related field.

**Historical Note**

Section R4-33-101 renumbered from R4-33-112 and amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1). Amended by final rulemaking at 21 A.A.R. 543, effective June 6, 2015 (Supp. 15-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

**R4-33-102. Board Officers**

- A. At its first annual meeting, the Board shall elect a president and vice-president.
- B. The functions, duties, and limitations of these officers are as follows:
  1. President. The president shall call and preside at all Board meetings. The president shall act as chief officer of the Board, appoint committees, and delegate authority to other members of the Board as needed.
  2. Vice-president. The vice-president shall preside at Board meetings in the absence of the president and may exercise all the powers and duties of the president in the absence of the president.
- C. Board officers serve for one year. A Board officer shall not serve more than two consecutive years in the same position.

**Historical Note**

Section R4-33-102 renumbered from R4-33-113 and amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1).

**R4-33-103. Time Frames for Licenses, Certifications, and Approvals**

- A. For each type of license, certification, or approval issued by the Board, the overall time frame described in A.R.S. § 41-1072(2) is listed in Table 1.

CHAPTER 33. BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS

- B. For each type of license, certification, or approval issued by the Board, the administrative completeness review time frame described in A.R.S. § 41-1072(1) is listed in Table 1 and begins on the date the Board receives an application package.
  - 1. If an application package is not administratively complete, the Board shall send a deficiency notice to the applicant that specifies each piece of information or document needed to complete the application package. Within the time provided in Table 1 for response to a deficiency notice, beginning on the mailing date of the deficiency notice, the applicant shall submit to the Board the missing information or document specified in the deficiency notice. The time frame for the Board to finish the administrative completeness review is suspended from the date the Board mails the deficiency notice to the applicant until the date the Board receives the missing information or document.
  - 2. If an application package is administratively complete, the Board shall send a written notice of administrative completeness to the applicant.
  - 3. If an application package is not completed within the time provided to respond to the deficiency notice, the Board shall send a written notice to the applicant informing the applicant that the application is deemed withdrawn.
- C. For each type of license, certification, or approval issued by the Board, the substantive review time frame described in A.R.S. § 41-1072(3) is listed in Table 1 and begins on the date the Board sends written notice of administrative completeness to the applicant.
  - 1. During the substantive review time frame, the Board may make one comprehensive written request for additional information. Within the time provided in Table 1 for response to a comprehensive written request for additional information, beginning on the mailing date of the comprehensive written request for additional information, the applicant shall submit to the Board the requested additional information. The time frame for the Board to finish the substantive review is suspended from the date the Board mails the comprehensive written request for additional information to the applicant until the Board receives the requested additional information.
- D. Within the overall time frame listed in Table 1, the Board shall:
  - 1. Deny a license, certificate, or approval to an applicant if the Board determines the applicant does not meet all of the substantive criteria required by statute and this Chapter; or
  - 2. Grant a license, certificate, or approval to an applicant if the Board determines the applicant meets all of the substantive criteria required by statute and this Chapter.
- E. If the Board denies a license, certificate, or approval under subsection (D)(1), the Board shall provide a written notice of denial to the applicant that explains:
  - 1. The reason for the denial, with citations to supporting statutes or rules;
  - 2. The applicant's right to seek a fair hearing to challenge the denial; and
  - 3. The time for appealing the denial.
- F. In computing any period of time prescribed in this Section, the day of the act, event, or default after which the designated period of time begins to run is not included. The last day of the period is included unless it is Saturday, Sunday, or a state holiday, in which event the period runs until the end of the next day that is not Saturday, Sunday, or a state holiday. The computation includes intermediate Saturdays, Sundays, and state holidays. The time begins on the date of personal service, date shown as received on a certified mail receipt, or postmark date.

**Historical Note**

Section R4-33-103 adopted by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

**Table 1. Time Frames (in days)**

Type of License	Overall Time Frame	Administrative Review Time Frame	Time to Respond to Deficiency Notice	Substantive Review Time Frame	Time to Respond to Request for Additional Information
Initial License R4-33-201 and R4-33-202 A.R.S. §§ 36-446.04(A) and 36-446.05	135	30	90	105	60
Renewal of License R4-33-206 A.R.S. § 36-446.07(E)	75	30	15	45	15
Temporary License R4-33-203 A.R.S. § 36-446.06	135	30	90	105	60
Continuing Education Program Approval R4-33-502 A.R.S. § 36-446.07(E) and (F)	60	15	30	45	15
Administrator-in-Training Program Approval R4-33-301 A.R.S. § 36-446.04	60	15	30	45	15

CHAPTER 33. BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS

Type of License	Overall Time Frame	Administrative Review Time Frame	Time to Respond to Deficiency Notice	Substantive Review Time Frame	Time to Respond to Request for Additional Information
Initial Certification R4-33-401 A.R.S. § 36-446.04(B)	135	30	90	105	60
Renewal of Certification R4-33-405 A.R.S. § 36-446.07(F)	75	30	15	45	15
Temporary Certification R4-33-402 A.R.S. § 36-446.06	135	30	90	105	60
Initial Approval of an Assisted Living Facility Manager or Caregiver Training Program R4-33-604, R4-33-704, R4-33-704.1, A.R.S. § 36-446.03(O)	120	60	60	60	60
Renewal Approval of an Assisted Living Facility Manager or Caregiver Training Program R4-33-605, R4-33-705, R4-33-705.1, A.R.S. § 36-446.03(O)	120	60	30	60	30

**Historical Note**

Table 1 adopted by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

**R4-33-104. Fees**

**A.** Under the authority provided at A.R.S. § 36-446.12(A), the Board establishes and shall collect the following fees related to nursing care institution administrators. The fees are nonrefundable unless A.R.S. § 41-1077 applies:

1. Initial application, \$150;
2. Arizona examination, \$500;
3. Re-administer Arizona examination, \$150;
4. Issuance of a license, \$400 or \$17 for each month remaining in the biennial period, whichever is less;
5. Duplicate license, \$75;
6. Biennial active license renewal, \$400;
7. Biennial inactive license renewal, \$200;
8. Late renewal, \$100;
9. Temporary license, \$300;
10. Certify licensure status, \$15;
11. Review sponsorship of a continuing education, \$10 per credit hour;
12. Review a licensed administrator’s request for continuing education credit, \$5 per credit hour.

**B.** Under the authority provided at A.R.S. § 36-446.03(B), the Board establishes and shall collect the following fees related to assisted living facility managers. The fees are nonrefundable unless A.R.S. § 41-1077 applies:

1. Initial application, \$150;
2. Arizona examination, \$150;
3. Re-administer Arizona examination, \$150;
4. Issuance of a certificate, \$150 or \$7 for each month remaining in the biennial period, whichever is less;
5. Duplicate certificate, \$75;
6. Biennial active certificate renewal, \$150;
7. Biennial inactive certificate renewal, \$100;
8. Late renewal, \$75;
9. Temporary certificate, \$100;

10. Review sponsorship of a continuing education, \$10 per credit hour;

11. Review a certified manager’s request for continuing education credit, \$5 per credit hour.

**C.** Under the authority provided at A.R.S. § 36-446.03(B), the Board establishes and shall collect the following fees related to approval of an assisted living facility manager training program. The fees are nonrefundable unless A.R.S. § 41-1077 applies:

1. Initial approval, \$1,000; and
2. Renewal approval, \$600.

**D.** Under the authority provided at A.R.S. § 36-446.03(B), the Board establishes and shall collect the following fees related to approval of an assisted living facility caregiver training program. The fees are nonrefundable unless A.R.S. § 41-1077 applies:

1. Initial approval, \$1,500; and
2. Renewal approval, \$1,300.

**E.** Under the authority provided at A.R.S. § 36-446.03(B), the Board establishes and shall collect the following fees related to approval of an assisted living facility caregiver medication management training program. The fees are nonrefundable unless A.R.S. § 41-1077 applies:

1. Initial approval, \$300; and
2. Renewal approval, \$250.

**F.** The Board shall ensure that fees established under this subsection are not increased by more than 25 percent above the amounts previously prescribed by the Board.

**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 805, effective April 13, 2004 (Supp. 04-1). Amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 15 A.A.R. 1975, effective November 3, 2009 (Supp. 09-4). Amended by final rulemaking at 19 A.A.R. 1619, effective

CHAPTER 33. BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS AND ASSISTED LIVING FACILITY MANAGERS

tive August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

**R4-33-105. Hearing Procedures**

As required under A.R.S. § 36-446.07(J), the Board shall conduct all hearings according to the procedures in A.R.S. Title 41, Chapter 6, Article 10 and rules issued by the Office of Administrative Hearings.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

**R4-33-106. Rehearing or Review of Decision**

- A.** The Board shall provide for a rehearing and review of its decisions under A.R.S. Title 41, Chapter 6, Article 10 and the rules established by the Office of Administrative Hearings.
- B.** Except as provided in subsection (I), a party is required to file a motion for rehearing or review of a decision of the Board to exhaust the party's administrative remedies.
- C.** A party may amend a motion for rehearing or review at any time before the Board rules on the motion.
- D.** The Board may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
1. Irregularity in the proceedings of the Board or any order or abuse of discretion that deprived the moving party of a fair hearing;
  2. Misconduct of the Board, its staff, or an administrative law judge;
  3. Accident or surprise that could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
  5. Excessive or insufficient penalty;
  6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings; and
  7. The findings of fact or decision is not justified by the evidence or is contrary to law.
- E.** The Board may affirm or modify a decision or grant a rehearing or review to all or some of the parties on all or some of the issues for any of the reasons listed in subsection (D). An order modifying a decision or granting a rehearing or review shall specify with particularity the grounds for the order. If a rehearing or review is granted, the rehearing or review shall cover only the matters specified in the order.
- F.** Not later than 30 days after the date of a decision and after giving the parties notice and an opportunity to be heard, the Board may, on its own initiative, order a rehearing or review of its decision for any reason it might have granted a rehearing or review on motion of a party. The Board may grant a motion for rehearing or review, timely served, for a reason not stated in the motion. An order granting a rehearing or review shall specify with particularity the grounds on which the rehearing or review is granted.
- G.** When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits. This period may be extended by the Board for a maximum of 20 days for good cause as described in subsection (H) or by written stipulation of the parties. Reply affidavits may be permitted.
- H.** The Board may extend all time limits listed in this Section upon a showing of good cause. A party demonstrates good cause by showing that the grounds for the party's motion or

other action could not have been known in time, using reasonable diligence, and a ruling on the motion will:

1. Further administrative convenience, expedition, or economy; or
  2. Avoid undue prejudice to any party.
- I.** If, in a particular decision, the Board makes a specific finding that the immediate effectiveness of the decision is necessary for immediate preservation of the public health, safety, or welfare and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If an application for judicial review of the decision is made, it shall be made under A.R.S. § 12-901 et seq.

**Historical Note**

Section R4-33-106 renumbered from R4-33-209 and amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

**R4-33-107. Change of Name or Address**

- A.** The Board shall communicate with an administrator or manager using the name and address in the Board's records. To ensure timely communication from the Board, an administrator or manager shall inform the Board in writing of any change in name or address.
- B.** An administrator or manager shall include in a notice of change in name or address either the new and former name or new and former address.
- C.** An administrator or manager shall attach to a notice of change in name a copy of the legal document changing the name.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

**R4-33-108. Display of License or Certificate**

- A.** An administrator shall display the administrator's original license and current renewal receipt in a conspicuous place in the nursing care institution at which the administrator is appointed.
- B.** A manager shall display the manager's original certificate and current renewal receipt in a conspicuous place in the assisted care facility at which the manager is appointed.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 21 A.A.R. 543, effective June 6, 2015 (Supp. 15-2).

**R4-33-109. Fingerprint Clearance Card Requirement**

Under A.R.S. § 36-446.04, an administrator or manager is required to maintain a valid fingerprint clearance card during the biennial period. Within 10 days after the referenced action, an administrator or manager shall:

1. Submit to the Board a photocopy of the front and back of a new fingerprint clearance card issued to the administrator or manager during the biennial period, or
2. Provide written notice to the Board if:
  - a. The fingerprint clearance card of the administrator or manager is suspended or revoked, or
  - b. The administrator or manager is denied a new fingerprint clearance card.

**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1).

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**R4-33-110. Reserved****R4-33-111. Repealed****Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-11 renumbered as Section R4-33-111 (Supp. 82-1). Emergency amendment effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Emergency repeal adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency repeal adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency repeal adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency repeal adopted again effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency expired. Section repealed by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-112. Renumbered****Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Amended effective July 24, 1978 (Supp. 78-4). Former Section R4-33-112 renumbered and amended as Section R4-33-112 (Supp. 82-1). Emergency amendments effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Amended effective August 6, 1991 (Supp. 91-3). Emergency amendments effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency amendments adopted again with changes effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency amendments adopted again with changes effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Emergency amendments adopted again with changes effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Amended with changes effective November 25, 1992 (Supp. 92-4). Final Section R4-33-112 renumbered to R4-33-101 at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-113. Renumbered****Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Former Section R4-33-13 renumbered as Section R4-33-113 (Supp. 82-1). Final Section R4-33-113 renumbered to R4-33-102 at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1).

**R4-33-114. Repealed****Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-14 renumbered and amended as Section R4-33-114 (Supp. 82-1). Section R4-33-114 renumbered by emergency action to R4-33-201 effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Repealed effective August 6, 1991 (Supp. 91-3).

**R4-33-115. Renumbered****Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-15 renumbered and amended as Section R4-33-115 (Supp. 82-1). Section R4-33-115 renumbered to R4-33-202 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Amended effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-115 renumbered to R4-33-201 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-115 renumbered to R4-33-201 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-115 renumbered to R4-33-201 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-115 renumbered to R4-33-201 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-115 renumbered to R4-33-201 effective November 25, 1992 (Supp. 92-4).

**R4-33-116. Renumbered****Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-16 renumbered as Section R4-33-116 (Supp. 82-1). Section R4-33-116 renumbered to R4-33-203 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Amended effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-116 renumbered to R4-33-202 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-116 renumbered to R4-33-202 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-116 renumbered to R4-33-202 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-116 renumbered to R4-33-202 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-116 renumbered to R4-33-202 effective November 25, 1992 (Supp. 92-4).

**R4-33-117. Renumbered****Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-17 renumbered and amended as Section R4-33-117 (Supp. 82-1). Section R4-33-117 renumbered to R4-33-204 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Amended effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-117 renumbered to R4-33-203 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-117 renumbered to R4-33-203 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-117 renumbered to R4-33-203 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-117 renumbered to R4-33-203 by emergency action effective

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September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-117 renumbered to R4-33-203 effective November 25, 1992 (Supp. 92-4).

**R4-33-118. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-18 renumbered as Section R4-33-118 and repealed effective February 10, 1982 (Supp. 82-1). Section R4-33-118 renumbered to R4-33-205 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). New Section R4-33-118 adopted effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-118 renumbered to R4-33-205 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Section R4-33-118 renumbered to R4-33-204 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-118 renumbered to R4-33-204 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-118 renumbered to R4-33-204 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-118 renumbered to R4-33-204 effective November 25, 1992 (Supp. 92-4).

**R4-33-119. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Amended effective July 24, 1978 (Supp. 78-4). Former Section R4-33-19 renumbered as Section R4-33-119 and repealed, new Section R4-33-119 adopted effective February 10, 1982 (Supp. 82-1). Amended effective May 2, 1984 (Supp. 84-3). Amended as an emergency effective October 2, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-4). Emergency expired. Emergency amendments readopted without change effective January 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-1). Emergency amendments readopted without change effective April 3, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days; amended effective June 14, 1990 (Supp. 90-2). Section R4-33-119 renumbered to R4-33-206 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Amended effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-119 renumbered to R4-33-206 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-119 renumbered to R4-33-205 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-119 renumbered to R4-33-205 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-119 renumbered to R4-33-205 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-119 renumbered to R4-33-205 effective November 25, 1992 (Supp. 92-4).

**R4-33-120. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Amended effective July 24, 1978 (Supp. 78-4). Former Section R4-33-20 renumbered and amended as Section R4-33-120 (Supp. 82-1). Amended effective August 6, 1991 (Supp. 91-3). Section R4-33-120 renumbered to R4-33-207 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Amended effective August 6, 1991 (Supp. 91-3). Section R4-33-120 renumbered to R4-33-207 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-120 renumbered to R4-33-206 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-120 renumbered to R4-33-206 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-120 renumbered to R4-33-206 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-120 renumbered to R4-33-206 effective November 25, 1992 (Supp. 92-4).

**R4-33-121. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-21 renumbered and amended as Section R4-33-121 (Supp. 82-1). Section R4-33-121 renumbered to R4-33-208 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-121 renumbered to R4-33-208 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-121 renumbered to R4-33-207 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-121 renumbered to R4-33-207 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-121 renumbered to R4-33-207 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-121 renumbered to R4-33-207 effective November 25, 1992 (Supp. 92-4).

**R4-33-122. Renumbered**

**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Former Section R4-33-22 renumbered as Section R4-33-122 (Supp. 82-1). Section R4-33-122 renumbered to R4-33-209 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-122 renumbered to R4-33-209 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-122 renumbered to R4-33-208 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-122 renumbered to R4-33-208 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-122 renumbered to R4-33-208 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3).

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10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-122 renumbered to R4-33-208 effective November 25, 1992 (Supp. 92-4).

**R4-33-123. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-23 renumbered as Section R4-33-123 (Supp. 82-1). Section R4-33-123 renumbered to R4-33-210 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-123 renumbered to R4-33-210 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-123 renumbered to R4-33-209 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-123 renumbered to R4-33-209 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-123 renumbered to R4-33-209 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-123 renumbered to R4-33-209 effective November 25, 1992 (Supp. 92-4).

**R4-33-124. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-24 renumbered as Section R4-33-124 (Supp. 82-1). Section R4-33-124 renumbered to R4-33-211 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-124 renumbered to R4-33-211 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-124 renumbered to R4-33-210 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-124 renumbered to R4-33-210 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-124 renumbered to R4-33-210 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-124 renumbered to R4-33-210 effective November 25, 1992 (Supp. 92-4).

**R4-33-125. Renumbered**

**Historical Note**

Section R4-33-125 renumbered to R4-33-211 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-125 renumbered to R4-33-211 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-125 renumbered to R4-33-211 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-125 renumbered to R4-33-211 effective November 25, 1992 (Supp. 92-4).

**R4-33-126. Renumbered**

**Historical Note**

Adopted effective August 6, 1991 (Supp. 91-3). Former

Section R4-33-126 renumbered to R4-33-212 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-126 renumbered to R4-33-212 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-126 renumbered to R4-33-212 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-126 renumbered to R4-33-212 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-126 renumbered to R4-33-212 effective November 25, 1992 (Supp. 92-4).

**R4-33-127. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-27 renumbered and amended as Section R4-33-127 (Supp. 82-1). Section R4-33-127 renumbered to R4-33-212 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Repealed effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-127 renumbered to R4-33-213 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-127 renumbered to R4-33-213 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-127 renumbered to R4-33-213 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-127 renumbered to R4-33-213 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-127 renumbered to R4-33-213 effective November 25, 1992 (Supp. 92-4).

**R4-33-128. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-28 renumbered as Section R4-33-128 (Supp. 82-1). Section R4-33-128 renumbered to R4-33-213 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-128 renumbered to R4-33-214 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-128 renumbered to R4-33-214 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-128 renumbered to R4-33-214 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-128 renumbered to R4-33-214 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-128 renumbered to R4-33-214 effective November 25, 1992 (Supp. 92-4).

**R4-33-129. Renumbered**

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-29 renumbered as Section R4-33-129 and

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repealed effective February 10, 1982 (Supp. 82-1). Section R4-33-129 renumbered to R4-33-214 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Emergency expired. Section R4-33-129 renumbered to R4-33-215 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-129 renumbered to R4-33-215 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-129 renumbered to R4-33-215 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-129 renumbered to R4-33-215 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-129 renumbered to R4-33-215 effective November 25, 1992 (Supp. 92-4).

**R4-33-130. Renumbered**

**Historical Note**

Adopted effective July 24, 1989 (Supp. 78-4). Former Section R4-33-30 renumbered as Section R4-33-130 and repealed, new Section R4-33-130 adopted effective February 10, 1982 (Supp. 82-1). Amended effective August 6, 1991 (Supp. 91-3). Section R4-33-130 renumbered to R4-33-215 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Amended effective August 6, 1991 (Supp. 91-3). Emergency expired. Section R4-33-130 renumbered to R4-33-216 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Section R4-33-130 renumbered to R4-33-216 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Section R4-33-130 renumbered to R4-33-216 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. Section R4-33-130 renumbered to R4-33-216 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-130 renumbered to R4-33-216 effective November 25, 1992 (Supp. 92-4).

**ARTICLE 2. NURSING CARE INSTITUTION ADMINISTRATOR LICENSING**

*Article 2, consisting of Sections R4-33-201 through R4-33-207 and R4-33-209 through R4-33-215, renumbered from R4-33-115 through R4-33-124 and R4-33-127 through R4-33-130 effective November 25, 1992 (Supp. 92-3).*

*Article 2, consisting of Sections R4-33-201 through R4-33-207 and R4-33-209 through R4-33-215, renumbered by emergency action from R4-33-115 through R4-33-124 and R4-33-127 through R4-33-130 effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2).*

*Article 2, consisting of Sections R4-33-201 through R4-33-215, renumbered by emergency action from R4-33-114 through R4-33-124 and R4-33-127 through R4-33-130 effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2).*

**R4-33-201. Requirements for Initial License by Examination**

To be eligible to receive an initial license by examination as a nursing care institution administrator, an individual shall:

1. Education and training.

- a. Hold a minimum of a baccalaureate degree from an accredited college or university and successfully complete an AIT program;
  - b. Hold a minimum of a master's degree in either a health-related field or business administration from an accredited college or university; or
  - c. Hold a minimum of an associate of arts degree in nursing from an accredited college or university and:
    - i. Be currently licensed as a registered nurse under A.R.S. § 32-1632,
    - ii. Have worked as a registered nurse for five of the last seven years, and
    - iii. Successfully complete an AIT program.
2. Examination.
    - a. Obtain the scaled passing scores on both the NAB core of knowledge and line of service examinations or qualify with NAB as a Health Services Executive, and
    - b. Obtain a score of at least 80 percent on the Arizona examination;
  3. Fingerprint clearance card. Have a valid fingerprint clearance card issued under A.R.S. Title 41, Chapter 12, Article 3.1; and
  4. Application. Submit all applicable information required under R4-33-204.

**Historical Note**

Adopted effective October 12, 1976 (Supp. 76-5). Former Section R4-33-15 renumbered and amended as Section R4-33-115 (Supp. 82-1). Section R4-33-202 renumbered from R4-33-115 by emergency action effective June 19, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-2). Amended effective August 6, 1991 (Supp. 91-3). Emergency expired. New Section R4-33-201 renumbered from R4-33-115 by emergency action effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). New Section R4-33-201 renumbered from R4-33-115 by emergency action effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). New Section R4-33-201 renumbered from R4-33-115 by emergency action effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency expired. New Section R4-33-201 renumbered from R4-33-115 by emergency action effective September 10, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Section R4-33-201 renumbered from R4-33-115 effective November 25, 1992 (Supp. 92-4). Text corrected to include amendments adopted effective August 6, 1991, which were inadvertently omitted (Supp. 95-2). Amended by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Former R4-33-201 renumbered to R4-33-204; new R4-33-201 renumbered from R4-33-204 and amended by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 516, effective April 5, 2008 (Supp. 08-1). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

**R4-33-202. Requirements for Initial License by Reciprocity**

To be eligible for an initial license by reciprocity as a nursing care institution administrator, an individual shall:

1. Substantially equivalent educational requirement.
  - a. Hold a minimum of a baccalaureate degree from an accredited college or university, or

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A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).  
New Section made by final rulemaking at 21 A.A.R. 543,  
effective June 6, 2015 (Supp. 15-2).

**R4-33-412. Repealed**

**Historical Note**

Section R4-33-412 renumbered from R4-33-312 by final rulemaking at 5 A.A.R. 423, effective January 15, 1999 (Supp. 99-1). Section repealed by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

**ARTICLE 5. CONTINUING EDUCATION**

**R4-33-501. Continuing Education Requirement**

- A.** Continuing education is a prerequisite of license or certificate renewal.
1. A licensed administrator shall obtain 50 credit hours of Board-approved continuing education during each biennial period. During the biennial period in which an administrator is initially licensed, the administrator shall obtain two credit hours of Board-approved continuing education for each month or part of a month remaining in the biennial period.
  2. A certified manager shall obtain 24 credit hours of Board-approved continuing education during each biennial period. During the biennial period in which a manager is initially certified, the manager shall obtain one credit hour of Board-approved continuing education for each month or part of a month remaining in the biennial period.
- B.** The Board shall award credit hours in an approved continuing education as follows:
1. Seminar or workshop. One credit hour of continuing education for each contact hour;
  2. Course at an accredited educational institution. Fifteen credit hours of continuing education for each course hour;
  3. Attendance at a business meeting of a national health care organization or of a state association affiliated with a national health care organization. One-half credit hour of continuing education for each business meeting attended;
  4. Self-study, online, or correspondence course. Approved credit hours of continuing education requested by the course provider;
  5. Serving as a preceptor. Two credit hours of continuing education for each month that an administrator serves as an AIT preceptor; and
  6. Teaching a Board-approved continuing education. One credit hour of continuing education for each hour taught.
- C.** The Board shall limit the number of credit hours of Board-approved continuing education awarded as follows:
1. No more than 40 percent of the required credit hours may be obtained using self-study, online, or correspondence courses;
  2. No more than 50 percent of the required credit hours may be obtained from serving as an AIT preceptor;
  3. Hours may be obtained for teaching a particular continuing education only once during each biennial period; and
  4. Hours that exceed the minimum required for a biennial period may not be carried over to a subsequent biennial period.
- D.** An administrator or manager shall obtain a certificate or other evidence of attendance from the provider of each continuing education attended that includes the following:
1. Name of the administrator or manager;
  2. License or certificate number of the administrator or manager;

3. Name of the continuing education;
4. Name of the continuing education provider;
5. Date, time, and location of the continuing education; and
6. Number of credit hours in the continuing education.

- E.** An administrator or manager shall maintain the evidence of attendance described in subsection (D) for three years and make the evidence available to the Board under R4-33-503 and as otherwise required under this Chapter.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).  
Amended by final rulemaking at 15 A.A.R. 1975, effective November 3, 2009 (Supp. 09-4).

**R4-33-502. Approval of Continuing Education**

- A.** The Board shall approve any continuing education approved by NAB or the ACHCA.
- B.** The Board shall approve a continuing education only if it is taught by a qualified instructor and addresses at least one of the following subject areas:
1. Laws regarding environmental health and safety,
  2. Principles of management,
  3. Psychology and principles of patient or resident care,
  4. Personal and social care,
  5. Therapeutic and supportive care and services in long-term or assisted care,
  6. Community health and social resources,
  7. Quality assurance,
  8. Ethics, and
  9. Recordkeeping.
- C.** To obtain the Board's approval of a continuing education, an administrator, manager, or continuing education provider shall:
1. Submit a form, which is available from the Board, containing the following information:
    - a. Title of the continuing education;
    - b. Name and address of the continuing education provider;
    - c. Name, telephone and fax numbers, and e-mail address of a contact person for the continuing education provider;
    - d. Date, time, and place at which the continuing education will be taught;
    - e. Whether the continuing education is intended for administrators or managers;
    - f. Subject matter of the continuing education;
    - g. Teaching methods and learning activities that will be used;
    - h. Learning objectives;
    - i. Description of how learning objectives will be evaluated;
    - j. Whether an examination will be given;
    - k. Number of continuing education hours requested; and
    - l. Signature of the person requesting approval of the continuing education.
  2. Submit the following documents:
    - a. Copy of any examination that will be given to those who attend the continuing education;
    - b. Curriculum vitae of each instructor;
    - c. Agenda of the continuing education showing the hours of instruction;
    - d. Certificate of attendance that meets the requirements in R4-33-501(D);

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- e. Copy of any brochure prepared regarding the continuing education; and
  - f. Fee required under R4-33-104.
- D. The Board's approval of a continuing education is valid for one year unless there is a change in subject matter, instructor, or hours of instruction. At the end of one year or when there is a change in subject matter, instructor, or hours of instruction, the continuing education provider shall apply again for approval.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

**R4-33-503. Audit of Compliance and Sanction for Noncompliance with Continuing Education Requirement**

When notice of the need to renew a license or certificate is provided, the Board shall also provide notice of an audit of continuing education records to a random sample of administrators or managers. An administrator or manager subject to a continuing education audit shall submit the documentation required under R4-33-501(D) at the same time that the administrator or manager submits the renewal application required under R4-33-206 or R4-33-405. If an administrator or manager fails to submit the required documentation with the renewal application on or before June 30, the license or certificate expires unless the administrator or manager obtains an extension of time in which to complete the continuing education requirement under R4-33-504.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

**R4-33-504. Extension of Time to Complete the Continuing Education Requirement**

- A. To obtain an extension of time under A.R.S. § 36-446.07(G) to complete the continuing education requirement, an administrator or manager shall submit to the Board a written request that includes the following:
1. Ending date of the requested extension,
  2. Continuing education completed during the current biennial period and the documentation required under R4-33-501(D),
  3. Proof of registration for additional continuing education that is sufficient to enable the administrator or manager to fulfill the continuing education requirement before the end of the requested extension, and
  4. Administrator's or manager's attestation that the continuing education obtained under the extension will be reported only to fulfill the current renewal requirement and will not be reported on a subsequent renewal application.
- B. The Board shall grant an extension of time within seven days after receiving a request for an extension of time if the request:
1. Specifies an ending date no later than October 31,
  2. Includes the required documentation and attestation,
  3. Is submitted no sooner than April 30, and
  4. Will facilitate the safe and professional regulation of nursing care institutions or assisted living facilities in this state.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4075, effective December 4, 2006 (Supp. 06-4).

**ARTICLE 6. ASSISTED LIVING FACILITY MANAGER TRAINING PROGRAMS**

**R4-33-601. Definitions**

"Owner" means the person responsible for ensuring that an assisted living facility training program complies with this Article.

"Resident" means an individual who lives in an assisted living facility.

"Student cohort" means a group of individuals who begin participation in an assisted living facility training program at the same time.

**Historical Note**

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2).

**R4-33-602. Minimum Standards for Assisted Living Facility Manager Training Program**

- A. Organization and administration. The owner of an assisted living facility manager training program shall:
1. Provide the Board with a written description of the training program that includes:
    - a. Length of the training program in hours and days, and
    - b. Educational goals that demonstrate the training program is consistent with state requirements;
  2. Execute a written agreement with each assisted living facility at which students enrolled in the training program receive training that includes the following information:
    - a. The rights and responsibilities of both the facility and the training program,
    - b. The role and authority of the governing bodies of both the facility and the training program, and
    - c. A termination clause that provides time for students enrolled in the training program to complete training at the facility upon termination of the agreement;
  3. Develop and adhere to written policies and procedures regarding:
    - a. Attendance. Ensure that a student receives at least 40 hours of instruction;
    - b. Grading. Require a student to attain at least 75 percent on each theoretical examination or 75 percent on a comprehensive theoretical examination;
    - c. Reexamination. Inform students that a reexamination:
      - i. Addresses the same competencies examined in the original examination,
      - ii. Contains items different from those on the original examination, and
      - iii. Is documented in the student's record;
    - d. Student records. Include the following information:
      - i. Records maintained,
      - ii. Retention period for each record,
      - iii. Location of records,
      - iv. Documents required under subsections (E)(1) and (E)(2), and
      - v. Procedure for accessing records and who is authorized to access records;
    - e. Student fees and financial aid, if any;
    - f. Withdrawal and dismissal;
    - g. Student grievances including a chain of command for disputing a grade;
    - h. Admission requirements including any criminal background or drug testing required;
    - i. Criteria for training program completion; and
    - j. Procedure for documenting that a student has received notice of Board requirements for certification, including the fingerprint clearance card requirement, before the student is enrolled;

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- i. Falsified an application for assisted living facility manager training program approval under R4-33-604 or R4-33-605;
  - j. Violated an order, condition of probation, or stipulation issued by the Board; or
  - k. Failed to respond to a complaint filed with the Board.
2. The Board shall conduct hearings under A.R.S. Title 41, Chapter 6, Article 10.
  3. The Board shall include in an order suspending or revoking approval of an assisted living facility manager training program the time and circumstances under which the owner of the suspended or revoked training program may apply again under R4-33-604 for training program approval.
- D. Voluntary termination.** If the owner of an approved assisted living facility manager training program decides to terminate the training program, the owner shall:
1. Provide written notice of the planned termination to the Board; and
  2. Ensure that the training program, including the instructors, is maintained according to this Article until the last student is transferred or completes the training program.

**Historical Note**

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2).

**ARTICLE 7. ASSISTED LIVING FACILITY CAREGIVER TRAINING PROGRAMS**

**R4-33-701. Definitions**

In addition to the definitions in R4-33-601, the following definitions apply in this Article:

1. "CMA" means certified medication assistant, an LNA certified by the Arizona Board of Nursing under A.R.S. § 32-1650.02.
2. "CNA" means certified nursing assistant, an individual licensed by the Arizona Board of Nursing under A.R.S. § 32-1645.
3. "DCW" means direct-care worker, an individual who meets the standards and requirements specified in Section 1240(A) of the Arizona Health Care Cost Containment System policy manual.
4. "Distance learning" means the use of technology to teach students who may or may not be physically present in a classroom.
5. "LNA" means licensed nursing assistant, an individual licensed by the Arizona Board of Nursing under A.R.S. § 32-1645.
6. "Skills training" means experiential learning focused on acquiring the ability to provide caregiving services to residents.

**Historical Note**

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

**R4-33-702. Minimum Standards for Assisted Living Facility Caregiver Training Program**

**A. Organization and administration.** The owner of an assisted living facility caregiver training program shall:

1. Provide the Board with a written description of the training program that includes:
  - a. Length of the training program in hours:
    - i. Number of hours of classroom instruction,
    - ii. Number of hours of skills training, and

- iii. Number of hours of distance learning, and
  - b. Educational goals that demonstrate the training program is consistent with state requirements;
2. Develop and adhere to written policies and procedures regarding:
    - a. Attendance. Ensure that a student receives at least 62 hours of instruction;
    - b. Grading. Require a student to attain at least 75 percent on each knowledge examination or 75 percent on a comprehensive knowledge examination;
    - c. Reexamination. Inform students that a reexamination:
      - i. Addresses the same competencies examined in the original examination,
      - ii. Contains items different from those on the original examination, and
      - iii. Is documented in the student's record;
    - d. Student records. Include the following information:
      - i. Records maintained,
      - ii. Retention period for each record,
      - iii. Location of records,
      - iv. Documents required under subsections (G)(1) and (G)(2), and
      - v. Procedure for accessing records and who is authorized to access records;
    - e. Student fees and financial aid, if any;
    - f. Withdrawal and dismissal;
    - g. Student grievances including a chain of command for disputing a grade;
    - h. Admission requirements including any criminal background or drug testing required;
    - i. Criteria for training program completion; and
    - j. Procedure for documenting that a student has received notice of the fingerprint clearance card requirement before the student is enrolled;
  3. Date each policy and procedure developed under subsection (A)(2), review within one year from the date made and every year thereafter, update if necessary, and date the policy or procedure at the time of each review;
  4. Provide each student who completes the training program with evidence of completion, within 15 days of completion, which includes the following:
    - a. Name of the student;
    - b. Name and classroom location of the training program;
    - c. Number of classroom, skills training, and distance learning hours in the training program;
    - d. Date on which the training program was completed;
    - e. Board's approval number of the training program; and
    - f. Signature of the training program owner, administrator, or instructor;
  5. Provide the Board, within 15 days of completion, the following information regarding each student who completed the training program:
    - a. Student's name, date of birth, Social Security number, address, and telephone number;
    - b. Student's examination score as provided by a Board-approved provider;
    - c. Name and classroom location of the training program;
    - d. Number of classroom hours in the training program;
    - e. Number of distance learning hours in the training program;

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- f. Number of skills training hours in the training program;
  - g. Date on which the training program was completed; and
  - h. Board's approval number of the training program; and
6. Execute and maintain under subsections (G)(1) and (G)(2) the following documents for each student:
- a. A skills checklist containing documentation the student achieved competency in the assisted living facility caregiver skills listed in R4-33-703(C),
  - b. A copy of the current food-handler's card issued to the student by the county in which the student lives, and
  - c. An evaluation form containing the student's responses to questions about the quality of the instructional experiences provided by the training program.
- B.** Program administrator responsibilities. The owner of an assisted living facility caregiver training program shall ensure that a program administrator performs the following responsibilities:
- 1. Supervises and evaluates the training program,
  - 2. Uses only instructors who are qualified under subsection (C), and
  - 3. Makes the written policies and procedures required under subsection (A)(2) available to each student on or before the first day of the training program;
- C.** The owner of an assisted living facility caregiver training program shall ensure that a program instructor is qualified under subsection (C)(1), (C)(2), or (C)(3):
- 1. Is a certified assisted living facility manager:
    - a. Holds an assisted living facility manager certificate that is in good standing and issued under A.R.S. Title 36, Chapter 4;
    - b. Has held the assisted living facility manager certificate referenced in subsection (C)(1)(a) for at least two years;
    - c. Has not been subject to disciplinary action against the assisted living facility manager certificate during the last two years; and
    - d. Has at least two years' experience within the last five years as an assisted living facility manager of record immediately before becoming a training program instructor;
  - 2. Is a licensed health professional:
    - a. Holds a license that is in good standing and issued under A.R.S. Title 32, Chapter, 13, 15, 17, or 25;
    - b. Has held the health professional license referenced in subsection (C)(2)(a) for at least two years;
    - c. Has not been subject to disciplinary action against the health professional license during the last two years; and
    - d. Has at least two years' experience within the last five years in management, operation, or training in assisted living immediately before becoming a training program instructor; or
  - 3. Other qualified individual:
    - a. Holds at least a baccalaureate degree in a health-related field from an accredited college or university;
    - b. Has not been subject to disciplinary action against any professional or occupational license or certificate during the last two years; and
- c. Has at least two years' experience within the last five years in management, operation, or training in assisted living immediately before becoming a training program instructor.
- D.** The owner of an assisted living facility caregiver training program shall ensure that a program instructor performs the following responsibilities:
- 1. Plans each learning experience,
  - 2. Accomplishes educational goals of the training program and lesson objectives,
  - 3. Enforces a grading policy that meets the requirement specified in subsection (A)(2)(b),
  - 4. Requires satisfactory performance of all critical elements of each assisted living facility caregiver skill specified under R4-33-703(C),
  - 5. Prevents a student from performing an activity unless the student has received instruction and been found able to perform the activity competently,
  - 6. Is present in the classroom during all instruction,
  - 7. Uses a maximum of 20 hours of distance learning,
  - 8. Supervises health professionals who assist in providing training program instruction, and
  - 9. Ensures that a health professional who assists in providing training program instruction:
    - a. Is licensed or certified as a health professional,
    - b. Has at least one year of experience in the field of licensure or certification, and
    - c. Teaches only a learning activity that is within the scope of practice of the field of licensure or certification.
- E.** Skill training requirements. The owner of an assisted living facility caregiver training program shall:
- 1. Provide each student with at least 12 hours of instructor-supervised skills training, and
  - 2. Ensure that each student develops skill proficiency in the subjects listed in R4-33-703(C).
- F.** Instructional and educational resources. The owner of an assisted living facility caregiver training program shall provide, or provide access to, the following instructional and educational resources adequate to implement the training program for all students and staff:
- 1. Current reference materials related to the level of the curriculum;
  - 2. Equipment in functional condition for simulating resident care, including:
    - a. Patient bed, over-bed table, and nightstand;
    - b. Privacy curtain and call bell;
    - c. Thermometers, stethoscopes, including a teaching stethoscope, blood-pressure cuff, and balance scale;
    - d. Hygiene supplies, elimination equipment, drainage devices, and linens;
    - e. Hand-washing equipment and clean gloves; and
    - f. Wheelchair, gait belt, walker, anti-embolic hose, and cane;
  - 3. Computer in good working condition;
  - 4. Audio-visual equipment and media; and
  - 5. Designated space that provides a clean, distraction-free, learning environment for accomplishing educational goals of the training program;
- G.** Records. The owner of an assisted living facility caregiver training program shall:
- 1. Maintain the following training program records for three years:
    - a. Curriculum and course schedule for each student cohort;

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- b. Results of state-approved written examination and skills checklist;
  - c. Evaluation forms completed by students, a summary of the evaluation forms for each student cohort, and measures taken, if any, to improve the training program based on student evaluations; and
  - d. Copy of all Board reports, applications, or correspondence related to the training program; and
2. Maintain the following student records for three years:
- a. Name, date of birth, and Social Security number;
  - b. Completed skills checklist;
  - c. Attendance record including a record of any make-up class sessions;
  - d. Score on each test, quiz, and examination and, if applicable, whether a test, quiz, or examination was retaken;
  - e. Documentation from the program instructor indicating the:
    - i. Number of skills training hours completed by the student,
    - ii. Student performance during the skills training, and
    - iii. Verification of distance learning hours completed by the student; and
  - f. Copy of the evidence of completion issued to the student as required under subsection (A)(4);
- H.** Examination and evaluation requirements for students. The owner of an assisted living facility caregiver training program shall ensure each student in the training program:
- 1. Takes an examination that covers each of the subjects listed in R4-33-703(C) and passes each examination using the standard specified in subsection (A)(2)(b);
  - 2. Is evaluated and determined to possess the practical skills listed in R4-33-703(C);
  - 3. Passes, using the standard specified in subsection (A)(2)(b), a final examination approved by the Board and given by a Board-approved provider; and
  - 4. Does not take the final examination referenced in subsection (H)(3) more than three times. If a student fails the final examination referenced in subsection (H)(3) three times, the student is able to obtain evidence of completion only by taking the assisted living facility caregiver training program again;
- I.** Examination passing standard. The owner of an assisted living facility caregiver training program shall attain an annual first-time passing rate of 70 percent for all students who take the examination specified under subsection (H)(3). The Board may waive this requirement for a program if fewer than 10 students took the examination during the year.
- J.** Periodic evaluation. The owner of an assisted living facility caregiver training program shall allow a representative of the Board or a state agency designated by the Board to conduct:
- 1. A scheduled evaluation:
    - a. Before initial approval of the training program as specified under R4-33-704(D),
    - b. Before renewal of the training program approval as specified under R4-33-705(C), and
    - c. During a time of correction as specified under R4-33-706(B); and
  - 2. An onsite unscheduled evaluation of the training program if the evaluation is in response to a complaint or reasonable cause, as determined by the Board;
- K.** Notice of change. The owner of an assisted living facility caregiver training program shall provide the documentation and information specified regarding the following changes within 10 days after making the change:
- 1. New training program administrator. Name and license number;
  - 2. New instructor. Name, license number, and evidence of being qualified under subsection (C);
  - 3. Decrease in number of training program hours. Description of and reason for the change, a revised curriculum outline, and revised course schedule;
  - 4. Change in classroom location. Address of new location, if applicable, and description of the new classroom; and
  - 5. For a training program that is based within an assisted living facility:
    - a. Change in name of the facility. Former and new name of the assisted living facility; and
    - b. Change in ownership of the facility. Names of the former and current owners of the assisted living facility.
- L.** Medication management training program. The owner of an assisted living facility caregiver training program may provide a medication management training program for a student who, at the time of admission, is in good standing and a CNA, LNA, or DCW. The owner shall ensure the medication management training program provides the classroom instruction listed in subsection R4-33-703(C)(14) and meets the standards in R4-33-703.1.

**Historical Note**

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3). Amended Section R4-33-702 made by emergency rulemaking at 26 A.A.R. 1091, with an immediate effective date of May 5, 2020 as established under A.R.S. § 41-1032(A); effective for 180 days under A.R.S. § 41-1032(D). Before the emergency expired this Section was amended by final rulemaking at 26 A.A.R. 1465, effective September 5, 2020 (Supp. 20-3).

**R4-33-703. Curriculum for Assisted Living Facility Caregiver Training Program**

- A.** The owner of an assisted living facility caregiver training program shall ensure that the training program consists of at least 62 hours of instruction including:
- 1. Fifty hours of classroom instruction, of which a maximum of 20 hours may be provided by distance learning, and
  - 2. Twelve hours of instructor-supervised skills training.
- B.** The owner of an assisted living facility caregiver training program shall provide a written curriculum plan to each student that includes overall educational goals and for each required subject:
- 1. Measurable learner-centered objectives,
  - 2. Outline of the material to be taught,
  - 3. Time allotted to each unit of instruction, and
  - 4. Learning activities or reading assignments.
- C.** The owner of an assisted living facility caregiver training program shall ensure the training program includes classroom instruction and skills training regarding each of the following subjects:
- 1. Orientation to and overview of the assisted living facility caregiver training program (at least one classroom hour).
    - a. Levels of care within an assisted living facility, and
    - b. Impact of each level of care on residents;
  - 2. Legal and ethical issues and resident rights (at least two classroom hours).
    - a. Confidentiality (HIPAA);

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- b. Ethical principles;
  - c. Resident rights specified in R9-10-710;
  - d. Abuse, neglect, and exploitation;
  - e. Mandatory reporting; and
  - f. Do-not-resuscitate order and advanced directives;
3. Communication and interpersonal skills (at least two classroom hours).
    - a. Components of effective communication,
    - b. Styles of communication,
    - c. Attitude in communication,
    - d. Barriers to effective communication:
      - i. Culture,
      - ii. Language, and
      - iii. Physical and mental disabilities, and
    - e. Techniques of communication;
  4. Job management skills (at least one classroom hour).
    - a. Stress management, and
    - b. Time management;
  5. Service plans (at least two classroom hours). Developing, using, and maintaining resident service plans;
  6. Infection control (at least three classroom hours).
    - a. Common types of infectious diseases,
    - b. Preventing infection,
    - c. Controlling infection:
      - i. Washing hands,
      - ii. Using gloves, and
      - iii. Disposing of sharps and other waste;
  7. Nutrition and food preparation (at least two classroom hours).
    - a. Basic nutrition;
    - b. Menu planning and posting;
    - c. Procuring, handling, and storing food safely; and
    - d. Special diets;
  8. Fire, safety, and emergency procedures (at least two classroom hours).
    - a. Emergency planning,
    - b. Medical emergencies,
    - c. Environmental emergencies,
    - d. Fire safety,
    - e. Fire drills and evacuations, and
    - f. Fire-code requirements;
  9. Home environment and maintenance (at least two classroom hours).
    - a. Housekeeping,
    - b. Laundry, and
    - c. Physical plant;
  10. Basic caregiver skills (at least eight classroom hours).
    - a. Taking vital signs and measuring height and weight;
    - b. Maintaining a resident's environment;
    - c. Observing and reporting pain;
    - d. Assisting with diagnostic tests;
    - e. Providing assistance to residents with drains and tubes;
    - f. Recognizing and reporting abnormal changes to a supervisor;
    - g. Applying clean bandages;
    - h. Providing peri-operative care;
    - i. Assisting ambulation of residents including transferring and using assistive devices;
    - j. Bathing, caring for skin, and dressing;
    - k. Caring for teeth and dentures;
    - l. Shampooing and caring for hair;
    - m. Caring for nails;
    - n. Toileting, caring for perineum, and caring for ostomy;
  - o. Feeding and hydration including proper feeding techniques and use of assistive devices in feeding;
  - p. Preventing pressure sores; and
  - q. Maintaining and treating skin;
    11. Mental health and social service needs (at least three classroom hours).
      - a. Modifying the caregiver's behavior in response to resident behavior,
      - b. Understanding the developmental tasks associated with the aging process,
      - c. Responding to resident behavior,
      - d. Promoting resident dignity,
      - e. Providing culturally sensitive care,
      - f. Caring for the dying resident, and
      - g. Interacting with the resident's family;
    12. Care of the cognitively impaired resident (at least four classroom hours).
      - a. Anticipating and addressing the needs and behaviors of residents with dementia or Alzheimer's disease,
      - b. Communicating with cognitively impaired residents,
      - c. Understanding the behavior of cognitively impaired residents, and
      - d. Reducing the effects of cognitive impairment;
    13. Skills for basic restorative services (at least two classroom hours).
      - a. Understanding body mechanics;
      - b. Assisting resident self-care;
      - c. Using assistive devices for transferring, walking, eating, and dressing;
      - d. Assisting with range-of-motion exercises;
      - e. Providing bowel and bladder training;
      - f. Assisting with care for and use of prosthetic and orthotic devices; and
      - g. Facilitating family and group activities; and
    14. Medication management (at least 16 classroom hours).
      - a. Determining whether a resident needs assistance with medication administration and if so, the nature of the assistance;
      - b. Assisting a resident to self-administer medication;
      - c. Observing, documenting, and reporting changes in resident condition before and after medication is administered;
      - d. Knowing the rights of a resident regarding medication administration;
      - e. Knowing classifications of and responses to medications;
      - f. Taking, reading, and implementing a physician's medication and treatment orders;
      - g. Storing medication properly and securely;
      - h. Documenting medication and treatment services;
      - i. Maintaining records of medication and treatment services;
      - j. Using medication organizers properly;
      - k. Storing and documenting use of narcotic drugs and controlled substances;
      - l. Understanding how metabolism and physical conditions affect medication absorption;
      - m. Knowing the proper administration of all forms of medication;
      - n. Using drug-reference guides (Physician's Desk Reference); and
      - o. Preventing, identifying, documenting, reporting, and responding to medication errors.

**D.** The owner of an assisted living facility caregiver training program shall ensure that the training program:

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1. Provides a student with at least the number of classroom hours specified in subsection (C);
  2. Subject to the limitations specified, uses distance learning for a maximum of 20 hours only for the classroom hours specified in subsections (C)(1) through (C)(9), (C)(11) and (C)(12):
    - a. Only one of the classroom hours specified in subsection (C)(6) may be taught by distance learning; and
    - b. Only two of the classroom hours specified in subsection (C)(12) may be taught by distance learning.
  3. Provides a student with at least the number of skills training hours specified in subsection (A)(2).
- E.** The owner of an assisted living facility caregiver training program shall ensure that the training program uses textbooks that are relevant to the subjects being taught and have been published within the last five years.
- F.** The owner of an assisted living facility caregiver training program shall ensure that any distance learning provided uses materials that are relevant to the subjects being taught and have been produced within the last five years.

**Historical Note**

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

**R4-33-703.1. Minimum Standards and Curriculum for an Assisted Living Facility Caregiver Medication Management Training Program**

- A.** An assisted living facility caregiver medication management training program may be established by:
1. The owner or manager of an assisted living facility, or
  2. The owner of an assisted living facility caregiver training program.
- B.** A person under subsection (A) may offer an assisted living facility caregiver medication management training program to:
1. A CNA who is in good standing and whose certification by the Arizona Board of Nursing under A.R.S. § 32-1645 is verified;
  2. An LNA who is in good standing and whose licensure by the Arizona Board of Nursing under A.R.S. § 32-1645 is verified; and
  3. A DCW who is in good standing and whose training, including training about caregiving fundamentals and aging and physical disabilities, and testing record is verified through the AHCCCS online database.
- C.** A person under subsection (A) that offers an assisted living facility caregiver medication management training program to individuals specified under subsection (B) shall ensure the assisted living facility caregiver medication management training program:
1. Consists of at least the 16 classroom hours specified under R4-33-703(C)(14);
  2. Is not taught by distance learning;
  3. Is taught by a health professional who holds a license in good standing and issued under A.R.S. Title 32, Chapter 13, 15, 17, 18, or 25; and
  4. Requires passing an examination regarding assisted living facility caregiver medication management, using the standard specified in R4-33-702(A)(2)(b), that is approved by the Board and given by a Board-approved provider. An individual under subsection (B) shall pass the required examination in no more than three attempts. After failing three times, the individual may take the

assisted living facility caregiver medication management program again.

- D.** In addition to complying with subsection (C), a person under subsection (A) shall ensure each individual under subsection (B) who participates in an assisted living facility caregiver medication management training program:
1. Receives notice, before participating in the training program, of:
    - a. The fingerprint clearance card requirement, and
    - b. The need to obtain a food-handler's card from the county in which the individual lives.
  2. Provides written documentation, which is dated and signed, indicating the person under subsection (A) complied with subsection (D)(1). The person under subsection (A) shall maintain the written documentation under R4-33-702(G)(2).
- E.** In addition to complying with subsection (C), a person under subsection (A) that offers an assisted living facility caregiver medication management training program to individuals specified under subsection (B) shall comply with the following subsections of R4-33-702:
1. (A)(4)(a), (b), and (d) through (f);
  2. (A)(5)(a) through (d), (g), and (h);
  3. (A)(6)(b) and (c);
  4. (G)(1)(b) through (d);
  5. (G)(2)(a), (c), (d), and (f);
  6. (I) and
  7. (J).

**Historical Note**

New Section made by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3). Amended Section R4-33-703.1 made by emergency rulemaking at 26 A.A.R. 1091, with an immediate effective date of May 5, 2020 as established under A.R.S. § 41-1032(A); effective for 180 days under A.R.S. § 41-1032(D). Before the emergency expired this Section was amended by final rulemaking at 26 A.A.R. 1465, effective September 5, 2020 (Supp. 20-3).

**R4-33-704. Application for Approval of an Assisted Living Facility Caregiver Training Program**

- A.** The owner of an assisted living facility caregiver training program shall ensure no training is provided until the program is approved by the Board.
- B.** To obtain approval of an assisted living facility caregiver training program, the owner of the training program shall submit to the Board an application packet that contains the following:
1. Name, address, telephone number, and e-mail address of the owner;
  2. Name, address, telephone and fax numbers, and web site of the training program;
  3. Form of business organization under which the training program is operated and a copy of the establishing documents and organizational chart;
  4. A statement of whether the training program is based within an assisted living facility or other location;
  5. Name, telephone number, e-mail address, and license or certificate number of the program administrator required under R4-33-702(B);
  6. Name, telephone number, e-mail address, and license number of each program instructor and evidence each program instructor is qualified under R4-33-702(C);
  7. A statement of whether the training program is accredited and if so, name of the accrediting body and date of last review;

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8. For all assisted living facilities at which the training program will provide instruction:
    - a. Name, address, and telephone number of the assisted living facility;
    - b. Name, e-mail address, and telephone number of a contact person at the assisted living facility;
    - c. License number of the assisted living facility issued by the Department of Health Services;
    - d. A statement of whether the license of the assisted living facility is in good standing; and
    - e. Date and results of the most recent compliance inspection conducted by the Department of Health Services;
  9. Evidence of compliance with R4-33-702 and R4-33-703, including the following:
    - a. Written training program description, consistent with R4-33-702(A)(1), and an implementation plan that includes timelines;
    - b. Description of classroom facilities, equipment, and instructional tools available, consistent with R4-33-702(F);
    - c. Written curriculum, consistent with R4-33-703(C);
    - d. Skills checklist used to verify whether a student has acquired the necessary assisted living facility caregiver skills, consistent with R4-33-702(A)(6)(a);
    - e. Evaluation form required under R4-33-702(A)(6)(c) to enable students to assess the quality of the instructional experience provided by the training program;
    - f. Evidence of completion issued to a student under R4-33-702(A)(4);
    - g. Name of textbook used, author, publication date, and publisher;
    - h. Name of any distance learning materials used, producer of the material, and date produced; and
    - i. Copy of written policies and procedures required under R4-33-702(A)(2);
  10. Signature of the owner of the training program; and
  11. The fee prescribed under R4-33-104(D)(1).
- C.** The owner of an assisted living facility caregiver training program shall ensure the application materials submitted under subsection (B) are printed on only one side of white, letter-sized paper, and are not bound in any manner.
- D.** After review of the materials submitted under subsection (B), the Board shall schedule an onsite evaluation of the training program and take one of the following actions:
1. If requirements are met, approve the training program for one year; or
  2. If requirements are not met, deny approval of the training program.
- E.** The owner of an assisted living facility caregiver training program denied approval by the Board may request a hearing regarding the denial by filing a written request with the Board within 30 days after service of the Board's order denying approval of the training program. The Board shall conduct hearings under A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

**R4-33-704.1. Application for Approval of an Assisted Living Facility Caregiver Medication Management Training Program**

- A.** A person described under R4-33-703.1(A) shall ensure no training is provided until the assisted living facility medication management training program is approved by the Board.
- B.** To obtain approval of an assisted living facility medication management training program, a person described under R4-33-703.1(A) shall submit to the Board an application packet that contains the following:
1. Name, address, telephone number, and e-mail address of the person described under R4-33-703.1(A);
  2. A statement of whether the training program is based within an assisted living facility or other location and address of the location;
  3. Name, telephone number, e-mail address, and license number of each program instructor and evidence each program instructor is qualified under R4-33-703.1(C)(3);
  4. The information required under R4-33-704(B)(8);
  5. The following evidence of compliance with R4-33-703.1(D):
    - a. Skills checklist used to verify whether a student has acquired the necessary assisted living facility caregiver skills, consistent with R4-33-702(A)(6)(a);
    - b. Evaluation form required under R4-33-702(A)(6)(c) to enable students to assess the quality of the instructional experience provided by the training program; and
    - c. Evidence of completion issued to a student under R4-33-702(A)(4);
  6. Signature of the person described under R4-33-703.1(A); and
  7. The fee prescribed under R4-33-104(E)(1) except a person that has an assisted living facility caregiver training program approved under R4-33-704 is not required to pay a fee for approval under this Section.
- C.** R4-33-704(C) through (E) applies to this Section.

**Historical Note**

New Section made by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

**R4-33-705. Renewal of Approval of an Assisted Living Facility Caregiver Training Program**

- A.** The approval of an assisted living facility caregiver training program expires one year from the date of approval. If the approval of the training program expires, the owner of the training program shall immediately stop all training program activity.
- B.** To renew approval of an assisted living facility caregiver training program, the owner of the training program shall submit to the Board, no fewer than 60 and no more than 120 days before expiration of the current approval, an application packet that contains the following:
1. Name, address, telephone number, and e-mail address of the owner;
  2. Name, address, telephone and fax numbers, and web site of the training program;
  3. Name, telephone number, e-mail address, and license number of the program administrator required under R4-33-702(B);
  4. Name, telephone number, e-mail address, and license number of each program instructor and evidence each program instructor is qualified under R4-33-702(C);
  5. Written training program description, consistent with R4-33-702(A)(1);
  6. Written curriculum, consistent with R4-33-703(C);
  7. Since the time the training program was last approved:

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- a. Number of student-cohort classes to which training was provided,
  - b. Number of students who completed the training program,
  - c. Results obtained on the Board-approved written examination and skills checklist for each student, and
  - d. Percentage of students who passed the examination on the first attempt;
8. For an assisted living facility at which the training program has started to provide instruction since the training program was last approved, the information required under R4-33-704(B)(8);
  9. Evaluation form required under R4-33-702(A)(6)(c) to enable students to assess the quality of the instructional experience provided by the training program;
  10. Summary of evaluations for each student cohort, required under R4-33-702(G)(1)(c), and measures taken, if any, to improve the training program based on student evaluations;
  11. Evidence of completion issued to a student under R4-33-702(A)(4);
  12. Name of textbook used, author, publication date, and publisher;
  13. Name of any distance learning materials used, producer of the material, and date produced;
  14. Copy of written policies and procedures required under R4-33-702(A)(2);
  15. Signature of the owner of the training program; and
  16. The fee prescribed under R4-33-104(D)(2).
- C. After review of the materials submitted under subsection (B), the Board shall ensure the training program is evaluated at either an onsite or telephonic meeting. The program owner shall ensure the program owner, program administrator, and all instructors are available to participate in the evaluation meeting.
- D. The Board shall ensure each training program receives an onsite evaluation at least every four years. An onsite evaluation includes visiting each assisted living facility at which the training program provides instruction.
- E. If the Board approves a training program following an onsite evaluation, no deficiencies were identified during the onsite evaluation, and no complaints are filed with the Board, the Board shall evaluate the training program under subsection (C) using a telephonic meeting for at least two years.
- F. After conducting the evaluation required under subsection (C), the Board shall:
1. Renew approval of a training program the Board determines complies with R4-33-702 and R4-33-703, or
  2. Issue a notice of deficiency under R4-33-706 to the owner of a training program the Board determines does not comply with R4-33-702 or R4-33-703.
- G. The owner of an assisted living facility training program issued a notice of deficiency by the Board under subsection (F)(2) may request a hearing regarding the deficiency notice by filing a written request with the Board within 30 days after service of the Board's order. The Board shall conduct hearings under A.R.S. Title 41, Chapter 6, Article 10.

**Historical Note**

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

**R4-33-705.1. Renewal of Approval of an Assisted Living Facility**

**ity Caregiver Medication Management Training Program**

- A. The approval of an assisted living facility caregiver medication management training program expires one year from the date of approval. If the approval expires, the person described under R4-33-703.1(A) shall immediately stop all medication management training program activity.
- B. To renew approval of an assisted living facility caregiver medication management training program, the person described under R4-33-703.1(A) shall submit to the Board, no fewer than 60 and no more than 120 days before expiration of the current approval, an application packet that contains the following:
1. Name, address, telephone number and e-mail address of the person described under R4-33-703.1(A);
  2. Name, telephone number, e-mail address, and license number of each program instructor and evidence each program instructor is qualified under R4-33-703.1(C)(3);
  3. The information required under R4-33-705(B)(7) through (11);
  4. Signature of the person described under R4-33-703.1(A); and
  5. The fee prescribed under R4-33-104(E)(2) except a person that has approval of an assisted living facility caregiver training program renewed under R4-33-705 is not required to pay a fee for approval under this Section.
- C. R4-33-705(C) through (G) applies to this Section.

**Historical Note**

New Section made by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

**R4-33-706. Notice of Deficiency; Correction Plan; Disciplinary Action; Voluntary Termination**

- A. Notice of deficiency. If the Board determines an assisted living facility caregiver or medication management training program does not comply with the requirements in this Article, the Board shall issue a written notice of deficiency to the program owner or person described under R4-33-703.1(A) of the training. The Board shall include the following in the notice of deficiency:
1. Description of each deficiency;
  2. Citation to the requirement in this Article with which the training program is not in compliance; and
  3. The time, to a maximum of three months, allowed by the Board for correction of the deficiencies.
- B. Correction plan.
1. Within 10 days after service of a notice of deficiency under subsection (A), the owner or person described under R4-33-703.1(A) of the served training program shall submit to the Board a written plan to correct the identified deficiencies;
  2. The Board may conduct onsite or telephonic evaluations during the time for correction to assess progress towards compliance;
  3. The owner or person described under R4-33-703.1(A) of a training program implementing a correction plan shall notify the Board when all corrections have been made; and
  4. After receiving notice under subsection (B)(3) or after the time provided under subsection (A)(3) has expired, the Board shall conduct an onsite evaluation to determine whether all deficiencies listed in the notice under subsection (A) have been corrected.
    - a. If the Board determines all deficiencies have been corrected, the Board shall renew approval of the training program; or

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- b. If the Board determines all deficiencies have not been corrected, the Board shall take disciplinary action under subsection (C).
- C. Disciplinary action.
1. Under A.R.S. § 36-446.03(P), the Board shall issue a civil money penalty, suspend or revoke approval of an assisted living facility caregiver or medication management training program, or place the training program on probation if, following a hearing, the Board determines that the owner or the person described under R4-33-703.1(A):
    - a. Failed to submit a plan of correction to the Board under R4-33-706(B) within 10 days after service of a notice of deficiency;
    - b. Failed to comply with R4-33-702, R4-33-703, or R4-33-703.1, as applicable, within the time set by the Board under R4-33-706(A)(3) for correction of deficiencies;
    - c. Failed to comply with a federal or state requirement;
    - d. Failed to allow the Board to conduct an evaluation under R4-33-702(J) or R4-33-703.1(D)(6);
    - e. Failed to comply with R4-33-702(K);
    - f. Lent or transferred training program approval to another individual or entity or another training program, including one owned by the same owner or person described under R4-33-703.1(A);
    - g. Conducted an assisted living facility caregiver or medication management training program before obtaining Board approval;
    - h. Conducted an assisted living facility caregiver or medication management training program after expiration of program approval without timely submitting an application for renewal under R4-33-705 or R4-33-705.1, as applicable;
    - i. Falsified an application for assisted living facility caregiver or medication management training program approval under R4-33-704, R4-33-704.1, R4-33-705, or R4-33-705.1;
    - j. Violated an order, condition of probation, or stipulation issued by the Board; or
    - k. Failed to respond to a complaint filed with the Board.
  2. The Board shall conduct hearings under A.R.S. Title 41, Chapter 6, Article 10.
  3. The Board shall include in an order suspending or revoking approval of an assisted living facility caregiver or medication management training program the time and circumstances under which the owner or person described under R4-33-703.1(A) of the suspended or revoked training program may apply again under R4-33-704 or R4-33-704.1 for training program approval.
- D. Voluntary termination. If the owner or person described under R4-33-703.1(A) of an approved assisted living facility caregiver or medication management training program decides to terminate the training program, the owner or person described under R4-33-703.1(A) shall:
1. Provide written notice of the planned termination to the Board; and
  2. Ensure that the training program, including the instructors, is maintained according to this Article until the last student is transferred or completes the training program.

**Historical Note**

New Section made by final rulemaking at 19 A.A.R. 1619, effective August 4, 2013 (Supp. 13-2). Amended by final rulemaking at 24 A.A.R. 2734, effective November 10, 2018 (Supp. 18-3).

As of August 10, 2020

36-446. Definitions

In this article, unless the context otherwise requires:

1. "Administrator" or "nursing care institution administrator" means a person who is charged with the general administration of a nursing care institution, whether or not that person has an ownership interest in the institution and whether or not the person's functions and duties are shared with others.
2. "Assisted living facility" has the same meaning prescribed in section 36-401.
3. "Assisted living facility manager" means a person who has responsibility for administering or managing an assisted living facility, whether or not that person has an ownership interest in the institution and whether or not the person's functions and duties are shared with others.
4. "Assisted living facility training program" includes:
  - (a) Training that is required for assisted living facility manager certification.
  - (b) Training that is required for assisted living facility caregivers and that is consistent with the training, competency and test methodology standards developed by the Arizona health care cost containment system administration for in-home direct care workers.
5. "Board" means the board of examiners of nursing care institution administrators and assisted living facility managers.
6. "Department" means the department of health services.
7. "Directed care services" has the same meaning prescribed in section 36-401.
8. "Director" means the director of the department of health services.
9. "Nursing care institution":
  - (a) Means an institution or other place, however named, whether for profit or not, including facilities operated by the state or a subdivision of the state, that is advertised, offered, maintained or operated for the express or implied purpose of providing care to persons who need nursing services on a continuing basis but who do not require hospital care or care under the daily direction of a physician.
  - (b) Does not include:
    - (i) An institution for the care and treatment of the sick that is operated only for those who rely solely on treatment by prayer or spiritual means in accordance with the tenets of a recognized religious denomination.
    - (ii) Nursing care services that are an integral part of a hospital licensed pursuant to this chapter.
10. "Unprofessional conduct" includes:
  - (a) Dishonesty, fraud, incompetency or gross negligence in performing administrative duties.
  - (b) Gross immorality or proselytizing religious views on patients without their consent.
  - (c) Other abuses of official responsibilities, which may include intimidating or neglecting patients.

36-446.01. Licensure or certification requirements

- A. A nursing care institution shall not operate in this state except under the supervision of an administrator licensed pursuant to this article.
- B. An assisted living facility shall not operate in this state except under the supervision of a manager certified pursuant to this article.
- C. It is unlawful for any person who does not have a license or certificate, or whose license or certificate has lapsed or has been suspended or revoked, to practice or offer to practice skilled nursing facility administration or assisted living facility management or use any title, sign, card or device indicating that such person is an administrator or manager.

36-446.02. Board of examiners; terms; meetings; quorum; effect of vacancies; compensation

- A. The board of examiners of nursing care institution administrators and assisted living facility managers is established consisting of nine members appointed by the governor.
- B. The board shall include:
  - 1. One administrator who holds an active license issued pursuant to this article.
  - 2. One manager who holds an active license issued pursuant to this article.
  - 3. One administrator of a nonprofit or faith-based skilled nursing facility.
  - 4. One administrator of a proprietary skilled nursing facility.
  - 5. Two managers of an assisted living center as defined in section 36-401.
  - 6. One manager of an assisted living home as defined in section 36-401.
  - 7. Two public members who are not affiliated with a nursing care institution or an assisted living facility.
- C. Board members who are not affiliated with a nursing care institution or an assisted living facility shall not have a direct financial interest in nursing care institutions or assisted living facilities.
- D. A board member shall not serve on any other board relating to long-term care during the member's term with the board.
- E. The term of a board member automatically ends when that member no longer meets the qualifications for appointment to the board. The board shall notify the governor of the board vacancy.
- F. Board members who are not affiliated with a nursing care institution or an assisted living facility shall be appointed for two year terms. Board members who are the administrator of a nursing care institution or the manager of an assisted living facility shall be appointed for three year terms.
- G. A board member shall not serve for more than two consecutive terms.
- H. The board shall meet at least twice a year.
- I. A majority of the board members constitutes a quorum.
- J. Board members are eligible to receive compensation as determined pursuant to section 38-611 for each day actually spent performing their duties under this chapter.

K. A board member who is absent from three consecutive regular meetings or who fails to attend more than fifty per cent of board meetings over the course of one calendar year vacates the board member's position. The board shall notify the governor of the vacancy.

36-446.03. Powers and duties of the board; rules; fees

A. The board may adopt, amend or repeal reasonable and necessary rules and standards for the administration of this article in compliance with title XIX of the social security act, as amended.

B. The board by rule may adopt nonrefundable fees for the following:

1. Initial application for certification as an assisted living facility manager.
2. Examination for certification as an assisted living facility manager.
3. Issuance of a certificate as an assisted living facility manager, prorated monthly.
4. Biennial renewal of a certificate as an assisted living facility manager.
5. Issuance of a temporary certificate as an assisted living facility manager.
6. Readministering an examination for certification as an assisted living facility manager.
7. Issuance of a duplicate certificate as an assisted living facility manager.
8. Reviewing the sponsorship of continuing education programs, for each credit hour.
9. Late renewal of an assisted living facility manager certificate.
10. Reviewing an individual's request for continuing education credit hours, for each credit hour.
11. Reviewing initial applications for assisted living facility training programs.
12. Annual renewal of approved assisted living facility training programs.

C. The board may elect officers it deems necessary.

D. The board shall apply appropriate techniques, including examinations and investigations, to determine whether a person meets the qualifications prescribed in section 36-446.04.

E. On its own motion or in response to any complaint against or report of a violation by an administrator of a nursing care institution, or a manager of an assisted living facility, the board may conduct investigations, hearings and other proceedings concerning any violation of this article or of rules adopted by the board or by the department.

F. In connection with an investigation or administrative hearing, the board may administer oaths and affirmations, subpoena witnesses, take evidence and require by subpoena the production of documents, records or other information in any form concerning matters the board deems relevant to the investigation or hearing. If any subpoena issued by the board is disobeyed, the board may invoke the aid of any court in this state in requiring the attendance and testimony of witnesses and the production of evidence.

G. Subject to title 41, chapter 4, article 4, the board may employ persons to provide investigative, professional and clerical assistance as required to perform its powers and duties under this article. Compensation for board employees shall be as determined pursuant to section 38-611. The board may contract with other state or federal agencies as required to carry out this article.

H. The board may appoint review committees to make recommendations concerning enforcement matters and the administration of this article.

I. The board by rule may establish a program to monitor licensees and certificate holders who are chemically dependent and who enroll in rehabilitation programs that meet board requirements. The board may take disciplinary action if a licensee or a certificate holder refuses to enter into an agreement to enroll in and complete a board-approved rehabilitation program or fails to abide by that agreement.

J. The board shall adopt and use an official seal.

K. The board shall adopt rules for the examination and licensure of nursing care institution administrators and the examination and certification of assisted living facility managers.

L. The board shall adopt rules governing payment to a person for the direct or indirect solicitation or procurement of assisted living facility patronage.

M. The board must provide the senate and the house of representatives health committee chairmen with copies of all board minutes and executive decisions.

N. The board by rule shall limit by percentage the amount it may increase a fee above the amount of a fee previously prescribed by the board pursuant to this section.

O. The board by rule shall prescribe standards for assisted living facility training programs. On or before June 1, 2020, the board shall prescribe rules for assisted living facility caregivers that are consistent with the training, competency and test methodology standards developed by the Arizona health care cost containment system administration for in-home direct care workers.

P. The board may:

1. Grant, deny, suspend or revoke approval of, or place on probation, an assisted living facility training program.

2. Impose a civil penalty on an assisted living facility training program that violates this chapter or rules adopted pursuant to this chapter.

36-446.04. Qualifications; period of validity; exemption

A. The board shall issue a license as a nursing care institution administrator pursuant to its rules to any person who meets the following qualifications:

1. Is of good character.

2. Has satisfactorily completed a course of instruction and training approved by the board that:

- (a) Is designed and sufficiently administered to give the applicant knowledge of the proper needs to be served by nursing care institutions.

- (b) Includes a thorough background in the laws and rules governing the operation of nursing care institutions and the protection of the interests of the patients in nursing care institutions.

- (c) Includes thorough training in elements of good health care facilities administration.

3. Has passed an examination administered by the board designed to test for competency in the subject matter referred to in this subsection.

4. Has met one of the following fingerprinting requirements:

(a) Has a valid fingerprint clearance card issued pursuant to title 41, chapter 12, article 3.1.

(b) Has provided proof of the submission of an application for a fingerprint clearance card. An applicant who has been denied a fingerprint clearance card must also provide proof that the applicant qualifies for a good cause exception hearing pursuant to section 41-619.55.

B. A person who is licensed pursuant to this section must maintain a valid fingerprint clearance card during the valid period of the person's license.

C. The board shall issue a certificate as an assisted living facility manager pursuant to its rules to a person who meets the following qualifications:

1. Is of good character.

2. Has satisfactorily completed a course of instruction and training approved by the board that:

(a) Is designed and sufficiently administered to give the applicant knowledge of the proper needs to be served by an assisted living facility.

(b) Includes a thorough background in the laws governing the operation of assisted living facilities and the protection of the interests of the patients in assisted living facilities.

(c) Includes thorough training in elements of assisted living facility administration.

3. Has passed an examination administered by the board that is designed to test for competency in the subject matter prescribed in this subsection.

4. Provides documentation satisfactory to the board that the applicant has completed two thousand eighty hours of paid work experience in a health related field within the preceding five years as prescribed by board rule.

5. Has met one of the following fingerprinting requirements:

(a) Has a valid fingerprint clearance card issued pursuant to title 41, chapter 12, article 3.1.

(b) Has provided proof of the submission of an application for a fingerprint clearance card. An applicant who has been denied a fingerprint clearance card must also provide proof that the applicant qualifies for a good cause exception hearing pursuant to section 41-619.55.

D. A person who is certified pursuant to this section must maintain a valid fingerprint clearance card during the valid period of the person's certificate.

E. In lieu of the requirements contained in subsection A, paragraph 2 or subsection C, paragraph 2, an applicant may present satisfactory evidence to the board of sufficient education and training in the areas listed in that paragraph.

F. A license is nontransferable and remains in effect until the following June 30 of an even numbered year, at which time the license may be renewed if the licensee otherwise complies with this article and unless the license has been surrendered, suspended or revoked.

G. A certificate is nontransferable and remains in effect until the following June 30 of an odd numbered year, at which time the certificate may be renewed if the certificate holder otherwise complies with this article and the certificate has not been surrendered, suspended or revoked.

H. This section does not apply to managers of adult foster care homes as defined in section 36-401.

36-446.05. Reciprocity; present administrators

The board may issue a nursing care institution administrator's license, without examination or with partial examination, to any person who holds a current license from another state or territory of the United States provided the standards for licensure in such other state or territory of the United States are at least substantially equivalent to those prevailing in this state, and provided that the applicant is otherwise qualified.

36-446.06. Temporary licenses and certificates

A. The board may issue a temporary nursing care institution administrator's license or assisted living facility manager's certificate to individuals determined to meet standards established by the board and revoke or suspend temporary licenses or certificates previously issued by the board in any case where the individual holding a license or certificate is determined to have substantially failed to conform to the requirements of such standards during the term of the temporary license or certificate.

B. A temporary license or certificate is automatically revoked if the licensee or certificate holder fails either the state or national examination during the term of the license.

C. Temporary licenses or certificates may be issued without examination, for a single nonrenewable period of one hundred fifty days, to a qualified individual for the purpose of enabling the individual to fill a nursing care administrator or assisted living facility manager position. Qualifications for a temporary license or certificate shall include good character and the ability to meet such other standards as are established by the board.

D. An applicant for a temporary license or certificate shall not have failed a state or national examination either before or after applying for the temporary license or certificate.

36-446.07. Disciplinary actions; grounds for disciplinary action; renewal; continuing education; inactive status; hearings; settlement; judicial review; admission by default; military members

A. The board may suspend or revoke the license of any nursing care institution administrator, censure or place on probation any licensed nursing care institution administrator or deny a license as a nursing care institution administrator to any person for any of the following reasons:

1. Conviction of a felony or conviction of any misdemeanor involving moral turpitude.
2. Obtaining or renewing a license by fraud or deceit.
3. Unprofessional conduct.
4. Practicing without biennial licensure.
5. Addiction to or dependency on drugs or alcohol.
6. Wrongful transfer of a license or falsely impersonating another licensee.
7. Unauthorized disclosure of information relating to a patient or a patient's records.

8. Payment to any person for solicitation or procurement, either directly or indirectly, of nursing home patronage.

9. Violation of this article or a rule adopted pursuant to this article.

B. The board may suspend or revoke the certificate of an assisted living facility manager, censure or place on probation an assisted living facility manager or deny a certificate as an assisted living facility manager to a person for any of the following reasons:

1. Conviction of a felony or conviction of a misdemeanor involving moral turpitude.

2. Obtaining or renewing a certificate by fraud or deceit.

3. Unprofessional conduct.

4. Practicing without biennial certification.

5. Addiction to or dependency on drugs or alcohol.

6. Wrongful transfer of a certificate or falsely impersonating another certificate holder.

7. Unauthorized disclosure of information relating to a resident or a resident's records.

8. Violation of this article or a rule adopted pursuant to this article.

C. The board may impose a civil penalty in an amount of not to exceed five hundred dollars on any nursing care institution administrator or assisted living facility manager who violates this article or any rule adopted pursuant to this article. Actions to enforce the collection of these penalties shall be brought in the name of this state by the attorney general or the county attorney in the justice court or the superior court in the county in which the violation occurred. Penalties imposed under this section are in addition to and not in limitation of other penalties imposed pursuant to this article.

D. The board may file a letter of concern if, in the opinion of the board, while there is insufficient evidence to support direct action against the license of the administrator or the certificate of the manager, there is sufficient evidence for the board to notify the administrator or manager of its concern.

E. Every holder of a nursing care institution administrator's license shall renew it biennially by making application to the board. The renewals shall be granted as a matter of course if the holder has successfully completed at least fifty hours of continuing education every two years as established by the board in its rules, unless the applicant has acted or failed to act in such a manner or under such circumstances as would constitute grounds for taking any of the disciplinary actions permitted by this section. The board shall maintain a log of each complaint substantiated by the board or deficiency report concerning an administrator and shall retain in the administrator's file a copy of each such complaint or report and the action taken on it, if any. The board shall review and consider the administrator's file in determining whether to renew the administrator's license.

F. Except as provided in subsection R of this section, every holder of an assisted living facility manager's certificate shall renew it biennially by making application to the board. The renewals shall be granted as a matter of course if the holder has successfully completed continuing education every two years as established by the board in its rules, unless the applicant has acted or failed to act in a manner or under circumstances that constitute grounds for taking disciplinary action permitted by this section. The board shall maintain a log of each complaint substantiated by the board or deficiency report concerning a manager and shall retain in the manager's file a copy of each complaint or report and the action taken on

it, if any. The board shall review and consider the manager's file in determining whether to renew the manager's certificate.

G. Except as provided in subsection R of this section, failure on the part of any licensed nursing care institution administrator or certified assisted living facility manager to furnish evidence of having attended the required continuing education hours during the preceding two years shall preclude renewal of the license or certificate unless the continuing education requirement is fulfilled within one hundred twenty days.

H. On written request to the board, a nursing care institution administrator in good standing may cause the administrator's name and license to be transferred to an inactive list. Any nursing care institution administrator on inactive license status shall pay a license renewal fee. On written request to the board, and subsequent approval by the board, a nursing care institution administrator on inactive license status may resume active license status on meeting twenty-five hours of continuing education requirements within six months and payment of the current fee.

I. On written request to the board, the board shall transfer an assisted living facility manager in good standing to an inactive list. An assisted living facility manager on inactive certificate status shall pay a certificate renewal fee prescribed by the board of not more than one hundred dollars every two years. On written request to the board, and subsequent approval by the board, an assisted living facility manager on inactive certificate status may resume active certificate status on meeting requirements for six hours of continuing education within six months and payment of the current fee.

J. Suspension, revocation or denial of renewal of a license or certificate or censure or probation of a licensee or certificate holder by the board becomes effective only on the board's first giving the licensee or certificate holder prior written notice and affording the licensee or certificate holder the right to request a hearing within thirty-five days of the receipt of notice. A hearing is not required before the denial of an original application for a license or a certificate. All hearings shall be conducted pursuant to title 41, chapter 6, article 10.

K. Any person wishing to make a complaint against a licensee or certificate holder under this article shall file a written complaint with the board within one year from the date of the action causing the complaint. If the board determines that the charges made in the complaint are sufficient, if true, to warrant suspension or revocation of a license or certificate issued under this article or censure or probation of a licensee or certificate holder under this article, it shall issue an order fixing the time and place for a hearing and requiring the licensee or certificate holder complained against to appear and answer the complaint. The order shall have affixed to it a copy of the complaint, and both shall be served on the licensee or certificate holder either personally or by certified mail sent to the licensee's or the certificate holder's last known address at least thirty-five days before the date set for the hearing. All hearings shall be conducted pursuant to title 41, chapter 6, article 10.

L. The board and an administrator or manager may enter into a settlement of any matter under investigation either before or after a notice of the hearing has been issued if the board determines that the proposed settlement adequately protects the public safety, health and welfare. The board shall record the terms of each settlement entered into and shall make the record available for public inspection.

M. Except as provided in section 41-1092.08, subsection H, final decisions of the board are subject to judicial review pursuant to title 12, chapter 7, article 6.

N. If the board has initiated an investigation pursuant to this section, the board may continue the investigation and discipline the person under investigation even if that person resigns from practice after the board has initiated the investigation.

O. A licensee or certificate holder shall respond in writing to the board within thirty-five days after the board serves the complaint and notice of a formal hearing by certified mail. Service is complete on the date the board places the notice in the mail. The board shall consider a licensee's or certificate holder's failure to respond to the notice within thirty-five days as an admission by default to the allegations stated in the complaint. The board may then take disciplinary action against the licensee or certificate holder without conducting a formal hearing.

P. The board may set aside an admission by default if a licensee or certificate holder shows good cause. A licensee or certificate holder who applies to the board to set aside an admission by default shall demonstrate the following to the satisfaction of the board:

1. The failure to respond to the notice of the board was due to excusable neglect.
2. The licensee or certificate holder has a meritorious defense.
3. The licensee or certificate holder made prompt application to the board for relief.

Q. The board shall not consider an application to set aside an admission by default filed later than one hundred eighty days after the board's entry of the admission by default.

R. A license or certificate issued pursuant to this chapter to any member of the Arizona national guard or the United States armed forces reserves shall not expire while the member is serving on federal active duty and shall be extended one hundred eighty days after the member returns from federal active duty, provided that the member, or the legal representative of the member, notifies the board of the federal active duty status of the member. A license or certificate issued pursuant to this chapter to any member serving in the regular component of the United States armed forces shall be extended one hundred eighty days from the date of expiration, provided that the member, or the legal representative of the member, notifies the board of the federal active duty status of the member. If the license or certificate is renewed during the applicable extended time period, the member is responsible only for normal fees and activities relating to renewal of the license and shall not be charged any additional costs such as late fees or delinquency fees. The member, or the legal representative of the member, shall present to the board a copy of the member's official military orders, a redacted military identification card or a written verification from the member's commanding officer before the end of the applicable extended time period in order to qualify for the extension.

S. A license or certificate issued pursuant to this chapter to any member of the Arizona national guard, the United States armed forces reserves or the regular component of the United States armed forces shall not expire and shall be extended one hundred eighty days from the date the military member is able to perform activities necessary under the license or certificate if the member both:

1. Is released from active duty service.
2. Suffers an injury as a result of active duty service that temporarily prevents the member from being able to perform activities necessary under the license, certificate or registration.

36-446.08. Nursing care institution administrators' licensing and assisted living facility managers' certification fund; investment of fund monies

A. The nursing care institution administrators' licensing and assisted living facility managers' certification fund is established.

B. Pursuant to sections 35-146 and 35-147, the board shall deposit ten per cent of all monies collected pursuant to this article in the state general fund and deposit the remaining ninety per cent in the nursing care institution administrators' licensing and assisted living facility managers' certification fund. All monies derived from civil penalties collected pursuant to section 36-446.07, subsection C shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

C. Monies deposited in the nursing care institution administrators' licensing and assisted living facility managers' certification fund are subject to the provisions of section 35-143.01.

D. On notice from the board, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

#### 36-446.09. Violations: classification

A. Any person who manages, directs and controls the operation of a nursing care institution or an assisted living facility without a current and valid license or certificate as required by this article or who otherwise violates any provisions of this article is guilty of a class 2 misdemeanor. Each day of violation shall constitute a separate offense.

B. Action taken under subsection A shall not be a bar to enforcement of this article and the standards and rules issued and adopted pursuant to this article, by injunction or other appropriate remedy, and the board may institute and maintain in the name of this state any such enforcement proceeding.

#### 36-446.10. Confidentiality of records: release of complainant's name and nature of complaint

A. Except as provided in subsection B, all records concerning a pending investigation, examination materials, records of examination grading and applicants' performance and transcripts of educational institutions concerning applicants are confidential and are not public records. "Records of applicants' performance" does not include records of whether an applicant passed or failed an examination.

B. During a pending investigation, the board shall inform the administrator or manager who is the subject of the complaint of the name of the complainant and the nature of the complaint if so requested.

#### 36-446.11. Relief from civil liability

Members, employees and agents of the board and members of review committees shall not be held civilly liable for acts done or actions taken by any of these persons if such persons act in good faith following the requirements of this article. A person who in good faith reports or provides information to the board shall not be held civilly liable as a result of doing so.

#### 36-446.12. Fees

A. The board by rule shall establish nonrefundable fees and penalties for the following for nursing care institution administrators:

1. Initial application.
2. Examination for licensure as a nursing care institution administrator.
3. A license as a nursing care institution administrator.
4. Renewing an active biennial license.
5. Renewing an inactive biennial license.

6. A temporary license as a nursing care institution administrator.
7. Readministering the state examination.
8. Readministering the national examination.
9. A duplicate license.
10. Late renewal of a license.
11. Certifying licensure status.
12. Reviewing the sponsorship of continuing education programs, for each credit hour.
13. Reviewing an individual's request for continuing education credit hours, for each credit hour.

B. The board shall prorate on a monthly basis fees paid for an initial license as a nursing care institution administrator.

C. The board by rule shall limit by percentage the amount it may increase a fee above the amount of a fee previously prescribed by the board pursuant to this section.

**36-446.13. Unlawful act; unlicensed operation; injunction**

A. On application by the board, the superior court may issue an injunction to enjoin the activities of a person who purports to be licensed pursuant to this article or who is engaging in the activities of a nursing care institution administrator without a license.

B. In a petition for injunction filed pursuant to this section, it is sufficient to charge that the respondent on a certain day in a named county engaged in the activities of a nursing care institution administrator without a license and without being exempt from the licensing requirements of this article.

C. For the purposes of this section, damage or injury is presumed.

D. A petition for an injunction to enjoin unlicensed activities shall be filed in the name of this state in the superior court in the county where the respondent resides or may be found or in Maricopa county. On request of the board, the attorney general shall file the injunction.

E. Issuance of an injunction does not relieve the respondent from being subject to other proceedings as provided in this article.

**36-446.14. Referral agencies; assisted living facilities; requirements; civil penalty; definitions**

A. A referral agency shall disclose to any prospective resident or representative of a prospective resident at the time or before any referral is made for care at an assisted living facility both of the following:

1. The existence of any current business relationship between the referral agency and the assisted living facility, including any common ownership or control and any other financial, business, management or familial relationship that exists between the referral agency and the assisted living facility.

2. That the assisted living facility pays a fee to the referral agency in connection with the referral.

B. The referral agency shall disclose to a new resident or the resident's representative either before or at the time of the resident's admission date the amount of the fee or a good faith estimate of the fee to be paid by the assisted living facility to the referral agency.

C. Both the referral agency and the prospective resident or the prospective resident's representative shall sign and date or electronically acknowledge and date the disclosures required by subsections A and B of this section. The referral agency shall provide the prospective resident or the prospective resident's representative a copy of the disclosures either electronically or in a hard copy. The referral agency shall provide the assisted living facility a copy of the signed and dated or electronically acknowledged and dated disclosures at the same time the resident receives the disclosures, and the assisted living facility shall maintain a copy of the disclosures on file at the facility.

D. The assisted living facility may not pay any referral fee associated with a resident until the assisted living facility receives the disclosures required by subsections A and B of this section.

E. A referral agency that violates this section is subject to a civil penalty of up to one thousand dollars for each violation. The attorney general or a county attorney may institute a proceeding in superior court to recover the civil penalty under this subsection and to restrain and enjoin a violation of this section. Any civil penalty recovered pursuant to this subsection shall be deposited in the general fund of the jurisdiction that prosecuted the violation.

F. For the purposes of this section:

1. "Electronically" includes an audio recording that conforms with the Arizona rules of evidence, that is maintained by the referral agency and that is transmitted to the assisted living facility and the resident or the resident's representative in a format that can be downloaded.

2. "Referral agency":

(a) Means a person or entity that provides referrals for a fee that is collected from either the patient or the assisted living facility.

(b) Does not include either:

(i) An assisted living facility or its employees.

(ii) A resident, a resident's family member or a patron of an assisted living facility who refers a prospective resident to an assisted living facility and receives a discount or other remuneration from the assisted living facility.

### 36-446.15. Assisted living facility caregivers; training and competency requirements; medication administration; testing

A. Notwithstanding any other law, a person who successfully completes the training and competency requirements developed by the Arizona health care cost containment system administration for in-home direct care workers satisfies the training requirements for assisted living facility caregivers, except for medication administration training required by the assisted living facility caregiver's scope of practice.

B. An individual who meets the requirements specified in subsection A of this section and who registers for a medication administration examination is required to take and successfully complete only the part of the assisted living facility caregiver examination that covers the subject of medication administration.

C. The testing of an individual for medication administration competency:

1. Shall be conducted in accordance with the testing standards adopted by the board.

2. May be conducted by a training school approved by the board or by the assisted living facility that provided the training for the individual.

36-446.16. [Assisted living facility caregivers; training requirements; board standards; definition](#)

A. Except as provided in section 36-446.15, an individual shall successfully complete either of the following requirements for certification as an assisted living facility caregiver:

1. Both of the following:

(a) Sixty-two hours of on-the-job training under the direct supervision of any of the following health professionals:

(i) A physician who is licensed pursuant to title 32, chapter 13 or 17.

(ii) A registered nurse practitioner, registered nurse or licensed practical nurse who is licensed pursuant to title 32, chapter 15.

(iii) A pharmacist who is licensed pursuant to title 32, chapter 18.

(iv) A physician assistant who is licensed pursuant to title 32, chapter 25.

(v) A certified assisted living facility manager with at least five years of experience. Only thirty-one of the sixty-two hours of on-the-job training may be under the direct supervision of a certified assisted living facility manager.

(b) Pass the board-required examination with a score of at least seventy-five percent.

2. The board's required curriculum and examination for assisted living facility caregiver certification.

B. The board shall prescribe standards by rule for the on-the-job training prescribed in subsection A, paragraph 1, subdivision (a) of this section.

C. For the purposes of this section, "direct supervision" means the on-site, in-view observation and guidance of a caregiver who is in training by the supervising health professional.

**ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM**

Title 9, Chapter 22, Article 7, Standards for Payments

**Amend:** R9-22-703



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - REGULAR RULEMAKING

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**MEETING DATE:** February 2, 2021

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** January 14, 2021

**SUBJECT:** Arizona Health Care Cost Containment System Administration (AHCCCS)  
Title 9, Chapter 22

**Amend:** R9-22-703

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### **Summary:**

This regular rulemaking from AHCCCS seeks to amend R9-22-703. The rule amendment will update when an electronic claim is considered received by the Administration and clarify what elements are needed in order for the Administration to process a claim. The rule change will allow the Administration to focus on claims that are on the proper format for processing, and reduce time spent on incomplete claims unable to be processed by the information processing system. This would result in a more streamlined process.

1. **Are the rules legal, consistent with legislative intent, and within the agency's statutory authority?**

Yes, the Department cites both general and specific statutory authority for these rules.

2. **Do the rules establish a new fee or contain a fee increase?**

No, the Department indicates rules do not establish a new fee or contain a fee increase.

3. **Does the preamble disclose a reference to any study relevant to the rules that the agency reviewed and either did or did not rely upon?**

The Department did not review or rely on any study in conducting this rulemaking.

4. **Summary of the agency's economic impact analysis:**

The State, and providers will benefit from this clarification of the claims process. There is no cost to this rulemaking, and the public will indirectly benefit from this streamlining of the claims process by the Administration.

The rule is designed to clarify what elements are necessary for a claim to be processed by the Administration's system, and therefore when processing of a claim submitted to the Administration will begin. It is expected that the change in claim submission will improve response times by the Administration.

5. **Has the agency analyzed the costs and benefits of the rulemaking and determined that the rules impose the least burden and costs to those who are regulated?**

The Administration did not consider other alternatives because the revisions to the rule are the most cost effective and efficient method of complying with federal law and state law as well as the State's fiduciary responsibility to Arizona taxpayers.

6. **What are the economic impacts on stakeholders?**

This rulemaking does not directly affect political subdivisions. The Administration anticipates no economic impact on public and private employment. The Administration anticipates no impact on small businesses. No private persons or consumers are directly affected by this rulemaking.

7. **Are the final rules a substantial change, considered as a whole, from the proposed rules and any supplemental proposals?**

No, there were no changes between the proposed and final rulemaking.

8. **Does the agency adequately address the comments on the proposed rules and any supplemental proposals?**

The Department indicates they did not receive any comments.

9. **Do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

Not applicable. The rules do not require the issuance of a permit.

10. **Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

Not applicable. There are not corresponding federal laws.

11. **Conclusion**

As mentioned above, the Department is seeking to amend one of its rules. This rulemaking will streamline the process and save both processor and staff time wading through unprocessable claims.

The Department is seeking the regular 60-day delayed effective date. Council staff recommends approval of this rulemaking.

December 22, 2020

VIA EMAIL: [grrc@azdoa.gov](mailto:grrc@azdoa.gov)

Nicole Sorenson, Chair

Governor's Regulatory Review Council

100 North 15th Avenue, Suite 305

Phoenix, Arizona 85007

RE: R9-22-703 Rulemaking

Dear Ms. Sorenson:

- |    |  |            |
|----|--|------------|
| 1. | The close of record date:  | 12/21/2020 |
| 2. | Does the rulemaking activity relate to a Five Year Review Report:    | No         |
| a. | If yes, the date the Council approved the Five Year Review Report:   | N/A        |
| 3. | Does the rule establish a new fee:                                   | No         |
| a. | If yes, what statute authorizes the fee:                             | N/A        |
| 4. | Does the rule contain a fee increase:                                | No         |
| 5. | Is an immediate effective date requested pursuant to A.R.S. 41-1032: | No.        |

AHCCCS certifies that the preamble discloses a reference to any study relevant to the rule that the agency reviewed. AHCCCS certifies that the preamble states that it did not rely on any such study in the agency's evaluation of or justification for the rule.

AHCCCS certifies that the preparer of the economic, small business, and consumer impact statement has notified the Joint Legislative Budget Committee of the number of new full-time employees necessary to implement and enforce the rule.

The following documents are enclosed:

1. Notice of Final Rulemaking, including the preamble, table of contents, and text of each rule;
2. An economic, small business, and consumer impact statement that contains the information required by A.R.S. 41-1055;
3. If applicable: The written comments received by the agency concerning the proposed rule and a written record, transcript, or minutes of any testimony received if the agency maintains a written record, transcript or minutes;
4. If applicable: Any analysis submitted to the agency regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of business in other states;
5. If applicable: Material incorporated by reference;
6. General and specific statutes authorizing the rules, including relevant statutory definitions; and
7. If applicable: If a term is defined in the rule by referring to another rule or a statute other than the general and specific statutes authorizing the rule, the statute or other rule referred to in the definition.

Sincerely,



Matthew Devlin  
Assistant Director

Attachments

**NOTICE OF FINAL RULEMAKING**  
**TITLE 9. HEALTH SERVICES**  
**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION**

**PREAMBLE**

**1. Article, Part, or Section Affected (as applicable)**

R9-22-703

**Rulemaking Action:**

Amend

**2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. § 36-2904

Implementing statute: A.R.S. § 36-2904

**3. The effective date of the rule:**

The agency requests a regular 60-day delayed effective date.

**4. Citations to all related notices published in the Register to include the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**

Notice of Rulemaking Docket Opening: 26 A.A.R. 2935, November 20, 2020.

Notice of Proposed Rulemaking: 23 A.A.R. 3003, November 20, 2020.

**5. The agency's contact person who can answer questions about the rulemaking:**

Name: Nicole Fries

Address: AHCCCS

Office of Administrative Legal Services

701 E. Jefferson, Mail Drop 6200

Phoenix, AZ 85034

Telephone: (602) 417-4232

Fax: (602) 253-9115

E-mail: AHCCCSRules@azahcccs.gov

Web site: [www.azahcccs.gov](http://www.azahcccs.gov)

**6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

Changes to A.A.C. R9-22-703 include updating when an electronic claim is deemed received by the Administration to clarify what elements are needed in order for the Administration to process a claim. This will clarify when a claim has risen to the level of being recognized by the Administration and therefore falling under

the jurisdiction of any grievances, appeals, or additional regulations governing claims processed by the Administration. As the result of this rulemaking, the Administration is able to focus on those claims in the proper format for processing, and reduce the time spent on incomplete claims unable to be processed by the information processing system. This rulemaking will streamline the process and save both processor and staff time wading through unprocessable claims.

**7. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or 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:**

A study was not referenced or relied upon when revising these regulations.

**8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision:**

This rulemaking does not diminish a previous grant of authority of a political subdivision.

**9. A summary of the economic, small business, and consumer impact:**

The Administration does not anticipate that this rulemaking will have an economic effect on the state, businesses or the public.

**10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**

There were no changes between the proposed and final rulemaking.

**11. An agency's summary of the public or stakeholder comments made about the rule making and the agency response to the comments:**

No comments were made by the public.

**12. Other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules.**

There are no other matters prescribed by statute applicable to rulemaking specific to this agency, to this specific rule, or to this class of rules.

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

The rule does not require the provider to obtain a permit or a general permit.

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

Not applicable.

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

No such analysis was submitted.

**13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

The rule does not include any incorporation by reference of materials as specified in statute.

**14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

The rule was not previously made, amended or repealed as an emergency rule.

**15. The full text of the rules follows:**

**ARTICLE 7. STANDARDS FOR PAYMENTS**

**Sections**

R9-22-703

Payments by the Administration

## ARTICLE 7. STANDARDS FOR PAYMENTS

### R9-22-703. Payments by the Administration

- A.** General requirements. A provider shall enter into a provider agreement with the Administration that meets the requirements of A.R.S. § 36-2904 and 42 CFR 431.107(b) as of October 1, 2012, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
- B.** Timely submission of claims.
1. Under A.R.S. § 36-2904, the Administration shall deem a paper ~~or electronic~~ claim to be submitted on the date that it is received by the Administration. An electronic claim is deemed received by the Administration when the claim enters the information processing system designated by the Administration for electronic claims in a form that is capable of being processed by the designated information processing system. The Administration shall do one or more of the following for each claim it receives:
    - a. Place a date stamp on the face of the claim,
    - b. Assign a system-generated claim reference number, or
    - c. Assign a system-generated date-specific number.
  2. Unless a shorter time period is specified in contract, the Administration shall not pay a claim for a covered service unless the claim is initially submitted within one of the following time limits, whichever is later:
    - a. Six months from the date of service or for an inpatient hospital claim, six months from the date of discharge; or
    - b. Six months from the date of eligibility posting.
  - ~~3.~~ 3. Unless a shorter time period is specified in contract, the Administration shall not pay a clean claim for a covered service unless the claim is submitted within one of the following time limits, whichever is later:
    - a. Twelve months from the date of service or for an inpatient hospital claim, 12 months from the date of discharge; or
    - b. Twelve months from the date of eligibility posting.
  4. Unless a shorter time period is specified in contract, the Administration shall not pay a claim submitted by an HIS or tribal facility for a covered service unless the claim is initially submitted within 12 months from the date of service, date of discharge, or eligibility posting, whichever is later.
- C.** Claims processing.
1. The Administration shall notify the AHCCCS-registered provider with a remittance advice when a claim is processed for payment.
  2. The Administration shall reimburse a hospital for inpatient hospital admissions and outpatient hospital services rendered on or after March 1, 1993, as follows and in the manner and at the rate described in A.R.S. § 36-2903.01:
    - a. If the hospital bill is paid within 30 days from the date of receipt, the claim is paid at 99 percent of the rate.
    - b. If the hospital bill is paid between 30 and 60 days from the date of receipt, the claim is paid at 100 percent of the rate.
    - c. If the hospital bill is paid after 60 days from the date of receipt, the claim is paid at 100 percent of the rate plus a fee of one percent per month for each month or portion of a month following the 60th day of receipt of the bill until date of payment.
  3. A claim is paid on the date indicated on the disbursement check.
  4. A claim is denied as of the date of the remittance advice.

5. The Administration shall process a hospital claim under this Article.

**D.** Prior authorization.

1. An AHCCCS-registered provider shall:
  - a. Obtain prior authorization from the Administration for non-emergency hospital admissions, covered services as specified in Articles 2 and 12 of this Chapter, and for administrative days as described in R9- 22-712.75,
  - b. Notify the Administration of hospital admissions under Article 2 of this Chapter, and
  - c. Make records available for review by the Administration upon request.
2. The Administration may deny a claim if the provider fails to comply with subsection (D)(1).
3. If the Administration issues prior authorization for an inpatient hospital admission, a specific service, or level of care but subsequent medical review indicates that the admission, the service, or level of care was not medically appropriate, the Administration shall adjust the claim payment.

**E.** Review of claims and coverage for hospital supplies.

1. The Administration may conduct prepayment and postpayment review of any claims, including but not limited to hospital claims.
2. Personal care items supplied by a hospital, including but not limited to the following, are not covered services:
  - a. Patient care kit,
  - b. Toothbrush,
  - c. Toothpaste,
  - d. Petroleum jelly,
  - e. Deodorant,
  - f. Septi soap,
  - g. Razor or disposable razor,
  - h. Shaving cream,
  - i. Slippers,
  - j. Mouthwash,
  - k. Shampoo,
  - l. Powder,
  - m. Lotion,
  - n. Comb, and
  - o. Patient gown.
3. The following hospital supplies and equipment, if medically necessary and used by the member, are covered services:
  - a. Arm board,
  - b. Diaper,
  - c. Underpad,
  - d. Special mattress and special bed,
  - e. Gloves,
  - f. Wrist restraint,
  - g. Limb holder,
  - h. Disposable item used instead of a durable item,
  - i. Universal precaution,
  - j. Stat charge, and
  - k. Portable charge.
4. The Administration shall determine in a hospital claims review whether services rendered were:
  - a. Covered services as defined in Article 2;
  - b. Medically necessary;
  - c. Provided in the most appropriate, cost-effective, and least restrictive setting; and

- d. For claims with dates of admission on and after March 1, 1993, substantiated by the minimum documentation specified in A.R.S. § 36-2903.01.
5. If the Administration adjudicates a claim, a person may file a claim dispute challenging the adjudication under 9 A.A.C. 34.
- F.** Overpayment for AHCCCS services.
  1. An AHCCCS-registered provider shall notify the Administration when the provider discovers the Administration made an overpayment.
  2. The Administration shall recoup an overpayment from a future claim cycle if an AHCCCS-registered provider fails to return the overpaid amount to the Administration.
  3. The Administration shall document any recoupment of an overpayment on a remittance advice.
  4. An AHCCCS-registered provider may file a claim dispute under 9 A.A.C. 34 if the AHCCCS-registered provider disagrees with a recoupment action.
- G.** For services subject to limitations or exclusions such as the number of hours, days, or visits covered as described in Article 2 of this Chapter, once the limit is reached the Administration will not reimburse the services.
- H.** Prior quarter reimbursement. A provider shall:
  1. Bill the Administration for services provided during a prior quarter eligibility period upon verification of eligibility or upon notification from a member of AHCCCS eligibility.
  2. Reimburse a member when payment has been received from the Administration for covered services during a prior quarter eligibility period. All funds paid by the member shall be reimbursed.
  3. Accept payment received by the Administration as payment in full.
- I.** Payment for in-state inpatient hospital services for claims with discharge dates on or before September 30, 2014. The Administration shall reimburse an in-state provider of inpatient hospital services rendered with a discharge date on or before September 30, 2014, the prospective tiered-per-diem amount in A.R.S. § 36-2903.01 and this Article.
- J.** Payment for out-of-state inpatient hospital services for claims with discharge dates on or before September 30, 2014. The Administration shall reimburse an out-of-state provider of inpatient hospital services rendered with a discharge date on or before September 30, 2014, for covered inpatient services by multiplying covered charges by the most recent statewide urban cost-to-charge ratio as determined in R9-22-712.01(6)(b).
- K.** Payment for inpatient hospital services for claims with discharge dates on and after October 1, 2014 regardless of admission date. The Administration shall reimburse an in-state or out-of-state provider of inpatient hospital services rendered with a discharge date on or after October 1, 2014, the DRG rate established by the Administration.
- L.** The Administration may enter into contracts for the provisions of transplant services.

**ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION**

**ARTICLE 7. STANDARDS FOR PAYMENTS**

**R9-22-703**

**1. Identification of rulemaking.**

This final rulemaking for R9-22-703 includes updating when an electronic claim is deemed received by the Administration to clarify what elements are needed in order for the Administration to process a claim. This will clarify when a claim has risen to the level of being recognized by the Administration and therefore falling under the jurisdiction of any grievances, appeals, or additional regulations governing claims processed by the Administration. As the result of this rulemaking, the Administration is able to focus on those claims in the proper format for processing, and reduce the time spent on incomplete claims unable to be processed by the information processing system.

Absent this coverage, much of the claims, i.e. all electronic claims, will be bogged down by incomplete and fractional claims the system attempts to process instead of focusing on only those claims with sufficient information to be able to be processed by the Administration. Ultimately, a failure to enact this rulemaking will allow the Administration to continue as it has been, with no fiscal or administrative change. However, enacting this rulemaking will streamline the process and save both processor and staff time wading through unprocessable claims.

**a. The conduct and its frequency of occurrence that the rule is designed to change:**

The rule is designed to clarify what elements are necessary for a claim to be processed by the Administration's system, and therefore when processing of a claim submitted to the Administration will begin.

**b. The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:**

It is expected that the change in claim submission will improve response times by the administration.

**c. The estimated change in frequency of the targeted conduct expected from the rule change:**

It is anticipated that although incomplete claims submitted in error will not decrease in number, providers and plans submitting incomplete claims will understand that the claims process will not be initiated unless the claim contains all necessary elements.

2. **Identification of the persons who will be directly affected by, bear the costs of, or directly benefit from the rule making.**

The State, and providers will benefit from this clarification of the claims process. There is no cost to this rulemaking, and the public will indirectly benefit from this streamlining of the claims process by the Administration.

3. **Cost benefit analysis.**

a. **Probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the proposed rulemaking including the number of new full-time employees necessary to implement and enforce the proposed rule:**

i. **Cost:**

The Administration does not anticipate a cost to this rulemaking.

ii. **Benefit:**

The AHCCCS Administration and providers will directly benefit from this rulemaking.

iii. **Need for additional Full-time Employees:**

The Administration does not anticipate the need to hire full-time employees as a result of this rulemaking.

b. **Probable costs and benefits to political subdivision of this state directly affected by the implementation and enforcement of the proposed rulemaking.**

This rulemaking does not directly affect political subdivisions.

4. **General description of the probable impact on private and public employment in businesses, agencies, and political subdivisions of this state directly affected by the rulemaking.**

The Administration anticipates no economic impact on public and private employment.

5. **Statement of probable impact of the proposed rule on small businesses. The statement shall include:**

a. **Identification of the small businesses subject to the proposed rulemaking.**

The Administration anticipates no impact on small businesses.

b. **Administrative and other costs required for compliance with the proposed rulemaking.**

The Administration does not anticipate an impact on the small business community.

c. **Description of methods prescribed in section A.R.S. § 41-1035 that the agency may use to reduce the impact on small businesses, with reasons for the agency's decision to use or not use each method:**

i. **Establishing less stringent compliance or reporting requirements in the rule for small businesses;**

This rulemaking does not impose compliance or reporting requirements on small businesses.

ii. **Establishing less stringent schedules deadlines in the rule for compliance or reporting requirements for small businesses;**

This rulemaking does not impose compliance or reporting requirements on small businesses.

iii. **Consolidate or simplify the rule's compliance or reporting requirements for small businesses;**

This rulemaking does not impose compliance or reporting requirements on small businesses.

iv. **Establish performance standards for small businesses to replace design or operational standards in the rule; and**

This rulemaking does not establish performance standards for small businesses.

v. **Exempting small businesses from any or all requirements of the rule.**

Exempting small businesses is not applicable to this rulemaking.

d. **The probable cost and benefit to private persons and consumers who are directly affected by the proposed rulemaking.**

No private persons or consumers are directly affected by this rulemaking.

6. **Statement of the probable effect on state revenues.**

It is anticipated that the rulemaking will not affect state revenues.

7. **Description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking, including the monetizing of the costs and benefits for each option and providing the rationale for not using nonselected alternatives.**

The Administration did not consider other alternatives because the revisions to the rule are the most cost effective and efficient method of complying with federal law and state law as well as the State's fiduciary responsibility to Arizona taxpayers.

8. **A description of any data on which a rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data.**

The Administration did not rely on any data for this rulemaking.

## CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM - ADMINISTRATION

2. When services are rendered for the purpose of treating an emergency medical condition as defined in R9-22-217 and a delay in providing treatment to obtain a signature would have a significant adverse affect on the member's health.
- F. Except as provided for in this Section, registered providers shall not bill a member when the provider could have received reimbursement from the Administration or a contractor but for the provider's failure to file a claim in accordance with the requirements of AHCCCS statutes, rules, the provider agreement, or contract, such as, but not limited to, requirements to request and obtain prior authorization, timely filing, and clean claim requirements.
- Historical Note**
- Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-702 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Amended as a permanent rule effective May 16, 1983; text identical to the emergency (Supp. 83-3). Former Section R9-22-702 repealed, new Section R9-22-702 adopted effective October 1, 1983 (Supp. 83-5). Amended by adding subsection (B) effective October 1, 1985 (Supp. 85-5). Amended by adding subsection (C) effective October 1, 1987 (Supp. 87-4). Amended effective April 13, 1990 (Supp. 90-2). Amended effective December 13, 1993 (Supp. 93-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 3217, effective October 1, 2005 (Supp. 05-3). Amended by exempt rulemaking at 17 A.A.R. 1707, effective October 1, 2011 (Supp. 11-3). Amended by final rulemaking at 19 A.A.R. 2747, effective October 8, 2013 (Supp. 13-3).
- R9-22-703. Payments by the Administration**
- A. General requirements. A provider shall enter into a provider agreement with the Administration that meets the requirements of A.R.S. § 36-2904 and 42 CFR 431.107(b) as of October 1, 2012, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
- B. Timely submission of claims.
1. Under A.R.S. § 36-2904, the Administration shall deem a paper or electronic claim to be submitted on the date that it is received by the Administration. The Administration shall do one or more of the following for each claim it receives:
    - a. Place a date stamp on the face of the claim,
    - b. Assign a system-generated claim reference number, or
    - c. Assign a system-generated date-specific number.
  2. Unless a shorter time period is specified in contract, the Administration shall not pay a claim for a covered service unless the claim is initially submitted within one of the following time limits, whichever is later:
    - a. Six months from the date of service or for an inpatient hospital claim, six months from the date of discharge; or
    - b. Six months from the date of eligibility posting.
  3. Unless a shorter time period is specified in contract, the Administration shall not pay a clean claim for a covered service unless the claim is submitted within one of the following time limits, whichever is later:
    - a. Twelve months from the date of service or for an inpatient hospital claim, 12 months from the date of discharge; or
    - b. Twelve months from the date of eligibility posting.
  4. Unless a shorter time period is specified in contract, the Administration shall not pay a claim submitted by an IHS or tribal facility for a covered service unless the claim is initially submitted within 12 months from the date of service, date of discharge, or eligibility posting, whichever is later.
- C. Claims processing.
1. The Administration shall notify the AHCCCS-registered provider with a remittance advice when a claim is processed for payment.
  2. The Administration shall reimburse a hospital for inpatient hospital admissions and outpatient hospital services rendered on or after March 1, 1993, as follows and in the manner and at the rate described in A.R.S. § 36-2903.01:
    - a. If the hospital bill is paid within 30 days from the date of receipt, the claim is paid at 99 percent of the rate.
    - b. If the hospital bill is paid between 30 and 60 days from the date of receipt, the claim is paid at 100 percent of the rate.
    - c. If the hospital bill is paid after 60 days from the date of receipt, the claim is paid at 100 percent of the rate plus a fee of one percent per month for each month or portion of a month following the 60th day of receipt of the bill until date of payment.
  3. A claim is paid on the date indicated on the disbursement check.
  4. A claim is denied as of the date of the remittance advice.
  5. The Administration shall process a hospital claim under this Article.
- D. Prior authorization.
1. An AHCCCS-registered provider shall:
    - a. Obtain prior authorization from the Administration for non-emergency hospital admissions, covered services as specified in Articles 2 and 12 of this Chapter, and for administrative days as described in R9-22-712.75,
    - b. Notify the Administration of hospital admissions under Article 2 of this Chapter, and
    - c. Make records available for review by the Administration upon request.
  2. The Administration may deny a claim if the provider fails to comply with subsection (D)(1).
  3. If the Administration issues prior authorization for an inpatient hospital admission, a specific service, or level of care but subsequent medical review indicates that the admission, the service, or level of care was not medically appropriate, the Administration shall adjust the claim payment.
- E. Review of claims and coverage for hospital supplies.
1. The Administration may conduct prepayment and post-payment review of any claims, including but not limited to hospital claims.
  2. Personal care items supplied by a hospital, including but not limited to the following, are not covered services:
    - a. Patient care kit,
    - b. Toothbrush,
    - c. Toothpaste,

## CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM - ADMINISTRATION

- d. Petroleum jelly,
  - e. Deodorant,
  - f. Septi soap,
  - g. Razor or disposable razor,
  - h. Shaving cream,
  - i. Slippers,
  - j. Mouthwash,
  - k. Shampoo,
  - l. Powder,
  - m. Lotion,
  - n. Comb, and
  - o. Patient gown.
3. The following hospital supplies and equipment, if medically necessary and used by the member, are covered services:
- a. Arm board,
  - b. Diaper,
  - c. Underpad,
  - d. Special mattress and special bed,
  - e. Gloves,
  - f. Wrist restraint,
  - g. Limb holder,
  - h. Disposable item used instead of a durable item,
  - i. Universal precaution,
  - j. Stat charge, and
  - k. Portable charge.
4. The Administration shall determine in a hospital claims review whether services rendered were:
- a. Covered services as defined in Article 2;
  - b. Medically necessary;
  - c. Provided in the most appropriate, cost-effective, and least restrictive setting; and
  - d. For claims with dates of admission on and after March 1, 1993, substantiated by the minimum documentation specified in A.R.S. § 36-2903.01.
5. If the Administration adjudicates a claim, a person may file a claim dispute challenging the adjudication under 9 A.A.C. 34.
- F. Overpayment for AHCCCS services.**
- 1. An AHCCCS-registered provider shall notify the Administration when the provider discovers the Administration made an overpayment.
  - 2. The Administration shall recoup an overpayment from a future claim cycle if an AHCCCS-registered provider fails to return the overpaid amount to the Administration.
  - 3. The Administration shall document any recoupment of an overpayment on a remittance advice.
  - 4. An AHCCCS-registered provider may file a claim dispute under 9 A.A.C. 34 if the AHCCCS-registered provider disagrees with a recoupment action.
- G.** For services subject to limitations or exclusions such as the number of hours, days, or visits covered as described in Article 2 of this Chapter, once the limit is reached the Administration will not reimburse the services.
- H.** Prior quarter reimbursement. A provider shall:
- 1. Bill the Administration for services provided during a prior quarter eligibility period upon verification of eligibility or upon notification from a member of AHCCCS eligibility.
  - 2. Reimburse a member when payment has been received from the Administration for covered services during a prior quarter eligibility period. All funds paid by the member shall be reimbursed.
  - 3. Accept payment received by the Administration as payment in full.
- I.** Payment for in-state inpatient hospital services for claims with discharge dates on or before September 30, 2014. The Administration shall reimburse an in-state provider of inpatient hospital services rendered with a discharge date on or before September 30, 2014, the prospective tiered-per-diem amount in A.R.S. § 36-2903.01 and this Article.
  - J.** Payment for out-of-state inpatient hospital services for claims with discharge dates on or before September 30, 2014. The Administration shall reimburse an out-of-state provider of inpatient hospital services rendered with a discharge date on or before September 30, 2014, for covered inpatient services by multiplying covered charges by the most recent statewide urban cost-to-charge ratio as determined in R9-22-712.01(6)(b).
  - K.** Payment for inpatient hospital services for claims with discharge dates on and after October 1, 2014 regardless of admission date. The Administration shall reimburse an in-state or out-of-state provider of inpatient hospital services rendered with a discharge date on or after October 1, 2014, the DRG rate established by the Administration.
  - L.** The Administration may enter into contracts for the provisions of transplant services.
- Historical Note**
- Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R-22-703 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-703 repealed, new Section R9-22-703 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended subsection (B), paragraph (1) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (A) effective September 16, 1987 (Supp. 87-3). Amended effective May 30, 1989 (Supp. 89-2). Amended effective September 29, 1992 (Supp. 92-3). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 3222, effective October 1, 2005 (Supp. 05-3). Amended by final rulemaking at 13 A.A.R. 662, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by exempt rulemaking at 17 A.A.R. 1707, effective October 1, 2011 (Supp. 11-3). Amended by final rulemaking at 19 A.A.R. 2747, effective October 8, 2013 (Supp. 13-3). Amended by final rulemaking at 19 A.A.R. 3309, November 30, 2013 (Supp. 13-4). Amended by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).
- R9-22-704. Repealed**
- Historical Note**
- Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-704 adopted as an emergency now adopted and amended as a permanent rule effective August 30 1982 (Supp. 82-4). Amended effective October 1, 1983 (Supp. 83-5). Amended subsection A., Paragraph 2. effective October 1, 1985 (Supp. 85-5). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Section repealed by final rulemaking at 13 A.A.R. 662, effective April 7, 2007 (Supp. 07-1).
- R9-22-705. Payments by Contractors**

36-2904. Prepaid capitation coverage; requirements; long-term care; dispute resolution; award of contracts; notification; report

A. The administration may expend public funds appropriated for the purposes of this article and shall execute prepaid capitated health services contracts, pursuant to section 36-2906, with group disability insurers, hospital and medical service corporations, health care services organizations and any other appropriate public or private persons, including county-owned and operated facilities, for health and medical services to be provided under contract with contractors. The administration may assign liability for eligible persons and members through contractual agreements with contractors. If there is an insufficient number of qualified bids for prepaid capitated health services contracts for the provision of hospitalization and medical care within a county, the director may:

1. Execute discount advance payment contracts, pursuant to section 36-2906 and subject to section 36-2903.01, for hospital services.
2. Execute capped fee-for-service contracts for health and medical services, other than hospital services. Any capped fee-for-service contract shall provide for reimbursement at a level of not to exceed a capped fee-for-service schedule adopted by the administration.

B. During any period in which services are needed and no contract exists, the director may do either of the following:

1. Pay noncontracting providers for health and medical services, other than hospital services, on a capped fee-for-service basis for members and persons who are determined eligible. However, the state shall not pay any amount for services that exceeds a maximum amount set forth in a capped fee-for-service schedule adopted by the administration.
2. Pay a hospital subject to the reimbursement level limitation prescribed in section 36-2903.01.

If health and medical services are provided in the absence of a contract, the director shall continue to attempt to procure by the bid process as provided in section 36-2906 contracts for such services as specified in this subsection.

C. Payments to contractors shall be made monthly or quarterly and may be subject to contract provisions requiring the retention of a specified percentage of the payment by the director, a reserve fund or other contract provisions by which adjustments to the payments are made based on utilization efficiency, including incentives for maintaining quality care and minimizing unnecessary inpatient services. Reserve funds withheld from contractors shall be distributed to contractors who meet performance standards established by the director. Any reserve fund established pursuant to this subsection shall be established as a separate account within the Arizona health care cost containment system fund.

D. Except as prescribed in subsection E of this section, a member defined as eligible pursuant to section 36-2901, paragraph 6, subdivision (a) may select, to the extent practicable as determined by the administration, from among the available contractors of hospitalization and medical care and may select a primary care physician or primary care practitioner from among the primary care physicians and primary care practitioners participating in the contract in which the member is enrolled. The administration shall provide reimbursement only to entities that have a provider agreement with the administration and that have agreed to the contractual requirements of that agreement. Except as provided in sections 36-2908 and 36-2909, the system shall only provide reimbursement for any health or medical services or costs of related services provided by or under referral from the primary care physician or primary care practitioner participating in the contract in which the member is enrolled. The director shall establish requirements as to the minimum time period that a member is assigned to specific contractors in the system.

E. For a member defined as eligible pursuant to section 36-2901, paragraph 6, subdivision (a), item (v) the director shall enroll the member with an available contractor located in the geographic area of the member's residence. The member may select a primary care physician or primary care practitioner from among the

primary care physicians or primary care practitioners participating in the contract in which the member is enrolled. The system shall only provide reimbursement for health or medical services or costs of related services provided by or under referral from a primary care physician or primary care practitioner participating in the contract in which the member is enrolled. The director shall establish requirements as to the minimum time period that a member is assigned to specific contractors in the system.

F. If a person who has been determined eligible but who has not yet enrolled in the system receives emergency services, the director shall provide by rule for the enrollment of the person on a priority basis. If a person requires system covered services on or after the date the person is determined eligible for the system but before the date of enrollment, the person is entitled to receive these services in accordance with rules adopted by the director, and the administration shall pay for the services pursuant to section 36-2903.01 or, as specified in contract, with the contractor pursuant to the subcontracted rate or this section.

G. The administration shall not pay claims for system covered services that are initially submitted more than six months after the date of the service for which payment is claimed or after the date that eligibility is posted, whichever date is later, or that are submitted as clean claims more than twelve months after the date of service for which payment is claimed or after the date that eligibility is posted, whichever date is later, except for claims submitted for reinsurance pursuant to section 36-2906, subsection C, paragraph 6. The administration shall not pay claims for system covered services that are submitted by contractors for reinsurance after the time period specified in the contract. The director may adopt rules or require contractual provisions that prescribe requirements and time limits for submittal of and payment for those claims. Notwithstanding any other provision of this article, if a claim that gives rise to a contractor's claim for reinsurance or deferred liability is the subject of an administrative grievance or appeal proceeding or other legal action, the contractor shall have at least sixty days after an ultimate decision is rendered to submit a claim for reinsurance or deferred liability. Contractors that contract with the administration pursuant to subsection A of this section shall not pay claims for system covered services that are initially submitted more than six months after the date of the service for which payment is claimed or after the date that eligibility is posted, whichever date is later, or that are submitted as clean claims more than twelve months after the date of the service for which payment is claimed or after the date that eligibility is posted, whichever date is later. For the purposes of this subsection:

1. "Clean claims" means claims that may be processed without obtaining additional information from the subcontracted provider of care, from a noncontracting provider or from a third party but does not include claims under investigation for fraud or abuse or claims under review for medical necessity.
2. "Date of service" for a hospital inpatient means the date of discharge of the patient.
3. "Submitted" means the date the claim is received by the administration or the prepaid capitated provider, whichever is applicable, as established by the date stamp on the face of the document or other record of receipt.

H. In any county having a population of five hundred thousand or fewer persons, a hospital that executes a subcontract other than a capitation contract with a contractor for the provision of hospital and medical services pursuant to this article shall offer a subcontract to any other contractor providing services to that portion of the county and to any other person that plans to become a contractor in that portion of the county. If such a hospital executes a subcontract other than a capitation contract with a contractor for the provision of hospital and medical services pursuant to this article, the hospital shall adopt uniform criteria to govern the reimbursement levels paid by all contractors with whom the hospital executes such a subcontract. Reimbursement levels offered by hospitals to contractors pursuant to this subsection may vary among contractors only as a result of the number of bed days purchased by the contractors, the amount of financial deposit required by the hospital, if any, or the schedule of performance discounts offered by the hospital to the contractor for timely payment of claims.

I. This subsection applies to inpatient hospital admissions and to outpatient hospital services on and after March 1, 1993. The director may negotiate at any time with a hospital on behalf of a contractor for services provided pursuant to this article. If a contractor negotiates with a hospital for services provided pursuant to this article, the following procedures apply:

1. The director shall require any contractor to reimburse hospitals for services provided under this article based on reimbursement levels that do not in the aggregate exceed those established pursuant to section 36-2903.01 and under terms on which the contractor and the hospital agree. However, a hospital and a contractor may agree on a different payment methodology than the methodology prescribed by the director pursuant to section 36-2903.01. The director by rule shall prescribe:

(a) The time limits for any negotiation between the contractor and the hospital.

(b) The ability of the director to review and approve or disapprove the reimbursement levels and terms agreed on by the contractor and the hospital.

(c) That if a contractor and a hospital do not agree on reimbursement levels and terms as required by this subsection, the reimbursement levels established pursuant to section 36-2903.01 apply.

(d) That, except if submitted under an electronic claims submission system, a hospital bill is considered received for purposes of subdivision (f) on initial receipt of the legible, error-free claim form by the contractor if the claim includes the following error-free documentation in legible form:

(i) An admission face sheet.

(ii) An itemized statement.

(iii) An admission history and physical.

(iv) A discharge summary or an interim summary if the claim is split.

(v) An emergency record, if admission was through the emergency room.

(vi) Operative reports, if applicable.

(vii) A labor and delivery room report, if applicable.

(e) That payment received by a hospital from a contractor is considered payment by the contractor of the contractor's liability for the hospital bill. A hospital may collect any unpaid portion of its bill from other third party payors or in situations covered by title 33, chapter 7, article 3.

(f) That a contractor shall pay for services rendered on and after October 1, 1997 under any reimbursement level according to paragraph 1 of this subsection subject to the following:

(i) If the hospital's bill is paid within thirty days of the date the bill was received, the contractor shall pay ninety-nine per cent of the rate.

(ii) If the hospital's bill is paid after thirty days but within sixty days of the date the bill was received, the contractor shall pay one hundred per cent of the rate.

(iii) If the hospital's bill is paid any time after sixty days of the date the bill was received, the contractor shall pay one hundred per cent of the rate plus a fee of one per cent per month for each month or portion of a month following the sixtieth day of receipt of the bill until the date of payment.

2. In any county having a population of five hundred thousand or fewer persons, a hospital that executes a subcontract other than a capitation contract with a provider for the provision of hospital and medical services pursuant to this article shall offer a subcontract to any other provider providing services to that portion of the county and to any other person that plans to become a provider in that portion of the county. If a hospital executes a subcontract other than a capitation contract with a provider for the provision of hospital and medical services pursuant to this article, the hospital shall adopt uniform criteria to govern the reimbursement levels paid by all providers with whom the hospital executes a subcontract.

J. If there is an insufficient number of, or an inadequate member capacity in, contracts awarded to contractors, the director, in order to deliver covered services to members enrolled or expected to be enrolled in the system within a county, may negotiate and award, without bid, a contract with a health care services organization holding a certificate of authority pursuant to title 20, chapter 4, article 9. The director shall require a health care services organization contracting under this subsection to comply with section 36-2906.01. The term of the contract shall not extend beyond the next bid and contract award process as provided in section 36-2906 and shall be no greater than capitation rates paid to contractors in the same county or counties pursuant to section 36-2906. Contracts awarded pursuant to this subsection are exempt from the requirements of title 41, chapter 23.

K. A contractor may require that a subcontracting or noncontracting provider shall be paid for covered services, other than hospital services, according to the capped fee-for-service schedule adopted by the director pursuant to subsection A, paragraph 2 of this section or subsection B, paragraph 1 of this section or at lower rates as may be negotiated by the contractor.

L. The director shall require any contractor to have a plan to notify members of reproductive age either directly or through the parent or legal guardian, whichever is most appropriate, of the specific covered family planning services available to them and a plan to deliver those services to members who request them. The director shall ensure that these plans include provisions for written notification, other than the member handbook, and verbal notification during a member's visit with the member's primary care physician or primary care practitioner.

M. The director shall adopt a plan to notify members of reproductive age who receive care from a contractor who elects not to provide family planning services of the specific covered family planning services available to them and to provide for the delivery of those services to members who request them. Notification may be directly to the member, or through the parent or legal guardian, whichever is most appropriate. The director shall ensure that the plan includes provisions for written notification, other than the member handbook, and verbal notification during a member's visit with the member's primary care physician or primary care practitioner.

N. The director shall prepare a report that represents a statistically valid sample and that indicates the number of children age two by contractor who received the immunizations recommended by the national centers for disease control and prevention while enrolled as members. The report shall indicate each type of immunization and the number and percentage of enrolled children in the sample age two who received each type of immunization. The report shall be done by contract year and shall be delivered to the governor, the president of the senate and the speaker of the house of representatives no later than April 1, 2004 and every second year thereafter.

O. If the administration implements an electronic claims submission system it may adopt procedures pursuant to subsection I, paragraph 1 of this section requiring documentation different than prescribed under subsection I, paragraph 1, subdivision (d) of this section.

**E-1**

***NOTE:*** *This 5YRR was previously considered at the December 29, 2020 Study Session and January 5, 2021 Council Meeting. At the January 5, 2021 Council Meeting, the Council voted to table consideration of the report and directed the Department to revise the proposed course of action timeframe and re-submit the 5YRR by January 26, 2021. The revised 5YRR with an updated proposed course of action timeframe was submitted on January 14, 2021 and is included in these final materials for your reference.*

**DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS**

Title 20, Chapter 4, Articles 12-17, Department of Financial Institutions



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - FIVE-YEAR REVIEW REPORT

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**MEETING DATE:** February 2, 2021

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** January 15, 2021

**SUBJECT: DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS  
(F21-0106)**  
Title 20, Chapter 4, Articles 12-17, Department of Financial Institutions

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### Summary

This Five-Year Review Report (5YRR) from the Department of Insurance and Financial Institutions (Department) relating to rules in Title 20, Chapter 4, Articles 12-17 was previously considered at the December 29, 2020 Study Session and January 5, 2021 Council Meeting. At the December 29, 2020 Study Session, there was discussion between the Council and the Department regarding the Department's proposed course of action timeframe. Specifically, the original report did not include a month and year by which the Department intended to submit a rulemaking package to the Council to address issues identified in the report, most specifically, those rules that were determined to be more stringent than corresponding federal law.

The Council directed the Department to submit a revised report containing a more concrete proposed course of action timeframe before the January 5, 2021 Council Meeting. The Department submitted a revised report with the following proposed courses of action:

- The Department stated it planned to complete a rulemaking to amend Article 12 by December 2021;
- The Department proposed to take no action related to Article 13;

- The Department stated it planned to review Articles 14 and 15 along with other rules that may require changes to avoid confusion in the regulated community in 2021 and would make a determination about the timeframe for making changes to these Articles by December, 2021.
- The Department stated it planned to review Articles 16 and 17 along with other rules that may require changes to avoid confusion in the regulated community in 2021 and would make a determination about the timeframe for making changes to this Article at that time. The Department stated, when a timeframe was determined for making changes to these Articles, the Department would remove the definition of “control” from R20-4-1601 to avoid the unauthorized inconsistency with the federal statute. In addition, the Department stated it would revise the unauthorized requirements in R20-4-1602(B)(4) and R20-4-1704(A) to be consistent with federal law by December, 2021.

At the January 5, 2021 Council Meeting the Council again voiced concerns regarding the lack of a concrete timeframe to submit a rulemaking to the Council to address the issues identified in Articles 14-17. The Council voted to table consideration of this 5YRR and directed the Department to submit a revised report with a more definite proposed course of action timeframe with regards to Articles 14-17 before the January 26, 2021 Study Session.

On January 14, 2021, the Department submitted a revised report with an updated proposed course of action timeframe outlined in more detail below.

### **Proposed Action**

- **Article 12:** Based on the structural changes to the Department when the Department of Insurance and the Department of Financial Institutions merged on July 1, 2020, the Department has already drafted changes to these rules to eliminate procedural differences between the two former agencies. Management has been exposed to the proposed changes and a follow-up meeting will be scheduled to get feedback. Once management gives its approval, the Department will submit a request to the policy advisors (the Department still has a policy advisor for each former agency) to request an exemption to the Governor’s Rules Moratorium to run a rulemaking to revise this Article and the Article that governs hearings for the Insurance Division. Although the Department cannot predict when the policy advisors will grant the exemption, the Department is hopeful that this rule package can be submitted to the Secretary of State by August, 2021.
- **Article 13:** The Department does not propose any changes to the rules in Article 13
- **Article 14:** In item 10 of the 5YRR, the Division identified two potential changes that could be made that it determined were unnecessary to pursue because no confusion appears to exist among licensees about the definition of “licensee” and because the Division has statutory authority to fingerprint various persons. Regardless, the merger of the Department of Insurance and the Department of Financial Institutions on July 1, 2020 (a third agency was also merged into the Department, the Arizona Automobile Theft Authority), is driving statutory changes to reflect the new structure of the agency. An

omnibus bill has been introduced to replace the title of “Superintendent” with “Director” throughout Title 6, A.R.S. Changes to these rules should be made to reflect these statutory changes and to incorporate the changes proposed from the 2015 5-Year Review Report. During 2021, the Division plans to review this Article along with all the other Articles governing its licensees that may require changes to avoid confusion about its new structure in the regulated community. Once a timeframe is determined, the Division will make a request for an exemption from the Governor’s rules moratorium. Since these changes cannot be pursued until the new statutory changes are effective, the Division will plan to begin, assuming the exemption is granted, a rulemaking on this Article by October, 2021.

- **Article 15:** As noted in Item #10 of the 5YRR, the Division proposes changes to 6 rules in this Article to correct minor problems with those rules. In addition, the merger of the Department of Insurance and the Department of Financial Institutions on July 1, 2020 (a third agency was also merged into the Department, the Arizona Automobile Theft Authority), is driving statutory changes to reflect the new structure of the agency. An omnibus bill has been introduced to replace the title of “Superintendent” with “Director” throughout Title 6, A.R.S. Changes to these rules should be made to reflect these statutory changes and to incorporate the changes proposed from the 2015 5-Year Review Report. During 2021, the Division plans to review this Article along with all the other Articles governing its licensees that may require changes to avoid confusion about its new structure in the regulated community. Once a timeframe is determined, the Division will make a request for an exemption from the Governor’s rules moratorium. Since these changes cannot be pursued until the new statutory changes are effective, the Division will plan to begin, assuming the exemption is granted, a rulemaking on this Article by October, 2021.
- **Article 16:** Item #10 of the 5YRR proposed a change to each of the two rules that comprise this Article. The first change, which is really a correction to the statutory definition that the rule references will, hopefully, be corrected with the statutory changes being effected during the 2021 Legislative Session. The Division has made a request to correct the statutory definition. If the statutory definition is not corrected, the Division will remove the reference to the statutory definition in the rule. The second change, to remove the requirement for “audited” financial statements, requires a rule change. The merger of the Department of Insurance and the Department of Financial Institutions on July 1, 2020 (a third agency was also merged into the Department, the Arizona Automobile Theft Authority), is driving statutory changes to reflect the new structure of the agency. An omnibus bill has been introduced to replace the title of “Superintendent” with “Director” throughout Title 6, A.R.S. Changes to these rules should be made to reflect these statutory changes and to incorporate the changes proposed from the 2015 5-Year Review Report. During 2021, the Division plans to review this Article along with all the other Articles governing its licensees that may require changes to avoid confusion about its new structure in the regulated community. Once a timeframe is determined, the Division will make a request for an exemption from the Governor’s rules moratorium. Since these changes cannot be pursued until the new statutory changes are effective, the

Division will plan to begin, assuming the exemption is granted, a rulemaking on this Article by October, 2021.

- **Article 17:** Items #10 and #12 of the 5YRR indicate that changes to 2 of the 3 rules that comprise this Article need to be pursued. The first change, which is really a correction to the statutory definition that the rule references, will hopefully be corrected with the statutory changes being effected during the 2021 Legislative Session. The Division has made a request to correct the statutory definition. If the statutory definition is not corrected, the Division will remove the reference to the statutory definition in the rule. The other rule changes are to require only 1 copy from applicants instead of 2 and to correct the name of the Agency (which has since changed again since 2015). The merger of the Department of Insurance and the Department of Financial Institutions on July 1, 2020 (a third agency was also merged into the Department, the Arizona Automobile Theft Authority), is driving statutory changes to reflect the new structure of the agency. An omnibus bill has been introduced to replace the title of “Superintendent” with “Director” throughout Title 6, A.R.S. Changes to these rules should be made to reflect these statutory changes and to incorporate the changes proposed from the 2015 5-Year Review Report. During 2021, the Division plans to review this Article along with all the other Articles governing its licensees that may require changes to avoid confusion about its new structure in the regulated community. Once a timeframe is determined, the Division will make a request for an exemption from the Governor’s rules moratorium. Since these changes cannot be pursued until the new statutory changes are effective, the Division will plan to begin, assuming the exemption is granted, a rulemaking on this Article by October, 2021.

### **Conclusion**

Council staff encourages the Council to discuss with the Department their revised proposed course of action timeframe in response to the Council’s prior concerns.

**The Arizona Department of Insurance and Financial Institutions**  
**Division of Financial Institutions**

**Five-Year Review**

**A.A.C. Title 20, Chapter 4, Articles 12, 13, 14, 15, 16 and 17**

**November 2020**

Arizona Department of Insurance and Financial Institutions

5 YEAR REVIEW REPORT

Title 20. Commerce, Financial Institutions, and Insurance

Chapter 4. Department of Financial Institutions<sup>1</sup>

Article 12. Rules of Practice and Procedure before the Superintendent

November 30, 2020

1. Authorization of the rule by existing statutes

General Statutory Authority: A.R.S. § 6-123(2)

Specific Statutory Authority: A.R.S. § 6-138 (Authority to conduct hearings)

2. The objective of each rule:

Rule	Objective
<b>R20-4-1201</b>	<b>Scope of Article.</b> The objective of the rule is to clarify the scope of Title 20, Chapter 4, Article 12 of the Arizona Administrative Code (hereinafter, the “Code”) so that the public and the regulated community will better comprehend it.
<b>R20-4-1202</b>	<b>Definitions.</b> The objective of the rule is to augment the definitions provided in the Arizona Administrative Procedures Act (A.R.S. § 41-1001 and §§ 41-1091 through 41-1092.12) for terms used in Article 12.
<b>R20-4-1204</b>	<b>Filing; Service.</b> The objective of the rule is to provide procedures for filing and serving documents pertinent to contested cases and appealable agency actions.
<b>R20-4-1208</b>	<b>Commencement of Proceedings; Notice of Hearing.</b> The objective of the rule is to identify appealable agency actions or contested cases appropriate for obtaining a hearing for any party who may be adversely affected or whose legal rights, duties, or privileges are determined by an appealable agency action or contested case issued by the Division.
<b>R20-4-1209</b>	<b>Answer to Notice of Hearing.</b> The objective of the rule is to specify those eligible to respond to a notice of hearing, the time limits for filing a response, the required content of any response, the effect of a default, and the effect of a failure to state a defense.
<b>R20-4-1210</b>	<b>Stays.</b> The objective of the rule is to specify the circumstances under which an aggrieved person may request a stay of an order from the Deputy Director until the matter can be heard and decided in a hearing.
<b>R20-4-1211</b>	<b>Intervention.</b> The objective of the rule is to specify those persons entitled to intervene in a proceeding before the Division.
<b>R20-4-1219</b>	<b>Rehearing.</b> The objective of the rule is to specify the procedures and grounds for obtaining a rehearing of a matter decided by the Director.
<b>R20-5-1220</b>	<b>Consent Agreements.</b> The objective of the rule is to specify the circumstances that permit the resolution of a proceeding by consent agreement.

3. Are the rules effective in achieving their objectives?

Yes X\* No \_\_\_

<sup>1</sup> On July 1, 2020, the Arizona Department of Financial Institutions merged into a new agency, the Arizona Department of Insurance and Financial Institutions. The Arizona Department of Financial Institutions is now a division of the new agency called the Division of Financial Institutions.

4. **Are the rules consistent with other rules and statutes?** Yes X\* No \_\_\_
5. **Are the rules enforced as written?** Yes X\* No \_\_\_
6. **Are the rules clear, concise, and understandable?** Yes X\* No \_\_\_
7. **Has the agency received written criticisms of the rules within the last five years?** Yes \_\_\_ No X
8. **Economic, small business, and consumer impact comparison:**

In its 2015 5-Year Review, the Division stated that it was unable to locate the Economic, Small Business and Consumer impact Statement that was submitted with the last amendment to the Rules contained in Article 12 which occurred in September, 2001. (7 A.A.R. 4262, September 12, 2001.) In the intervening period, the Division has not identified any adverse economic impact on the Division, the regulated community or the public.

9. **Has the agency received any business competitiveness analyses of the rules?** Yes \_\_\_ No X
10. **Has the agency completed the course of action indicated in the agency's previous five-year-review report?**

In its 2015 5-Year Review Report, the Division proposed changes to rules R20-4-1202, R20-4-1204, R20-4-1208, R20-4-1209 and R20-4-1219. The Division failed to effectuate these changes. However, on July 1, 2020, the Arizona Department of Financial Institutions ("Department") and the Arizona Department of Insurance merged into a new agency called the Arizona Department of Insurance and Financial Institutions. The Department is now a division of the new agency. The new agency is in the process of reconciling its hearing rules between the two divisions and plans to run a rulemaking within fiscal year 2021.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective:**

These rules in this Article have been in place for a long time and do not impose additional costs beyond the costs imposed by the Arizona Administrative Procedures Act (the “Act”) because their intention is to provide guidance to parties subject to the Act. However, since the rules are outdated, the Division proposes to update the rules to make them more consistent with the rules used by the insurance division. The rule changes are not intended to add any additional costs to parties subject to the Act. Instead, the rule changes should further clarify what is expected of parties subject to the Act. Therefore, the benefit of the rules in Article 12 outweigh the probable cost of the rules, and imposes the least burden and cost on the persons regulated necessary to achieve the regulatory objective. The rules covering the subject matter are necessary to fulfill the agency’s mission.

12. **Are the rules more stringent than corresponding federal laws?** Yes \_\_\_ No X

No federal laws apply to the rules in this Article. These rules dovetail with and augment the Arizona Administrative Procedures Act found at ARS §§ 41-1092, *et seq.*

13. **For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rules are in compliance with the general permit requirements of A.R.S. § 41-1037 or explain why the agency believes an exception applies:**

None of the rules in this Article require the issuance of a regulatory permit, license or agency authorization.

14. **Proposed course of action**

Based on the structural changes to the Department when the Department of Insurance and the Department of Financial Institutions merged on July 1, 2020, the Department has already drafted changes to these rules to eliminate procedural differences between the two former agencies. Management has been exposed to the proposed changes and a follow-up meeting will be scheduled to get feedback. Once management gives its approval, the Department will submit a request to the policy advisors (the Department still has a policy advisor for each former agency) to request an exemption to the Governor’s Rules Moratorium to run a rulemaking to revise this Article and the Article that governs hearings for the Insurance Division. Although the Department cannot predict when the policy advisors will grant the exemption, the Department is hopeful that this rule package can be submitted to the Secretary of State by August, 2021.

\*This response applies to all the rules in the Article.

Arizona Department of Insurance and Financial Institutions

5 YEAR REVIEW REPORT

Title 20. Commerce, Financial Institutions, and Insurance

Chapter 4. Department of Financial Institutions<sup>2</sup>

Article 13. Loan Originators

November 30, 2020

1. Authorization of the rule by existing statutes

General Statutory Authority: A.R.S. § 6-123(2)

Specific Statutory Authority: A.R.S. §§ 6-991, *et seq.*

2. The objective of each rule:

Rule	Objective
<b>R20-4-1301</b>	<b>Scope of Article.</b> The objective of the rule is to clarify the scope of Title 20, Chapter 4, Article 12 of the Arizona Administrative Code so the public and the regulated community has a clear understanding of who is licensed and the required conduct of a licensee. The correlate statutes for the Article are found at the Loan Originators Act (A.R.S. §§ 6-991 through 6-991.22).
<b>R20-4-1302</b>	<b>Course of Study to Qualify for Licensure.</b> The object of this rule is to provide clarity to the loan originator as to what courses will be acceptable to the Division. The rule is to further clarify the number of hours of education required to be taken.
<b>R20-4-1303</b>	<b>Financial Responsibility.</b> The objective of the rule is to detail the ways a licensee can demonstrate they are financially responsible.
<b>R20-4-1304</b>	<b>Fees.</b> The objective of the rule is to specify the program fee amounts set by the Division pursuant to A.R.S. §§ 6-126, 6-991.03, 6-991.04, and 6-991.07. It provides clear guidelines on the fees required to be paid in order to apply for and maintain the license.
<b>R20-4-1305</b>	<b>Practice and Procedure.</b> The object of this rule is to provide the process for loan originators to challenge information that the Division enters into the nationwide mortgage licensing system (NMLS) and registry.

3. Are the rules effective in achieving their objectives? Yes X\* No \_\_\_

4. Are the rules consistent with other rules and statutes? Yes X\* No \_\_\_

5. Are the rules enforced as written? Yes X\* No \_\_\_

6. Are the rules clear, concise, and understandable? Yes X\* No \_\_\_

<sup>2</sup> On July 1, 2020, the Arizona Department of Financial Institutions merged into a new agency, the Arizona Department of Insurance and Financial Institutions. The Arizona Department of Financial Institutions is now a division of the new agency called the Division of Financial Institutions.

7. **Has the agency received written criticisms of the rules within the last five years?** Yes \_\_\_ No X

8. **Economic, small business, and consumer impact comparison:**

The adopted rules are intended to satisfy statutory requirements outlined in the loan originator statutes (A.R.S. §§ 6-991 through 6-991.22). The rules specify the following: who the rules are intended for; what is required in the course of study for pre-licensure and continuing education; how to demonstrate financial responsibility; the fees for application, licensure, and maintenance of the license; and the practice and procedure for challenging information that the Division enters into the NMLS and Registry. The rules are intended to establish the details for compliance in these areas.

With the adoption of these rules in 2011, the Division indicated that the fees for loan originators was among the lowest of the licensing fees charged by the Division. The consumer protection benefit offsets these fees because loan originators are required to be more accountable and knowledgeable. No change in impact is noted since the submission of the Division's Five Year Review Report in 2015.

9. **Has the agency received any business competitiveness analyses of the rules?** Yes \_\_\_ No X

10. **Has the agency completed the course of action indicated in the agency's previous five-year-review report?**

This Article was made by final rulemaking at 16 A.A.R. 2401, effective April 22, 2011. The 2015 5-Year Review Report was the Division's first rule review. In that report, the Division did not suggest any changes to these rules.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective:**

The Division has determined that the probable benefits of the rule outweigh the probable costs of the rule because the Article provides guidance to licensees for complying with the statutory sections regulating their license. The rule imposes the least burden and costs to regulated persons for the same reason. The rules support the Division's regulatory objective of licensing and regulating loan originators.

12. **Are the rules more stringent than corresponding federal laws?** Yes \_\_\_ No X

The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (“S.A.F.E. Act,” 12 U.S.C. 5100, *et seq.*), also affects the licensing of loan originators. The S.A.F.E. Act establishes federal registration requirements for any individual who acts as a residential mortgage loan originator and is employed by a financial institution and certain subsidiaries. The S.A.F.E. Act requires mortgage loan originators to register with the NMLS and Registry.

The Division’s rules are not more stringent than the Federal Law.

**13. For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rules are in compliance with the general permit requirements of A.R.S. § 41-1037 or explain why the agency believes an exception applies:**

The Division adopted Article 13 on April 22, 2011 (16 A.A.R. 2401, April 22, 2011). The Article does not require issuance of a general permit. Instead, the statutes require issuance of an individual loan originator license. The requirement for the individual license falls under the exemption of A.R.S. §§ 41-1037(A)(2).

**14. Proposed course of action**

The Division has no proposed changes to suggest at this time. However, statutory changes to reflect recent structural changes to the Division may drive changes to this Article that were not anticipated in the 2015 report.

During 2021, the Division plans to review this Article along with all the other Articles governing its licensees that may require changes to avoid confusion about its new structure in the regulated community. Once a timeframe is determined, the Division will make a request for an exemption from the Governor’s rules moratorium. Since these changes cannot be pursued until the new statutory changes are effective, the Division will plan to begin, assuming the exemption is granted, a rulemaking on this Article by October, 2021.

\*This response applies to all the rules in the Article.



7. **Has the agency received written criticisms of the rules within the last five years?** Yes \_\_\_ No X

8. **Economic, small business, and consumer impact comparison:**

The Department has not identified any economic impact that is significantly different than either it projected in the economic impact statement when the Article was last amended (9 A.A.R. 4653, December 6, 2003) or reported in its 2015 5-Year Review Report.

9. **Has the agency received any business competitiveness analyses of the rules?** Yes \_\_\_ No X

10. **Has the agency completed the course of action indicated in the agency's previous five-year-review report?**

The Division has not completed the two actions it proposed in its 2015 5-Year Review Report:

R20-4-1401: Amend the definition of "Licensee" to clarify that this references financial institutions and financial enterprises licensed with the Division because not every financial institution or enterprise is a licensee of the Division.

This change is unnecessary at this time because the Division has not received any comments from the regulated public that any confusion exists as to who is a "licensee."

R20-4-1405: Clarify the rule as it relates to whom the Division has the authority to fingerprint.

This change is also unnecessary because A.R.S. § 6-123.01 authorizes the Division to fingerprint various persons.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective:**

The benefit of the rules in Article 14 outweigh the probable costs of the rule, and imposes the least burden and cost on the persons regulated necessary to achieve the regulatory objective.

These rules govern investigations of financial institutions and enterprises. Real Estate Appraisal, which is also part of the Division, has its own rules governing investigations (Title 4, Chapter 46, Article 3).

These rules only address subpoenas and fingerprints and do not impose unnecessary regulations upon the regulated community because they are informational only.

12. **Are the rules more stringent than corresponding federal laws?** Yes \_\_\_ No X

The rules only address the Division's authority to issue subpoenas and receive fingerprints. They are not more stringent than any corresponding federal law that may be applicable to financial institutions or loan originators.

13. **For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rules are in compliance with the general permit requirements of A.R.S. § 41-1037 or explain why the agency believes an exception applies:**

No rule in Article 14 was adopted after July 29, 2010, therefore no analysis for compliance is required.

14. **Proposed course of action**

In item 10, the Division identified two potential changes that could be made that it determined were unnecessary to pursue because no confusion appears to exist among licensees about the definition of "licensee" and because the Division has statutory authority to fingerprint various persons.

Regardless, the merger of the Department of Insurance and the Department of Financial Institutions on July 1, 2020 (a third agency was also merged into the Department, the Arizona Automobile Theft Authority), is driving statutory changes to reflect the new structure of the agency. An omnibus bill has been introduced to replace the title of "Superintendent" with "Director" throughout Title 6, A.R.S.

Changes to these rules should be made to reflect these statutory changes and to incorporate the changes proposed from the 2015 5-Year Review Report.

During 2021, the Division plans to review this Article along with all the other Articles governing its licensees that may require changes to avoid confusion about its new structure in the regulated community. Once a timeframe is determined, the Division will make a request for an exemption from the Governor's rules moratorium. Since these changes cannot be pursued until the new statutory changes are effective, the Division will plan to begin, assuming the exemption is granted, a rulemaking on this Article by October, 2021.

\*This response applies to all the rules in the Article.

**Arizona Department of Insurance and Financial Institutions**

**Division of Financial Institutions**

**5 YEAR REVIEW REPORT**

**Title 20. Commerce, Financial Institutions, and Insurance**

**Chapter 4. Department of Financial Institutions<sup>4</sup>**

**Article 15. Collection Agencies**

**November 30, 2020**

**1. Authorization of the rule by existing statutes**

General Statutory Authority: A.R.S. § 6-101(19) which defines “Title” to include Title 32, Chapter 9, and A.R.S. §§ 6-123(1) and (2)

Specific Statutory Authority: A.R.S. §§ 32-1001 through 32-1057

**2. The objective of each rule:**

Rule	Objective
<b>R20-4-1501</b>	<b>Definitions.</b> The objective of the rule is to define the terms used in this Article. The correlate statutes are found at the “Collection Agencies Act,” A.R.S. §§ 32-1001 through 32-1057. The rule augments the statutory definitions and informs collection agencies of the meanings of certain terms.
<b>R20-4-1502</b>	<b>Applications.</b> The objective of the rule is to specify the details of the application process for collection agencies for new, renewal and provisional licenses, and to list the documents applicants must submit in support of an application.
<b>R20-4-1503</b>	<b>Reports.</b> The objective of the rule is to notify collection agencies of their reporting duties in the event certain changes occur.
<b>R20-4-1504</b>	<b>Records.</b> The objective of the rule is to require maintenance of records that allow the Division to examine the collection agencies and determine if their business is conducted in compliance with applicable law and regulations. It also notifies licensees of the types of information the Division expects them to maintain for examination purposes. The rule also defines the length of time a collection agency must retain its records.
<b>R20-4-1505</b>	<b>Trust Account.</b> The objective of the rule is to require that a collection agency keep funds collected for creditor clients segregated from the collection agency’s money and, thereby, to protect the interests of both creditor clients and debtors. It gives collection agencies guidelines on handling client funds.
<b>R20-4-1506</b>	<b>Articles of Incorporation; Bylaws; Organizing Documents.</b> The objective of the rule is to specify what documentation is required in a collection agency’s licensing file and how long the licensee has to provide changes to the Division after amending articles of incorporation or bylaws.
<b>R20-4-1507</b>	<b>Representations of Collection Agency’s Identity.</b> The objective of the rule is to specifically limit the content of representations a collection agency may make about its identity in its contacts with debtors.

<sup>4</sup> On July 1, 2020, the Arizona Department of Financial Institutions merged into a new agency, the Arizona Department of Insurance and Financial Institutions. The Arizona Department of Financial Institutions is now a division of the new agency called the Division of Financial Institutions.

<b>R20-4-1508</b>	<b>Representations of the Law.</b> The objective of the rule is to specifically limit the content of representations a collection agency may make about the state of the law in its contacts with debtors and specify the types of representations that are prohibited.
<b>R20-4-1509</b>	<b>Representations as to Fees, Costs and Legal Proceedings; Disinterested Council Required.</b> The objective of the rule is to specifically limit the content of representations a collection agency may make about collection of attorney's fees, collection costs, or the imminence of legal proceedings in its contacts with debtors. It also requires that attorneys representing the collection agency have no personal or financial interest in the collection agency.
<b>R20-4-1510</b>	<b>Representations as to Rights Waived or Remedies Available.</b> The objective of the rule is to specifically limit the content of representations a collection agency may make about the debtor's rights and remedies in its contacts with debtors.
<b>R20-4-1511</b>	<b>Prohibition of Harassment.</b> The objective of the rule is to specifically limit the content of persuasive communications a collection agency may employ in its contacts with debtors and that they are subject to penalties for any violations.
<b>R20-4-1512</b>	<b>Contacts with Debtors and Others.</b> The objective of the rule is to specifically limit the content of, and the parties to, telephonic communications a collection agency may employ in its efforts to collect a debt. It also allows a collection agency to serve third parties after judgment against a debtor has been entered.
<b>R20-4-1513</b>	<b>Cessation of Communication with the Debtor.</b> The objective of the rule is to cut off contacts by a collection agency with a debtor who is represented by a lawyer. This section also specifies the duties of a collection agency notified in writing by a debtor that the debtor either refuses to pay a debt or that the debtor no longer wants to communicate with the collection agency and specified certain limited communications that can occur after that notification.
<b>R20-4-1514</b>	<b>Disclosure of Information to Debtor.</b> The objective of the rule is to require disclosure by a collection agency of specified factual information to debtors from whom it attempts to collect debts and to allow the debtor to access to the information and copies free of charge.
<b>R20-4-1515</b>	<b>Aiding and Abetting.</b> The objective of the rule is to prohibit a collection agency's use of an unlicensed party using prohibited practices to collect debts in violation of these rules and statutory law.
<b>R20-4-1516</b>	<b>Advertising.</b> The objective of the rule is to prohibit a collection agency's use of certain specified deceptive advertising practices.
<b>R20-4-1518</b>	<b>Agreements with Clients.</b> The objective of the rule is to state the requirement of a written agreement or acknowledgement between a collection agency and a creditor client. This Section also specifies the minimum contents of the agreement or acknowledgement.
<b>R20-4-1519</b>	<b>License Names and Control.</b> The objective of the rule is to describe the criteria used by the Division to decide the propriety of a collection agency's proposed name. It also requires a collection agency to obtain a separate license for each name that it uses.
<b>R20-4-1520</b>	<b>Representations of Collection Agency Employees' Identity or Position.</b> The objective of the rule is to specify the means by which a collection agency can protect the identity and personal safety of its employees, and ensure the truthfulness of communications with debtors, while preserving the Division's ability to discipline collection agencies and employees of collection agencies.
<b>R20-4-1521</b>	<b>Duty of Investigation.</b> The objective of the rule is to specify the defensive claims of a debtor that a collection agency has an affirmative duty to investigate.

3. Are the rules effective in achieving their objectives?

Yes X\* No

4. **Are the rules consistent with other rules and statutes?** Yes X\* No \_\_\_
5. **Are the rules enforced as written?** Yes X\* No \_\_\_
6. **Are the rules clear, concise, and understandable?** Yes X\* No \_\_\_
7. **Has the agency received written criticisms of the rules within the last five years?** Yes \_\_\_ No X
8. **Economic, small business, and consumer impact comparison:**

The Department has not identified any economic impact that is significantly different than either it projected in the economic impact statement when the Article was last amended (R20-4-1502, R20-4-1504, and R20-4-1505 amended at 6 A.A.R. 4742, November 13, 2000; R20-4-1501, R20-4-1503, and R20-4-1506 through R20-4-1521 amended at 12 A.A.R. 1331, June 4, 2006.) or reported in its 2015 5-Year Review Report.

The Division has not seen any detrimental impact on collection agencies in the State and continues to maintain a healthy number of entities holding this type of license.

9. **Has the agency received any business competitiveness analyses of the rules?** Yes \_\_\_ No X
10. **Has the agency completed the course of action indicated in the agency's previous five-year-review report?**

The Division proposed the following changes in its 2015 5-Year Review Report:

Rule	Explanation
<b>R20-4-1501</b>	Amend the statutory reference in the definition of "collection agency".
<b>R20-4-1502</b>	Amend to clarify duplications, and incorrect references.
<b>R20-4-1503</b>	Amend by removing Subsection (B).
<b>R20-4-1504</b>	Amend to clarify the confusion of "timely manner".
<b>R20-4-1505</b>	Correct an ARS citation from A.R.S. §44-307 to A.R.S. §44-317. (This is transposed. The citation is currently to A.R.S. § 44-317 and should be to A.R.S. § 44-307.)
<b>R20-4-1512</b>	Amend Subsection B and remove Subsection C.

None of the proposed changes have been implemented by the Division.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective:**

The benefit of the rules in Article 15 outweighs the probable costs of the rules and imposes the least burden and cost to the persons regulated necessary to achieve the regulatory objective. Most of the proposed changes to the rules are not substantive in nature. However, if the Division decides to remove the requirement to license each dba a collection agency uses, the costs to licensees will be reduced appreciably.

12. **Are the rules more stringent than corresponding federal laws?** Yes \_\_\_ No X

Collection agencies are also subject to two federal laws: the Fair Credit Reporting Act (“FCRA”) (15 U.S.C. §§ 1681 through 1681x) and the Fair Debt Collection Practices Act (“FDCPA”) (15 U.S.C. §§ 1692 through 1692p). The Federal Trade Commission enforces the FCRA and the Consumer Financial Protection Bureau enforces both Acts.

Article 15 is not more stringent than the federal laws.

13. **For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rules are in compliance with the general permit requirements of A.R.S. § 41-1037 or explain why the agency believes an exception applies:**

No rule in Article 15 was adopted after July 29, 2010. Therefore no analysis for compliance is required.

14. **Proposed course of action**

As noted in Item #10, the Division proposes changes to 6 rules in this Article to correct minor problems with those rules. In addition, the merger of the Department of Insurance and the Department of Financial Institutions on July 1, 2020 (a third agency was also merged into the Department, the Arizona Automobile Theft Authority), is driving statutory changes to reflect the new structure of the agency. An omnibus bill has been introduced to replace the title of “Superintendent” with “Director” throughout Title 6, A.R.S. Changes to these rules should be made to reflect these statutory changes and to incorporate the changes proposed from the 2015 5-Year Review Report.

During 2021, the Division plans to review this Article along with all the other Articles governing its licensees that may require changes to avoid confusion about its new structure in the regulated community. Once a timeframe is determined, the Division will make a request for an exemption from the Governor’s rules moratorium. Since these changes cannot be pursued until the new statutory

changes are effective, the Division will plan to begin, assuming the exemption is granted, a rulemaking on this Article by October, 2021.

\*This response applies to all the rules in the Article.

Arizona Department of Insurance and Financial Institutions

Division of Financial Institutions

5 YEAR REVIEW REPORT

Title 20. Commerce, Financial Institutions, and Insurance

Chapter 4. Department of Financial Institutions<sup>5</sup>

Article 16. Acquiring Control of Financial Institutions

November 30, 2020

1. Authorization of the rule by existing statutes

General Statutory Authority: A.R.S. §§ 6-123(1) and (2)

Specific Statutory Authority: A.R.S. § 6-145(A)

2. The objective of each rule:

Rule	Objective
<b>R20-4-1601</b>	<b>Definitions.</b> The objective of the rule is to provide definitions for the terms used in Article 16, and in the application package. The correlate statutes are found at the “Acquisition of Control of a Bank, Trust Company or Savings and Loan Association Act” found at A.R.S. §§ 6-141 through 6-153.
<b>R20-4-1602</b>	<b>Application for Approval to Acquire Control of Financial Institution.</b> The objective of the rule is to provide the form of application required by A.R.S. § 6-145(A), and to prescribe the form and the information, data or records which may be required in the application package.

3. Are the rules effective in achieving their objectives? Yes X\* No \_\_\_

4. Are the rules consistent with other rules and statutes? Yes X\* No \_\_\_

5. Are the rules enforced as written? Yes X\* No \_\_\_

6. Are the rules clear, concise, and understandable? Yes X\* No \_\_\_

7. Has the agency received written criticisms of the rules within the last five years? Yes \_\_\_ No X

<sup>5</sup> On July 1, 2020, the Arizona Department of Financial Institutions merged into a new agency, the Arizona Department of Insurance and Financial Institutions. The Arizona Department of Financial Institutions is now a division of the new agency called the Division of Financial Institutions.

8. **Economic, small business, and consumer impact comparison:**

The Department has not identified any economic impact that is significantly different than either it projected in the economic impact statement when the rule was last amended (9 A.A.R. 5055, effective January 3, 2004) or reported in its 2015 5-Year Review Report.

9. **Has the agency received any business competitiveness analyses of the rules?**

Yes \_\_\_ No X

10. **Has the agency completed the course of action indicated in the agency’s previous five-year-review report?**

Rule	Explanation
<b>R20-4-1601</b>	In 2015, the Division proposed to amend A.R.S. § 6-141 to change the definition of “control” to 25% to align more closely with the definition in the Federal Deposit Insurance Act and the Federal Reserve Bank Holding Company Act (see subsection 12 below). Since the definition in the rule references the statutory definition, the rule will then become aligned with the federal laws. The Division has not made the statutory change.
<b>R20-4-1602</b>	In 2015, The Division proposed a revision to R20-4-1602(B)(4) to adjust the requirements for financial statement information so that it is no more stringent than the Federal Deposit Insurance Act by changing the requirement of “audited financial statements” to correspond with the federal law requiring financial statements be prepared in accordance with generally accepted accounting principles (see subsection 12 below). The Division has not made this change.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective:**

Despite the inconsistencies with the Federal laws, the benefit of the rules in Article 16 outweighs the probable costs of the rules, and impose the least burden and cost on the persons regulated necessary to achieve the regulatory objective. The Division is not the primary regulator for most financial institutions because these types of entities are also federally chartered.

12. **Are the rules more stringent than corresponding federal laws?**

Yes X No \_\_\_

Rule	Explanation
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<b>R20-4-1601</b>	An inconsistency is noted in the statutory definition of “Control.” A.R.S. 6-141(2) is more stringent in defining control as 15% as compared with the federal banking regulations under the Federal Deposit Insurance Act [Codified at 12 U.S.C. 1817(j)(8)(B)] and the Federal Reserve Bank Holding Company Act [Regulation Y; 12 C.F.R 225.2 (e)(1)(i)] where control is defined as 25%. R20-4-1601 defines “Control” to have the meaning of A.R.S. § 6-141 which creates the inconsistency in the rule.
<b>R20-4-1602</b>	The rule imposes a more stringent requirement in subsection (B)(4) for persons who make an initial application for control over a financial institution because the rule requires audited financial statements from applicants. Under the Federal Deposit Insurance Act, the requirement for financial statements is that the financial statements are prepared in accordance with generally accepted accounting principles. (12 U.S.C. 1817(j)(6)(B).) The requirement for audited statements as opposed to statements in compliance with generally accepted accounting principles may cause additional cost for each applicant.

**13. For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rules are in compliance with the general permit requirements of A.R.S. § 41-1037 or explain why the agency believes an exception applies:**

No rule in Article 16 was adopted after July 29, 2010. Therefore no analysis for compliance is required.

**14. Proposed course of action**

Item #10 proposed a change to each of the two rules that comprise this Article. The first change, which is really a correction to the statutory definition that the rule references will, hopefully, be corrected with the statutory changes being effected during the 2021 Legislative Session. The Division has made a request to correct the statutory definition. If the statutory definition is not corrected, the Division will remove the reference to the statutory definition in the rule. The second change, to remove the requirement for “audited” financial statements, requires a rule change.

The merger of the Department of Insurance and the Department of Financial Institutions on July 1, 2020 (a third agency was also merged into the Department, the Arizona Automobile Theft Authority), is driving statutory changes to reflect the new structure of the agency. An omnibus bill has been introduced to replace the title of “Superintendent” with “Director” throughout Title 6, A.R.S. Changes to these rules should be made to reflect these statutory changes and to incorporate the changes proposed from the 2015 5-Year Review Report.

During 2021, the Division plans to review this Article along with all the other Articles governing its licensees that may require changes to avoid confusion about its new structure in the regulated community. Once a timeframe is determined, the Division will make a request for an exemption from the Governor’s rules moratorium. Since these changes cannot be pursued until the new statutory

changes are effective, the Division will plan to begin, assuming the exemption is granted, a rulemaking on this Article by October, 2021.

\*This response applies to all the rules in the Article.



7. **Has the agency received written criticisms of the rules within the last five years?** Yes \_\_\_ No X

8. **Economic, small business, and consumer impact comparison:**

The Department has not identified any economic impact that is significantly different than either it projected in the economic impact statement when the rules were last amended (11 A.A.R. 2031, effective July 2, 2005) or reported in its 2015 5-Year Review Report.

9. **Has the agency received any business competitiveness analyses of the rules?** Yes \_\_\_ No X

10. **Has the agency completed the course of action indicated in the agency’s previous five-year-review report?**

Rule	Explanation
<b>R20-4-1701</b>	In 2015, the Division proposed to amend A.R.S. § 6-321(2) to change the definition of “control” to 25% to align more closely with the definition in the Federal Deposit Insurance Act and the Federal Reserve Bank Holding Company Act (see subsection 12 below). Since the definition in the rule references the statutory definition, the rule will become aligned with the federal laws when the statute is updated. The Division has not made the statutory change.
<b>R20-4-1704</b>	In 2015, the Division proposed to amend the rule to be consistent with the agency’s new name and also to reduce the delivery of notice of publication to one from two. The Division did not make those proposed changes.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective:**

Except for the requirement to provide two copies of each notice and publisher’s affidavit of publication in R20-4-1704(A), the benefit of the rules in Article 17 outweighs the probable costs of the rules, and impose the least burden and cost on the persons regulated necessary to achieve the regulatory objective.

12. **Are the rules more stringent than corresponding federal laws?** Yes X No \_\_\_

Rule	Explanation
<b>R20-4-1701</b>	An inconsistency is noted in the statutory definition of “Control.” A.R.S. 6-321(2) is more stringent in defining control as 15% as compared with the federal banking

	regulations under the Federal Deposit Insurance Act [Codified at 12 U.S.C. 1817(j)(8)(B)] and the Federal Reserve Bank Holding Company Act [Regulation Y; 12 C.F.R 225.2 (e)(1)(i)] where control is defined as 25%. R20-4-1701 defines “Control” to have the meaning of A.R.S. § 6-321 which also creates the inconsistency in the rule.
<b>R20-4-1704</b>	The rule imposes a more stringent requirement in subsection (A) for applicants of each notice and affidavit of publication required by the Federal Reserve Board, Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, or other regulatory authority because the rule requires two copies which may cause additional cost for each applicant.

**13. For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rules are in compliance with the general permit requirements of A.R.S. § 41-1037 or explain why the agency believes an exception applies:**

No rule in Article 17 was adopted after July 29, 2010. Therefore no analysis for compliance is required.

**14. Proposed course of action**

Items #10 and #12 indicate that changes to 2 of the 3 rules that comprise this Article need to be pursued. The first change, which is really a correction to the statutory definition that the rule references, will hopefully be corrected with the statutory changes being effected during the 2021 Legislative Session. The Division has made a request to correct the statutory definition. If the statutory definition is not corrected, the Division will remove the reference to the statutory definition in the rule. The other rule changes are to require only 1 copy from applicants instead of 2 and to correct the name of the Agency (which has since changed again since 2015).

The merger of the Department of Insurance and the Department of Financial Institutions on July 1, 2020 (a third agency was also merged into the Department, the Arizona Automobile Theft Authority), is driving statutory changes to reflect the new structure of the agency. An omnibus bill has been introduced to replace the title of “Superintendent” with “Director” throughout Title 6, A.R.S. Changes to these rules should be made to reflect these statutory changes and to incorporate the changes proposed from the 2015 5-Year Review Report.

During 2021, the Division plans to review this Article along with all the other Articles governing its licensees that may require changes to avoid confusion about its new structure in the regulated community. Once a timeframe is determined, the Division will make a request for an exemption from the Governor’s rules moratorium. Since these changes cannot be pursued until the new statutory changes are effective, the Division will plan to begin, assuming the exemption is granted, a rulemaking on this Article by October, 2021.

\*This response applies to all the rules in the Article.

**DEPARTMENT OF PUBLIC SAFETY**

Title 13, Chapter 6, Department of Public Safety - Security Guards



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - FIVE-YEAR REVIEW REPORT

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**MEETING DATE:** February 2, 2021

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** January 12, 2021

**SUBJECT: DEPARTMENT OF PUBLIC SAFETY**  
Title 13, Chapter 6, Department of Public Safety - Security Guards

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### Summary

This Five-Year Review Report (5YRR) from the Department of Public Safety (Department) relates to all rules in Title 13, Chapter 6 related to the licensing and regulation of security guards.

The Department indicates that it has not completed its proposed course of action outlined in the prior 5YRR approved by the Council in 2015. The Department states it was uncertain whether it would pursue a rulemaking moratorium exemption and did not initiate a rulemaking since the rules were reviewed in 2015. The Department states, over the last five years, the Security Guard Licensing Unit was engaging in other prolonged and complex activities and internal restructuring that hindered opportunities for rulemaking. For example, the Department indicates it engaged with planning and moving to a new building, upgrading its online web-based system and report mechanism, and rotated through three supervisors in five years due to retirement, promotion and attrition. The Department also notes the current supervisor earned a green belt in Lean Six Sigma and has implemented changes to improve efficiencies which resulted in the removal of backlogs resulting in one business day processing time. The Department also notes there were statutory changes in 2017 and that there were no major challenges to the current rules.

## **Proposed Action**

The Department intends to make the changes to many of its rules to address issues with clarity, conciseness, understandability, consistency, effectiveness and enforcement as outlined in more detail below. Additionally, the Department intends to add new rules based on statutory changes to A.R.S. §§ 32-2625 and 2632, which occurred in 2017. Specifically, the Department intends to add a new Article 8 related to security guard training instructors.

The Department states that the rulemaking moratorium is hindering its ability to conduct rulemakings, specifically, the time taken to evaluate rulemaking moratorium exemption requests and the requirement to repeal three rules for every new or amended rule. As such, the Department indicates that it cannot commit to any timeline, but would prefer to complete a rulemaking to implement the changes outlined in this report by July 1, 2021.

**1. Has the agency analyzed whether the rules are authorized by statute?**

Yes. The Department cites both general and specific statutory authority for these rules.

**2. Summary of the agency's economic impact comparison and identification of stakeholders:**

The Department believes that the previous economic impact statements are still relevant to these rules. The Department states that, based on a comparison to other states, the Department's licensing rules are in line with 43 other states. Four states are more restrictive on Rules 601 and 602, which pertain to security guard pre-assignment and refresher training. Three states have no state licensing requirements. The Department provided a chart outlining a state-by-state breakdown of fees that is included in the final materials for your reference.

**3. Has the agency analyzed the costs and benefits of the rulemaking and determined that the rules impose the least burden and costs to those who are regulated?**

The Department indicates that it is statutorily required to regulate individual security guards, security businesses, uniforms and vehicle markings, firearms and training. The Department states that it agrees with the Governor and Legislature that the statutes provide a necessary and reasonable level of protection to the public who may place trust in security guards and armed security guards.

**4. Has the agency received any written criticisms of the rules over the last five years?**

No. The Department indicates it has not received any written criticisms of the rules in the last five years.

**5. Has the agency analyzed the rules' clarity, conciseness, and understandability?**

The Department indicates that the following rules are not clear, concise, and understandable:

- R13-6-101: “Classifiable fingerprint” can be made clearer by updating the incorporated by reference date for Form FD-258.
- R13-6-104: In Section E, “duplicate” should be replaced with “replacement” for consistency with R13-6-103(A)(16).
- R13-6-105: It can be made clearer to specify business days for the Department’s review time frame and calendar days for the applicant’s time frame to respond. The Department works on business days whereas the applicant can work on supplying the additional information required on weekends and holidays.
- R13-6-202: It can be made clearer by removing “renewal” from Section C as R13-6-203 deals with renewals.
- R13-6-301: It can be made clearer by changing the title to *Application for Associate, Security Guard or Armed Security Guard Registration Certificate* to distinguish from the 2017 amended statute A.R.S. § 32-2625 requiring registration certificates for firearms safety training instructors and security guard training instructors.
- R13-6-303: It can be made clearer by replacing “new” with “replacement” for consistency with R13-6-103(A)(14).
- R13-6-304: It can be made clearer by changing Section A from “new” to “replacement identification card.”
- R13-6-403: It can be made clearer by adding a new paragraph stating the qualified party shall maintain adequate records on a client containing at least sufficient information to identify the client, the dates of service, the fees for service and the payments for service.
- R13-6-701: Needs to be amended to meet the new statutory requirements of A.R.S. §§ 32-2625 and 2632 due to legislative changes in 2017.
- R13-6-703: Needs to be amended to meet the new statutory requirements of A.R.S. §§ 32-2625 and 2632 due to legislative changes in 2017.
- R13-6-702: Needs to be amended to meet the new statutory requirements of A.R.S. §§ 32-2625 and 2632 due to legislative changes in 2017.

**6. Has the agency analyzed the rules' consistency with other rules and statutes?**

The Department indicates that the following rules are not consistent with other rules and statutes:

- R13-6-101: The statutory reference for “prohibited possessor” has changed to A.R.S. § 13-3101(A)(7).
- R13-6-102: In 2017, legislative action changed the content of A.R.S. § 32-2625. The requirements need to be incorporated into Sections C and D referencing the statute and not R13-6-701.
- R13-6-103: In 2017, legislative action changed the content of A.R.S. § 32-2625. The fees for the new registration certificates need to be incorporated as Section A.

- R13-6-104: In 2017, legislative action changed the content of A.R.S. § 32-2625. The new registration certificates need to be added to the rule in Section A. If the rule is amended to add the fees in Sections D and E (see also R13-6-103 penalty fee), then Section A needs to be amended to add firearms safety instructor and security guard instructor identification cards and the references to fees need to be changed in Section D to R13-6-103(A)(17) and Section E R13-6-103(A)(16).
- R13-6-105: In 2017, legislative action changed the content of A.R.S. § 32-2625. Section B needs amending to reflect the addition of registration certificates. Section C(4) needs to reference R13-6-802 for requirements of a security guard training instructor registration certificate.
- R13-6-201: The rule is incorrectly listed in the Arizona Administrative Code as R13-2-201. It needs to be changed from Chapter 2 to Chapter 6.
- R13-6-202: Pursuant to A.R.S. § 32-2614(D), Section B needs to be amended to 90 calendar days. Section G needs to be amended to 60 calendar days.
- R13-6-204: Pursuant to A.R.S. § 32-2614(D), Section F needs to be amended to 30 calendar days.
- R13-6-301: Pursuant to A.R.S. § 32-2625, Section A(4)(f) and (g) needs to be amended to reflect the new procedures for submitting training certificates. If the rule is amended with changes to the fee, then the reference to R13-6-103 will need to be updated.
- R13-6-302: Pursuant to A.R.S. § 32-2625, Section B(3) and (4) need to be amended to reflect the new procedures for submitting training certificates.
- R13-6-303: If R13-6-103 is amended with changes to the fees then the references to R13-6-103 will need to be updated.
- R13-6-304: The reference should be amended to more specifically identify R13-6-103(A)(14).
- R13-4-401: The Department does not have statutory authority for Section G which requires an applicant who is denied a license or certification to wait one year before reapplying. The authorizing statutes only refer to revoking a license or certification and does not specifically use the term denied. The Department intends to remove the one-year waiting period for denied licenses and certifications.
- R13-6-403: Client documentation is not addressed in the rule. The Department needs to add the qualifying party shall maintain adequate records on a client containing at least sufficient information to identify the client, the dates of service, the fee for service and the payments for service.
- R13-6-404: A.R.S. § 32-2636 states the Director *may* take action. The rule uses shall.
- R13-6-601, 602, 603, 701, 702, 703: Statutory changes to A.R.S. § 32-2625 and 2632, made in 2017, need to be incorporated.

7. **Has the agency analyzed the rules' effectiveness in achieving its objectives?**

The Department indicates the following rules are not effective in achieving their regulatory objectives:

- R13-6-102: It could be improved by amending Section F to allow for applications and fees to be submitted electronically through a Department-approved web-based portal.

- R13-6-103: Section A can be improved by specifying a penalty fee for a late application to renew an associate or security guard registration certificate, an armed security guard registration certificate, a firearms safety training instructor registration certificate and a security guard training instructor registration certificate. This amendment makes the renewal consistent with the renewal of an agency license and resident manager license. Section B and C will need to be corrected to reference the changes in Section A. Section D can be improved by **removing cash payment** and allow for payment through a Department-approved web-based portal. **Accepting cash is a burden and liability for the Department as extra procedures are needed for cash handling and counting and Security Guard Licensing is the only unit in the Department that is currently accepting cash.** R13-6-202(H) can be moved to this rule to consolidate information on fees.
- R13-6-202: Section H can be moved to R13-6-103 to consolidate information on fees.
- R13-6-203: It could be improved if language was added that allowed for the applicant to request to pick up the license at the Department's office in Phoenix and if no request is made, the Department shall send the license to the applicant's mailing address; refer to R13-6-202(C).
- R13-6-204: It could be improved if the notice to the Department in Section A regarding the operation of a branch office included the telephone number for the branch office.
- R13-6-301: It could be improved for armed applications by requiring military members to provide all discharge documents with the application to verify the person's eligibility under A.R.S. § 32-2622(B)(4).
- R13-6-403: It could be improved by including the requirement for the qualifying party to maintain documentation of all Department-required training received by the individuals specified.
- R13-6-404: It could be improved if Section B stated the Department upon request instead of shall forward a copy of the complaint to the person against whom the complaint is made and amend the Director "may" instead of "shall" take an action listed in A.R.S. §32-2636. *See also* Consistency with Statute and consistency with R13-2-204, Private Investigator licensing which uses "may."
- R13-6-501: It could be improved by providing a procedure for requesting an exemption from some of the uniform requirements. This was a past request from some agencies. The exemption would be available only in offices or businesses that generally are not open to the public.
- R13-6-701, 702, 703: Not in compliance with A.R.S. §§ 32-2625 and 2632 due to legislative changes in 2017. The rule needs to be completely re-written.
- R13-6-704: It could be improved by including the name and registration number of the firearms safety instructor conducting the training in Section D.

**8. Has the agency analyzed the current enforcement status of the rules?**

The Department indicates the rules are enforced in a manner consistent with how they are written except for rules that are inconsistent with their authorizing statute, such as those identified in Section 6 above. In the latter circumstance, the rule is then enforced according to the statute.

**9. Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

Not applicable. The Department indicates that there is no corresponding federal law.

**10. For rules adopted after July 29, 2010, do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

Not applicable. The Department indicates that the rules were enacted on September 9, 2006 and no amendments were made after that date. Furthermore, the Department notes that the issuance of a general permit is not applicable as there are specific statutory requirements for each license or certificate authorized by statute. Therefore, the Department would not be required to issue a general permit pursuant to A.R.S. § 41-1037(A)(2). The Department also notes that individuals receive a background check and verification of training including firearms training. Therefore, a blanket general license cannot be issued for all employees and the Department would not be required pursuant to A.R.S. § 41-1037(A)(3)

**11. Conclusion**

As outlined above, the Department has identified rules that are not clear, concise, understandable, effective, consistent, and effective. The Department intends to make the changes to its rules to address these issues. Additionally, the Department intends to add new rules based on statutory changes to A.R.S. §§ 32-2625 and 2632, which occurred in 2017. Specifically, the Department intends to add a new Article 8 related to security guard training instructors.

The Department states that the rulemaking moratorium is hindering its ability to conduct rulemakings, specifically, the time taken to evaluate rulemaking moratorium exemption requests and the requirement to repeal three rules for every new or amended rule. As such, the Department indicates that it cannot commit to any timeline, but would prefer to complete a rulemaking to implement the changes outlined in this report by July 1, 2021.

Council staff recommends approval of this report.

October 22, 2020

**VIA EMAIL:** [grrc@azdoa.gov](mailto:grrc@azdoa.gov)

Ms. Nicole Sornsins, Chair  
Governor's Regulatory Review Council  
100 North 15th Avenue, Suite 305  
Phoenix, Arizona 85007

**RE: Department of Public Safety 13 A.A.C. 6 *Security Guards* Five-Year  
Review Report**

Dear Ms. Sornsins:

Please find enclosed the Five-Year Review Report of the Department of Public Safety for 13 A.A.C. 6, *Security Guards* which is due on November 30, 2020.

The Department hereby certifies compliance with A.R.S. 41-1091.

For questions about this report, please contact Mr. Paul Swietek, Research and Planning Unit at 602-223-2049 or [pswietek@azdps.gov](mailto:pswietek@azdps.gov).

Sincerely,



**Colonel Heston Silbert  
Director**

Arizona Department of Public Safety  
Five-year Review Report  
13 A.A.C. 6, Security Guards  
November 25, 2020

- A. List any rule you intend to expire on the date the five-year review is due under A.R.S. § 41-1056(J) and R1-6-301. An explanation of why the rule is intended to expire is required. Once a rule has expired, only a formal rulemaking process can reestablish it.

The Department does not intend for any rule to expire.

- B. Provide a certification the rules are in compliance with A.R.S. § 41-1091 on substantive policy statements.

The Department does not have any substantive policy statements and is therefore in compliance with the statute.

**Complete the following for each rule, table and exhibit pursuant to A.R.S. § 41-1056(A) and R1-6-301:**

1. Authorization of the rule by existing statutes:

General Authority

A.R.S. § 41-1713(A)(4). To make rules necessary for the operation of the Department.

Specific Authority

A.R.S. § 32-2602(D) specifies the Department to adopt and enforce rules that are not in conflict with the laws of the state and that are necessary to enforce the statutes relating to security guards.

Additional Statutory Authority

- A.R.S. § 28-101(4) specifies the definition of an authorized emergency vehicle.
- A.R.S. § 32-2601(18),(21) specifies the definition of *proprietary company* and *registration certificate*.
- A.R.S. § 32-2607 *Fees; renewal of license or registration certificate*
- A.R.S. § 32-2608 *License or registration required; violation, classification*
- A.R.S. § 32-2611 *Necessity of an agency license*
- A.R.S. § 32-2612 *Qualifications of applicant for agency license; substantiation of work experience.*
- A.R.S. § 32-2613 *Application for agency license; financial responsibility; notice and opportunity to supply additional information.*
- A.R.S. § 32-2614 *Issuance of an agency license and identification card; deadline for completing application.*
- A.R.S. § 32-2616 *Qualifying party; responsibilities*
- A.R.S. § 32-2617 *Branch office certificate*

- A.R.S. § 32-2621 *Necessity of security guard registration*
- A.R.S. § 32-2622 *Qualifications of applicant for associate, security guard or armed security guard registration certificate*
- A.R.S. § 32-2623 *Application for employee registration certificate*
- A.R.S. § 32-2624 *Issuance of registration certificates and identification cards*
- A.R.S. § 32-2625 *Qualifications of applicant for security guard training instructor or firearms safety training instructor registration certificate*
- A.R.S. § 32-2632 *Duty of licensee to provide training of security guards; records; firearms training; rules*
- A.R.S. § 32-2633 *Identification cards*
- A.R.S. § 32-2634 *Authority; limitations*
- A.R.S. § 32-2635 *Uniform and insignia*
- A.R.S. § 32-2636 *Grounds for disciplinary action; emergency summary suspension; judicial review*
- A.R.S. § 32-2639 *Authority to investigate complaint; filing and response to complaints; retention of records*
- A.R.S. § 32-2640 *Grounds for refusal to issue or renew an agency license; judicial review; good cause exceptions*
- A.R.S. § 32-2641 *Grounds for refusal to issue a security guard identification card or registration certificate; judicial review*
- A.R.S. § 41-1072 et seq. *Licensing time frames*

2. The objective of the rule:

Rule	Objective
101	To define words that are used in the rules.
102	To establish the general requirements for the various licenses relating to security guards and to point applicants for various licenses to the rule that provides more detailed application information for a specific license.
103	To establish fees the Department collects for its various licensing activities to security guards.
104	To identify the licensees and certificate holders to whom the Department issues an identification card, the information the Department places on an identification card and the manner in which a licensee or certificate holder is required to treat the identification card.
105	To describe the manner and time in which the Department reviews and acts upon a license or registration application.
201	To provide detail regarding the information required to be submitted by the qualifying party of a security guard agency for which an agency license is sought. If the security guard agency will have a resident manager, information is also provided regarding the information required from the resident manager.
202	To describe the steps that must be taken by an applicant after the Department provides notice the applicant's agency license is ready for issuance. The rule also provides information regarding posting, transferring or surrendering a license.

203	To provide information regarding when, how and by whom an agency license is required to be renewed and the consequences of failing to renew timely.
204	To describe the procedure for the qualifying party of a licensed agency to obtain a certificate to operate a branch office and the manner in which a branch office certificate is to be handled.
205	To describe the consequence for a licensed agency if the qualifying party leaves as well as the procedure for obtaining a new qualifying party.
206	To describe the information that must be submitted to the Department when a licensed agency changes the form in which it does business.
207	To protect the public by establishing standards for the name of a licensed agency that minimize confusion or deceit.
301	To establish the procedure and information required to apply for a registration certificate as an associate, security guard or armed security guard.
302	To provide information regarding when and how a registration certificate is required to be renewed and the consequences of failing to renew timely.
303	To describe the procedure for obtaining a new registration certificate or identification card when a previous one is lost or stolen.
304	To describe the procedure for notifying the Department that a registrant's name has changed.
401	To establish the standards used by the Department to decide whether to deny a license or registration certificate to an applicant, the procedure for appealing denial and the manner the Department handles an appeal.
402	To describe the circumstances under which the Director may fix a period and terms of probation for a licensee or registrant and the consequences of being on probation.
403	To establish the responsibility of the qualifying party to maintain employee and business records, the term for which the records must be maintained and to whom the records must be disclosed.
404	To establish against whom an individual may submit a written complaint and the manner the Department handles a submitted complaint.
501	To describe the requirements and limitations for the uniform worn by security guards and to establish standards to ensure a reasonable person does not mistake a security guard for a peace officer.
502	To indicate that a security guard wearing business attire or plain clothes is forbidden to display a badge.
503	To establish standards for markings, emblems and insignias on a vehicle under the control of a security guard to ensure a reasonable person does not mistake the vehicle for that of a law enforcement agency or peace officer.
601	To establish the minimum standards for the training required before an individual may submit an application for a security guard registration certificate.
602	To establish minimum standards for the training required before a security guard may submit an application for the renewal of the security guard registration certificate.
603	To establish minimum standards for the training required of a security guard who uses a firearm within the scope of the security guard's employment.

701	To establish the procedure and information to apply for a registration certificate as a firearms-safety training instructor. Note: In 2017, legislative action chaptered A.R.S. § 32-2625 <i>Qualifications of applicant for security guard training instructor or firearms safety training instructor registration certificate</i> and modified A.R.S. § 32-2632. The title of this rule will be changed to <i>Application for Firearms Safety Training Instructor</i> .
702	To provide information regarding when and how a firearms safety training instructor registration certificate is required to be renewed and the consequences of failing to renew timely. Note: In 2017, legislative action chaptered A.R.S. § 32-2625 <i>Qualifications of applicant for security guard training instructor or firearms safety training instructor registration certificate</i> and modified A.R.S. § 32-2632. The title of this rule will be changed to <i>Renewal of Firearms Safety Training Instructor</i> .
703	To establish standards for obtaining the renewal of certification as a firearms safety instructor.
704	To provide requirements on the program provided by a certified firearms safety instructor and to establish recordkeeping requirements.

3. Are the rules effective in achieving their objectives? No

Rule	Explanation
102	It could be improved by amending Section F to allow for applications and fees to be submitted electronically through a Department-approved web-based portal.
103	<ul style="list-style-type: none"> <li>• Section A can be improved by specifying a penalty fee for a late application to renew an associate or security guard registration certificate, an armed security guard registration certificate, a firearms safety training instructor registration certificate and a security guard training instructor registration certificate. This amendment makes the renewal consistent with the renewal of an agency license and resident manager license.</li> <li>• Section B and C will need to be corrected to reference the changes in Section A.</li> <li>• Section D can be improved by removing cash payment and allow for payment through a Department-approved web-based portal. Accepting cash is a burden and liability for the Department as extra procedures are needed for cash handling and counting and Security Guard Licensing is the only unit in the Department that is currently accepting cash.</li> <li>• R13-6-202(H) can be moved to this rule to consolidate information on fees.</li> </ul>
202	<ul style="list-style-type: none"> <li>• Section H can be moved to R13-6-103 to consolidate information on fees.</li> </ul>
203	It could be improved if language was added that allowed for the applicant to request to pick up the license at the Department's office in Phoenix and if no request is made, the Department shall send the license to the applicant's mailing address; refer to R13-6-202(C).
204	It could be improved if the notice to the Department in Section A regarding the operation of a branch office included the telephone number for the branch office.

301	It could be improved for armed applications by requiring military members to provide all discharge documents with the application to verify the person's eligibility under A.R.S. § 32-2622(B)(4).
403	It could be improved by including the requirement for the qualifying party to maintain documentation of all Department-required training received by the individuals specified.
404	It could be improved if Section B stated the Department <i>upon request</i> instead of <i>shall</i> forward a copy of the complaint to the person against whom the complaint is made and amend the Director <i>may</i> instead of <i>shall</i> take an action listed in A.R.S. §32-2636. See also Consistency with Statute and consistency with R13-2-204, Private Investigator licensing which uses <i>may</i> .
501	It could be improved by providing a procedure for requesting an exemption from some of the uniform requirements. This was a past request from some agencies. The exemption would be available only in offices or businesses that generally are not open to the public.
701	Not in compliance with A.R.S. §§ 32-2625 and 2632 due to legislative changes in 2017. The rule needs to be completely re-written.
702	Not in compliance with A.R.S. §§ 32-2625 and 2632 due to legislative changes in 2017. The rule needs to be completely re-written.
703	Not in compliance with A.R.S. §§ 32-2625 and 2632 due to legislative changes in 2017. The rule needs to be completely re-written.
704	It could be improved by including the name and registration number of the firearms safety instructor conducting the training in Section D.

4. Are the rules consistent with other rules and statutes? No

Rule	Statute	Explanation
101	13-3101(A)(7)	The statutory reference for <i>prohibited possessor</i> changed.
102	32-2625	In 2017, legislative action changed the content of the statute. The requirements need to be incorporated into Sections C and D referencing the statute and not R13-6-701.
103	32-2625	In 2017, legislative action changed the content of the statute. The fees for the new registration certificates need to be incorporated as Section A.
104	32-2625	In 2017, legislative action changed the content of the statute. The new registration certificates need to be added to the rule in Section A. If the rule is amended to add the fees in Sections D and E (see also R13-6-103 penalty fee), then Section A needs to be amended to add firearms safety instructor and security guard instructor identification cards and the references to fees need to be changed in Section D to R13-6-103(A)(17) and Section E R13-6-103(A)(16).
105	32-2625	In 2017, legislative action changed the content of the statute. <ul style="list-style-type: none"> <li>Section B needs amending to reflect the addition of these registration certificates.</li> </ul>

		<ul style="list-style-type: none"> <li>Section C(4) needs to reference R13-6-802 for requirements of a security guard training instructor registration certificate.</li> </ul>
201	Administrative Procedures Act	The rule is incorrectly listed in the Arizona Administrative Code as R13-2-201. It needs to be changed from Chapter 2 to Chapter 6.
202	32-2614(D)	<ul style="list-style-type: none"> <li>Section B needs to be amended to 90 calendar days.</li> <li>Section G needs to be amended to 60 calendar days.</li> </ul>
204	32-2614(D)	Section F needs to be amended to 30 calendar days.
301	32-2625	Section A(4)(f,g) needs to be amended to reflect the new procedures for submitting training certificates. If the rule is amended with changes to the fee, then the reference to R13-6-103 will need to be updated.
302	32-2625	Section B(3,4) needs to be amended to reflect the new procedures for submitting training certificates.
303	R13-6-103	If the rule is amended with changes to the fees then the references to R13-6-103 will need to be updated.
304	R13-6-103	The reference should be amended to more specifically identify R13-6-103(A)(14).
401	32-2612, 2622, 2640, 2641	The Department does not have statutory authority for Section G which requires an applicant who is denied a license or certification to wait one year before reapplying. The authorizing statutes only refer to the revoking a license or certification and does not specifically use the term <i>denied</i> . The Department intends to remove the one-year waiting period for denied licenses and certifications.
403	32-2601(25)(D)	Client documentation is not addressed in the rule. The Department needs to add the qualifying party shall maintain adequate records on a client containing at least sufficient information to identify the client, the dates of service, the fee for service and the payments for service.
404	32-2636	States the Director <i>may</i> take action. The rule uses <i>shall</i> .
601	32-2625, 2632	Statutory changes made in 2017 need to be incorporated.
602	32-2625, 2632	Statutory changes made in 2017 need to be incorporated.
603	32-2625, 2632	Statutory changes made in 2017 need to be incorporated.
701	32-2625, 2632	Statutory changes made in 2017 need to be incorporated.
703	32-2625, 2632	Statutory changes made in 2017 need to be incorporated.
702	32-2625, 2632	Statutory changes made in 2017 need to be incorporated.

5. Are the rules enforced as written? No

Rule	Explanation
See Item 4	The rules are enforced in a manner consistent with how they are written except for rules that are inconsistent with their authorizing statute. In the latter, the rule is then enforced according to the statute.

6. Are the rules clear, concise and understandable? No

Rule	Explanation
101	<i>Classifiable fingerprint</i> can be made clearer by updating the incorporated by reference date for Form FD-258.
104	In Section E, <i>duplicate</i> should be replaced with <i>replacement</i> for consistency with R13-6-103(A)(16).
105	It can be made clearer to specify <i>business days</i> for the Department's review time frame and <i>calendar days</i> for the applicant's time frame to respond. The Department works on business days whereas the applicant can work on supplying the additional information required on weekends and holidays.
202	It can be made clearer by removing <i>renewal</i> from Section C as R13-6-203 deals with renewals.
301	It can be made clearer by changing the title to <i>Application for Associate, Security Guard or Armed Security Guard Registration Certificate</i> to distinguish from the 2017 amended statute A.R.S. § 32-2625 requiring registration certificates for firearms safety training instructors and security guard training instructors.
303	It can be made clearer by replacing <i>new</i> with <i>replacement</i> for consistency with R13-6-103(A)(14).
304	It can be made clearer by changing Section A from <i>new</i> to <i>replacement identification card</i> .
403	It can be made clearer by adding a new paragraph stating the qualified party shall maintain adequate records on a client containing at least sufficient information to identify the client, the dates of service, the fees for service and the payments for service.
701	Needs to be amended to meet the new statutory requirement mentioned earlier in this report.
703	Needs to be amended to meet the new statutory requirement mentioned earlier in this report.
702	Needs to be amended to meet the new statutory requirement mentioned earlier in this report.

7. Has the agency received written criticisms of the rules within the last five years? No

Rule	Explanation
501	The Department noted in its previous report there were some requests for alternative uniforms. The Department agrees with the exemption request to evaluate if a uniform can be altered for only that specific contract the company is working on.

8. Economic, small business and consumer impact comparison:

The Department determined the previous EIS are still relevant for these rules. Included with this report is a detailed explanation of the Unit’s FY19 and FY20 budgets and a comparison of fees to other states to justify its economic impact and fees. Additionally, the Department examined security guard licensing rules in the other states and Washington D.C. The Department’s licensing rules are in line with 43 other states. Four states are more restrictive on Rules 601 and 602 which pertains to security guard pre-assignment and refresher training. Three states have no state licensing requirements.

9. Has the agency received any business competitiveness analysis of the rules? No.

10. Has the agency completed the course of action indicated in the agency’s previous five-year review report?

No action was taken from the previous report. The Department was uncertain whether it would pursue a rulemaking moratorium exemption and did not initiate a rulemaking since the rules were reviewed in 2015. Over the last five years, the Security Guard Licensing Unit was engaging in other prolonged and complex activities and internal restructuring that hindered opportunities for rulemaking. For example,

- Engaged with planning and moving to a new building.
- Upgrading its online web-based system and report mechanism.
- Rotated through three supervisors in five years due to retirement, promotion and attrition.
- The current supervisor earned a green belt in Lean Six Sigma and has implemented changes to improve efficiencies which resulted in the removal of backlogs resulting in one business day processing time.
- There were statutory changes in 2017.
- There were no major challenges to the current rules.

Rule	Action Needed	Action Taken
102	1. Amend Section F to allow for applications and fees to be submitted electronically.	1. Identified as current in this report.

	2. Amend Section G prohibit signatures from being photocopied.	2. This is no longer relevant as applications are moving to electronic submission.
103	<ol style="list-style-type: none"> <li>1. Specify a late penalty for a late application renewal.</li> <li>2. Amend Section A to <i>Under the authority provided by A.R.S. § 32-2607 the Department establishes and shall collect fees for the following services.</i></li> <li>3. Remove all fee amounts from Sections A(1-18), B and C and publish fees on-line on the website. *Impacts Rules 104, 201, 301, 302, 303, 304, 702, 703.</li> <li>4. The Department no longer performs fingerprinting and digital photo services.</li> <li>5. Amend Section D to remove cash payment in lieu of electronic payment.</li> <li>6. Rule 202(H) should be moved to this rule to consolidate information on fees.</li> </ol>	<ol style="list-style-type: none"> <li>1. Identified as current in this report.</li> <li>2. No longer relevant. The Department is unsure why the previous supervisor wanted this change.</li> <li>3. No action as removing fees from the rules is not in compliance with the Administrative Procedures Act for licensing.</li> <li>4. No action as the Department reversed its position and continues to perform these services.</li> <li>5. Identified as current in this report.</li> <li>6. Identified as current in this report.</li> </ol>
*104, 201, 302, 303, 304, 702, 703	Impacted by Rule 103 on fees.	No action as fees will remain listed in the rule.
105	Specify the days as business days.	Identified as current in this report.
202	<ol style="list-style-type: none"> <li>1. Liability and workers' compensation insurance issue in Section A for out-of-state addresses to provide in the description of operations the insurance is for security guards in Arizona.</li> <li>2. Statutory change for the number of days to notify the Department. Remove the word <i>renewal</i>.</li> </ol>	<ol style="list-style-type: none"> <li>1. No action. Legal counsel has advised the language is not necessary. The certificate of insurance is valid without this language and it is an extra step insurance providers are not accustomed to include in a certificate of insurance.</li> <li>2. Identified as current in this report. Identified as current in this report.</li> </ol>
203	Add language for the option to pick up the license at the Department in lieu of mailing.	Identified as current in this report.
204	1. Have branch offices provide a telephone number.	1. Identified as current in this report.

	2. Update the number of days for notification of change of address.	2. Identified as current in this report.
301	1. Impacted by Rule 103 on fees. 2. Require military to provide all discharge paperwork.	1. No action as fees will remain listed in the rule. 2. Identified as current in this report.
401	No statutory authority for a one year waiting period before reapplying.	Identified as current in this report.
403	1. Amend to require documentation of training received. 2. Amend to require maintenance of adequate business records.	Both are identified as current in this report.
501	Provide procedure for an exemption from some uniform requirements.	Identified as current in this report.
703	Impacted by Rule 103 on fees.	No action as fees will remain as listed in the rule.
704	Add to Section 3 the make, model and serial number of each weapon the instructor is trained in using.	No action as there is no statutory authorization to record the serial number. The company already has on file the make and model of weapon. The Department only needs to know the type of weapon; for example, shotgun, handgun.

11. A determination the probable benefits of the rule outweigh within this state the probable costs of the rule and the rule imposes the least burden and costs to regulated persons by the rules including paperwork and other compliance costs necessary to achieve the underlying regulatory objective:

The Department is statutorily required to regulate individual security guards, security guard businesses, uniforms and vehicle markings, firearms and training pursuant to Item 1 of this report. The Department agrees with the Governor and Legislature the statutes provide a necessary and reasonable level of protection to the public who may place trust in security guards and armed security guards.

Included with this report is a detailed explanation of the Unit's FY19 and FY20 budgets and a comparison of fees to other states to justify its economic impact and fees. Additionally, the Department examined security guard licensing rules in the other states and Washington D.C. The Department's licensing rules are in line with 43 other states. Four states are more restrictive on Rules 601 and 602 which pertains to security guard pre-assignment and refresher training. Three states have no state licensing requirements.

12. Are the rules more stringent than corresponding federal laws? No

This is no corresponding federal law.

13. For rules adopted or amended after July 29, 2010 that require the issuance of a regulatory permit, license or agency authorization whether the rules are in compliance with the general permit requirements of A.R.S. § 41-1037 or explain why the agency believes an exception applies:

The rules were enacted on September 9, 2006 and no amendments were made after that date. The issuance of a general permit is not applicable as there are specific statutory requirements for each license or certificate authorized by statute. Individuals receive a background check and verification of training including firearms training therefore a blanket general license cannot be issued for all employees.

14. Proposed course of action:

The Department intends to make the changes identified above and add new rules based on A.R.S. §§ 32-2625 and 2632:

- New Article 8 security guard training instructor
- New Rule 801 application for security guard training instructor registration certificate.
- New Rule 802 renewal of security guard training instructor registration certificate.
- New Rule 803 requirements of security guard training instructor.

The Department has expressed to GRRC staff at two rulewriters' meetings that Executive Order 2020-02 was substantially suppressing the ability of agencies to conduct rulemakings. The Department submitted two expedited rulemaking waiver requests on March 9, 2020 and after lengthy involvement of the Department's government liaison, the Governor's Office approved the expedited rulemakings on November 18, 2020. However, the Department is still trying to ascertain from the Governor's Office on if future regular rulemakings will be approved given the requirement to repeal three rules for every new or amended rule: *Rule of Three*.

Given the EO's impact of the *Rule of Three*, the length of time the Governor's Office may take to evaluate a request and the regular rulemaking required to make the identified changes and add a new article and new rules the Department cannot commit to any timeline even though it would prefer to have this rulemaking completed by July 1, 2021.

State	State Agency	Security Agency License Fee	Security Guard Fee	License Period
Alabama	State of Alabama Private Investigation Board	(a) Personal License \$50.00 (b) Personal License Late Fee \$25.00 (c) Security Company License \$250.00 (d) Security Company License Late Fee \$125.00 (e) Certified Trainer 1 License \$100.00 (f) CT 1 Late Fee \$50.00 (g) Certified Trainer 2 License \$200.00 (h) CT 2 License Late Fee \$100.00 (i) Contract Security Company License Replacement Fee \$ 50.00 (j) Personal License Replacement Fee \$ 10.00 (k) Special Licensure \$100.00 (l) Special Licensure Replacement Fee \$ 25.00  The credentialing agency assesses a \$50 license fee and \$39.75 background check fee.	Armed \$250.00 Unarmed \$88.25	A license shall expire on September 30
Alaska	Alaska Department of Public Safety, Permits and Licensing Unit	License: \$98.25                      Agency fee: \$200	\$88.25	Biennial
Arkansas	Arkansas State Police	Class "B" Security Service Contractor: \$450.00 Class "C" Combination Security and Investigations: \$600.00	\$40.00	Every Year
California	California Department of Consumer Affairs, Bureau of Security and Investigative Services	\$1320 New SG Agency Renewal                      \$900	\$55.00	every two years
Colorado	State of Colorado Department of Regulatory Agencies, Office of Private Investigator Licensure	Could not locate	Could not locate	Could not locate

State	State Agency	Security Agency License Fee	Security Guard Fee	License Period
Connecticut	Commissioner of Emergency Services and Public Protection	\$1450.00 for Individual \$1750.00 for Corporation	Armed \$ 137.00 Unarmed 75.00	Every two years
Delaware	Delaware Department of Safety and Homeland Security, Division of State Police	Instate Agency \$385.00 State Agency \$585.00 In State \$585.00 State \$885.00 Out of Armed Agency Armed Agency Out of State \$885.00	Armed \$115.00 Unarmed \$85.00	Every two years
District of Columbia	Metropolitan Police Department, Security Officer Management Branch  SECURITY - D.C. Municipal Regulations and D.C. Register	Security Agency License: \$500 per individual and \$1,000 for a firm Basic Business License: Application Fee: \$70.00 Endorsement Fee: \$25.00 Technology Fee: 10 percent of total	\$103.00	Every two years
Florida	Florida Department of Agriculture and Consumer Services, Division of Licensing	\$450.00	Armed \$164.75 Unarmed \$97.75	Every two years
Georgia	Georgia Board of Private Detective and Security Agencies	\$600.00	Armed \$70.00 Unarmed \$40.00	Every two years

State	State Agency	Security Agency License Fee	Security Guard Fee	License Period
Hawaii	Hawaii Department of Commerce & Consumer Affairs, Division of Professional and Vocational Licensing	<p>Entity <b>(\$317)</b> if licensed between July 1st even-numbered year to June 30 odd-numbered year; and <b>(\$126)</b> if licensed between July 1st odd-numbered year to June 30 even-numbered year.</p> <p>Principal/Sole Proprietor <b>(\$256)</b> if licensed between July 1st even-numbered year to June 30, odd-numbered year; and <b>(\$96)</b> if Licensed between July 1st odd-numbered year to June 30, evennumbered year.</p> <p>Guard Employee <b>(\$126)</b> if licensed between July 1st evennumbered year to June 30, odd-numbered year; and <b>(\$86)</b> if Licensed between July 1st odd-numbered year to June 30, evennumbered year</p>	\$161.00	One Year
Idaho	No state licensing requirements	No state licensing requirement	No state licensing requirement	No state licensing requirement
Illinois	Illinois Department of Financial & Professional Regulation	License: \$500.00	\$55.00	Every 2 years

State	State Agency	Security Agency License Fee	Security Guard Fee	License Period
<b>Indiana</b>	Indiana Professional Licensing Agency, Private Investigator & Security Guard Licensing Board	Issuance Fee \$300.00 Issuance Fee \$150.00 (if less than one (1) year before quadrennial renewal date)	Could not locate	Every two years
<b>Iowa</b>	Program Services Bureau Administrative Services Division Iowa Department of Public Safety	\$100.00 for each license requested	Could not locate	could not locate
<b>Kansas</b>	Office of Attorney Genera	\$265.00	\$65.00	Every year
<b>Kentucky</b>	Kentucky Board of Licensure for Private Investigators, Kentucky Division of Occupations & Professions	\$100.00	Could not locate	Every year
<b>Louisiana</b>	Louisiana State Board of Private Security Examiners	Company License-\$400.00	\$88.00	Every two years
<b>Maine</b>	Maine Department of Public Safety	License: \$400.00	Could not locate	Every Year

State	State Agency	Security Agency License Fee	Security Guard Fee	License Period
<b>Maryland</b>	Maryland State Police	\$405.00	Could not locate	Every three years
<b>Massachusetts</b>	Massachusetts State Police	\$550.00 Fee determined annually	Could not locate	Every Year
<b>Michigan</b>	Department of Licensing and Regulatory Affairs	\$300.00	Could not locate	Every two years
<b>Minnesota</b>	Minnesota Private Detective and Protective Agent Services Board	Individual \$800.00 Partnership/LLP \$1,600.00 Corporation/LLC \$1,800.00	Could not locate	Every two years
<b>Mississippi</b>	Residential Electronic Protection Division, State Fire Marshal's Office	No state licensing requirement	No state licensing requirement	No state licensing requirement
<b>Missouri</b>	Missouri Division of Professional Registration	250 annually	Could not locate	Every year
<b>Montana</b>	Montana Board of Private Security Patrol Officers and Investigators	\$250.00	Armed \$150.00 Unarmed \$100.00	Every year

State	State Agency	Security Agency License Fee	Security Guard Fee	License Period
<b>Nebraska</b>	Nebraska Secretary of State	No state licensing requirement	No state licensing requirement	No state licensing requirement
<b>Nevada</b>	Nevada Private Investigators Licensing Board	\$750.00	Could not locate	Every year
<b>New Hampshire</b>	New Hampshire Department of Safety, Division of State Police, Permits and Licensing Unit	\$175.00	Armed \$56.00 Unarmed \$30.00	Every year
<b>New Jersey</b>	New Jersey State Police, Private Detective Unit	\$800.00	\$75.00	Every two years
<b>New Mexico</b>	New Mexico Private Investigations Board	\$400.00	Armed \$75.00 Unarmed \$50.00	Every two years
<b>New York</b>	New York State Department of State, Division of Licensing Services	\$405.00 for Agency \$400.00 for each branch office	\$136.00	Every two years
<b>North Carolina</b>	North Carolina Private Protective Services	\$250.00	Could not locate	Every year

State	State Agency	Security Agency License Fee	Security Guard Fee	License Period
North Dakota	North Dakota Private Investigation & Security Board	\$350.00	\$30.00	Every year
Ohio	Ohio Dept. of Public Safety, Homeland Security, Private Investigator Security Guard Services	\$375.00 for Agency \$100.00 for each Branch Office	\$40.00	After March 1st every year.
Oklahoma	Oklahoma Council on Law Enforcement Education and Training	Could not locate	Armed \$141.00 Unarmed \$91.00	Could not locate
Oregon	Oregon Department of Public Safety Standards and Training	\$250.00	\$75.00	Every two years
Pennsylvania	Pennsylvania State Police	\$300.00	Could not locate	Every two years

State	State Agency	Security Agency License Fee	Security Guard Fee	License Period
<b>Rhode Island</b>	Rhode Island Department of Attorney General, Bureau of Criminal Identification	\$400.00	Could not locate	Every two years
<b>South Carolina</b>	South Carolina Law Enforcement Division c/o Regulatory Department	\$350	Could not locate	Annually
<b>South Dakota</b>	No state licensing requirements, some jurisdictional licensing requirements	No state licensing requirement	No state licensing requirement	No state licensing requirement
<b><u>Tennessee</u></b>	<u>Department of Commerce and Insurance</u>	\$300 application fee + \$125 licence fee if there are less than 50 employees, and \$425 if there are 50 or more.	Could not locate	Every two years
<b><u>Texas</u></b>	<u>Texas Department of Public Safety, Private Security Bureau</u>	Class A \$361.00 Class B \$412.00 Class C \$556.00	Armed \$57.00 Unarmed \$37.00	Every year

State	State Agency	Security Agency License Fee	Security Guard Fee	License Period
Utah	Utah Department of Public Safety, Bureau of Criminal Identification	\$340.00	Could not locate	All security licenses expire November 30 of even-numbered years.
Vermont	Vermont Board of Private Investigative & Security Services	Security agency \$340.00 Investigative/security agency \$400.00 Sole proprietor \$250.00	Armed \$200.00 Unarmed \$150.00	Every two years
Virginia	Virginia Department of Criminal Justice Services, Private Security Services Section	\$550.00	\$85.00	Every two years
Washington	Washington Department of Licensing, Public Protection Unit	\$340.00	Armed \$101.00 Unarmed \$91.00	Every year

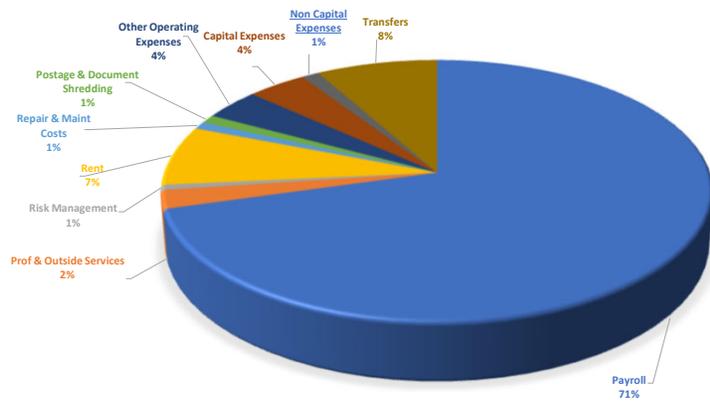
State	State Agency	Security Agency License Fee	Security Guard Fee	License Period
<b>West Virginia</b>	West Virginia Secretary of State, Private Investigator & Security Guard Licensing	West Virginia Resident Application: Combined Firm - \$450 Non-Resident Application: Combined Firm - \$1050	Could not locate	Every two years
<b>Wisconsin</b>	Wisconsin Department of Safety and Professional Services Division of Professional Credential Processing	\$75	\$45.00	Every year
<b>Wyoming</b>	No state licensing requirement	No state licensing requirement	No state licensing requirement	No state licensing requirement

SGL BUDGET		FY 2019
Salary	6000	\$ 469,997
Overtime	6052	\$ 19,469
ERE	6100	\$ 301,202
<b>TOTAL Personnel Services</b>		<b>\$ 790,668</b>
Ext Infor & Comm Tech Consulting Serv	6294	\$ 22,950
Other Professional & Outside Services	6299	\$ 2,484
Risk Management Premium	7111	\$ 6,900
External Telecommunications	7172	\$ 2,539
Rent	7221	\$ 82,900
Repair & Maint. (vehicles)	7256	\$ 2,298
Repair & Maint. (other equipment)	7266	\$ 1,563
Repair & Maint. (other)	7269	\$ 6,282
Software Support & Maintenance	7270	\$ 162
Uniforms	7311	\$ 2,000
Office Supplies	7321	\$ 19,981
Computer Supplies	7331	\$ 19
Medical Supplies	7355	\$ 6
Automotive & Transportation Fuels	7361	\$ 4,607
Automotive Supplies	7363	\$ 1,635
Other Operating Supplies	7381	\$ 9,214
Conference & Registration Fees	7455	\$ 1,620
Postage & Delivery	7481	\$ 10,932
Document Shredding	7482	\$ 530
Awards	7511	\$ 88
Other Misc Operating	7599	\$ 1,239
Capital Lease	8436	\$ 44,819
Non-Capital Equipment	8521	\$ 3,489
Non-Capital Computer Equipment	8531	\$ 9,131
Other Equipment- Non-Capital Purchase	8571	\$ 565
Transfers	9101	\$ 91,294
Beginning Balance		\$ -
<b>Total Revenue</b>		<b>\$ 1,282,967</b>
<b>Total Expenditures</b>		<b>\$ 1,119,915</b>
<b>Balance</b>		<b>\$ 163,052</b>

FY19 Expenditures

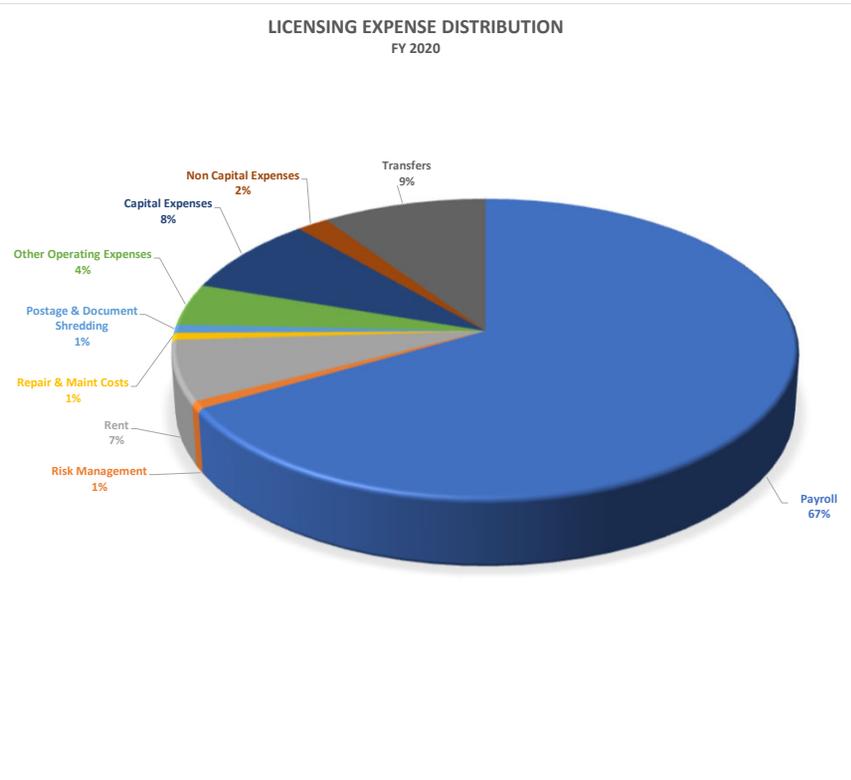
Payroll	\$	790,668
Prof & Outside Services	\$	25,434
Risk Management	\$	6,900
Rent	\$	82,900
Repair & Maint Costs	\$	10,305
Postage & Document Shredding	\$	11,462
Other Operating Expenses	\$	42,948
Capital Expenses	\$	44,819
Non Capital Expenses	\$	13,185
Transfers	\$	91,294
<b>Total</b>	<b>\$</b>	<b>1,119,915</b>

LICENSING EXPENSE DISTRIBUTION  
FY 2019



SGL BUDGET		FY 2020
Salary	6000	\$ 525,253
Overtime	6052	\$ 21,565
ERE	6100	\$ 297,347
<b>TOTAL Personnel Services</b>		<b>\$ 844,165</b>
Other Professional & Outside Services	6299	\$ 1,003
Travel (Out of state)	6600	\$ 2,475
Risk Management Premium	7111	\$ 10,100
External Programming	7154	\$ 6,556
External Telecommunications	7172	\$ 2,303
Rent	7221	\$ 82,900
Repair & Maint. (vehicles)	7256	\$ 3,213
Repair & Maint. (computers)	7261	\$ 2,428
Repair & Maint. (other equipment)	7266	\$ 1,387
Repair & Maint. (other)	7269	\$ 1,001
Software Support & Maintenance	7270	\$ 1,416
Uniforms	7311	\$ 2,600
Office Supplies	7321	\$ 24,539
Medical Supplies	7355	\$ 16
Automotive & Transportation Fuels	7361	\$ 3,566
Automotive Supplies	7363	\$ 4,201
Other Operating Supplies	7381	\$ 10,980
Conference & Registration Fees	7455	\$ 1,075
Printing Internal & External	7471-7472	\$ 34
Postage & Delivery	7481	\$ 10,762
Document Shredding	7482	\$ 480
Translation Sign Language Services	7483	\$ 288
Dues	7531	\$ 580
Credit Card Fees	7554	\$ 1
Other Misc Operating	7599	\$ 88
Capital Lease	8436	\$ 44,819
Capitalized Purch or Lic Software	8481	\$ 35,280
Licenses and Permits	8483	\$ 26,460
Non-Capital Equipment	8521	\$ 1,725
Non-Capital Computer Equipment	8531	\$ 2,685
Other Equipment- Non-Capital Purchase	8571	\$ 19,059
Transfers	9101	\$ 120,648
Beginning Balance		\$ 613,369
Total Revenue		\$ 1,203,479
Total Expenditures		\$ 1,268,833
Balance		\$ 548,015

FY20 Expenditures	
Payroll	\$ 844,165
Risk Management	\$ 10,100
Rent	\$ 82,900
Repair & Maint Costs	\$ 9,445
Postage & Document Shredding	\$ 11,242
Other Operating Expenses	\$ 56,827
Capital Expenses	\$ 106,559
Non Capital Expenses	\$ 23,469
Transfers	\$ 120,648
<b>Total</b>	<b>\$ 1,265,355</b>



**TITLE 13. PUBLIC SAFETY**  
**CHAPTER 6. DEPARTMENT OF PUBLIC SAFETY**  
**SECURITY GUARDS**

(Authority: A.R.S. § 32-2402(C) et seq.)

**ARTICLE 1. GENERAL PROVISIONS**

- Section
- R13-6-01. Repealed
- R13-6-02. Repealed
- R13-6-03. Repealed
- R13-6-04. Repealed
- R13-6-05. Repealed
- R13-6-06. Repealed
- R13-6-07. Repealed
- R13-6-08. Repealed
- R13-6-09. Repealed
- R13-6-10. Repealed
- R13-6-11. Repealed
- R13-6-12. Repealed
- R13-6-13. Repealed
- R13-6-14. Repealed
- R13-6-15. Repealed
- R13-6-16. Repealed
- R13-6-17. Repealed
- R13-6-18. Repealed
- R13-6-19. Repealed
- R13-6-101. Definitions
- R13-6-102. General License Requirements
- R13-6-103. Fees
- R13-6-104. Identification Cards
- R13-6-105. Time-frames for Making License and Registration Determinations

**ARTICLE 2. AGENCY LICENSES**

*Article 2, consisting of Sections R13-6-201 through R13-6-207, made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).*

- Section
- R13-6-201. Application for an Agency License
- R13-6-202. Issuance of an Agency License
- R13-6-203. Agency License Renewal
- R13-6-204. Branch Office Certificate
- R13-6-205. Change of Qualifying Party
- R13-6-206. Restructure of an Agency
- R13-6-207. Business Name

**ARTICLE 3. REGISTRATION CERTIFICATES**

*Article 3, consisting of Sections R13-6-301 through R13-6-304, made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).*

- Section
- R13-6-301. Application for Registration Certificate
- R13-6-302. Renewal of Registration Certificate
- R13-6-303. Lost or Stolen Registration Certificate or Identification Card
- R13-6-304. Change in Name of Registrant

**ARTICLE 4. APPEALS; COMPLAINTS; RECORDS**

*Article 4, consisting of Sections R13-6-401 through R13-6-404, made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).*

- Section
- R13-6-401. Denial of Agency License or Registration Certificate

- R13-6-402. Probation of Agency Licensee or Registrant
- R13-6-403. Employee and Business Records
- R13-6-404. Complaints

**ARTICLE 5. UNIFORMS AND VEHICLES**

*Article 5, consisting of Sections R13-6-501 through R13-6-503, made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).*

- Section
- R13-6-501. Uniforms, Badges, and Insignia
- R13-6-502. Business Attire and Plain Clothes
- R13-6-503. Vehicle Markings, Emblems, and Insignia

**ARTICLE 6. TRAINING**

*Article 6, consisting of Sections R13-6-601 through R13-6-603, made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).*

- Section
- R13-6-601. Security Guard Pre-assignment Training
- R13-6-602. Security Guard Refresher Training
- R13-6-603. Armed Security Guard Pre-assignment and Refresher Training

**ARTICLE 7. FIREARMS-SAFETY TRAINING INSTRUCTORS**

*Article 7, consisting of Sections R13-6-701 through R13-6-704, made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).*

- Section
- R13-6-701. Qualifications of a Firearms-safety Instructor
- R13-6-702. Application for Certification as a Firearms-safety Instructor
- R13-6-703. Firearms-safety Instructor Certification Renewal
- R13-6-704. Requirements of a Firearms-safety Instructor

**ARTICLE 1. GENERAL PROVISIONS**

**R13-6-01. Repealed**

**Historical Note**

Former Rule 1. Section repealed by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-02. Repealed**

**Historical Note**

Former Rule 2. Section repealed by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-03. Repealed**

**Historical Note**

Former Rule 3. Section repealed by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-04. Repealed**

**Historical Note**

Former Rule 4. Section repealed by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006

## Department of Public Safety - Security Guards

(Supp. 06-3).

**R13-6-05. Repealed****Historical Note**

Former Rule 5. Section repealed by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-06. Repealed****Historical Note**

Former Rule 6. Section repealed by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-07. Repealed****Historical Note**

Former Rule 7. Section repealed by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-08. Repealed****Historical Note**

Former Rule 8. Section repealed by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-09. Repealed****Historical Note**

Former Rule 9. Section repealed by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-10. Repealed****Historical Note**

Former Rule 10. Section repealed by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-11. Repealed****Historical Note**

Former Rule 11. Section repealed by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-12. Repealed****Historical Note**

Former Rule 12. Section repealed by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-13. Repealed****Historical Note**

Former Rule 14. Section repealed by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-14. Repealed****Historical Note**

Former Rule 15. Section repealed by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-15. Repealed****Historical Note**

Former Rule 16. Section repealed by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006

(Supp. 06-3).

**R13-6-16. Repealed****Historical Note**

Former Rule 17. Section repealed by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-17. Repealed****Historical Note**

Former Rule 18. Section repealed by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-18. Repealed****Historical Note**

Former Rule 19. Section repealed by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-19. Repealed****Historical Note**

Former Rule 20. Section repealed by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-101. Definitions**

In addition to the definitions in A.R.S. § 32-2601, the following definitions apply to this Chapter:

“Branch office” means a location other than the principal place of business shown on a qualifying party’s agency license at which the qualifying party conducts the business of private security guard service.

“Branch office certificate” means a document issued by the Department to a qualifying party that authorizes the qualifying party to conduct the business of private security guard service in this state at a location other than the principal place of business shown on the qualifying party’s agency license.

“Classifiable fingerprints” means fingerprint impressions that meet the criteria of the Federal Bureau of Investigation as contained in Form FD-258 (5-11-99), published by the U.S. Government Printing Office. This form is incorporated by reference and available from the Department and the FBI (Attn: Logistical Support Unit, CJIS Division, 1000 Custer Hollow Road, Clarksburg, WV 26306) or online at [www.bookstore.gpo.gov](http://www.bookstore.gpo.gov). The material incorporated by reference contains no future editions or amendments.

“Corporation” or “domestic corporation” has the same meaning as prescribed in A.R.S. § 10-140.

“Foreign corporation” means a for-profit corporation that is incorporated under a law other than the law of Arizona.

“Limited liability company” means the same as corporation.

“Partnership” means an association of two or more individuals who are co-owners of a for-profit business organized under A.R.S. Title 29, Partnership.

“Probation” means a period during which an agency or individual who has violated A.R.S. Title 32, Chapter 26, is allowed to demonstrate compliance with licensure requirements to avoid having the Department take an administrative action such as suspension or revocation.

“Prohibited possessor” has the same meaning as prescribed in A.R.S. § 13-3101(A)(6).

“Resident manager” means an individual who meets all requirements for an agency license, is a full-time legal resident

of Arizona, and is designated by a qualifying party who lives outside of Arizona to manage the agency of the qualifying party.

“Restructure” means to change the name or business form of a licensed agency.

“Sole proprietorship” means a business operated for profit by one owner.

#### Historical Note

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

#### R13-6-102. General License Requirements

- A. The qualifying party for an agency license and the resident manager, if the agency will have a resident manager, shall meet the requirements under A.R.S. § 32-2612 and submit the application required under R13-6-201.
- B. Each partner, officer, director, member, and manager of an agency, except the qualifying party and resident manager, shall meet the requirements under A.R.S. § 32-2622 and submit the application required under R13-6-301.
- C. An applicant for a security guard or armed security guard registration certificate shall meet the requirements under A.R.S. § 32-2622 and submit the application required under R13-6-301.
- D. An applicant for a firearms-safety training instructor certificate shall meet the requirements under R13-6-701 and submit the application required under R13-6-702.
- E. An application form may be obtained in person at the Phoenix Licensing Unit office, by mailing a request to the Arizona DPS Licensing Unit, by telephone, or online at [www.azdps.gov/license](http://www.azdps.gov/license).
- F. A completed application form may be presented in person at the Phoenix Licensing Unit office or by mail to the Arizona DPS Licensing Unit.
- G. A blank application form may be duplicated to provide a copy to multiple individuals.

#### Historical Note

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

#### R13-6-103. Fees

- A. Under the authority provided by A.R.S. § 32-2607, the Department establishes and shall collect the following fees:
  1. Original agency license application, \$500;
  2. Agency license, \$500;
  3. Application for renewal of an agency license, \$500;
  4. Agency restructure, \$100;
  5. Penalty for late application for renewal of an agency license, \$100;
  6. Resident manager license application, \$50;
  7. Resident manager license renewal application, \$50;
  8. Penalty for late application for renewal of resident manager license, \$10;
  9. Associate or security guard registration certificate, \$50;
  10. Associate or security guard registration certificate renewal, \$50;
  11. Armed security guard registration certificate, \$100;
  12. Armed security guard registration certificate renewal, \$100;
  13. Upgrade from security guard to armed security guard registration certificate, \$50;
  14. Replacement identification card, \$10;
  15. Armed security guard additional employer registration, \$10;
  16. Firearms-safety instructor certificate, \$50;
  17. Firearms-safety instructor certificate renewal, \$50; and
  18. Fingerprint and digital photo fee (optional), \$15.

- B. In addition to the fees in subsections (A)(1), (A)(3), (A)(6), (A)(7), and (A)(9) through (A)(12), and (A)(16) and (A)(17), the Department shall collect a fee in the amount necessary to cover the cost of non-criminal justice fingerprint processing for a criminal history record check under A.R.S. § 41-1750(J).
- C. If applicable equipment and personnel are available, and if an applicant makes a request, Department personnel shall take the applicant’s photograph and fingerprints upon submission of an application and payment of the fee listed in subsection (A)(18).
- D. A person shall pay a fee by cash, cashier’s check, certified check, or money order made payable to the Arizona Department of Public Safety. Upon request, the Department shall accept another means of payment that the Department determines is in the state’s interest. All fees are non-refundable except if A.R.S. § 41-1077 applies.

#### Historical Note

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

#### R13-6-104. Identification Cards

- A. The Department shall provide an identification card to the following licensees and certificate holders:
  1. Qualifying party,
  2. Resident manager,
  3. Associate,
  4. Security guard, and
  5. Armed security guard.
- B. The Department shall ensure that an identification card includes the following information about the licensee or certificate holder:
  1. Name,
  2. Photograph,
  3. Physical description,
  4. Date of birth,
  5. License or registration certificate number, and
  6. License or registration certificate expiration date.
- C. A licensee or certificate holder shall not assign or transfer an identification card. An identification card is valid only during the effective dates of the license or certificate under which the card is issued.
- D. An armed security guard employed by more than one licensee shall pay the fee required under R13-6-103(A)(15) and obtain an identification card for each license under which the armed security guard is employed.
- E. If an identification card is lost or stolen, the holder of the card shall notify the Department immediately in writing. The Department shall issue a duplicate identification card upon submission of the fee required under R13-6-103(A)(14).
- F. A security guard shall have the security guard’s identification card in the security guard’s possession and display it when requested by the Department or any peace officer.

#### Historical Note

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

#### R13-6-105. Time-frames for Making License and Registration Determinations

- A. For the purpose of A.R.S. § 41-1072, the Department establishes the following time-frames for every license issued under this Chapter:
  1. Administrative completeness review time-frame: five days;
  2. Substantive review time-frame: 10 days; and
  3. Overall time-frame: 15 days.

- B.** An administratively complete application consists of all the information and documents listed in:
1. R13-6-201 for an agency or resident manager license;
  2. R13-6-301 for a security guard, armed security guard, or associate registration certificate; and
  3. R13-6-702 for a firearms-safety instructor certificate.
- C.** The administrative completeness review time-frame listed in subsection (A)(1) begins on the date the Department receives an application.
1. If the application is not administratively complete when received, the Department shall send a notice of deficiency to the applicant. The Department shall include in the deficiency notice a list of the documents and information needed to complete the application.
  2. Within 45 days from the date of the deficiency notice, the applicant shall submit to the Department the missing documents and information. The time-frame for the Department to finish the administrative completeness review is suspended from the date of the deficiency notice until the date the Department receives the missing documents and information.
  3. The Department and applicant may agree in writing to extend the 45-day period in subsection (C)(2) upon written request by the applicant before the end of the period.
  4. If the applicant fails to provide the missing documents and information within the time provided, the Department shall close the applicant's file. If an individual whose file is closed wants to be considered further for licensing, the individual shall submit a new application under R13-6-201, R13-6-301, or R13-6-702.
- D.** The substantive review time-frame listed in subsection (A)(2) begins on the date the Department determines an application is administratively complete.
1. During the substantive review time-frame, the Department may make one comprehensive written request for additional information. The Department and applicant may agree in writing to allow the Department to make a supplemental request for additional information.
  2. The applicant shall submit to the Department the additional information within 45 days from the date of the Department's comprehensive request. The time-frame for the Department to complete the substantive review of the application is suspended from the date of the comprehensive request for additional information until the Department receives the additional information.
  3. The Department and applicant may agree in writing to extend the 45-day period in subsection (D)(2) upon written request by the applicant before the end of the period.
  4. If the applicant fails to provide the additional information within the time provided, the Department shall close the applicant's file. If an individual whose file is closed wants to be considered further for licensing, the individual shall submit a new application under R13-6-201, R13-6-301, or R13-6-702.
  5. When the substantive review is complete, the Department shall inform the applicant in writing of its decision whether to grant or deny a license to the applicant.
    - a. The Department shall deny a license if it determines that the applicant does not meet all substantive criteria required by statute and rule. An applicant who is denied a license may appeal the Department's decision under A.R.S. Title 41, Chapter 6, Article 10.
    - b. The Department shall grant a license if it determines that the applicant meets all substantive criteria required by statute and rule.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**ARTICLE 2. AGENCY LICENSES****R13-2-201. Application for an Agency License**

- A.** The individual who will be the qualifying party of an agency shall submit an application for an agency license. The qualifying party shall ensure that the application consists of:
1. A complete application form that provides the following information about the applicant:
    - a. Full name;
    - b. Home address;
    - c. Mailing address if different from the home address;
    - d. Home and business telephone numbers;
    - e. Height, weight, hair and eye colors, sex, and date and place of birth;
    - f. Social Security number; and
    - g. Any other name by which the applicant has ever been known;
  2. Properly completed fingerprint card with classifiable fingerprints of the qualifying party;
  3. Fees prescribed in R13-6-103;
  4. Legible, notarized copy of a government-issued photo identification document for the qualifying party, such as a state identification card or motor vehicle driver license;
  5. Two color photographs of the qualifying party suitable for use in making an identification card such as passport photos or 1" x 1 1/4" facial photos;
  6. Exact details as to the character and nature of the qualifying party's required experience under A.R.S. § 32-2612;
  7. Proof of U.S. citizenship or legal resident status with authorization to seek employment by providing one document from List A on U.S. Department of Justice Form I-9 or one document from both Lists B and C. The Department shall return original documents to the applicant;
  8. The following information about the agency:
    - a. The name under which the agency will do business and if required under R13-6-207, a copy of the trade name registration provided by the Arizona Secretary of State's Office;
    - b. The principal business address;
    - c. The principal business mailing address if different from the principal business address; and
    - d. A brief statement describing the nature of the business in which the agency will engage;
  9. If the business form is not a sole proprietorship:
    - a. Partnership agreement, articles of organization, or articles of incorporation; and
    - b. From each partner, officer, director, and member of the agency, an application for registration certificate as described in R13-6-301;
  10. If the agency is a foreign corporation, evidence of Arizona Corporation Commission approval to transact business in Arizona;
  11. If the agency will maintain a branch office, the notice required under R13-6-204 to obtain a branch office certificate; and
  12. The following information required for approval of uniforms, badges, patches, and insignia under A.R.S. § 32-2635:
    - a. Color photographs showing the front, back, and both sides of all uniforms;
    - b. A full-size color copy or example of the agency patch;

- c. A full-size color copy of the agency badge or, if no badge will be used, a written statement of this fact;
  - d. Color photographs showing the front, back, and both sides of agency vehicles;
  - e. Close-up color photograph of insignia on agency vehicles; and
  - f. Color photographs showing the front and back of any light bar on agency vehicles.
- B.** The applicant shall sign the completed application form before a notary public, authorize the Department to obtain information about the applicant from any person or entity, and certify that all information provided is true and correct.
- C.** If an agency will have a resident manager, the resident manager shall use the application form described under this Section and provide the information required under subsections (A)(1) through (A)(7).

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-202. Issuance of an Agency License**

- A.** The Department shall notify an applicant when the agency license is ready for issuance. The applicant has 90 days from the date of notification to:
1. Pay applicable license fees;
  2. Provide a certificate of liability insurance showing at least \$100,000 coverage for any one person and \$300,000 coverage for any one event and naming the Department as the certificate holder; and
  3. If the agency will have employees, provide a certificate of workers' compensation insurance that names the Department as the certificate holder.
- B.** If an applicant does not provide the required information within 90 days, the Department shall deny the applicant a license and the application fee is forfeited.
- C.** An applicant for an agency license or renewal may request to pick up the license at the Department's office in Phoenix. If no request is made, the Department shall send the license to the mailing address of the applicant.
- D.** The Department shall ensure that an agency license contains the name and street address of the licensed business and the number of the license.
- E.** The qualifying party shall post the agency license in a conspicuous place in the principal business office.
- F.** The qualifying party shall not assign or transfer the agency license.
- G.** The qualifying party shall notify the Department in writing within 15 business days of any change of address of the principal office.
- H.** If the qualifying party surrenders the agency license before the expiration date, the Department shall not refund any portion of the license fee.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-203. Agency License Renewal**

- A.** An agency license expires on the date specified on the license. A qualifying party may submit a renewal application to the Department up to 60 days before the expiration date.
- B.** The qualifying party shall provide the information required under R13-6-201 with the renewal application.
- C.** If the qualifying party fails to submit a renewal application before the expiration date, the qualifying party and each partner, member, officer, director, resident manager, and employee

shall cease performing private security guard services subject to regulation by A.R.S. Title 32, Chapter 26.

- D.** The Department shall not renew an agency license if a renewal application is filed more than 90 days after the expiration date on the agency license. If more than 90 days elapse after the expiration date on the agency license, the former qualifying party may resume providing security guard services only by obtaining a new license under R13-6-201.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-204. Branch Office Certificate**

- A.** A qualifying party shall not operate a branch office unless the qualifying party obtains a branch office certificate. To obtain a branch office certificate, the qualifying party shall provide written notice of the branch office address to the Department.
- B.** The Department shall ensure that a branch office certificate contains the agency name, license number, expiration date, and address of the branch office.
- C.** A branch office certificate expires on the date the agency license expires and is renewed when the agency license is renewed.
- D.** The qualifying party shall post the branch office certificate in a conspicuous place in the branch office.
- E.** The qualifying party shall notify the Department in writing within 15 business days of any change of address for the branch office.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-205. Change of Qualifying Party**

- A.** Within 15 business days after the qualifying party leaves an agency, each partner, member, officer, director, resident manager, and employee of the agency shall cease performing private security guard services subject to regulation by A.R.S. Title 32, Chapter 26, unless the requirement in subsection (B) is met.
- B.** Before the agency may resume performing private security guard services, an individual who meets the requirements of a qualifying party shall submit an application for a new agency license under R13-6-201.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-206. Restructure of an Agency**

- A.** If an application for restructure is made at the time of license renewal, the Department shall waive the restructure fee in R13-6-103. If an application for restructure is made at other than the time of license renewal, the agency shall pay the restructure fee.
- B.** The qualifying party shall submit an application for restructure for the agency. Any new partner, officer, director, or member of the agency shall meet the requirements of A.R.S. § 32-2622 and submit the application required under R13-6-301.
- C.** To change a sole proprietorship to a partnership, the applicant shall provide a partnership agreement with notarized signatures of the partners.
- D.** To change a corporation to a partnership, the applicant shall provide documentation of dissolving the corporation and a partnership agreement with notarized signatures of the partners.
- E.** To change a corporation to a sole proprietorship, the applicant shall provide documentation of dissolving the corporation.

- F. To change a sole proprietorship or partnership to a corporation, the applicant shall provide the Articles of Incorporation bearing the approval stamp of the Arizona Corporation Commission. If the change is to a foreign corporation, the applicant shall submit documentation of Arizona Corporation Commission approval for the foreign corporation to transact business in Arizona.
- G. To change a partnership to a sole proprietorship, the applicant shall provide documentation of dissolving the partnership.

#### Historical Note

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

#### R13-6-207. Business Name

- A. The Department shall not grant a license to an agency with a name that includes the words "United States," "Federal," "State of Arizona," "Police," or "Bureau of Investigation," or a name that associates the business with any governmental or law enforcement agency.
- B. The Department shall not grant a license to an agency with a name that includes "corporation," "corp.," "incorporated," "Inc.," or "L.L.C." unless corporation papers are filed with the Arizona Corporation Commission or approval to operate as a foreign corporation is obtained from the Arizona Corporation Commission.
- C. The Department shall not issue a license to a corporation or limited liability company using a trade name unless the trade name is registered with the Arizona Secretary of State's Office. A sole proprietorship or partnership may, but is not required to, register a trade name.
- D. The Department shall not approve a new business name that is similar to the business name of a currently licensed agency.
- E. The qualifying party of an agency, resident manager, and agency associates and employees shall do business and present themselves under the name on the agency license.
- F. A qualifying party shall do all business under the name and at the address that is on file with the Department and noted on the agency license. The qualifying party shall ensure that both the agency name and license number are listed on all letterhead and business cards and included in advertising and contracts with clients.
- iv. Home and business telephone numbers;
- v. Social Security number; and
- vi. Height, weight, sex, hair and eye colors, and date and place of birth;
- b. The applicant's signature certifying that the information provided is true and correct;
- c. Two color photographs suitable for use in making an identification card such as passport photos or 1" x 1 1/4" facial photos;
- d. A properly completed fingerprint card with classifiable fingerprints;
- e. The fee required under R13-6-103(A)(9) or (A)(11);
- f. If applicable, the training verification form described in R13-6-601(C); and
- g. If applicable, the firearms-safety training verification form described in R13-6-603(C);
- B. An associate, security guard, or armed security guard registrant shall conduct business and be identified under the name used on the application and the registration certificate. The Department shall not approve a fictitious name for use on an associate, security guard, or armed security guard registration certificate.
- C. If an applicant for an armed security guard registration is employed by more than one agency, the applicant shall submit an application with the words "Additional Employer" written across the top of the application, submit the fee under R13-6-103, and meet the requirements of this Section. The applicant's additional employer armed security guard registration certificate expires on the date specified on the applicant's initial armed security guard registration certificate.

#### Historical Note

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

#### R13-6-302. Renewal of Registration Certificate

- A. An associate, security guard, or armed security guard registration certificate expires on the date specified on the registration certificate. An associate, security guard, or armed security guard may submit a renewal application to the Department up to 60 days before the expiration date.
- B. The Department shall not renew a registration certificate unless the application is complete and contains:
1. The information required under R13-6-301(A)(4)(a) through (A)(4)(d);
  2. The fee required under R13-6-103(A)(10) or (A)(12);
  3. If applicable, the refresher training verification form described in R13-6-602(C); and
  4. If applicable, the refresher firearms-safety training verification form described in R13-6-603(C).
- C. If an associate, security guard, or armed security guard fails to submit a renewal application before the expiration date, the associate, security guard, or armed security guard shall cease performing private security guard services subject to regulation by A.R.S. Title 32, Chapter 26.

#### Historical Note

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

#### R13-6-303. Lost or Stolen Registration Certificate or Identification Card

If a registration certificate or identification card is lost or stolen, the registrant shall notify the Department immediately and request a new registration certificate or identification card and pay the fee under R13-6-103(A)(14).

#### Historical Note

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

### ARTICLE 3. REGISTRATION CERTIFICATES

#### R13-6-301. Application for Registration Certificate

- A. Before a registration certificate application is submitted, the qualifying party of the agency shall:
1. Determine that the applicant meets the requirements of A.R.S. § 32-2622,
  2. Assess the accuracy of the information provided by the applicant,
  3. Verify proof of U.S. citizenship or legal resident status with authorization to seek employment by examining either one document from List A on U.S. Department of Justice Form I-9 or one document from both Lists B and C, and
  4. Ensure that the application includes:
    - a. A properly completed application form that provides the following information about the applicant:
      - i. Full name;
      - ii. Home address;
      - iii. Mailing address if different from the home address;

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-304. Change in Name of Registrant**

- A. A registrant whose name changes shall notify the Department in writing within 15 days of the name change and may request a new identification card.
- B. The registrant shall include with the notice of name change a government-issued photo identification card with the new name or a certified court document recording the name change and the fee under R13-6-103.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**ARTICLE 4. APPEALS; COMPLAINTS; RECORDS****R13-6-401. Denial of Agency License or Registration Certificate**

- A. The Department shall deny an agency license or registration certificate to an applicant if the Department determines that the applicant does not meet the requirements of A.R.S. § 32-2612 or 32-2622, or there are grounds for denial under A.R.S. § 32-2640 or 32-2641. The Department shall send a notice of denial to the applicant at the address on file with the Department. The Department shall ensure that the notice of denial meets the requirements at A.R.S. § 41-1092.03(A).
- B. If a request for hearing is received, the Department shall:
  1. Send a notice of the date and time of the hearing to the applicant,
  2. Set the hearing date at least 30 days after the date of the notice, and
  3. Hold the hearing before the Board.
- C. If the applicant does not appear at the scheduled hearing, the Board shall conduct the hearing in the applicant's absence.
- D. Within 20 days after conclusion of the hearing, the Board shall prepare findings of fact, conclusions of law, and a recommendation for the Director.
- E. Within 30 days after receiving a copy of the recommendation, the Director shall adopt the recommendation in its entirety, modify it, or decide the case upon the record and issue a final decision.
- F. The Department shall send a copy of the Director's final decision to the applicant at the address on file with the Department.
- G. A denied applicant shall not apply again for at least one year from the date of denial.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-402. Probation of Agency Licensee or Registrant**

Upon recommendation of the Board, the Director may fix a period and terms of probation to protect the public health or safety or to rehabilitate or educate a licensee or registrant. A licensee may continue to operate and a registrant may continue to perform the duties of security guard or armed security guard during a period of probation subject to the terms established by the Director.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-403. Employee and Business Records**

- A. A qualifying party shall maintain at the principal place of business, a file or record of the name, street address, title, employment date, and date of termination of each resident manager,

partner, officer, director, member, security guard, and armed security guard for at least five years from the date of termination.

- B. The qualifying party shall make the files or records available for inspection by any peace officer, personnel of the Department's licensing section, or other designated representative of the Department.
- C. The qualifying party shall submit a copy of the files or records and information pertaining to the files or records to the Department upon request.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-404. Complaints**

- A. A person may file with the Department a written complaint against a person regulated under this Chapter. After receiving a complaint, the Department shall investigate to determine whether the allegation, if true, amounts to a violation of statute or rule. The Department may forward a copy of the complaint to the person against whom the complaint is made and request that the person respond.
- B. At the conclusion of the investigation, the Department shall forward a copy of the complaint to the person against whom the complaint is made and the Director shall take an action listed in A.R.S. § 32-2636.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**ARTICLE 5. UNIFORMS AND VEHICLES****R13-6-501. Uniforms, Badges, and Insignia**

- A. Uniforms are classified as either traditional or casual.
- B. A traditional uniform consists of slacks and a collared, buttoned-down, long- or short-sleeve shirt, which may be worn with or without a tie. A traditional uniform shall have:
  1. A patch on each shoulder of the shirt that is a minimum of two inches by three inches in size and bears the name of the agency;
  2. A patch or badge on the left breast of the shirt that is a minimum of 1.5 inches by two inches in size and bears the name of the agency; and
  3. If the patches and badge do not contain the words "Security" or "Security Guard," the words "Security" or "Security Guard" in letters that are at least 1/2 inch high and directly below each shoulder patch and the breast patch or badge.
- C. A casual uniform consists of a polo shirt or T-shirt and either shorts or pants. A casual uniform shall have:
  1. A patch on each shoulder of the shirt that is a minimum of two inches by three inches in size and bears the name of the agency;
  2. A patch or badge on the left breast of the shirt that is a minimum of 1.5 inches by two inches in size and bears the name of the agency;
  3. If the patches and badge do not contain the words "Security" or "Security Guard," the words "Security" or "Security Guard" in letters that are at least 1/2 inch high and directly below each shoulder patch and the breast patch or badge; and
  4. A patch across the back of the shirt bearing the words "Security" or "Security Guard" in letters that are at least three inches high.
- D. If a security guard wears a jacket or coat with a traditional or casual uniform, the jacket or coat shall have:

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1. A patch on each shoulder of the jacket or coat that is a minimum of two inches by three inches in size and bears the name of the agency;
  2. A patch or badge on the left breast of the jacket or coat that is a minimum of 1.5 inches by two inches in size and bears the name of the agency;
  3. If the patches and badge do not contain the words "Security" or "Security Guard," the words "Security" or "Security Guard" in letters that are at least 1/2 inch high and directly below each shoulder patch and the breast patch or badge; and
  4. A patch across the back of the jacket or coat bearing the words "Security" or "Security Guard" in letters that are at least three inches high.
- E. The patches on a traditional or casual uniform or security guard jacket or coat may be sewed on, embroidered, or imprinted.
  - F. The Department shall not approve a uniform, badge, patch, or insignia that bears markings similar to the markings of a law enforcement agency of the federal or state government or a political subdivision of the state.
  - G. The Department shall not approve a uniform, badge, patch, or insignia that bears the words "Police," "Officer," "Patrolman," "Deputy," "Marshall," "Agent," "Sheriff," or any other word that could cause a reasonable person to confuse a security guard with law enforcement personnel.
  - H. The Department shall not approve a uniform that consists of the color combinations blue over blue, tan over tan, tan over brown, or black over black. The Department shall determine on an individual basis whether other color combinations may cause a reasonable person to confuse a security guard with law enforcement personnel. A security guard jacket or coat may be any color if the jacket or coat meets the requirements in this Section.
  - I. The qualifying party shall ensure that a security guard employed by the security guard agency does not wear a uniform, badge, or patch or use an insignia that is not approved by the Department.
- D. A vehicle under the control of a security guard agency is not an authorized emergency vehicle. The operator of a vehicle under the control of a security guard agency shall comply with all traffic-control laws.
  - E. The qualifying party shall ensure that a vehicle under the control of a security guard agency is not equipped with a siren or bell unless the vehicle is an armored car equipped with a siren as a crime alarm device.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**ARTICLE 6. TRAINING****R13-6-601. Security Guard Pre-assignment Training**

- A. The qualifying party of a security guard agency shall ensure that a person employed as a security guard by the agency completes eight hours of pre-assignment training before applying for and being granted a security guard registration certificate.
- B. The qualifying party shall ensure that the curriculum established by the Department is used for the eight-hour pre-assignment training. The curriculum consists of:
  1. Orientation,
  2. Criminal law and laws of arrest,
  3. Uniform and grooming,
  4. Communications,
  5. Use of force,
  6. General security guard procedures,
  7. Crime scene preservation and first response,
  8. Ethics, and
  9. Emergency response procedures.
- C. After a security guard completes the eight-hour pre-assignment training, the qualifying party shall complete a training verification form and:
  1. The security guard shall sign the form affirming completion of the training;
  2. The instructor shall sign the form affirming that the security guard completed the training;
  3. The qualifying party shall sign the form affirming that the security guard met the training requirements of A.R.S. § 32-2632; and
  4. The security guard shall submit the form with the application described under R13-6-301.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-502. Business Attire and Plain Clothes**

A security guard who is wearing business attire or plain clothes rather than a uniform described in R13-5-501 shall not display a badge.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-503. Vehicle Markings, Emblems, and Insignia**

- A. The qualifying party shall ensure that a vehicle under the control of a security guard agency does not bear markings similar to the vehicle markings used by a law enforcement agency of the federal or state government or a political subdivision of the state.
- B. The qualifying party shall ensure that emblems, seals, and other insignia on a vehicle under the control of a security guard agency do not bear the words "Police," "Officer," "Patrolman," "Deputy," "Marshall," "Sheriff," "Agent," or any other word that could cause a reasonable person to confuse the vehicle with a law enforcement vehicle.
- C. The qualifying party shall ensure that all markings, emblems, seals, and other insignia displayed on a vehicle under the control of a security guard agency have written approval from the Department before being displayed.

**R13-6-602. Security Guard Refresher Training**

- A. The qualifying party of a security guard agency shall ensure that a person employed as a security guard by the agency completes eight hours of refresher training before renewing the security guard's registration certificate.
- B. The qualifying party shall ensure that the curriculum established by the Department is used for the eight-hour refresher training. The curriculum consists of:
  1. Criminal law and laws of arrest,
  2. Use of force,
  3. General security guard procedures,
  4. Crime scene preservation and first response,
  5. Ethics, and
  6. Emergency response procedures.
- C. After a security guard completes the eight-hour refresher training, the qualifying party shall complete a training verification form and:
  1. The security guard shall sign the form affirming completion of the refresher training;

2. The instructor shall sign the form affirming that the security guard completed the refresher training;
3. The agency qualifying party shall sign the form affirming that the security guard met the refresher training requirements of A.R.S. § 32-2632; and
4. The security guard shall submit the form with the renewal application described in R13-6-302.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-603. Armed Security Guard Pre-assignment and Refresher Training**

- A.** The qualifying party of a security guard agency shall ensure that in addition to completing the pre-assignment training described in R13-6-601 and refresher training described in R13-6-602, a security guard who will use a firearm within the scope of the security guard's employment with the agency completes:
1. Sixteen hours of firearms-safety instruction before being assigned to a position requiring that a firearm be carried, and
  2. Eight hours of refresher firearms-safety instruction before renewing the security guard's registration certificate.
- B.** The qualifying party shall ensure that firearms-safety training is provided by an instructor who is certified by the Department under R13-6-702 and uses the curriculum established by the Department.
- C.** After the armed security guard completes the sixteen hours of pre-assignment firearms-safety training or the eight hours of refresher firearms-safety training, the qualifying party shall complete a training verification form and:
1. The armed security guard shall sign the form affirming completion of the firearms-safety training;
  2. The instructor shall sign the form affirming that the armed security guard completed the firearms-safety training;
  3. The agency qualifying party shall sign the form affirming that the armed security guard met the firearm-safety training requirements of A.R.S. § 32-2632; and
  4. The armed security guard shall submit the form with the application described in R13-6-301 or R13-6-302.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**ARTICLE 7. FIREARMS-SAFETY TRAINING INSTRUCTORS**

**R13-6-701. Qualifications of a Firearms-safety Instructor**

Only an individual who meets the following qualifications is eligible to be certified by the Department under A.R.S. § 32-2632 as a firearms-safety instructor:

1. Is a resident of this state or a U.S. citizen;
2. Is at least 21 years old;
3. Is not under indictment for and has not been convicted in any jurisdiction of a felony;
4. Does not suffer from mental illness and has not been adjudicated mentally incompetent or committed to a mental institution;
5. Is not unlawfully present in the United States;
6. Is not a prohibited possessor; and
7. Possesses current evidence of completing one of the following firearms-safety training instructor programs:
  - a. Arizona Basic Police Firearms Instructor training provided by the Arizona Peace Officers Standards and Training Board;

- b. Police Firearms Instructor Development School provided by the National Rifle Association;
- c. Law Enforcement Security Firearms Instructor Development School provided by the National Rifle Association;
- d. Training provided by the National Rifle Association that results in rating as one of the following:
  - i. Pistol Instructor and Personal Protection Instructor,
  - ii. Law Enforcement Tactical Handgun Instructor, or
  - iii. Law Enforcement Handgun or Shotgun Instructor; or
- e. Firearms Instructor Training Program provided by a federal law enforcement agency.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-702. Application for Certification as a Firearms-safety Instructor**

- A.** To be certified as a firearms-safety instructor, an individual shall provide the following to the Department:
1. A completed application form with the following information:
    - a. Full legal name;
    - b. Home address, including ZIP code and county;
    - c. Mailing address if different from the home address;
    - d. E-mail address;
    - e. Social Security number;
    - f. Driver license number or state identification card number and state of issuance;
    - g. Home, business, and mobile telephone numbers;
    - h. National origin or race, sex, height, weight, eye and hair colors, and date and place of birth; and
    - i. A statement whether the individual suffers from mental illness or has been adjudicated mentally incompetent or committed to a mental institution;
  2. A properly completed fingerprint card with classifiable fingerprints, unless the individual is currently registered as a firearms-safety instructor under A.R.S. § 13-3112;
  3. The current evidence of completion referenced in R13-6-701(7); and
  4. The fees required under R13-6-103.
- B.** If an individual is qualified under R13-6-701 and complies with the requirements in this Section, the Department shall certify the individual as a firearms-safety instructor.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-703. Firearms-safety Instructor Certification Renewal**

- A.** A certified firearms-safety instructor shall renew the instructor's certification every two years by providing the following to the Department:
1. A completed application form with the information listed in R13-6-702(A)(1);
  2. A properly completed fingerprint card with classifiable fingerprints unless currently registered as a firearms-safety instructor under A.R.S. § 13-3112;
  3. The current evidence of completion referenced in R13-6-701(7); and
  4. The renewal fee required under R13-6-103.
- B.** Upon verification that the firearms-safety instructor is qualified under R13-6-701 and complied with this Section, the

## Department of Public Safety - Security Guards

Department shall renew the firearms-safety instructor's certification.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

**R13-6-704. Requirements of a Firearms-safety Instructor**

A firearms-safety instructor shall:

1. Conduct only firearms-safety training programs that are established by the Department;
2. Conduct Department-established firearms-safety training programs only in this state;
3. Maintain for five years the following firearms-safety training records regarding each individual to whom training is provided:
  - a. Name and age of the individual at the time training started;

- b. Date and number of hours of each training session;
  - c. Location of each training session;
  - d. Name of the security guard agency or firearms-safety training organization sponsoring the training session;
  - e. Title and Department-assigned number of the training program; and
  - f. Whether the individual passed, failed, or withdrew from the training program; and
4. Make the firearms-safety training records referenced in subsection (3) available for inspection upon request by the Department.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2825, effective September 9, 2006 (Supp. 06-3).

### 41-1713. Powers and duties of director; authentication of records

#### A. The director of the department shall:

1. Be the administrative head of the department.
2. Subject to the merit system rules, appoint, suspend, demote, promote or dismiss all other classified employees of the department on the recommendation of their respective division superintendent. The director shall determine and furnish the law enforcement merit system council established by section 41-1830.11 with a table of organization. The superintendent of each division shall serve at the concurrent pleasure of the director and the governor.
3. Except as provided in sections 12-119, 41-1304 and 41-1304.05, employ officers and other personnel as the director deems necessary for the protection and security of the state buildings and grounds in the governmental mall described in section 41-1362, state office buildings in Tucson and persons who are on any of those properties. Department officers may make arrests and issue citations for crimes or traffic offenses and for any violation of a rule adopted under section 41-796. For the purposes of this paragraph, security does not mean security services related to building operation and maintenance functions provided by the department of administration.
4. Make rules necessary for the operation of the department.
5. Annually submit a report of the work of the department to the governor and the legislature, or more often if requested by the governor or the legislature.
6. Appoint a deputy director with the approval of the governor.
7. Adopt an official seal that contains the words "department of public safety" encircling the seal of this state as part of its design.
8. Investigate, on receipt, credible evidence that a licensee or registrant has been arrested for, charged with or convicted of an offense that would preclude the person from holding a license or registration certificate issued pursuant to title 32, chapter 26.
9. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.
10. Adopt and administer the breath, blood or other bodily substances test rules pursuant to title 28, chapter 4.
11. Develop procedures to exchange information with the department of transportation for any purpose related to sections 28-1324, 28-1325, 28-1326, 28-1462 and 28-3318.
12. Collaborate with the state forester in presentations to legislative committees on issues associated with wildfire prevention, suppression and emergency management as provided by section 37-1302, subsection B.

#### B. The director may:

1. Issue commissions to officers of the department.
2. Request the cooperation of the utilities, communication media and public and private agencies and any sheriff or other peace officer in any county or municipality, within the limits of their respective jurisdictions when necessary, to aid and assist in the performance of any duty imposed by this chapter.

3. Cooperate with any public or private agency or person to receive or give necessary assistance and may contract for such assistance subject to legislative appropriation controls.
4. Utilize the advice of the board and cooperate with sheriffs, local police and peace officers within the state for the prevention and discovery of crimes, the apprehension of criminals and the promotion of public safety.
5. Acquire in the name of the state, either in fee or lesser estate or interest, all real or any personal property that the director considers necessary for the department's use, by purchase, donation, dedication, exchange or other lawful means. All acquisitions of personal property pursuant to this paragraph shall be made as prescribed in chapter 23 of this title unless otherwise provided by law.
6. Dispose of any property, real or personal, or any right, title or interest in the property, when the director determines that the property is no longer needed or necessary for the department's use. Disposition of personal property shall be as prescribed in chapter 23 of this title. The real property shall be sold by public auction or competitive bidding after notice published in a daily newspaper of general circulation, not less than three times, two weeks before the sale and subject to the approval of the director of the department of administration. When real property is sold, it shall not be sold for less than the appraised value as established by a competent real estate appraiser. Any monies derived from the disposal of real or personal property shall be deposited, pursuant to sections 35-146 and 35-147, in the Arizona highway patrol fund as authorized by section 41-1752, subsection B, paragraph 6.
7. Sell, lend or lease personal property directly to any state, county or local law enforcement agency. Personal property may be sold or leased at a predetermined price without competitive bidding. Any state, county or local law enforcement agency receiving personal property may not resell or lease the property to any person or organization except for educational purposes.
8. Dispose of surplus property by transferring the property to the department of administration for disposition to another state budget unit or political subdivision if the state budget unit or political subdivision is not a law enforcement agency.
9. Lease or rent personal property directly to any state law enforcement officer for the purpose of traffic safety, traffic control or other law enforcement related activity.
10. Sell for one dollar, without public bidding, the department issued handgun or shotgun to a department officer on duty related retirement pursuant to title 38, chapter 5, article 4. Any monies derived from the sale of the handgun or shotgun to the retiring department officer shall be deposited, pursuant to sections 35-146 and 35-147, in the Arizona highway patrol fund as authorized by section 41-1752, subsection B, paragraph 6.
11. Conduct state criminal history records checks for the purpose of updating and verifying the status of current licensees or registrants who have a license or certificate issued pursuant to title 32, chapter 26. The director shall investigate, on receipt, credible evidence that a licensee or registrant has been arrested for, charged with or convicted of an offense that would preclude the person from holding a registration certificate issued pursuant to title 32, chapter 26.
12. Grant a maximum of two thousand eighty hours of industrial injury leave to any sworn department employee who is injured in the course of the employee's duty, any civilian department employee who is injured in the course of performing or assisting in law enforcement or hazardous duties or any civilian department employee who was injured as a sworn department employee rehired after August 9, 2001 and would have been eligible pursuant to this paragraph and whose work-related injury prevents the employee from performing the normal duties of that employee's classification. This industrial injury leave is in addition to any vacation or sick leave earned or granted to the employee and does not affect the employee's eligibility for any other benefits, including workers' compensation. The employee is not eligible for payment pursuant to section 38-615 of industrial injury leave that is granted pursuant to this paragraph. Subject to approval by the law enforcement merit system council, the director shall adopt rules and procedures regarding industrial injury leave hours granted pursuant to this paragraph.

13. Sell at current replacement cost, without public bidding, the department issued badge of authority to an officer of the department on the officer's promotion or separation from the department. Any monies derived from the sale of the badge to an officer shall be deposited, pursuant to sections 35-146 and 35-147, in the department of public safety administration fund to offset replacement costs.

C. The director and any employees of the department that the director designates in writing may use the seal adopted pursuant to subsection A, paragraph 7 of this section to fully authenticate any department records and copies of these records. These authenticated records or authenticated copies of records shall be judicially noticed and shall be received in evidence by the courts of this state without any further proof of their authenticity.

32-2602. Administration by director; duty to keep records; rules; criminal history records checks

- A. The director of the department of public safety shall administer this chapter.
- B. The department shall keep a record of:
1. All applications for licenses or registration under this chapter.
  2. Whether a license, registration certificate, renewal license or renewal registration certificate has been issued under each application.
  3. If a license or registration certificate is revoked or suspended, the date of filing the order for revocation or suspension.
  4. A list of all individuals, qualifying parties, firms, partnerships, associations or corporations that have had licenses or registrations revoked or suspended and a written record of complaints filed against any licensees or registrants.
  5. All insurance policies required to be filed under this chapter.
- C. The department shall maintain all records kept pursuant to subsection B of this section for at least five years. The records, except the financial statement of licensees, are open to inspection as public records.
- D. The department shall adopt and enforce rules that are not in conflict with the laws of this state and that are necessary to enforce this chapter.
- E. The director may conduct periodic criminal history records checks pursuant to section 41-1750 for the purpose of updating the licensing and registration status of current license and registration holders.

## 28-101. Definitions

In this title, unless the context otherwise requires:

1. "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propynol and isopropynol.

2. "Alcohol concentration" if expressed as a percentage means either:

(a) The number of grams of alcohol per one hundred milliliters of blood.

(b) The number of grams of alcohol per two hundred ten liters of breath.

3. "All-terrain vehicle" means either of the following:

(a) A motor vehicle that satisfies all of the following:

(i) Is designed primarily for recreational nonhighway all-terrain travel.

(ii) Is fifty or fewer inches in width.

(iii) Has an unladen weight of one thousand two hundred pounds or less.

(iv) Travels on three or more nonhighway tires.

(v) Is operated on a public highway.

(b) A recreational off-highway vehicle that satisfies all of the following:

(i) Is designed primarily for recreational nonhighway all-terrain travel.

(ii) Is eighty or fewer inches in width.

(iii) Has an unladen weight of two thousand five hundred pounds or less.

(iv) Travels on four or more nonhighway tires.

(v) Has a steering wheel for steering control.

(vi) Has a rollover protective structure.

(vii) Has an occupant retention system.

4. "Authorized emergency vehicle" means any of the following:

(a) A fire department vehicle.

(b) A police vehicle.

(c) An ambulance or emergency vehicle of a municipal department or public service corporation that is designated or authorized by the department or a local authority.

(d) Any other ambulance, fire truck or rescue vehicle that is authorized by the department in its sole discretion and that meets liability insurance requirements prescribed by the department.

5. "Autocycle" means a three-wheeled motorcycle on which the driver and passengers ride in a fully or partially enclosed seating area that is equipped with a roll cage, safety belts for each occupant and antilock brakes and that is designed to be controlled with a steering wheel and pedals.
6. "Automotive recycler" means a person that is engaged in the business of buying or acquiring a motor vehicle solely for the purpose of dismantling, selling or otherwise disposing of the parts or accessories and that removes parts for resale from six or more vehicles in a calendar year.
7. "Aviation fuel" means all flammable liquids composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating an internal combustion engine for use in an aircraft but does not include fuel for jet or turbine powered aircraft.
8. "Bicycle" means a device, including a racing wheelchair, that is propelled by human power and on which a person may ride and that has either:
  - (a) Two tandem wheels, either of which is more than sixteen inches in diameter.
  - (b) Three wheels in contact with the ground, any of which is more than sixteen inches in diameter.
9. "Board" means the transportation board.
10. "Bus" means a motor vehicle designed for carrying sixteen or more passengers, including the driver.
11. "Business district" means the territory contiguous to and including a highway if there are buildings in use for business or industrial purposes within any six hundred feet along the highway, including hotels, banks or office buildings, railroad stations and public buildings that occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway.
12. "Certificate of ownership" means a paper or an electronic record that is issued in another state or a foreign jurisdiction and that indicates ownership of a vehicle.
13. "Certificate of title" means a paper document or an electronic record that is issued by the department and that indicates ownership of a vehicle.
14. "Combination of vehicles" means a truck or truck tractor and semitrailer and any trailer that it tows but does not include a forklift designed for the purpose of loading or unloading the truck, trailer or semitrailer.
15. "Controlled substance" means a substance so classified under section 102(6) of the controlled substances act (21 United States Code section 802(6)) and includes all substances listed in schedules I through V of 21 Code of Federal Regulations part 1308.
16. "Conviction" means:
  - (a) An unvacated adjudication of guilt or a determination that a person violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal.
  - (b) An unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court.
  - (c) A plea of guilty or no contest accepted by the court.
  - (d) The payment of a fine or court costs.
17. "County highway" means a public road that is constructed and maintained by a county.
18. "Dealer" means a person who is engaged in the business of buying, selling or exchanging motor vehicles, trailers or semitrailers and who has an established place of business and has paid fees pursuant to section 28-

4302.

19. "Department" means the department of transportation acting directly or through its duly authorized officers and agents.
20. "Digital network or software application" has the same meaning prescribed in section 28-9551.
21. "Director" means the director of the department of transportation.
22. "Drive" means to operate or be in actual physical control of a motor vehicle.
23. "Driver" means a person who drives or is in actual physical control of a vehicle.
24. "Driver license" means a license that is issued by a state to an individual and that authorizes the individual to drive a motor vehicle.
25. "Electric bicycle" means a bicycle or tricycle that is equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts and that meets the requirements of one of the following classes:
- (a) "Class 1 electric bicycle" means a bicycle or tricycle that is equipped with an electric motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle or tricycle reaches the speed of twenty miles per hour.
- (b) "Class 2 electric bicycle" means a bicycle or tricycle that is equipped with an electric motor that may be used exclusively to propel the bicycle or tricycle and that is not capable of providing assistance when the bicycle or tricycle reaches the speed of twenty miles per hour.
- (c) "Class 3 electric bicycle" means a bicycle or tricycle that is equipped with an electric motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle or tricycle reaches the speed of twenty-eight miles per hour.
26. "Electric miniature scooter" means a device that:
- (a) Weighs less than thirty pounds.
- (b) Has two or three wheels.
- (c) Has handlebars.
- (d) Has a floorboard on which a person may stand while riding.
- (e) Is powered by an electric motor or human power, or both.
- (f) Has a maximum speed that does not exceed ten miles per hour, with or without human propulsion, on a paved level surface.
27. "Electric personal assistive mobility device" means a self-balancing device with one wheel or two nontandem wheels and an electric propulsion system that limits the maximum speed of the device to fifteen miles per hour or less and that is designed to transport only one person.
28. "Electric standup scooter":
- (a) Means a device that:
- (i) Weighs less than seventy-five pounds.

- (ii) Has two or three wheels.
  - (iii) Has handlebars.
  - (iv) Has a floorboard on which a person may stand while riding.
  - (v) Is powered by an electric motor or human power, or both.
  - (vi) Has a maximum speed that does not exceed twenty miles per hour, with or without human propulsion, on a paved level surface.
- (b) Does not include an electric miniature scooter.

29. "Evidence" includes both of the following:

- (a) A display on a wireless communication device of a department-generated driver license, nonoperating identification license, vehicle registration card or other official record of the department that is presented to a law enforcement officer or in a court or an administrative proceeding.
- (b) An electronic or digital license plate authorized pursuant to section 28-364.

30. "Farm" means any lands primarily used for agriculture production.

31. "Farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing implements of husbandry.

32. "Foreign vehicle" means a motor vehicle, trailer or semitrailer that is brought into this state other than in the ordinary course of business by or through a manufacturer or dealer and that has not been registered in this state.

33. "Golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, that has an unladen weight of less than one thousand eight hundred pounds, that is designed to be and is operated at not more than twenty-five miles per hour and that is designed to carry not more than four persons including the driver.

34. "Hazardous material" means a material, and its mixtures or solutions, that the United States department of transportation determines under 49 Code of Federal Regulations is, or any quantity of a material listed as a select agent or toxin under 42 Code of Federal Regulations part 73 that is, capable of posing an unreasonable risk to health, safety and property if transported in commerce and that is required to be placarded or marked as required by the department's safety rules prescribed pursuant to chapter 14 of this title.

35. "Implement of husbandry" means a vehicle that is designed primarily for agricultural purposes and that is used exclusively in the conduct of agricultural operations, including an implement or vehicle whether self-propelled or otherwise that meets both of the following conditions:

- (a) Is used solely for agricultural purposes including the preparation or harvesting of cotton, alfalfa, grains and other farm crops.
- (b) Is only incidentally operated or moved on a highway whether as a trailer or self-propelled unit. For the purposes of this subdivision, "incidentally operated or moved on a highway" means travel between a farm and another part of the same farm, from one farm to another farm or between a farm and a place of repair, supply or storage.

36. "Limousine" means a motor vehicle providing prearranged ground transportation service for an individual passenger, or a group of passengers, that is arranged in advance or is operated on a regular route or between specified points and includes ground transportation under a contract or agreement for services that includes a

fixed rate or time and is provided in a motor vehicle with a seating capacity not exceeding fifteen passengers including the driver.

37. "Livery vehicle" means a motor vehicle that:

- (a) Has a seating capacity not exceeding fifteen passengers including the driver.
- (b) Provides passenger services for a fare determined by a flat rate or flat hourly rate between geographic zones or within a geographic area.
- (c) Is available for hire on an exclusive or shared ride basis.
- (d) May do any of the following:
  - (i) Operate on a regular route or between specified places.
  - (ii) Offer prearranged ground transportation service as defined in section 28-141.
  - (iii) Offer on demand ground transportation service pursuant to a contract with a public airport, licensed business entity or organization.

38. "Local authority" means any county, municipal or other local board or body exercising jurisdiction over highways under the constitution and laws of this state.

39. "Manufacturer" means a person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

40. "Moped" means a bicycle, not including an electric bicycle, an electric miniature scooter or an electric standup scooter, that is equipped with a helper motor if the vehicle has a maximum piston displacement of fifty cubic centimeters or less, a brake horsepower of one and one-half or less and a maximum speed of twenty-five miles per hour or less on a flat surface with less than a one percent grade.

41. "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the rider and that is designed to travel on not more than three wheels in contact with the ground but excludes a tractor, an electric bicycle, an electric miniature scooter, an electric standup scooter and a moped.

42. "Motor driven cycle" means a motorcycle, including every motor scooter, with a motor that produces not more than five horsepower but does not include an electric bicycle, an electric miniature scooter or an electric standup scooter.

43. "Motorized quadricycle" means a self-propelled motor vehicle to which all of the following apply:

- (a) The vehicle is self-propelled by an emission-free electric motor and may include pedals operated by the passengers.
- (b) The vehicle has at least four wheels in contact with the ground.
- (c) The vehicle seats at least eight passengers, including the driver.
- (d) The vehicle is operable on a flat surface using solely the electric motor without assistance from the pedals or passengers.
- (e) The vehicle is a commercial motor vehicle as defined in section 28-5201.
- (f) The vehicle is a limousine operating under a vehicle for hire company permit issued pursuant to section 28-9503.

(g) The vehicle is manufactured by a motor vehicle manufacturer that is licensed pursuant to chapter 10 of this title.

(h) The vehicle complies with the definition and standards for low-speed vehicles set forth in federal motor vehicle safety standard 500 and 49 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

44. "Motor vehicle":

(a) Means either:

(i) A self-propelled vehicle.

(ii) For the purposes of the laws relating to the imposition of a tax on motor vehicle fuel, a vehicle that is operated on the highways of this state and that is propelled by the use of motor vehicle fuel.

(b) Does not include a scrap vehicle, a personal delivery device, a personal mobile cargo carrying device, a motorized wheelchair, an electric personal assistive mobility device, an electric bicycle, an electric miniature scooter, an electric standup scooter or a motorized skateboard. For the purposes of this subdivision:

(i) "Motorized skateboard" means a self-propelled device that does not have handlebars and that has a motor, a deck on which a person may ride and at least two tandem wheels in contact with the ground.

(ii) "Motorized wheelchair" means a self-propelled wheelchair that is used by a person for mobility.

45. "Motor vehicle fuel" includes all products that are commonly or commercially known or sold as gasoline, including casinghead gasoline, natural gasoline and all flammable liquids, and that are composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal combustion engines. Motor vehicle fuel does not include inflammable liquids that are specifically manufactured for racing motor vehicles and that are distributed for and used by racing motor vehicles at a racetrack, use fuel as defined in section 28-5601, aviation fuel, fuel for jet or turbine powered aircraft or the mixture created at the interface of two different substances being transported through a pipeline, commonly known as transmix.

46. "Neighborhood electric vehicle" means a self-propelled electrically powered motor vehicle to which all of the following apply:

(a) The vehicle is emission free.

(b) The vehicle has at least four wheels in contact with the ground.

(c) The vehicle complies with the definition and standards for low-speed vehicles set forth in federal motor vehicle safety standard 500 and 49 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

47. "Nonresident" means a person who is not a resident of this state as defined in section 28-2001.

48. "Off-road recreational motor vehicle" means a motor vehicle that is designed primarily for recreational nonhighway all-terrain travel and that is not operated on a public highway. Off-road recreational motor vehicle does not mean a motor vehicle used for construction, building trade, mining or agricultural purposes.

49. "Operator" means a person who drives a motor vehicle on a highway, who is in actual physical control of a motor vehicle on a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

50. "Owner" means:

(a) A person who holds the legal title of a vehicle.

(b) If a vehicle is the subject of an agreement for the conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, the conditional vendee or lessee.

(c) If a mortgagor of a vehicle is entitled to possession of the vehicle, the mortgagor.

51. "Pedestrian" means any person afoot. A person who uses an electric personal assistive mobility device or a manual or motorized wheelchair is considered a pedestrian unless the manual wheelchair qualifies as a bicycle. For the purposes of this paragraph, "motorized wheelchair" means a self-propelled wheelchair that is used by a person for mobility.

52. "Personal delivery device":

(a) Means a device that is both of the following:

(i) Manufactured for transporting cargo and goods in an area described in section 28-1225.

(ii) Is equipped with automated driving technology, including software and hardware, that enables the operation of the device with the remote support and supervision of a human.

(b) Does not include a personal mobile cargo carrying device.

53. "Personal mobile cargo carrying device" means an electronically powered device that:

(a) Is operated primarily on sidewalks and within crosswalks and that is designed to transport property.

(b) Weighs less than eighty pounds, excluding cargo.

(c) Operates at a maximum speed of twelve miles per hour.

(d) Is equipped with technology to transport personal property with the active monitoring of a property owner and that is primarily designed to remain within twenty-five feet of the property owner.

(e) Is equipped with a braking system that when active or engaged enables the personal mobile cargo carrying device to come to a controlled stop.

54. "Power sweeper" means an implement, with or without motive power, that is only incidentally operated or moved on a street or highway and that is designed for the removal of debris, dirt, gravel, litter or sand whether by broom, vacuum or regenerative air system from asphaltic concrete or cement concrete surfaces, including parking lots, highways, streets and warehouses, and a vehicle on which the implement is permanently mounted.

55. "Public transit" means the transportation of passengers on scheduled routes by means of a conveyance on an individual passenger fare-paying basis excluding transportation by a sightseeing bus, school bus or taxi or a vehicle not operated on a scheduled route basis.

56. "Reconstructed vehicle" means a vehicle that has been assembled or constructed largely by means of essential parts, new or used, derived from vehicles or makes of vehicles of various names, models and types or that, if originally otherwise constructed, has been materially altered by the removal of essential parts or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles. For the purposes of this paragraph, "essential parts" means integral and body parts, the removal, alteration or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.

57. "Residence district" means the territory contiguous to and including a highway not comprising a business district if the property on the highway for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business.

58. "Right-of-way" when used within the context of the regulation of the movement of traffic on a highway means the privilege of the immediate use of the highway. Right-of-way when used within the context of the real property on which transportation facilities and appurtenances to the facilities are constructed or maintained means the lands or interest in lands within the right-of-way boundaries.

59. "School bus" means a motor vehicle that is designed for carrying more than ten passengers and that is either:

(a) Owned by any public or governmental agency or other institution and operated for the transportation of children to or from home or school on a regularly scheduled basis.

(b) Privately owned and operated for compensation for the transportation of children to or from home or school on a regularly scheduled basis.

60. "Scrap metal dealer" has the same meaning prescribed in section 44-1641.

61. "Scrap vehicle" has the same meaning prescribed in section 44-1641.

62. "Semitrailer" means a vehicle that is with or without motive power, other than a pole trailer or single-axle tow dolly, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that some part of its weight and that of its load rests on or is carried by another vehicle. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section 28-601.

63. "Single-axle tow dolly" means a nonvehicle device that is drawn by a motor vehicle, that is designed and used exclusively to transport another motor vehicle and on which the front or rear wheels of the drawn motor vehicle are mounted on the tow dolly while the other wheels of the drawn motor vehicle remain in contact with the ground.

64. "State" means a state of the United States and the District of Columbia.

65. "State highway" means a state route or portion of a state route that is accepted and designated by the board as a state highway and that is maintained by the state.

66. "State route" means a right-of-way whether actually used as a highway or not that is designated by the board as a location for the construction of a state highway.

67. "Street" or "highway" means the entire width between the boundary lines of every way if a part of the way is open to the use of the public for purposes of vehicular travel.

68. "Taxi" means a motor vehicle that has a seating capacity not exceeding fifteen passengers, including the driver, that provides passenger services and that:

(a) Does not primarily operate on a regular route or between specified places.

(b) Offers local transportation for a fare determined on the basis of the distance traveled or prearranged ground transportation service as defined in section 28-141 for a predetermined fare.

69. "Title transfer form" means a paper or an electronic form that is prescribed by the department for the purpose of transferring a certificate of title from one owner to another owner.

70. "Traffic survival school" means a school that offers educational sessions to drivers who are required to attend and successfully complete educational sessions pursuant to this title that are designed to improve the safety and habits of drivers and that are approved by the department.

71. "Trailer" means a vehicle that is with or without motive power, other than a pole trailer or single-axle tow dolly, that is designed for carrying persons or property and for being drawn by a motor vehicle and that is constructed so that no part of its weight rests on the towing vehicle. A semitrailer equipped with an auxiliary

front axle commonly known as a dolly is deemed to be a trailer. For the purposes of this paragraph, "pole trailer" has the same meaning prescribed in section 28-601.

72. "Transportation network company" has the same meaning prescribed in section 28-9551.

73. "Transportation network company vehicle" has the same meaning prescribed in section 28-9551.

74. "Transportation network service" has the same meaning prescribed in section 28-9551.

75. "Truck" means a motor vehicle designed or used primarily for the carrying of property other than the effects of the driver or passengers and includes a motor vehicle to which has been added a box, a platform or other equipment for such carrying.

76. "Truck tractor" means a motor vehicle that is designed and used primarily for drawing other vehicles and that is not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

77. "Vehicle":

(a) Means a device in, on or by which a person or property is or may be transported or drawn on a public highway.

(b) Does not include:

(i) Electric bicycles, electric miniature scooters, electric standup scooters and devices moved by human power.

(ii) Devices used exclusively on stationary rails or tracks.

(iii) Personal delivery devices.

(iv) Scrap vehicles.

(v) Personal mobile cargo carrying devices.

78. "Vehicle transporter" means either:

(a) A truck tractor capable of carrying a load and drawing a semitrailer.

(b) A truck tractor with a stinger-steered fifth wheel capable of carrying a load and drawing a semitrailer or a truck tractor with a dolly mounted fifth wheel that is securely fastened to the truck tractor at two or more points and that is capable of carrying a load and drawing a semitrailer.

### 32-2601. Definitions

In this chapter, unless the context otherwise requires:

1. "Advertising" means submitting bids, contracting or making known by any public notice, publication or solicitation of business, directly or indirectly, that services regulated under this chapter are available for consideration.
2. "Agency license" means a certificate that is authenticated by the department and that attests that a qualifying party is authorized to conduct the business of private security guard service in this state.
3. "Applicant" means a person who has submitted a completed application and all required application and fingerprint processing fees.
4. "Armed security guard" means a registered security guard who wears, carries, possesses or has access to a firearm at any time during the course of employment.
5. "Associate" means a person who is a partner or corporate officer in a security guard agency.
6. "Board" means the private investigator and security guard hearing board established by section 32-2404.
7. "Conviction" means an adjudication of guilt by a federal, state or local court resulting from trial or plea, including a plea of no contest, regardless of whether or not the adjudication of guilt was set aside or vacated.
8. "Department" means the department of public safety.
9. "Director" means the director of the department of public safety.
10. "Emergency action" means a summary suspension of a license pending revocation, suspension or probation in order to protect the public health, safety or welfare.
11. "Employee" means an individual who works for an employer, is listed on the employer's payroll records and is under the employer's direction and control.
12. "Employer" means a person who is licensed pursuant to this chapter, who employs an individual for wages or salary, who lists the individual on the employer's payroll records and who withholds all legally required deductions and contributions.
13. "Firearms safety training instructor" means a person who provides classroom and range instruction to applicants for armed security guard certification.
14. "Identification card" means a card issued by the department to a qualified applicant for an agency license, to an associate or to a registrant.
15. "Letter of concern" means an advisory letter to notify a licensee or registrant that while there is insufficient evidence to support probation, suspension or revocation of a license or registration the department believes the licensee or registrant should modify or eliminate certain practices and that continuation of the activities that led to the information being submitted to the department may result in further disciplinary action against the person's license or registration.
16. "Licensee" means a person to whom an agency license is granted pursuant to article 2 of this chapter.
17. "Private security guard service" means any agency, individual or employer in the business of furnishing to the public for hire, fee or reward dogs, watchmen, patrol services, private security guards or other persons to protect human life or to prevent the theft or the misappropriation or concealment of goods, wares, merchandise, money, bonds, stocks, notes, choses in action or other property, valuable documents, papers and articles of value.

18. "Proprietary company" means a company that employs security guards or armed security guards solely for use of and service to itself and not for others.
19. "Qualifying party" means the individual who meets the qualifications under this chapter for an agency license.
20. "Registrant" means an employee of a licensed agency who is qualified to perform the services of a security guard.
21. "Registration certificate" means a certificate that is authenticated by the department and that attests that an employee of a business holding an agency license has satisfactorily complied with article 3 of this chapter.
22. "Restructuring" means any change in a business' legal status.
23. "Security guard" means any person employed by a private security guard service or proprietary company as a watchman, patrolman, bodyguard, personal protection guard or private security guard or any other person who performs security guard services, but does not include any regularly commissioned police or peace officer or railroad police appointed pursuant to section 40-856.
24. "Security guard training instructor" means a person who provides instruction to applicants for unarmed security guard certification.
25. "Unprofessional conduct" means any of the following:
- (a) Engaging or offering to engage by fraud or misrepresentation in activities regulated by this chapter.
  - (b) Aiding or abetting a person who is not licensed or registered pursuant to this chapter in representing that person as a security guard in this state.
  - (c) Gross negligence in the practice of a security guard.
  - (d) Failing or refusing to maintain adequate records on a client containing at least sufficient information to identify the client, the dates of service, the fee for service and the payments for service.
  - (e) Committing a felony or a misdemeanor involving any crime that is grounds for denial, suspension or revocation of a security guard agency license or employee registration certificate. In all cases, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.
  - (f) Making a fraudulent or false statement to the department, the board or the department's investigators, staff or consultants.

32-2607. Fees; renewal of license or registration certificate

A. The department shall charge and collect reasonable fees as determined by the director to cover the operational and equipment costs of regulating the security guard industry.

B. An agency license granted under this chapter may be renewed after the department receives an application on such a form as the department prescribes, the fees prescribed pursuant to subsection A of this section and proof of required liability insurance and workers' compensation and the agency identifies the certified security guard training instructors and firearms safety training instructors that the applicant uses. Except as provided in section 32-4301, in no event shall renewal be granted more than ninety days after the expiration date of a license. No person, firm, company, partnership or corporation may carry on any business subject to this article during any period that may exist between the date of expiration of a license and the renewal of the license.

C. A security guard, armed security guard, security guard training instructor or firearms safety training instructor registration certificate granted under this article may be issued after application on such a form as the department prescribes, the payment of fees prescribed pursuant to subsection A of this section and proof of the completion of training as required by this chapter.

D. A security guard, armed security guard, security guard training instructor or firearms safety training instructor registration certificate granted under this article may be renewed after application on such a form as the department prescribes and the payment of renewal fees.

E. Except as provided in section 32-4301, the department shall not renew an agency license or registration certificate more than ninety calendar days after expiration. A licensee or registrant shall not engage in any activity regulated by this chapter during any period between the date of expiration of the license or registration and the renewal of the license or registration.

F. The department may renew a suspended license or registration as provided in this chapter. While suspended, the renewal of the license or registration does not entitle the licensee, security guard, armed security guard, security guard training instructor or firearms safety training instructor to engage in any activity regulated by this chapter or in any other activity or conduct in violation of the order or judgment that suspended the license or registration certificate.

G. The department shall not renew a revoked license or registration certificate. The department shall not accept an application for a license or registration from a person whose license or registration has been revoked until at least one year after the date of revocation.

32-2608. License or registration required; violation; classification

A. A person, except a regularly commissioned peace officer, shall not act or attempt to act as, or represent that the person is, a security guard unless the person is registered as a security guard pursuant to this chapter and is acting within the scope of the person's employment for an agency that is licensed pursuant to article 2 of this chapter.

B. A person shall not act or attempt to act as, or represent that the person is, a security guard training instructor or firearms safety training instructor unless the person is registered as a security guard training instructor or firearms safety training instructor pursuant to this chapter and is acting within the scope of the person's employment for an agency that is licensed pursuant to article 2 of this chapter.

C. A person who knowingly violates this section is guilty of a class 1 misdemeanor.

### 32-2611. Necessity of an agency license

A person shall not engage in a business regulated by this chapter or act, assume to act as or represent himself to be a licensee unless the person is licensed pursuant to this chapter.

### 32-2612. Qualifications of applicant for agency license; substantiation of work experience

A. Each applicant, if an individual, or each associate, director or manager, if the applicant is other than an individual, for an agency license to be issued pursuant to this chapter shall:

1. Be at least twenty-one years of age.
2. Be a citizen or a legal resident of the United States who is authorized to seek employment in the United States.
3. Not have been convicted of any felony or currently be under indictment for a felony.
4. Within the five years immediately preceding the application for an agency license, not have been convicted of any misdemeanor act involving:
  - (a) Personal violence or force against another person or threatening to commit any act of personal violence or force against another person.
  - (b) Misconduct involving a deadly weapon as provided in section 13-3102.
  - (c) Dishonesty or fraud.
  - (d) Arson.
  - (e) Theft.
  - (f) Domestic violence.
  - (g) A violation of title 13, chapter 34 or 34.1 or an offense that has the same elements as an offense listed in title 13, chapter 34 or 34.1.
  - (h) Sexual misconduct.
5. Not be on parole, on community supervision, on work furlough, on home arrest, on release on any other basis or named in an outstanding arrest warrant.
6. Not be serving a term of probation pursuant to a conviction for any act of personal violence or domestic violence, as defined in section 13-3601, or an offense that has the same elements as an offense listed in section 13-3601.
7. Not be any of the following:
  - (a) Adjudicated mentally incompetent.
  - (b) Found to constitute a danger to self or others or to be in persistent or acute disability or grave disability pursuant to section 36-540.
  - (c) Found incompetent pursuant to rule 11, Arizona rules of criminal procedure.
  - (d) Found guilty except insane.
8. Not have a disability as defined in section 41-1461, unless that person is a qualified individual as defined in section 41-1461.
9. Not have been convicted of acting or attempting to act as a security guard or a security guard agency without a license if a license was required.

10. Not be a registered sex offender.

B. The qualifying party for an agency license and the resident manager, if a resident manager is required pursuant to section 32-2616, shall have at least three years of full-time experience as a manager, supervisor or administrator of a security guard agency or three years of full-time supervisory experience with any federal, United States military, state, county or municipal law enforcement agency. The qualifying party for an agency license and the resident manager, if a resident manager is required pursuant to section 32-2616, must substantiate managerial work experience claimed as years of qualifying experience and provide the exact details as to the character and nature of the experience on a form prescribed by the department and certified by the employer. On written request, an employer shall submit to the employee a written certification of prior work experience within thirty calendar days. The written certification is subject to independent verification by the department. If an employer goes out of business, the employer shall provide registered employees with a complete and accurate record of their work history. If an applicant is unable to supply written certification from an employer in whole or in part, the applicant may offer written certification from persons other than an employer covering the same subject matter for consideration by the department. The burden of proving the minimum years of experience is on the applicant.

C. The department may deny an agency license if the department determines that the applicant is unfit based on a conviction, citation or encounter with law enforcement for a statutory violation.

32-2613. Application for agency license; financial responsibility; notice and opportunity to supply additional information

A. Every application for an original or renewal agency license to operate as a private security guard service shall set forth verified information to assist the department in determining the applicant's ability to meet the requirements set forth in this chapter and shall include the following:

1. The full name and business address of the applicant.
2. The name under which the applicant intends to do business.
3. A statement as to the general nature of the business in which the applicant intends to engage, including identification of armed security guard training requirements and identification of employees acting as armed security guards.
4. Photographs of the applicant of a number and type prescribed by the department.
5. Fingerprints of the applicant of a quality and number prescribed by the department for the purpose of obtaining state and federal criminal records checks pursuant to section 41-1750 and Public Law 92-544. The department may exchange this fingerprint data with the federal bureau of investigation. The department may conduct periodic state criminal history checks to ensure continued qualification under this chapter.
6. A verified statement of the applicant's experience and qualifications.
7. Such other information, evidence, statements or documents as may reasonably be required by the director.

B. If the applicant is other than an individual, each of its partners, resident officers, associates, directors and managers, in addition to its qualifying party, shall comply with the requirements of subsection A of this section. If the applicant is other than an individual, the application shall contain the full name and address of each of its board members and the president, vice-president, secretary and treasurer. The person who will manage the business conducted in this state shall comply in full with the requirements of subsection A of this section.

C. An application for an original or a renewal agency license shall be accompanied by:

1. The fee as prescribed pursuant to section 32-2607.
2. A certificate of a liability insurance policy, issued by an insurance company licensed or authorized to do business in this state. The minimum limits of such liability insurance policies shall be established by the department. Any insurer issuing such a policy shall give written notice to the department of any cancellation of such a policy. Such notice shall be given by the insurer to the director at least ten days before the cancellation by certified mail.
3. A certificate of workers' compensation insurance.
4. A completed form describing the agency's training program for employees as described in section 32-2632, subsection A, including training requirements for and identification of armed security guards employed by the agency and the identification of registered firearms safety training instructors and registered security guard training instructors used by the agency. The form shall be as prescribed by the director and require such information as the director deems necessary.

D. If an application is incomplete, the department shall notify the applicant pursuant to section 41-1074. If the department requires additional information to make a decision on licensure, the department shall notify the applicant pursuant to section 41-1075. The department shall send notices under this subsection to the applicant's last known residential address and shall include sufficient information to assist the applicant to complete the application process. The applicant has forty-five calendar days from the date of notification to provide the

additional documentation. If the applicant fails to respond within forty-five calendar days, the application and any certificates issued are automatically suspended until the department receives the necessary documentation to approve or deny the application.

32-2614. Issuance of an agency license and identification card; deadline for completing application

- A. The department shall issue an agency license under this article to any applicant who satisfactorily complies with this chapter. Each agency license shall contain the name and address of such licensee and the number of the license and shall be issued for a period of two years.
- B. Upon the issuance of an agency license, an identification card as described in section 32-2633 shall be issued to such licensee if an individual, or if such licensee is other than an individual, to its qualifying party, associates, resident managers and each of its resident officers, associates, directors and partners. The identification card is evidence that the licensee is duly licensed pursuant to this chapter. If any person to whom the card of an agency licensee, other than an individual, is issued terminates the person's position, office or association with the licensee, the person shall surrender the card to the licensee and within five business days the licensee shall mail or deliver the card to the director for cancellation. If the person fails or refuses to surrender the card to the licensee, the licensee shall notify the director within five business days of the termination of the person's position, office or association with the licensee.
- C. On notification by the department to an applicant that the agency license is ready for issuance, the applicant shall complete the application process within ninety calendar days. Failure to complete the process results in the application being canceled and the applicant forfeits all fees. Subsequent application by the same applicant requires the payment of all application and license fees prescribed pursuant to section 32-2607.
- D. An agency licensee shall, within thirty calendar days, notify the department in writing of any change in the name or address of the business or any change of associates or directors.

### 32-2616. Qualifying party; responsibilities

- A. An applicant for an agency license shall have a qualifying party.
- B. For a sole proprietorship, the qualifying party shall be the agency licensee.
- C. For a partnership, corporation or limited liability company, the qualifying party shall be the individual who is liable for managing the agency. All other partners or corporate officers shall register as associates pursuant to article 3 of this chapter.
- D. If the qualifying party lives outside this state, the qualifying party shall designate a resident manager who is a manager of the agency, who maintains full-time legal residency in this state and who meets the requirements of sections 32-2612 and 32-2613.
- E. If required, the qualifying party shall maintain workers' compensation insurance and liability insurance in effect as prescribed by section 32-2613, subsection C.

32-2617. Branch office certificate

- A. A licensee may not establish a branch office of a licensed agency unless the department has issued a branch office certificate.
- B. A branch office certificate authorizes the qualifying party of an agency licensee to conduct the business of a private security guard service agency in this state at a location other than the principal place of business shown on the agency license.
- C. An application for a branch office certificate shall be on such form as the department prescribes.
- D. The branch office certificate shall be issued in the name of the licensed agency only.

32-2621. Necessity of security guard registration

A. No person, except a regularly commissioned peace officer, shall act, attempt to act or represent himself as a security guard unless such person is registered as a guard pursuant to this chapter and acting within the scope of his employment for an agency licensed pursuant to article 2 of this chapter.

B. The provisions of this article shall not apply to individual agency licensees or to qualifying parties, officers, directors, partners or managers of an agency licensee who are licensed pursuant to article 2 of this chapter.

32-2622. Qualifications of applicant for associate, security guard or armed security guard registration certificate

A. An applicant for an associate or a security guard registration certificate issued pursuant to this article shall:

1. Be at least eighteen years of age.
2. Be a citizen or legal resident of the United States who is authorized to seek employment in the United States.
3. Not have been convicted of any felony or currently be under indictment for a felony.
4. Within the five years immediately preceding the application for an associate, security guard or armed security guard registration certificate, not have been convicted of any misdemeanor act involving:
  - (a) Personal violence or force against another person or threatening to commit any act of personal violence or force against another person.
  - (b) Misconduct involving a deadly weapon as provided in section 13-3102.
  - (c) Dishonesty or fraud.
  - (d) Arson.
  - (e) Theft.
  - (f) Domestic violence.
  - (g) A violation of title 13, chapter 34 or 34.1 or an offense that has the same elements as an offense listed in title 13, chapter 34 or 34.1.
  - (h) Sexual misconduct.
5. Not be on parole, on community supervision, on work furlough, on home arrest, on release on any other basis or named in an outstanding arrest warrant.
6. Not be serving a term of probation pursuant to a conviction for any act of personal violence or domestic violence, as defined in section 13-3601, or an offense that has the same elements as an offense listed in section 13-3601.
7. Not be either of the following:
  - (a) Adjudicated mentally incompetent.
  - (b) Found to constitute a danger to self or others pursuant to section 36-540.
8. Not have a disability as defined in section 41-1461, unless that person is a qualified individual as defined in section 41-1461.
9. Not have been convicted of acting or attempting to act as an associate, security guard or armed security guard without a license if a license was required.
10. Not be a registered sex offender.

B. An applicant for an armed security guard registration certificate issued pursuant to this chapter shall:

1. Meet the requirements of subsection A of this section.

2. Except as provided in section 32-2624, successfully complete all background screening and training requirements.
3. Not be a prohibited possessor as defined in section 13-3101 or as described in 18 United States Code section 922.
4. Not have been discharged from the armed services of the United States under other than honorable conditions.
5. Not have been convicted of any crime involving domestic violence as defined in section 13-3601.

### 32-2623. Application for employee registration certificate

A. Every application for an employee registration certificate must set forth verified information to assist the department in determining the applicant's ability to meet the requirements set forth in this chapter, as follows:

1. The full name and address of the applicant.
2. Fingerprints of the applicant of a quality and number prescribed by the department for the purpose of obtaining state and federal criminal records checks pursuant to section 41-1750 and Public Law 92-544. The department may exchange this fingerprint data with the federal bureau of investigation. The department may conduct periodic state criminal history checks to ensure continued qualification under this chapter.
3. Photographs of the applicant of a number and type prescribed by the department.
4. Such other information, evidence, statements or documents as may reasonably be required by the department.

B. An application for an original or renewal security guard, armed security guard, security guard training instructor or firearms safety training instructor registration certificate shall be accompanied by:

1. The fees prescribed pursuant to section 32-2607.
2. A statement from the applicant's employer requesting and authorizing armed security guard registration status for the applicant.

C. If an application is incomplete, the department shall notify the applicant pursuant to section 41-1074. If the department requires additional information to make a decision on registration, the department shall notify the applicant pursuant to section 41-1075. The department shall send notices issued under this subsection to the applicant's last known residential address and shall include sufficient information to assist the applicant to complete the application process. The applicant has forty-five calendar days from the date of notification to provide the additional documentation. If the applicant fails to respond within forty-five calendar days, the application and any certificates issued are automatically suspended until the department receives the necessary documentation to approve or deny the application.

### 32-2624. Issuance of registration certificates and identification cards

A. Except as otherwise provided in this subsection, after investigation, the department shall issue a security guard registration certificate, armed security guard registration certificate, security guard training instructor registration certificate or firearms safety training instructor registration certificate under this chapter to any applicant who satisfactorily complies with this chapter. Each security guard, security guard training instructor or firearms safety training instructor registration certificate shall contain the name and address of the registrant and the number of the certificate and, except as otherwise provided in this subsection, shall be issued for two years. Before the required background screenings for an applicant are complete, the department may issue a forty-five-day security guard registration certificate or a forty-five-day armed security guard registration certificate to an applicant who is an honorably discharged veteran of the United States military and who has been discharged not more than three years before application. The applicant who receives a forty-five-day security guard registration certificate pursuant to this section may work only for an agency licensee that provides the applicant preassignment training as prescribed in section 32-2632.

B. When a security guard, security guard training instructor or firearms safety training instructor registration certificate is issued, an identification card as described in section 32-2633 shall be issued to the registrant. The identification card is evidence that the person is a duly registered security guard, security guard training instructor or firearms safety training instructor. An employee must obtain an armed security guard registration certificate and identification card for each sponsoring agency licensee.

C. A security guard employee may not possess or carry a firearm while on official duty unless the employee is currently registered as an armed security guard and is authorized by the person's employer to possess or carry the firearm.

D. A security guard, security guard training instructor or firearms safety training instructor shall notify the director within fifteen calendar days after any change in the name or residential address of the security guard, security guard training instructor or firearms safety training instructor.

E. The department shall not issue a security guard, security guard training instructor or firearms safety training instructor provisional certificate.

32-2625. Qualifications of applicant for security guard training instructor or firearms safety training instructor registration certificate

A. An applicant for a security guard training instructor or firearms safety training instructor registration certificate issued pursuant to this article shall:

1. Be at least eighteen years of age.
2. Be a citizen or legal resident of the United States who is authorized to seek employment in the United States.
3. Not have been convicted of any felony or currently be under indictment for a felony.
4. Within the five years immediately preceding the application for a security guard training instructor or firearms safety training instructor registration certificate, not have been convicted of any misdemeanor act involving:
  - (a) Personal violence or force against another person or threatening to commit any act of personal violence or force against another person.
  - (b) Misconduct involving a deadly weapon as prescribed in section 13-3102.
  - (c) Dishonesty or fraud.
  - (d) Arson.
  - (e) Theft.
  - (f) Domestic violence.
  - (g) A violation of title 13, chapter 34 or 34.1 or an offense that has the same elements as an offense listed in title 13, chapter 34 or 34.1.
  - (h) Sexual misconduct.
5. Not be on parole, on community supervision, on work furlough, on home arrest, on release on any other basis or named in an outstanding arrest warrant.
6. Not be serving a term of probation pursuant to a conviction for any act of personal violence or domestic violence, as defined in section 13-3601, or an offense that has the same elements as an offense listed in section 13-3601.
7. Not be any of the following:
  - (a) Adjudicated mentally incompetent.
  - (b) Found to constitute a danger to self or others pursuant to section 36-540.
  - (c) Found incompetent pursuant to rule 11, Arizona rules of criminal procedure.
  - (d) Found guilty except insane.
8. Not have a disability as defined in section 41-1461, unless that person is a qualified individual with a disability as defined in section 41-1461.
9. Not have been convicted of acting or attempting to act as an associate, a security guard, an armed security guard, a security guard training instructor or a firearms safety training instructor without a license if a license was required.

10. Not be a registered sex offender.

B. In addition to meeting the requirements listed in subsection A of this section, an applicant for a firearms safety training instructor registration certificate that is issued pursuant to this article shall:

1. Successfully complete all background screening and training requirements.
2. Not be a prohibited possessor as defined in section 13-3101 or as described in 18 United States Code section 922.
3. Not have been discharged from the armed services of the United States under other than honorable conditions.
4. Not have been convicted of any crime involving domestic violence as defined in section 13-3601.

32-2632. Duty of licensee to provide training of security guards; records; firearms training; rules

- A. An agency licensee shall provide eight hours of preassignment training for each person who is employed as a security guard before the employee acts in the capacity of a security guard. The training shall be provided by an instructor who is certified by the department. The required training curriculum shall be established by the department.
- B. All renewal applicants shall complete eight hours of refresher training within ninety days before submitting a renewal application. An instructor who is certified by the department shall provide the training. The department shall establish the required training curriculum.
- C. Every agency licensee shall keep an accurate and current record of pertinent information on all persons employed as security guards, security guard training instructors or firearms safety training instructors, which shall be made available to the department in the event of an alleged violation of this chapter.
- D. At least sixteen hours of initial firearms instruction and eight hours of annual continuing firearms instruction in the use of the weapon used by the security guard is required if a firearm is used within the scope of employment. All firearms training and qualifications shall be conducted by a firearms safety training instructor who is certified by the department and shall be completed before the security guard is assigned to any position requiring the carrying of a firearm. The licensee shall provide a monthly report to the department identifying all armed security guards employed by the agency.
- E. An agency licensee shall use only security guard training instructors or firearms safety training instructors who are registered pursuant to this chapter.
- F. The department shall adopt rules for all of the following:
1. Registration of firearms safety training instructors who provide the firearms training required by subsection D of this section.
  2. A firearms training curriculum.
  3. Registration of security guard training instructors.

### 32-2633. Identification cards

Each holder of a license or registration certificate issued under this chapter shall obtain a standard identification card that is issued by the department. The department shall determine the size and design of the identification card and the card shall contain the following information:

1. Name of employee.
2. Date of expiration.
3. Photograph of employee.
4. Physical description of employee.
5. Employee's registration number.
6. If the employee is an armed security guard, information identifying the employee as an armed security guard and the name of the authorizing employer.
7. Such other information as may be determined necessary by the director.

32-2634. Authority; limitations

A person employed as a security guard or armed security guard shall not possess the authority of a regularly commissioned police or peace officer. Any duties performed by a security guard or armed security guard shall be performed in the capacity of a private citizen.

### 32-2635. Uniform and insignia

A. The particular type of uniform and insignia for a security guard or an armed security guard shall be subject to approval according to rules adopted by the department and shall be such that it will not deceive or confuse the public or be identical with that of any law enforcement officer of the federal government, this state or any political subdivision of this state. Shoulder identification patches shall be worn on all uniform jackets, coats and shirts and shall include the name of the agency licensee. Shoulder identification patches or emblems shall not be less than two inches by three inches in size.

B. No badge or shield shall be worn or carried by a security guard, an armed security guard or an employee or registrant of any patrol service agency or private security guard agency, unless previously approved by the director.

32-2636. Grounds for disciplinary action; emergency summary suspension; judicial review

A. The following constitute grounds for disciplinary action against a licensee or registrant, or if the licensee is other than an individual, against its qualifying party or any of its associates, directors or managers:

1. Using any letterhead, advertisement or other printed matter to represent, or in any other manner representing, that the licensee, registrant or qualifying party or its associate, director or manager is an instrumentality of the federal government or any state or political subdivision of a state.
2. Using a name that is different from that under which the licensee, registrant or qualifying party or its associate, director or manager is currently licensed or registered for any advertisement, solicitation or contract to secure business under this chapter unless the name is an authorized fictitious name.
3. Falsifying fingerprints, photographs or other documents while operating pursuant to this chapter.
4. Impersonating, or permitting or aiding and abetting an employee to impersonate, a law enforcement officer or employee of the United States or any state or political subdivision of a state.
5. Knowingly violating, or advising, encouraging or assisting in the violation of, any statute, court order, warrant or injunction in the course of business as a licensee or registrant under this chapter.
6. Committing or knowingly permitting any employee to commit any violation of this chapter or rules adopted pursuant to this chapter.
7. Committing an act of misconduct involving a weapon pursuant to section 13-3102.
8. Conviction of a felony.
9. Conviction of any act of personal violence or force against any person or conviction of threatening to commit any act of personal violence or force against any person.
10. Fraud or wilful misrepresentation in applying for an original license or registration or the renewal of an existing license or registration.
11. Soliciting business for an attorney in return for compensation.
12. Conviction of any act constituting fraud.
13. Being on parole, on community supervision, on work furlough, on home arrest, on release on any other basis or named in an outstanding arrest warrant.
14. Serving a term of probation pursuant to a conviction for any act of personal violence or domestic violence as defined in section 13-3601 or an offense that has the same elements as a domestic violence offense listed in section 13-3601, subsection A.
15. Wilfully failing or refusing to render client services or a report as agreed between the parties and for which compensation has been paid or tendered pursuant to the agreement of the parties.
16. The unauthorized release of information acquired on behalf of a client by a licensee, associate or registrant as a result of activities regulated under this chapter.
17. Failing or refusing to cooperate with or refusing access to an authorized representative of the department engaged in an official investigation pursuant to this chapter.
18. Employing or contracting with any unregistered or improperly registered person or unlicensed or improperly licensed person or agency to conduct activities regulated under this chapter if the licensure or registration status

was known or could have been ascertained by reasonable inquiry.

19. Permitting, authorizing, aiding or in any way assisting a registered employee to conduct services as described in this chapter on an independent contractor basis and not under the authority of the licensed agency.

20. Failing to maintain in full force and effect workers' compensation insurance, if applicable, or liability insurance as prescribed by section 32-2613, subsection C.

21. Conducting security guard services regulated by this chapter on an expired, revoked or suspended license or registration.

22. Accepting employment, contracting or in any way engaging in employment that has an adverse impact on security guard services being conducted on behalf of clients.

23. Advertising in a false, deceptive or misleading manner.

24. Failing to display on request the identification card issued by the department pursuant to section 32-2624.

25. Committing any act of unprofessional conduct.

26. Being arrested for any offense listed in this chapter that would disqualify the licensee, registrant or qualifying party or any of its associates, directors or managers from obtaining a license or registration.

27. Failing to maintain all qualifications as prescribed by sections 32-2612 and 32-2622, as applicable.

B. An officer, director, associate, partner, qualifying party, employee or manager of the holder of an agency license issued pursuant to this chapter who is found in violation of this chapter shall be denied the privilege of operating under such a license. The remaining officers, directors, associates, partners, employees or managers of such licensee who are innocent of such violations may carry on the business.

C. Any person aggrieved by a decision of the director may request a hearing pursuant to title 41, chapter 6, article 10. Except as provided in section 41-1092.08, subsection H, final decisions of the director are subject to judicial review pursuant to title 12, chapter 7, article 6.

D. On completion of an investigation, the director:

1. May dismiss the case.

2. May take emergency action.

3. May issue a letter of concern, if applicable.

4. May forward the findings to the board for review and possible disciplinary action.

5. Shall place all records, evidence, findings and conclusions and any other information pertinent to the investigation in the public records section of the file maintained at the department.

6. May suspend the license or registration of a person who is arrested for an offense that is listed in this chapter and that would disqualify the person from obtaining a license or registration.

E. A letter of concern is a public document and may be used in future disciplinary actions against a licensee or registrant.

F. If the department finds, based on its investigation, that the public health, safety or welfare requires emergency action, the director may order a summary suspension of a license or registration pending proceedings for revocation or other action. If the director issues this order, the department shall serve the licensee or registrant

with a written notice of complaint and formal hearing, setting forth the charges made against the licensee or registrant and the licensee's or registrant's right to a formal hearing before the board pursuant to title 41, chapter 6, article 10.

G. If the department finds, based on its investigation, that a violation of subsection A of this section occurred, a hearing by the board may be scheduled pursuant to title 41, chapter 6, article 10. Notice of the hearing shall be sent by certified mail, return receipt requested, to the licensee's or registrant's last known address in the department's files.

H. Based on information the board receives during a hearing pursuant to title 41, chapter 6, article 10, it may recommend to the director that the director:

1. Dismiss the complaint if the board believes it is without merit.
2. Fix a period and terms of probation best adapted to protect the public health and safety and to rehabilitate or educate the licensee or registrant.
3. Suspend the license or registration for a period of not more than twelve months.
4. Revoke the license or registration.

I. The director shall review the records of a finding by the board involving a disciplinary action and may affirm, reverse, adopt, modify, supplement, amend or reject the recommendation of the board. On a finding by the board and review and concurrence by the director that a licensee or registrant committed a violation of subsection A of this section, the probation, suspension or revocation applies to all licenses or registrations held by a licensee or registrant under chapter 24 of this title and this chapter.

**32-2639. Authority to investigate complaint; filing and response to complaints; retention of records**

- A. The department may investigate any licensee, registrant, associate, employee or person if that licensee, registrant, associate, employee or person advertises as providing or performs services that require licensure or registration under this chapter.
- B. The department shall investigate whether a licensee or registrant is engaged in activities that do not comply with or are prohibited by this chapter.
- C. The department shall enforce this chapter without regard to the place or location in which a violation may have occurred.
- D. On the complaint of any person or on its own initiative, the department may investigate any suspected violation of this chapter or the business and business methods of any licensee, registrant or employee of a licensee or applicant for licensure or registration under this chapter.
- E. A complaint filed against any licensee, associate, registrant or employee of a licensee must be in writing, on a form prescribed by the department and filed with the department.
- F. In any investigation by the department, each licensee, associate, registrant, applicant, agency or employee, on request of the department, shall provide records and truthfully respond to questions concerning activities regulated under this chapter. The licensee shall maintain these records for five years at the licensee's principal place of business or at another location for a person whose license has been terminated, canceled or revoked. At the department's request, the licensee shall make the records available immediately to the department during normal business hours or at another time acceptable to the parties, unless the department grants an extension. The licensee shall provide copies of any records requested by the department.

32-2640. Grounds for refusal to issue or renew an agency license; judicial review; good cause exceptions

A. Except as provided in subsection E of this section, the department may deny the issuance or renewal of an agency license if the individual applicant or, if the applicant is other than an individual, any qualifying party:

1. Does not meet the requirements prescribed in section 32-2612.
2. Has committed any act that, if committed by a licensee, would be grounds for the suspension or revocation of a license pursuant to this chapter.
3. Has been refused a license under this chapter, or had such a license revoked or has been an associate of any applicant or licensee who has been refused a license under this chapter or who has had a license revoked.
4. While not licensed under this chapter, has committed or aided and abetted the commission of any act for which a registration certificate is required by this chapter or has acted, or attempted to act, as a private security guard service or a security guard.
5. Has knowingly made any false statement in the application.
6. Failed to provide adequate verification of required experience.

B. The denial of the issuance of an agency license or identification card under this chapter shall be in writing and shall describe the basis for the denial. The denial notice shall inform the applicant that if the applicant desires a hearing by the board to contest the denial, the applicant shall submit the request in writing to the department within thirty calendar days after service of the denial. Service is complete on the mailing of the denial to the address listed on the application.

C. Except as provided in section 41-1092.08, subsection H, final decisions of the director are subject to judicial review pursuant to title 12, chapter 7, article 6.

D. If an applicant is denied an agency license, the applicant may petition the board for a good cause exception.

E. If the board granted a licensee a good cause exception pursuant to section 32-2609, the department may not deny the licensee's renewal application based on factors already reviewed by the board when granting the good cause exception.

32-2641. Grounds for refusal to issue a security guard identification card or registration certificate; judicial review; good cause exceptions

A. Except as provided in subsection F of this section, the department may deny the issuance of an identification card to an applicant for a security guard registration certificate, an armed security guard registration certificate, a security guard training instructor registration certificate or a firearms safety training instructor registration certificate if the applicant:

1. Does not meet the requirements prescribed in section 32-2622 for the appropriate type of certificate.
2. Has committed any act that would be grounds for the suspension or revocation of a security guard registration pursuant to this chapter.
3. Has knowingly made any statement that is false in the application.

B. If the director determines that an applicant's criminal history contains open arrest information, the director shall:

1. Issue a notice to the applicant allowing forty-five days for the applicant to provide documentation concerning the disposition of the arrest or arrests.
2. Send to the applicant at the applicant's last known residential address sufficient information to assist the applicant in complying with the director's request under paragraph 1 of this subsection.

C. The denial of the issuance of a registration certificate under this article shall be in writing and shall describe the basis for the denial. The denial notice shall inform the applicant that if the applicant desires a hearing by the board to contest the denial the applicant shall submit the request in writing to the department within thirty calendar days after service of the denial notice. Service is complete on the mailing of the denial to the address listed on the application.

D. Except as provided in section 41-1092.08, subsection H, final decisions of the director are subject to judicial review pursuant to title 12, chapter 7, article 6.

E. If an applicant is denied a registration certificate, the applicant may petition the board for a good cause exception.

F. If the board granted an applicant for a security guard registration certificate, an armed security guard registration certificate, a security guard training instructor registration certificate or a firearms safety training instructor registration certificate a good cause exception pursuant to section 32-2609, the department may not deny the person's renewal application based on factors already reviewed by the board when granting the good cause exception.

## 41-1072. Definitions

In this article, unless the context otherwise requires:

1. "Administrative completeness review time frame" means the number of days from agency receipt of an application for a license until an agency determines that the application contains all components required by statute or rule, including all information required to be submitted by other government agencies. The administrative completeness review time frame does not include the period of time during which an agency provides public notice of the license application or performs a substantive review of the application.
2. "Overall time frame" means the number of days after receipt of an application for a license during which an agency determines whether to grant or deny a license. The overall time frame consists of both the administrative completeness review time frame and the substantive review time frame.
3. "Substantive review time frame" means the number of days after the completion of the administrative completeness review time frame during which an agency determines whether an application or applicant for a license meets all substantive criteria required by statute or rule. Any public notice and hearings required by law shall fall within the substantive review time frame.

**DEPARTMENT OF REVENUE**

Title 15, Chapter 5, Articles 1 and 4, Department of Revenue - Transaction Privilege and Use Tax Section



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - FIVE-YEAR REVIEW REPORT

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**MEETING DATE:** February 2, 2021

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** January 12, 2021

**SUBJECT: DEPARTMENT OF REVENUE**

Title 15, Chapter 5, Articles 1 and 4, Department of Revenue - Transaction Privilege and Use Tax Section

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### Summary

This Five-Year Review Report (5YRR) from the Department of Revenue (Department) relates to all rules in Title 15, Chapter 5, Article 1, related to retail classifications, and Article 4, related to amusement classifications. Specifically, the rules interpret the application of the Transaction Privilege and Use Tax as it relates to these classifications.

In the previous five year review, the Department considered proposed action for thirteen (13) rules. The Department indicates that those anticipated amendments were not made due to the rulemaking moratorium. Specifically, the Department indicates that it did not seek an exemption from the rulemaking moratorium because it did not believe it had proper justification to do so under previous moratoriums.

Based on the prior 5YRR, the Department states that it appears most of the proposed changes for previously identified rules were to conform to the rule writing standards. For example, the Department notes most of the changes recommended were in relation to conforming to rulewriting standards, more specifically, changing the rules from being in the passive voice to being in the active voice. Based on the fact these are not substantive changes

and permission must be received to make changes to rules, the Department indicates it decided not to make any changes unless more substantive changes are needed to the rules.

The Department notes it did amend seven (7) different rules to incorporate legislative changes concerning economic nexus, remote sellers and marketplace facilitators.

### **Proposed Action**

Based on the fact that proposed amendments to the rules relate to conforming to rulewriting standards, are not substantive changes, and permission must be received to make changes to the rules, the Department indicates it does not propose to take any action related to these rules at this time unless more substantive changes are needed.

#### **1. Has the agency analyzed whether the rules are authorized by statute?**

Yes. The Department cites both general and specific statutory authority for these rules.

#### **2. Summary of the agency's economic impact comparison and identification of stakeholders:**

Generally, the Department indicates that the economic impact of the taxation regulatory scheme is derived from the statutes themselves, and not the rules adopted to interpret the application of the tax. It is only when a rule imposes the requirement to prepare a form or submit documentation, not specifically required by statute, that the rule has an economic impact.

The Department amended seven different rules to incorporate legislative changes concerning economic nexus, remote sellers and marketplace facilitators. The Department believes that the economic impacts that were projected at the time that these rules were amended, renumbered, or added are accurate.

#### **3. Has the agency analyzed the costs and benefits of the rulemaking and determined that the rules impose the least burden and costs to those who are regulated?**

The Department indicates the probable benefits of these rules outweigh within this state the probable costs of the rule, and the rules impose the least burden and costs to regulated persons by the rules. The Department states the rules would either require the taxpayer to obtain a transaction privilege tax license or it will provide deductions. The only exception are those qualified healthcare providers that are seeking a Department letter.

#### **4. Has the agency received any written criticisms of the rules over the last five years?**

The Department indicates it has not received any written criticisms of the rule in the past five years.

**5. Has the agency analyzed the rules' clarity, conciseness, and understandability?**

The Department indicates that the rules are generally clear, concise, and understandable. However, the Department notes that the following rules these rules contain language that does not conform to existing rulewriting standards in that they are written in the passive voice rather than in the active voice:

- R15-5-121 Sales of Fuel Used in Manufacturing
- R15-5-122 Articles Incorporated into a Manufactured Product
- R15-5-123 Sale of Tools and Supplies to Businesses
- R15-5-126 Manufacturing Labor
- R15-5-131 Lay-away Sales
- R15-5-136 Returnable Containers
- R15-5-157 Membership Fees
- R15-5-170 Interstate and Foreign Transactions
- R15-5-171 Sales to a Common Carrier
- R15-5-172 Sales by Florists
- R15-5-173 Sales of Property Subsequently Taken Out-of-state
- R15-5-181 Governmental Organizations
- R15-5-183 Exempt Sales to Health Organizations

**6. Has the agency analyzed the rules' consistency with other rules and statutes?**

The Department indicates that the rules are consistent with other rules and statutes.

**7. Has the agency analyzed the rules' effectiveness in achieving its objectives?**

The Department indicates that the rules are effective in achieving their regulatory objectives.

**8. Has the agency analyzed the current enforcement status of the rules?**

The Department indicates the rules are enforced as written.

**9. Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

Not applicable. The Department indicates that there are no corresponding federal laws.

**10. For rules adopted after July 29, 2010, do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

Not applicable. The Department indicates that no rules adopted after July 29, 2010 require the issuance of a regulatory permit, license, or agency authorization.

## **11. Conclusion**

The Department indicates that the rules are generally clear, concise, understandable, consistent, effective, and enforced. The Department notes that some rules contain language that does not conform to existing rulewriting standards in that they are written in the passive voice rather than in the active voice. However, as these are not substantive changes, the Department indicates it does not propose to take any action related to these rules at this time unless more substantive changes are needed.

Council staff recommends approval of this report.

**STATE OF ARIZONA**  
Department of Revenue



November 30, 2020

*Douglas A. Ducey*  
**Governor**

*Carlton Woodruff*  
**Director**

**VIA EMAIL: [grrc@azdoa.gov](mailto:grrc@azdoa.gov)**

Ms. Nicole Sornsins, Chair  
Governor's Regulatory Review Council  
100 North 15th Avenue, Suite 305  
Phoenix, Arizona 85007

RE: Department of Revenue, A.A.C. Title 15, Chapter 5, Articles 1 & 4, Five Year  
Review Report

Dear Ms. Sornsins:

Please find enclosed the Five Year Review Report of the Department of Revenue for A.A.C. Title 15, Chapter 5, Articles 1 & 4, which is due on November 30, 2020.

The Department of Revenue hereby certifies compliance with A.R.S. 41-1091.

For questions about this report, please contact Ranjana Burke at 602-716-6750 or [RBurke@azdor.gov](mailto:RBurke@azdor.gov).

Sincerely,

Dr. Grant Nülle  
Deputy Director

**DEPARTMENT OF REVENUE**  
**5 YEAR REVIEW REPORT**  
**A.A.C. Title 15 Revenue**  
**Chapter 5 Department of Revenue**  
**Transaction Privilege and Use Tax Section**  
**Articles 1 and 4**  
**November 30, 2020**

**1. Authorization of the rule by existing statutes**

All of the rules are generally authorized by A.R.S. § 42-1005, which provides that the Director (“Director”) of the Department of Revenue (“Department”) may make administrative rules as he deems necessary and proper to effectively administer the Department and enforce Arizona Revised Statutes (“A.R.S.”) Title 42 and Title 43.

**Specific Authorization for the Rules:**

1. A.R.S. § 42-5061 is the specific statute upon which the following rules are based:

- R15-5-101 Sales for Resale or Lease
- R15-5-103 Sale of Business Enterprises
- R15-5-104 Service Businesses
- R15-5-105 Services in Connection with Retail Sales
- R15-5-106 Finance Charges in Connection with Retail Sales
- R15-5-107 Sales for Resale or Lease
- R15-5-110 Lease-purchase Agreements
- R15-5-111 Consignment Sales
- R15-5-112 Sales by Auctioneers
- R15-5-113 Sales by Trustees, Receivers, and Assignees
- R15-5-120 Exempt Sales of Machinery or Equipment
- R15-5-121 Sales of Fuel Used in Manufacturing

- R15-5-122 Articles Incorporated into a Manufactured Product
- R15-5-123 Sale of Tools and Supplies to Businesses
- R15-5-126 Manufacturing Labor
- R15-5-127 Sales of Fuel
- R15-5-128 Electric Power Transmission and Distribution
- R15-5-129 Discounts, Refunds, and Coupon Redemption
- R15-5-131 Lay-away Sales
- R15-5-133 Delivery Charges in Connection with Retail Sales
- R15-5-134 Sales of Containers, Bottles, and Labels
- R15-5-135 Sales of Restaurant Accessories
- R15-5-136 Returnable Containers
- R15-5-137 Warranty or Service Provisions and Tangible Personal Property Used in  
Conjunction with Warranty or Service Provisions
- R15-5-138 Warranty or Service Contracts and Tangible Personal Property Used in Conjunction  
with Warranty or Service Contracts
- R15-5-150 Sale of Photography
- R15-5-151 Artists
- R15-5-152 Tangible Personal Property Used in Soil Remediation Activities
- R15-5-153 Four-inch Pipes or Valves
- R15-5-154 Computer Hardware and Software
- R15-5-155 Delivery Sales of Tobacco Products
- R15-5-156 Sales of Prescription Drugs and Prosthetic Appliances
- R15-5-157 Membership Fees
- R15-5-158 Postage Stamps
- R15-5-170 Interstate and Foreign Transactions
- R15-5-171 Sales to a Common Carrier

- R15-5-172 Sales by Florists
- R15-5-173 Sales of Property Subsequently Taken Out-of-state
- R15-5-174 Sales to Non-U.S. Citizens
- R15-5-180 Sales by Businesses in Federal Areas
- R15-5-181 Governmental Organizations
- R15-5-182 Nonprofit Organizations
- R15-5-183 Exempt Sales to Health Organizations

2. A.R.S. §§ 42-5001 and 42-5061 are the specific statutes upon which the following rules are based:

- R15-5-102 Casual Sales
- R15-5-132 Retail Sales with Trade-ins

3. A.R.S. § 42-5073 is the specific statute upon which the following rules are based:

- R15-5-403 Amusement Devices
- R15-5-404 Other Income
- R15-5-406 Health or Fitness Establishments and Private Recreational Establishments

2. **The objective of each rule:**

Rule	Objective
<b>R15-5-101</b>	<i>Definition:</i> The objective of this rule is to define words and phrases used throughout the chapter.
<b>R15-5-102</b>	<i>Casual Activities or Sales:</i> The objective of this rule is to clarify whether a casual sale is taxable and whether a marketplace facilitator or remote seller can engage in casual sales.
<b>R15-5-103</b>	<i>Sale of Business Enterprises:</i> The objective of this rule is to provide information concerning whether the sale of a business as a going concern or as an operating enterprise is taxable.
<b>R15-5-104</b>	<i>Service Businesses:</i> The objective of the rule is to provide clarification on the inconsequential elements of a service business and whether it is taxable.
<b>R15-5-105</b>	<i>Services in Connection with Retail Sales:</i> The objective of this rule is to clarify for the taxpayer that services in connection with a retail sale are not taxable if separately stated in the

	invoice and in the records.
<b>R15-5-106</b>	<i>Finance Charges in Connection with Retail Sales:</i> This rule provides clarification on when finance and interest charges are not taxable.
<b>R15-5-107</b>	<i>Sales for Resale or Lease:</i> The objective of this rule is to clarify that the sale of tangible personal property that will be resold or released is not subject to tax under the retail classification.
<b>R15-5-110</b>	<i>Lease-purchase Agreements:</i> The objective of this rule is to clarify the taxability of lease-purchase agreements.
<b>R15-5-111</b>	<i>Consignment Sales:</i> The objective of this rule is to define the terminology and provide guidance on what would be taxable as a consignment sale.
<b>R15-5-112</b>	<i>Sales by Auctioneers:</i> The objective of this rule is to provide guidance on the tax liability of auctioneers.
<b>R15-5-113</b>	<i>Sales by Trustees, Receivers, and Assignees:</i> The objective of this rule is to provide guidance on sales by trustees, receivers, and assignees.
<b>R15-5-120</b>	<i>Exempt Sales of Machinery or Equipment:</i> The objective of this rule is to provide clarity on the exempt sales of repair and replacement parts.
<b>R15-5-121</b>	<i>Sales of Fuel Used in Manufacturing:</i> The objective of this rule is to provide clarity on the taxability of the sale of fuel used in a manufacturing process.
<b>R15-5-122</b>	<i>Articles Incorporated into a Manufactured Product:</i> The objective of this rule is to clarify that the sale of articles incorporated in a final manufactured product are exempt.
<b>R15-5-123</b>	<i>Sales of Tools and Supplies to Businesses:</i> The object of this rule is to clarify the taxability of tools, supplies or articles used in the operation of a business.
<b>R15-5-126</b>	<i>Manufacturing Labor:</i> The objective of this rule is to clarify that labor costs in manufacturing, processing, or fabricating is not an allowable deduction.
<b>R15-5-127</b>	<i>Sales of Fuel:</i> The objective of this rule is to clarify the taxability of different types of fuel.
<b>R15-5-128</b>	<i>Electric Power Transmission and Distribution:</i> The objective of this rule is to clarify definitions used in electrical transmission and distribution systems and the taxability of machinery and equipment used in such systems.
<b>R15-5-129</b>	<i>Discounts, Refunds, and Coupon Redemption:</i> The objective of this rule is to clarify the way to handle discounts, refunds and coupon redemptions.
<b>R15-5-131</b>	<i>Lay-away sales:</i> The objective of this rule is to clarify the taxability of lay-away agreements.
<b>R15-5-132</b>	<i>Retail Sales with Trade-ins:</i>

	The objective of this rule is to clarify that trade-ins are deductible as part of a sale.
<b>R15-5-133</b>	<i>Delivery Charges in Connection with Retail Sales:</i> The objective of this rule is to clarify the taxability of delivery charges.
<b>R15-5-134</b>	<i>Sales of Containers, Bottles, and Labels:</i> The objective of this rule is to clarify the taxability of containers, bottles and labels.
<b>R15-5-135</b>	<i>Sales of Restaurant Accessories:</i> The objective of this rule is to clarify the taxability of restaurant accessories.
<b>R15-5-136</b>	<i>Returnable Containers:</i> The objective of this rule is to clarify how to account for returnable containers when they are returned.
<b>R15-5-137</b>	<i>Warranty or Service Provisions and Tangible Personal Property Used in Conjunction with Warranty or Service Provisions:</i> The objective of this rule is to clarify the taxability of warranty and service provisions and property used in conjunction with those provisions.
<b>R15-5-138</b>	<i>Warranty or Service Contracts and Tangible Personal Property Used in Conjunction with Warranty or Service Contracts:</i> The objective of this rule is to clarify the taxability of warranty and service contracts and property used in conjunction with those contracts.
<b>R15-5-150</b>	<i>Sale of Photography:</i> The objective of this rule is to clarify taxability of the sale of photographs and to provide definitions relating to photography.
<b>R15-5-151</b>	<i>Artists and Sales of Artwork:</i> The objective of this rule is to clarify the taxability of the sale of artwork.
<b>R15-5-152</b>	<i>Tangible Personal Property Used in Soil Remediation Activities:</i> The objective of this rule is to clarify the taxability of the sale of property used in soil remediation activities.
<b>R15-5-153</b>	<i>Four-inch-Pipes or Valves:</i> The objective of this rule is to clarify that the sale of pipes, valves, or fire hydrants with an inside diameter of four inches is deductible from the tax base.
<b>R15-5-154</b>	<i>Computer Hardware and Software:</i> The objective of this rule is to clarify the taxability of computer hardware and software.
<b>R15-5-155</b>	<i>Delivery Sales of Tobacco Products:</i> The objective of this rule is to provide definitions for tobacco products and to clarify that certain delivery sales of tobacco products are prohibited.
<b>R15-5-156</b>	<i>Sales of Prescription Drugs and Prosthetic Appliances:</i> The objective of this rule is to provide definitions for prescription drugs and prosthetic appliances, describe the exemptions and what would be taxable.
<b>R15-5-157</b>	<i>Membership Fees:</i> The objective of this rule is to provide definitions and to clarify the taxability of membership and admission fees charged by a limited access retail business.
<b>R15-5-158</b>	<i>Postage Stamps:</i> The objective of this rule is to provide clarification on the taxability of postage stamps.

<b>R15-5-170</b>	<i>Interstate and Foreign Transactions:</i> The objective of this rule is to provide details on the types of sales that qualify as interstate and foreign transactions.
<b>R15-5-171</b>	<i>Sales to a Common Carrier:</i> The objective of this rule is to provide details on when a sale to a common carrier engaged in interstate business is exempt.
<b>R15-5-172</b>	<i>Sales by Florists:</i> The objective of this rule is to provide clarification on the taxability of sales by florists.
<b>R15-5-173</b>	<i>Sales of Property Subsequently Taken Out-of-state:</i> The objective of this rule is to provide clarification on sales of property taken out of the state.
<b>R15-5-174</b>	<i>Sales to Non-U.S. Citizens:</i> The objective of this rule is to provide clarification on the taxability of sales to non-U.S. citizens.
<b>R15-5-180</b>	<i>Sales by Businesses in Federal Areas:</i> The objective of this rule is to provide clarity that sales by a business not operated by a Federal agency but located on military bases or other federal areas are subject to tax.
<b>R15-5-181</b>	<i>Government Organizations:</i> The objective of this rule is to provide clarity on the taxability of sales to and by governmental organizations.
<b>R15-5-182</b>	<i>Nonprofit Organizations:</i> The objective of this rule is to provide clarity on the taxability of sales to and by nonprofit organizations.
<b>R15-5-183</b>	<i>Exempt Sales to Health Organizations:</i> The objective of this rule is to provide clarification relating to health organizations, exempt sales to such organizations, and the Department's annual exemption letter requirements.
<b>R15-5-403</b>	<i>Amusement Devices:</i> The objective of this rule is to provide clarification on the taxability of the income from coin-operated and other amusement devices under the amusement classification.
<b>R15-5-404</b>	<i>Other Income:</i> The objective of this rule is to provide clarification on the taxability of programs and souvenirs and other items sold by an amusement business under the retail classification.
<b>R15-5-406</b>	<i>Health or Fitness Establishments and Private Recreational Establishments:</i> The objective of this rule is to provide the exemptions and what could be considered in gross proceeds of sale or gross income of a health or fitness establishments and private recreational establishments.

3. Are the rules effective in achieving their objectives? Yes  No

4. Are the rules consistent with other rules and statutes? Yes  No

5. **Are the rules enforced as written?** Yes  No

6. **Are the rules clear, concise, and understandable?** Yes No

The following rules are generally clear, concise, and understandable. However, these rules contain language that does not conform to existing rulewriting standards in that they are written in the passive voice rather than in the active voice:

R15-5-121	Sales of Fuel Used in Manufacturing
R15-5-122	Articles Incorporated into a Manufactured Product
R15-5-123	Sale of Tools and Supplies to Businesses
R15-5-126	Manufacturing Labor
R15-5-131	Lay-away Sales
R15-5-136	Returnable Containers
R15-5-157	Membership Fees
R15-5-170	Interstate and Foreign Transactions
R15-5-171	Sales to a Common Carrier
R15-5-172	Sales by Florists
R15-5-173	Sales of Property Subsequently Taken Out-of-state
R15-5-181	Governmental Organizations
R15-5-183	Exempt Sales to Health Organizations

7. **Has the agency received written criticisms of the rules within the last five years?** Yes No

8. **Economic, small business, and consumer impact comparison:**

Generally, the economic impact of the taxation regulatory scheme is derived from the statutes themselves, and not the rules adopted to interpret the application of the tax. It is only when a rule imposes the requirement to prepare a form or submit documentation, not specifically required by statute, that the

rule has an economic impact. The transaction privilege tax is levied on income derived by the seller, who is legally allowed to pass the economic expense of the tax on to the purchaser. However, the seller is ultimately liable to Arizona for the tax. In this report, “taxpayer” means the seller for transaction privilege tax purposes.

### **1. Rules in A.A.C. Title 15, Chapter 1, Article 1**

The majority of the rules in Article 1 were amended, renumbered, or added effective August 9, 1993. Ten other rules were repealed and two were transferred at that time. Seven rules were amended in October 1, 2019 to incorporate marketplace facilitators and remote sellers.

An economic impact statement was prepared for the Article as a whole and for each of the seven categories of rules. Consequences affecting the Department, other state agencies, private entities, and consumers were discussed as well as the impact on small business.

Overall, it was believed that the hearing office of the Department might experience a decrease in contested cases due to the clarification of the retail rules, while at the same time the Department might experience an initial increase in taxpayer questions. Over time the number of questions was anticipated to decrease.

#### **General Concept Rules**

Amended: R15-5-102

This rule was thought to promote greater consistency and uniformity in Department auditing procedures and result in cost savings, due to audit efficiency.

There was expected to be a possible positive impact on the general fund by adding the general concept rules based on the possible increase in voluntary tax compliance by taxpayers and an increase in the resolution of problem areas under an audit situation.

The clarification of the concepts in the rules was expected to bring to the attention of a retailer or a service organization that tax has either been charged or not charged in error in the past. Small business was expected to change its procedures as a result, which might have resulted in additional cost to the small business.

In 2019, this rule was amended to clarify that marketplace facilitators and remote sellers cannot be considered as engaging in a casual activity or sale if they regularly make sales at retail of the same type offered. In particular, it specifies that a marketplace facilitator is deemed to be regularly in the business of selling any tangible personal property sold on its marketplace.

The Department believes that the economic impacts that were projected at the time that these rules were made, amended, renumbered, or added are accurate.

### **Sales by Others**

Amended/Renumbered: R15-5-112

It was expected that the Department should experience a decrease in questions from the public and that the hearing office in the Department might experience a decrease in contested cases due to the rule changes.

With the clarification provided by the rule it was possible that consumers could experience an increase in the type or number of transactions that they find are subject to tax. Vendors operating in the area covered by this rule may not have previously been remitting tax due to a lack of understanding. If there was a lack of understanding due to the vague presentation of the concept, there was the possibility that small business would be faced with re-evaluating their accounting and bookkeeping system to reflect proper treatment of the transactions, which might result in additional cost to the small business.

In 2019, this rule was amended to specify that marketplace facilitators with no physical presence in Arizona and that auctioneers are required to obtain a TPT license if they meet the applicable threshold requirements.

The Department believes that the economic impacts that were projected at the time that these rules were made, amended, renumbered, or added are accurate.

### **Items Used in the Process or Incorporated into the Creation of a Product**

R15-5-120; R15-5-121; R15-5-122; R15-5-123; R15-5-126; R15-5-128; R15-5-129

Note: R15-5-129 was added by the 1993 package, but after the EIS was submitted. Therefore no original EIS is available.

The changes in the rules were expected to make it easier for the Department to enforce the rules by providing the audit section additional guidance. It was also anticipated that the changes in the rules could result in a positive impact to the general fund due to increased compliance based on the addition of clarifying language and the introduction of new rules.

The rules were intended to clarify an area of taxation that had resulted in many contested issues, administrative decisions and hearings. The clarification of the rules was also expected to possibly lead taxpayers to pay applicable taxes that had not been paid before. Additionally, the rules were intended to enable private entities to save time and costs in researching issues.

No direct impact on the consumer was expected. Indirectly, consumers might begin paying their share of the additional tax burden caused by the increased enforcement of tax statutes. However, these indirect impacts are created by the statutes, not the rules that enforce the statutes.

It was thought that small businesses in the manufacturing environment would be impacted by the rules in the same manner as other private entities. It was described as very possible that the businesses might find that they would be experiencing an increase in the amount of transaction privilege tax they would be paying.

It was expected that in the long run the rules could save time and possibly legal costs by clarifying the position of the State regarding the concepts contained in these rules.

The Department believes that the economic impacts that were projected at the time that these rules were amended, renumbered, or added are accurate.

### **Special Conditions**

R15-5-131; R15-5-132; R15-5-133; R15-5-134; R15-5-136

The clarification provided in the new rules through the addition of new language, and the repeal of vague concepts and examples was expected to result in time savings by Department personnel. The clarification was thought to also result in fewer contested cases and corresponding workload required by the audit section and hearing office attention.

The Office of Attorney General was expected to experience a reduction in contested cases in the

area. The change in the treatment of customer rebates so that they could no longer be deducted was expected to cause a positive impact on the general fund.

It was thought that private entities would be impacted significantly by certain changes in the rules. R15-5-131 set forth Department policy regarding lay-away sales. The portion of the rule which addressed the taxation of monies when the purchaser defaulted was expected to be a change for some retailers since there had been no definitive statement to the public previously. R15-5-132 dealing with trade-ins was expected to help retailers selling tangible personal property who accept trade-ins in providing the necessary documentation. Under the prior rule, resolution of issues under audit was difficult and resulted in contested cases due to the vagueness of the rule. R15-5-134 was expected to lead private entities to experience tax savings as a number of taxpayers may have been incorrectly paying tax on packing materials.

The consumer was expected to be impacted by the retailer passing through the increased cost associated with the administration of the trade-in provision (R15-5-132). If the retailer had to revamp the accounting system to allow for these changes, these costs could also have been passed on to the consumer. The clarification of the taxation on containers might result in a decrease in cost that could have been passed on to the consumer (R15-5-134).

Small businesses were expected to see the same consequences as private entities. Any additional costs were anticipated to be temporary, with no undue hardship in the correct application of the tax law to each business setting.

The Department believes that the economic impacts that were projected at the time that these rules were amended, renumbered, or added are accurate.

### **Special “Industries”**

R15-5-153; R15-5-157

The clarification provided in these rules was expected to result in a marked decrease in the number of questions received by the Department from taxpayers and practitioners. It was intended to substantiate the authority of the position of the Department in handling contested cases and in enforcing these policies in audit situations.

Based on a reduction in taxpayer inquiries and a possible increase in compliance due to the clarification in these rules, it was thought that the State could experience an increase in cash flow to the general fund.

Consumers were not thought to be heavily impacted by the changes in the rules. The impact on small businesses was expected to be the same as on other private entities.

The Department believes that the economic impacts that were projected at the time that these rules were amended, renumbered, or added are accurate.

### **Transactions Affecting Interstate Items**

R15-5-170; R15-5-171; R15-5-172; R15-5-173; R15-5-174

These rules were thought to have minimal impact on the Department and all state agencies. The separation of the rule into various specific rules clarified the presentation of the concepts in the prior rule. In order to maintain the interstate commerce exemption, businesses needed to be more careful in how contracts were written. There was no other direct or indirect impact from the changes in these rules as they largely served to clarify the concepts in the previous rule.

There was no substantive impact on small businesses within Arizona. Companies had to pay more attention to certain transactions to maintain the interstate commerce exemption. Florists should have found the clarification of the rules helpful when dealing with transactions with other florists (R15-5-172).

The Department believes that the economic impacts that were projected at the time that these rules were amended, renumbered, or added are accurate.

### **Special Organizations**

R15-5-181; R15-5-151 (amended); R15-5-155 (added) R15-5-183

The clarification regarding the taxation of governmental organizations was expected to result in increased compliance and a reduction in contested cases in this area (R15-5-181). No additional impact was expected on small business entities.

The Department believes that the economic impacts that were projected at the time that these rules were amended, renumbered, or added are accurate.

R15-5-151 was amended effective October 1, 2019. This rule was amended to be consistent with statute by specifying that sales of fine art is exempt in accordance with the retail TPT statutes if the sale is to a nonresident of Arizona and is delivered and used outside Arizona.

R15-5-155 (Delivery Sales of Tobacco Products) is a new rule added in October 2019, that explicitly states that a retailer—including a remote seller, marketplace seller, or marketplace facilitator—cannot make or facilitate a delivery sale of tobacco products in violation of A.R.S. § 36-798.06. Although clearly laid out in statute, the rule clarifies that HB 2757 did not expand the scope of lawful retail sales to include these sales.

The Department was expected to be more efficient by having more accurate information for its own use and to be able to spend less time writing responses to questions raised by taxpayers. The Licensing Section of the Department was also expected to experience time and cost savings in the more efficient licensing of taxpayers. The Secretary of State, Office of Strategic Planning and Budgeting, and the Office of Attorney General were all expected to have costs due to noticing, printing, reviewing and analyzing the rule. The Board of Tax Appeals and the Office of Attorney General was expected to experience time and cost savings based on greater clarity, thereby resulting in fewer appeals. The general fund might also have been affected in an indeterminable amount – increased payments due to correct payments of transaction privilege tax on sales of artwork, but decreases due to exemption for sale of ingredient or component materials.

Private entities would incur direct costs in becoming licensed and in completing their periodic tax reports. Private entities were expected to benefit directly and indirectly from the increased clarity of the rule – directly through better understanding and fewer questions, and indirectly as private entities, such as organizers of arts and craft fairs, adjusted procedures. Event organizers were expected to benefit in cost and time savings by not needing to intervene on behalf of an artist protesting the vague and incomplete rule.

Consumers were thought to have a direct cost if the artist chose to pass on the cost of the applicable tax. At the same time there may have been an indirect benefit to the consumer if the artist reduced the price of the artwork as a result of being able to purchase ingredient or component material tax free.

Most artists or artisans who are engaged in artistic business activity are considered to be small businesses. It was thought that the application of the rule might impose a reporting requirement on the small business. The statute did provide payment on a quarterly or annual basis for those businesses with a small estimated annual liability. As it was indicated that some artists were already imposing the tax; the rule would benefit those taxpayers by assuring that all taxpayers pay their fair share.

The Department believes that the economic impacts that were projected at the time that this rule was amended and renumbered are accurate.

R15-5-183 was amended effective April 21, 1995. It was amended in a package that, among other items, also amended other sections of the rules concerning health care organizations.

The Transaction Privilege and Use Tax Audit Section of the Department and other Department personnel were expected to experience time and cost savings in answering inquiries from the public concerning obtaining exempt status since portions of the rules contradicted statutory provisions. The Secretary of State, Office of Strategic Planning and Budgeting, and the Office of Attorney General were all expected to incur costs due to noticing, printing, reviewing and analyzing the rule.

Private entities were expected to benefit both directly and indirectly from the increased clarity of the rules with the deletion or amendment of rules that were inconsistent with statute. The private entities affected by R15-5-183 included retail vendors, who were to receive benefits through a clear understanding of the exemption letter process.

The consumers affected by R15-5-183 were qualifying health care organizations. The amended rule was thought to benefit qualifying health care organizations that have fiscal year accounting periods. A benefit came from the change in the specific required submission date that coincided with calendar year reporting. The flexible exemption period provided was thought to aid organizations in obtaining requisite financial documents that may result in fewer delayed or denied exemption requests. When an organization couldn't obtain an exemption, or the exemption was delayed, the organization was possibly forced into paying tax on its purchases. Once the exemption was granted, additional expenses were incurred in seeking a refund of the taxes paid. Since the tax was levied on the vendor, the vendor had to obtain a refund from

the Department and remit the refund to the organization. All concerned parties would have benefited in terms of time and cost saving by a flexible exemption period.

The Department believes that the economic impacts that were projected at the time that this rule was amended, renumbered, or added are accurate.

### **Soil Remediation Activities**

R15-5-152

R15-5-152 was adopted effective December 11, 1998. It was added in a package that, among other items, also amended other sections of the rules concerning tangible personal property used in soil remediation.

It was expected that the rules would result in time and cost savings to the Department since it would not be necessary for personnel to explain to taxpayers the requirements and procedures explained in the rule.

The Secretary of State and Governor's Regulatory Review Council staff was expected to incur costs in noticing, printing, reviewing and analyzing the rules. It was expected that public and private entities could incur a minimal cost in obtaining copies, while benefiting from the rule by having definitive requirements and procedures to follow. No direct or indirect costs or benefits to consumers were anticipated. Small businesses were to have no additional reporting or compliance requirements. Small businesses were to benefit from the increased clarity of the rule.

The Department believes that the economic impacts that were projected at the time that this rule was added are accurate.

### **Postage Stamps**

R15-5-158

R15-5-158 was added effective October 4, 2000. It was expected that the benefits of the rule would be greater than the costs. The addition of the rule would benefit the public by making it clear when the sale or purchase of postage stamps is taxable. The rule only provides guidance in the application of the statute; the statute imposes the tax and establishes any deductions. Taxpayers were not expected to incur any costs.

The Department believes that the economic impacts that were projected at the time of the adoption of this rule are accurate.

### **Sales of Fuel**

R15-5-127

R15-5-127 was amended effective December 4, 2004. The Department did not anticipate any significant economic impact as a result of amending the rule. Because the amendment clarifies and more accurately explains the scope and nature of the transaction privilege tax and use tax exemptions for the aforementioned fuel types, some consumers and fuel vendors might have experienced a minimal impact resulting from increased compliance measures. The Department expected that benefits derived from the rules to the public and the Department would be greater than the costs.

The Department believes that the economic impacts that were projected at the time of the amendments of this rule are accurate.

### **Computer Hardware and Software**

R15-5-154

R15-5-154 was amended effective September 10, 2005. The Department did not anticipate a significant economic impact to Arizona businesses or consumers arising from the rulemaking. The rule reflected already-existing Department policy and interpretation. The Department expected that the benefits of the amended rule to the public and the agency from achieving a better understanding of taxation related to computer hardware and software would be greater than the costs.

The Department believes that the economic impacts that were projected at the time of the amendments of this rule are accurate.

### **Sales of Prescription Drugs and Prosthetic Appliances**

R15-5-156

R15-5-156 was also amended effective September 10, 2005. The Department did not anticipate a significant economic impact to Arizona businesses or consumers arising from the rulemaking, although there was a potential positive impact upon these persons due to clarification regarding the tax-exempt status

of certain homeopathic remedies. The new rulemaking reflected already-existing Department policy and interpretation. The amendments would benefit both the agency and the public by making the rule conform to current statute and rulemaking guidelines, making the rule more accurate as well as clearer and easier to understand.

The Department believes that the economic impacts that were projected at the time of the amendments of this rule are accurate.

### **Sale of Photography**

R15-5-150

R15-5-150 was amended effective February 6, 2006. The Department did not anticipate a significant economic impact resulting from adoption of the rule. The business activities that fell within the scope of this rulemaking were all currently subject to transaction privilege tax under either the retail or job printing classification, both of which have the same state tax rate. The rulemaking did, however, provide the public with greater guidance on the parameters of these classifications as they apply to the activities. Because the amendments clarified and more accurately explained the scope and nature of the imposition of or exemptions from transaction privilege tax for sales of photography and printing, a minimal impact was anticipated for certain vendors due to increased compliance measures. The Department expected that the benefits of the amended rules to the public and the agency from achieving a better understanding of the exemptions would be greater than the costs.

The Department believes that the economic impacts that were projected at the time of the amendments of this rule are accurate.

### **General Retail Rules**

R15-5-101 (Amended); R15-5-103; R15-5-104; R15-5-105; R15-5-106; R15-5-110; R15-5-111 (Amended); R15-5-113

These rules were amended effective December 4, 2006. The two rules amended October 1, 2019. The change was to include marketplace facilitators and remote sellers. The Department expected to benefit from time saved by customer service and taxpayer assistance personnel in answering questions from

taxpayers, businesses, and tax professionals on issues that are addressed by each rule.

*R15-5-101 (Definitions)* contains definitions renumbered from R15-5-2001 and is further amended to include cross-references to statutory definitions and to clarify that the definition of the term “retailer” includes manufacturers and wholesalers.

*R15-5-111 (Consignment Sales)* was amended to specify that marketplace facilitators with no physical presence in Arizona and that consignors are required to obtain a TPT license if they meet the applicable threshold requirements.

The Department anticipated that businesses subject to tax under the retail classification or subject to use tax might see a slight increase or decrease in the amount of taxes remitted to the Department. This was because the increased clarification of these rules would result in increased compliance with the applicable tax laws. Taxpayers who had been inaccurately calculating their tax liability to their detriment might be entitled to tax refunds. The increased clarification might also result in tax savings from spending less time obtaining advice from tax professionals.

Individuals and consumers of the small businesses affected by this rulemaking were thought to possibly see an increase or decrease in taxes paid on the sale of tangible personal property, assuming that the business was not previously in compliance with the applicable tax laws.

The Department believes that the economic impacts that were projected at the time that these rules were amended, renumbered, or added are accurate.

### **Sale of Restaurant Accessories; Warranty or Service Provisions and Contracts**

R15-5-135; R15-5-137; R15-5-138

These rules were amended effective April 7, 2007. The Department anticipated that businesses subject to tax under the retail classification or subject to use tax may see a slight increase or decrease in the amount of taxes remitted to the Department. This was because the increased clarification of these rules would result in increased compliance with the applicable tax laws. Taxpayers who had been inaccurately calculating their tax liability to their detriment might be entitled to tax refunds. The increased clarification might also result in tax savings from spending less time obtaining advice from tax professionals.

Individuals and consumers of the small businesses affected by this rulemaking were thought to possibly see an increase or decrease in taxes paid on the sale of tangible personal property, assuming that the business was not previously in compliance with the applicable tax laws.

The Department believes that the economic impacts that were projected at the time that these rules were amended, renumbered, or added are accurate.

### **Sales by Businesses in Federal Areas; Nonprofit Organizations**

R15-5-180; R15-5-182

R15-5-180 and R15-5-182 were amended effective April 7, 2007. The Department anticipated minimal benefits from time saved by customer service and taxpayer assistance personnel in answering questions on issues that are addressed by each rule. In addition, the clarification and deletion of the language regarding state recognition of nonprofit organizations was expected to eliminate nonprofit taxpayer requests to the Audit Division of the Department for unnecessary clarification.

The Department did not anticipate any effect on the revenues or payroll expenditures of employers who were subject to the rulemaking. Some nonprofit organizations were expected to have minimal cost savings since they no longer would be required to prepare for and seek state certification of their tax exempt status.

The Department believes that the economic impacts that were projected at the time that these rules were amended, renumbered, or added are accurate.

### **2. Rules in A.A.C. Title 15, Chapter 1, Article 4**

R15-5-404 was last amended effective September 22, 1997. An economic impact statement was prepared for the rule. The economic impact statement said that the rule would result in the Department incurring the costs to meet the numerous APA requirements, while it would also result in time and cost savings to the Department since it would not be necessary for personnel to explain to taxpayers the requirements and procedures addressed in the rule. Other state agencies would incur the cost of reviewing, analyzing, noticing and printing the rule, while minimal costs would be incurred by state agencies in obtaining copies of the rule.

The Department also expected that the rule amendment would have no direct or indirect impact on consumers since compliance with the transaction privilege tax rules are the responsibility of the vendor, not the purchaser.

The Department expected small businesses to benefit both directly and indirectly from the increased clarity of the amusement classification with the amendment of the rule.

The Department believes that the economic impacts that were projected at the time of the amendments are accurate.

R15-5-403 and R15-5-406 were last amended effective April 7, 2007. The Department anticipated minimal benefits from time saved by customer service and taxpayer assistance personnel in answering questions on issues that are addressed by each rule.

The Department did not anticipate any effect on the revenues or payroll expenditures of employers who were subject to the rulemaking.

The Department believes that the economic impacts that were projected at the time that these rules were amended, renumbered, or added are accurate.

9. **Has the agency received any business competitiveness analyses of the rules?** Yes No

10. **Has the agency completed the course of action indicated in the agency's previous five-year-review report?**

In the previous five year review, the Department considered proposed action for thirteen (13) rules. Due to the rule moratorium, those anticipated amendments were not made. The Department did not seek an exception to the rules moratorium because it did not have proper justification to do so under the previous Executive Orders. However, the Department did amend seven (7) different rules to incorporate legislative changes concerning economic nexus, remote sellers and marketplace facilitators. Based on the prior 5-year review report, it appears that most of the changes required for the previously identified rules were to conform to the rule writing standards. For example, most of the changes recommended were in relation

to conforming to rulemaking standards, more specifically, changing the rules from being in the passive voice to being in the active voice. Based on the fact these are not substantive changes and permission must be received to make changes to rules, the Department decided not to make any changes unless more substantive changes are needed to the rules.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective:**

The probable benefits of these rules outweigh within this state the probable costs of the rule, and the rules impose the least burden and costs to regulated persons by the rules. The rules would either require the taxpayer to obtain a transaction privilege tax license or it will provide deductions. The only exception are those qualified healthcare providers that are seeking a Department letter.

12. **Are the rules more stringent than corresponding federal laws?** Yes No X

There are no corresponding federal laws. The rules are based on state law.

13. **For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rules are in compliance with the general permit requirements of A.R.S. §41-1037 or explain why the agency believes an exception applies:**

No rules were adopted after July 29, 2010 that required the issuance of a regulatory permit, license, or agency authorization.

14. **Proposed course of action**

The Department of Revenue does not recommend any changes to the rules reviewed in this report at this

time. The Department of Revenue will continue to monitor the compliance of the rules and regulations.

**TITLE 15. REVENUE**  
**CHAPTER 5. DEPARTMENT OF REVENUE**  
**TRANSACTION PRIVILEGE AND USE TAX SECTION**

Authority: A.R.S. § 42-1004

*The provisions in these rules became effective August 1, 1976, unless otherwise noted in the Historical Note following the rule.*

**ARTICLE 1. RETAIL CLASSIFICATION**

*New Article 1, consisting of Section R15-5-151, adopted effective April 15, 1993 (Supp. 93-2).*

*Former Article 1, consisting of Sections R15-5-101 through R15-5-104, repealed effective April 13, 1987.*

Section

- R15-5-101. Sales for Resale or Lease
- R15-5-102. Casual Sales
- R15-5-103. Sale of Business Enterprises
- R15-5-104. Service Businesses
- R15-5-105. Services in Connection with Retail Sales
- R15-5-106. Finance Charges in Connection with Retail Sales
- R15-5-107. Sales for Resale or Lease
- R15-5-110. Lease-purchase Agreements
- R15-5-111. Consignment Sales
- R15-5-112. Sales by Auctioneers
- R15-5-113. Sales by Trustees, Receivers, and Assignees
- R15-5-120. Exempt Sales of Machinery or Equipment
- R15-5-121. Sales of Fuel Used in Manufacturing
- R15-5-122. Articles Incorporated into a Manufactured Product
- R15-5-123. Sale of Tools and Supplies to Businesses
- R15-5-126. Manufacturing Labor
- R15-5-127. Sales of Fuel
- R15-5-128. Electric Power Transmission and Distribution
- R15-5-129. Discounts, Refunds, and Coupon Redemption
- R15-5-131. Lay-away Sales
- R15-5-132. Retail Sales with Trade-ins
- R15-5-133. Delivery Charges in Connection with Retail Sales
- R15-5-134. Sales of Containers, Bottles, and Labels
- R15-5-135. Sales of Restaurant Accessories
- R15-5-136. Returnable Containers
- R15-5-137. Warranty or Service Provisions and Tangible Personal Property Used in Conjunction with Warranty or Service Provisions
- R15-5-138. Warranty or Service Contracts and Tangible Personal Property Used in Conjunction with Warranty or Service Contracts
- R15-5-150. Sale of Photography
- R15-5-151. Artists
- R15-5-152. Tangible Personal Property Used in Soil Remediation Activities
- R15-5-153. Four-inch Pipes or Valves
- R15-5-154. Computer Hardware and Software
- R15-5-155. Delivery Sales of Tobacco Products
- R15-5-156. Sales of Prescription Drugs and Prosthetic Appliances
- R15-5-157. Membership Fees
- R15-5-158. Postage Stamps
- R15-5-170. Interstate and Foreign Transactions
- R15-5-171. Sales to a Common Carrier
- R15-5-172. Sales by Florists
- R15-5-173. Sales of Property Subsequently Taken Out-of-state
- R15-5-174. Sales to Non-U.S. Citizens
- R15-5-180. Sales by Businesses in Federal Areas
- R15-5-181. Governmental Organizations
- R15-5-182. Nonprofit Organizations
- R15-5-183. Exempt Sales to Health Organizations

## ARTICLE 1. RETAIL CLASSIFICATION

### R15-5-101. Definitions

In this Chapter, unless the context requires otherwise or unless otherwise defined:

1. "AZTaxes.gov" has the same meaning as prescribed in R15-10-301.
2. "Casual activity or sale" means an occasional transaction of an isolated nature made by persons who neither represent themselves to be nor are engaged in a business that is subject to transaction privilege tax. Casual activity or sale includes, but is not limited to, sales of used capital assets, provided that the volume and frequency of such sales do not indicate that the seller regularly engages in selling such property.
3. "Department" has the same meaning as prescribed in A.R.S. § 42-1001.
4. "Gross income," "gross receipts," "marketplace facilitator," and "marketplace seller" have the same meanings as prescribed in A.R.S. § 42-5001.
5. "Real property" means land and anything permanently affixed to land.
6. "Remote seller" has the same meaning as prescribed in A.R.S. § 42-5001.
7. "Retailer" has the same meaning as prescribed in A.R.S. § 42-5001, and includes a wholesaler, manufacturer, or other seller of tangible personal property.
8. "Taxpayer" has the same meaning as prescribed in A.R.S. § 42-5001.
9. "Vendor" means any person engaged in a business activity that is subject to any tax levied under A.R.S. Title 42, Chapter 5 and 6, including a retailer.

#### Historical Note

Amended effective November 7, 1978 (Supp. 78-6). Renumbered from R15-5-1811 and amended effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 12 A.A.R. 4099, effective December 4, 2006 (Supp. 06-4). Section R15-5-101 renumbered to R15-5-107; new Section R15-5-101 renumbered from R15-5-2001 and amended by exempt rulemaking at 25 A.A.R. 3010, effective October 1, 2019 (Supp. 19-3).

### R15-5-102. Casual Activities or Sales

**A.** Gross receipts from a casual activity or sale are not taxable under the retail classification.

**B.** Except as otherwise provided in R15-5-2002, a retailer, including as a marketplace facilitator or remote seller cannot engage in a casual sale of tangible personal property of the same type or character as that which the person regularly sells at retail. A marketplace facilitator is deemed to regularly sell any tangible personal property sold on its marketplace.

#### Historical Note

Adopted effective August 9, 1993 (Supp. 93-3). Amended by exempt rulemaking at 25 A.A.R. 3010, effective October 1, 2019 (Supp. 19-3).

### R15-5-103. Sale of Business Enterprises

Gross receipts from the sale of a business as a going concern are not subject to tax if the sale is for the business as an operating enterprise.

#### Historical Note

Renumbered from R15-5-1817 and amended effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 12 A.A.R. 4099, effective December 4, 2006 (Supp. 06-4). Amended by exempt rulemaking at 25 A.A.R. 3010, effective October 1, 2019 (Supp. 19-3).

### R15-5-104. Service Businesses

**A.** Gross receipts from the sale of tangible personal property to a person engaged in a professional or personal service occupation or business are subject to tax if the tangible personal property is used or consumed in the performance of the service or is sold only as an inconsequential element of the nontaxable service provided.

**B.** Gross receipts from the sale of tangible personal property, by a person engaged in a professional or personal service occupation or business, are not subject to tax if the property is sold only as an inconsequential element of the nontaxable service provided.

**C.** Sales of tangible personal property are inconsequential elements of the service if:

1. The purchase price of the tangible personal property to the person rendering the services represents less than 15% of the charge, billing, or statement rendered to the purchaser in connection with the transaction;
2. At the time of the sale, the tangible personal property transferred is not in a form that is subject to retail sale; and
3. The charge for the tangible personal property is not separately stated on the invoice.

**D.** A person engaged in both a retail business and a service business shall keep records of purchases of tangible personal property sufficient to establish whether the property was resold as a taxable retail sale.

**Historical Note**

Renumbered from R15-5-1805 and amended effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 12 A.A.R. 4099, effective December 4, 2006 (Supp. 06-4).

**R15-5-105. Services in Connection with Retail Sales**

Gross receipts from services rendered in addition to selling tangible personal property at retail are subject to tax unless the charge for service is shown separately on the sales invoice and records.

**Historical Note**

Renumbered from R15-5-1815 and amended effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 12 A.A.R. 4099, effective December 4, 2006 (Supp. 06-4).

**R15-5-106. Finance Charges in Connection with Retail Sales**

Gross receipts from finance, carrying charges, or interest charges incurred in connection with a retail sale of tangible personal property are not subject to tax if:

1. The charges are separately stated as part of the sales transaction; and
2. The charges result from the sale of such property on credit or under an installment contract.

**Historical Note**

Adopted effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 12 A.A.R. 4099, effective December 4, 2006 (Supp. 06-4).

**R15-5-107. Sales for Resale or Lease**

- A. Gross receipts from the sale of tangible personal property to be resold by the purchaser in the ordinary course of business are not subject to tax under the retail classification.
- B. Gross receipts from the sale of tangible personal property to be leased by a person in the business of leasing such personal property are not subject to tax under the retail classification.
- C. Gross receipts from the sale of tangible personal property to a lessor of real property are subject to tax if:
  1. The tangible personal property is incorporated into, or leased in conjunction with, the real property; and
  2. The rental of the tangible personal property is not separately stated as part of the real property lease transaction.
- D. Gross receipts from the sale of repair or replacement parts for tangible personal property that is to be leased by a person engaged in the business of leasing such tangible personal property are not subject to tax under the retail classification.

**Historical Note**

New Section renumbered from R15-5-101 by exempt rulemaking at 25 A.A.R. 3010, effective October 1, 2019 (Supp. 19-3).

**R15-5-110. Lease-purchase Agreements**

- A. Gross income derived from the leasing of tangible personal property under a lease-purchase agreement is subject to tax under the personal property rental classification.
- B. Payments received after the conversion from a lease to a purchase are subject to tax under the retail classification.
- C. Gross receipts from the sale of tangible personal property include conversion charges paid or incurred at the time the lease is converted to a purchase.

**Historical Note**

Renumbered from R15-5-1809 and amended effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 12 A.A.R. 4099, effective December 4, 2006 (Supp. 06-4).

**R15-5-111. Consignment Sales**

- A. In this Section:
  1. "Consignee" means the party that is in the business of selling tangible personal property belonging to a consignor.
  2. "Consignor" means the party with the legal right to contract the services of the consignee to sell tangible personal property on behalf of the consignor.
- B. Gross receipts from consignment sales are subject to tax under the retail classification.
- C. Except as provided in subsection (D), a consignee shall obtain a transaction privilege tax license before making consignment sales.

D. A consignee who is a marketplace facilitator without a physical presence in Arizona, as provided in R15-5-2002(B), is required to obtain a transaction privilege tax license upon meeting the threshold requirements in A.R.S. § 42-5044.

**Historical Note**

Renumbered from R15-5-1808 and amended effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 12 A.A.R. 4099, effective December 4, 2006 (Supp. 06-4). Amended by exempt rulemaking at 25 A.A.R. 3010, effective October 1, 2019 (Supp. 19-3).

**R15-5-112. Sales by Auctioneers**

- A. Gross receipts from the sales of tangible personal property by an auctioneer are subject to tax under the retail classification.
- B. Except as provided in subsection (C), an auctioneer shall obtain a transaction privilege tax license before conducting an auction.
- C. An auctioneer who is a marketplace facilitator without a physical presence in Arizona, as provided in R15-5-2002(B), is required to obtain a transaction privilege tax license upon meeting the threshold requirements in A.R.S. § 42-5044.

**Historical Note**

Renumbered from R15-5-1834 and amended effective August 9, 1993 (Supp. 93-3). Amended by exempt rulemaking at 25 A.A.R. 3010, effective October 1, 2019 (Supp. 19-3). R15-5-113. Sales by Trustees, Receivers, and Assignees

- A. Gross receipts from the sale of tangible personal property by a trustee, receiver, or assignee are subject to tax if the sale of the property in the hands of the owner would be subject to tax.
- B. Gross receipts from the sale of tangible personal property by a trustee, receiver, or assignee are not subject to tax if the sale of the property in the hands of the owner would not be subject to tax.

**Historical Note**

Adopted effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 12 A.A.R. 4099, effective December 4, 2006 (Supp. 06-4).

**R15-5-113. Sales by Trustees, Receivers, and Assignees**

- A. Gross receipts from the sale of tangible personal property by a trustee, receiver, or assignee are subject to tax if the sale of the property in the hands of the owner would be subject to tax.
- B. Gross receipts from the sale of tangible personal property by a trustee, receiver, or assignee are not subject to tax if the sale of the property in the hands of the owner would not be subject to tax.

**Historical Note**

Adopted effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 12 A.A.R. 4099, effective December 4, 2006 (Supp. 06-4).

**R15-5-120. Exempt Sales of Machinery or Equipment**

- A. Machinery or equipment used in manufacturing or processing includes machinery or equipment that constitutes the entire primary manufacturing or processing operation from the initial stage where actual processing begins through the completion of the finished end product, processing, finishing, or packaging of articles of commerce. Manufacturing is the performance as a business of an integrated series of operations which place tangible personal property in a form, composition, or character different from that in which it was acquired and transforms it into a different product with a distinctive name, character, or use.
- B. Gross receipts from the sale of repair or replacement parts for exempt machinery or equipment are not subject to the tax under the retail classification. Repair or replacement parts are defined as those individual component and constituent items which, together, comprise exempt machinery or equipment.
- C. In establishing the exempt sale of machinery or equipment, the seller shall keep adequate documentation, pursuant to statutory requirements and as delineated in R15-5-2214, for the statutorily required period of time.

**Historical Note**

Amended effective November 7, 1978, unless otherwise noted (Supp. 78-6). Amended paragraphs (9) and (10) effective March 18, 1981 (Supp. 81-2). Renumbered from R15-5-1822 and amended effective August 9, 1993 (Supp. 93-3).

**R15-5-121. Sales of Fuel Used in Manufacturing**

The sale of fuel used or consumed in a manufacturing process is taxable. The fuel is not considered to be incorporated into the manufactured product.

**Historical Note**

Renumbered from R15-5-1830 effective August 9, 1993 (Supp. 93-3).

**R15-5-122. Articles Incorporated into a Manufactured Product**

- A. Sales of articles to be incorporated into a fabricated or manufactured product are considered to be sales for resale and, therefore, exempt. For example, the sale of wood to a furniture manufacturer is a sale for resale.
- B. In order for the exemption to apply, the materials must actually become a part of the finished product. Supplies which are consumed in the manufacturing process do not qualify.

**Historical Note**

Renumbered from R15-5-1839 effective August 9, 1993 (Supp. 93-3).

**R15-5-123. Sale of Tools and Supplies to Businesses**

The sale of tools, supplies, and other articles to be used or consumed by persons in the operation of their businesses, and not for resale, are taxable as retail sales.

**Historical Note**

Renumbered from R15-5-1849 effective August 9, 1993 (Supp. 93-3).

**R15-5-126. Manufacturing Labor**

The cost of labor employed in manufacturing, processing, or fabricating tangible personal property shall not be allowed as a deduction from the gross receipts derived from a sale of such property.

**Historical Note**

Renumbered from R15-5-1848 and amended effective August 9, 1993 (Supp. 93-3).

**R15-5-127. Sales of Fuel**

- A. In this Section, "aviation fuel" and "dyed diesel fuel" have the same meanings as prescribed in A.R.S. §§ 28-101 and 28-5601.
- B. Gross receipts from the sale of dyed diesel fuel are subject to transaction privilege tax.
- C. Gross receipts from the sale of liquefied petroleum gas or natural gas used to propel a motor vehicle are exempt from transaction privilege tax.
- D. Aviation fuel is subject to tax under A.R.S. § 28-8344 only.
- E. Gross receipts from the retail sale of jet fuel are subject to the jet fuel excise and use tax under A.R.S. § 42-5352.

**Historical Note**

Renumbered from R15-5-3004 and amended effective August 9, 1993 (Supp. 93-3). Section amended by final rulemaking at 10 A.A.R. 4480, effective December 4, 2004 (Supp. 04-4).

**R15-5-128. Electric Power Transmission and Distribution**

- A. Gross receipts from the sale of machinery, equipment, or transmission lines for direct use in a transmission system are deductible from the tax base. Gross receipts from the sale of machinery, equipment, or lines for use in a distribution system are taxable.
- B. Machinery and equipment used to facilitate the production of voltage up to and including 34,500 volts shall be considered part of a distribution system.
  - 1. Gross receipts from the sale of such equipment are subject to transaction privilege tax.
  - 2. If tangible personal property was purchased as exempt, subsequent nonexempt use shall subject the gross purchase price to use tax according to statutory provisions.
- C. Machinery and equipment used to facilitate the production of voltage above 34,500 volts shall be categorized as part of a transmission or distribution system based on the following definitions.
  - 1. "Transmission system" means:
    - a. All land, conversion structures, and equipment employed at a primary source of supply to change the voltage or frequency of electricity for the purpose of its more efficient or convenient transmission;
    - b. All land, structures, lines, switching and conversion stations, high tension apparatus and their control and protective equipment between a generating or receiving point and the entrance to a distribution center or wholesale point; and
    - c. All lines and equipment whose primary purpose is to augment, integrate, or tie together the sources of power supply.
  - 2. "Distribution system" means all land, structures, conversion equipment, lines, line transformers, and other facilities employed between the primary source of supply and of delivery to customers, which are not includible in a transmission system whether or not such land, structures, and facilities are operated as part of

- a transmission system or as part of a distribution system. Stations which change electricity from transmission to distribution voltage shall be classified as distribution stations.
3. "Primary source of supply" means a generating station or point of receipt in the case of purchased power.
  4. Dual-use equipment shall be designated as follows:
    - a. If poles or towers support both transmission and distribution conductors, the poles, towers, anchors, guys, and rights-of-way shall be classified as a transmission system. The conductors, crossarms, braces, grounds, tiewire, insulators, and other similar tangible personal property shall be classified as transmission or distribution facilities, according to the purpose for which they are used.
    - b. If underground conduit contains both transmission and distribution conductors, the underground conduit and the right-of-way shall be classified as a distribution system. The conductors shall be classified as transmission or distribution facilities according to the purpose for which they are used.
    - c. Based on statutory provisions, transformers and control equipment utilized operationally at transmission substation sites are considered to be a part of a transmission system and, therefore, are exempt from transaction privilege and use tax.
  - D. Machinery, equipment, or transmission lines for direct use in a transmission system are only those which are recorded as being part of a transmission system in accordance with the definitions in subsection (C).
    1. Gross receipts from the sale of such equipment are exempt from the tax.
    2. If such machinery and equipment is removed from inventory to be used as part of a distribution system, the purchase price is subject to use tax.

**Historical Note**

Adopted effective August 9, 1993 (Supp. 93-3).

**R15-5-129. Discounts, Refunds, and Coupon Redemption**

- A. Cash discounts allowed the purchaser for timely payment are permissible as deductions from the sale price.
- B. Refunds in cash or credit given on returned merchandise are considered to be a reduction of sales.
- C. When coupons issued by a manufacturer are redeemed by a retailer the amounts refunded to the purchaser are not permissible as deductions from the selling price of articles sold by the retailer. In these cases, the gross selling price is taxable.
- D. Coupons issued by a retailer and later redeemed by the retailer as a discount on the price of merchandise sold by him are considered a reduction of the selling price. In such cases the net selling price is subject to tax.

**Historical Note**

Renumbered from R15-5-1840 effective August 9, 1993 (Supp. 93-3).

**R15-5-131. Lay-away Sales**

Gross receipts from lay-away agreements shall be taxable when title or possession transfers to the purchaser or at the time receipts from the transaction are determined to be nonrefundable, whichever occurs first.

**Historical Note**

Adopted effective August 9, 1993 (Supp. 93-3).

**R15-5-132. Retail Sales with Trade-ins**

- A. When a retailer accepts tangible personal property as a trade-in for part or full payment on the sale of tangible personal property, the dollar amount of the payment represented by the trade-in is deductible from the retailer's gross receipts from that sale.
- B. A trade-in deduction shall be limited to the amount of the retailer's gross receipts on that sale.
- C. When the property traded in is subsequently sold at retail, the gross receipts from the transaction are taxable.

**Historical Note**

Renumbered from R15-5-1818 and amended effective August 9, 1993 (Supp. 93-3).

**R15-5-133. Delivery Charges in Connection with Retail Sales**

- A. A charge by a retailer for delivery from the retailer's location to the purchaser's location, if separately stated on the sales invoice, is not taxable.
- B. When the freight cost is incurred any time prior to the time of the retail sale, such cost is part of the gross sale and, therefore, subject to the tax.

**Historical Note**

Renumbered from R15-5-1820 and amended effective August 9, 1993 (Supp. 93-3).

**R15-5-134. Sales of Containers, Bottles, and Labels**

- A. The sale of containers and bottles is considered a sale for resale only when the purchaser is to transfer the containers with their contents in future sales.

- B. In cases where the containers are not subsequently sold as part of the merchandise, such sales are deemed to be taxable retail sales.
- C. The sale of labels to a purchaser who affixes them to nonreturnable containers to be resold is considered to be a sale for resale and is not taxable.
- D. In cases where the containers are returnable and a new label is to be affixed, each time the container is refilled, the sale of the labels is also considered to be a sale for resale.
- E. The sale of analysis tags or other labels to be attached to containers of feed and sold along as part of the article is a sale for resale.
- F. However, the sale of items such as price tags, shipping tags, and advertising matter used in connection with the subsequent sale is taxable as a retail sale.

**Historical Note**

Renumbered from R15-5-1829 and amended effective August 9, 1993 (Supp. 93-3).

**R15-5-135. Sales of Restaurant Accessories**

- A. Gross receipts from the sale of disposable containers, paper napkins, and other similar food accessories to a person engaged in the restaurant business, who, in the regular course of business, transfers these accessories to facilitate the consumption of the food, drink, or condiment provided, are considered gross receipts from sales for resale.
- B. Gross receipts from the sale of matchbooks, advertisement fliers, and other similar tangible personal property to a person engaged in the restaurant business, who transfers this property for the convenience, operation, or benefit of the restaurant business, are subject to tax.

**Historical Note**

Adopted effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 13 A.A.R. 679, effective April 7, 2007 (Supp. 07-1).

**R15-5-136. Returnable Containers**

- A. Gross receipts from deposits on sales of returnable containers which contain taxable food shall be taxable.
- B. Deposit refunds paid to purchasers on the return of such containers shall be deductible from the retailer's tax base in the month refunded.
- C. Gross receipts from deposits received on returnable containers which contain non-taxable food shall not be taxable. Therefore refunds paid on such deposits shall not reduce the tax base.

**Historical Note**

Renumbered from R15-5-1833 and amended effective August 9, 1993 (Supp. 93-3).

**R15-5-137. Warranty or Service Provisions and Tangible Personal Property Used in Conjunction with Warranty or Service Provisions**

- A. For purposes of this rule, the following definitions apply:
  - 1. "Covered" means included in the warranty or service provision.
  - 2. "Warranty or service provision" means a manufacturer's or vendor's warranty that is sold automatically with tangible personal property and, for no extra charge, applies to any tangible personal property used in the servicing of the provision.
- B. An exclusion from gross receipts is not allowed for a warranty or service provision on the sale of tangible personal property if the property cannot be sold without the acceptance of the warranty or service provision.
- C. A warranty or service provision is not considered a warranty or service contract under A.R.S. § 42-5061(A).
- D. Tangible personal property sold in conjunction with the servicing of a warranty or service provision, but not covered by the provision, is a sale of tangible personal property that is subject to tax under the retail classification unless statutorily exempt.
- E. Tangible personal property that is covered under a warranty or service provision and used in the servicing of the provision is not subject to use tax as the transaction privilege tax was paid when the tangible personal property was acquired.

**Historical Note**

Adopted effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 13 A.A.R. 679, effective April 7, 2007 (Supp. 07-1).

**R15-5-138. Warranty or Service Contracts and Tangible Personal Property Used in Conjunction with Warranty or Service Contracts**

- A. For purposes of this rule, the following definition applies: "Covered" means included in the warranty or service contract for which the warranty or service contract holder does not pay a separate charge for any tangible personal property used in the servicing of the contract.
- B. Gross receipts from the sale of warranty or service contracts are not subject to tax when the contracts are sold as a distinct and separate item and the charge for the warranty or service contract is stated separately on a sales invoice.

- C. Tangible personal property sold in conjunction with the servicing of a warranty or service contract, but not covered by the contract, is a sale of tangible personal property that is subject to tax under the retail classification unless statutorily exempt.
- D. Tangible personal property that is covered under a warranty or service contract, and used in the servicing of the contract, is subject to use tax unless transaction privilege tax was paid when the tangible personal property was acquired or the tangible personal property is otherwise statutorily exempt.

**Historical Note**

Adopted effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 13 A.A.R. 679, effective April 7, 2007 (Supp. 07-1).

**R15-5-150. Sale of Photography**

- A. In this Section:
  - 1. "Motion picture" has the same meaning as prescribed in A.R.S. § 41-1517.
  - 2. "Motion picture production company" has the same meaning as prescribed in A.R.S. § 41-1517.
  - 3. "Photography" means the process of taking and supplying images to customers, using film, video, or another data storage medium.
  - 4. "Qualified motion picture production company" means a motion picture production company that holds a valid certificate issued pursuant to A.R.S. § 42-5009(H), establishing the company's qualification for the A.R.S. § 42-5061(B)(23) exemption.
- B. Gross income or gross proceeds derived from a sale of photography are subject to tax under this Article, unless, under A.A.C. R15-5-104(C), the sale of such photography is considered an inconsequential element of nontaxable activities that are associated with the sale. Examples of nontaxable activities that are associated with a sale of photography include research; script consulting; director, crew, and equipment charges; preproduction or postproduction charges; location scouting fees; and music charges. Activities that are associated with the sale of photography are nontaxable if one of the following applies:
  - 1. The vendor is engaged in both a professional or personal service occupation or a service business under A.R.S. § 42-5061(A)(1) and the business of selling photography at retail; or
  - 2. The activities are not part of the manufacture, creation, or fabrication of photography and are not otherwise subject to tax under another Article of this Chapter.
- C. Gross income or gross proceeds derived from a sale of photography used directly in motion picture production by a qualified motion picture production company are exempt from tax under this Article pursuant to A.R.S. § 42-5061(B)(23).

**Historical Note**

Renumbered from R15-5-1836 and amended effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 11 A.A.R. 5493, effective February 6, 2006 (Supp. 05-4).

**R15-5-151. Artists**

- A. Gross receipts from the sale of paintings, drawings, etchings, sculptures, craftwork, other artwork or reproductions of such items to final consumers shall be taxable under the retail classification if the person is making regular sales of these items.
- B. Gross receipts from the sale of paints, canvasses, frames, sculpture ingredients, and other items which will become an integral part of the finished product shall not be taxable if sold to a creating artist who is regularly engaged in the business of creating and selling paintings, drawings, etchings, sculptures, craftwork, other artwork, or reproductions of such items. Sales of brushes, easels, tools, and similar items to be consumed by the creating artist shall be taxable.
- C. Except as otherwise provided in A.R.S. § 42-6017, gross receipts from the sale by the creating artist of a painting, drawing, etching, sculpture, or a piece of craftwork that is not a reproduction of an original work shall not be taxable if:
  - 1. The sale is a casual activity or sale; or
  - 2. The sale is a work of fine art at an art auction or gallery in this state to a nonresident of this state for use outside the state, if the retailer ships or delivers the work to a destination outside this state and if exempt under A.R.S. § 42-5061(A). In this subsection, "work of fine art" has the same meaning as prescribed in A.R.S. § 44-1771.
  - 3. The sale is of commissioned artwork by an individual artist. In this subsection, "commissioned artwork" is a custom, one-of-a-kind art creation made by the individual artist pursuant to the particular requirements of a specific purchaser.

**Historical Note**

Adopted effective April 15, 1993 (Supp. 93-2). Section heading amended effective August 9, 1993 (Supp. 93-3). Amended by exempt rulemaking at 25 A.A.R. 3010, effective October 1, 2019 (Supp. 19-3).

*Editor's Note: R15-5-1812, referenced in subsection (C)(1) above, was repealed. Please refer to R15-5-2001 for information about casual sales.*

*Editor's Note: R15-5-2001 referenced in the editor's note above was renumbered to Section R15-5-101 (Supp. 19-3).*

**R15-5-152. Tangible Personal Property Used in Soil Remediation Activities**

The gross receipts from the sale of tangible personal property incorporated or fabricated into any real property, structure, project, development or improvement under a contract specified in A.R.S. § 42-1310.16 (B)(6) are exempt from tax. The gross receipts from the sale of tangible personal property used in soil remediation activities but not incorporated or fabricated into any real property, structure, project, development or improvement are taxable.

**Historical Note**

Adopted effective December 11, 1998 (Supp. 98-4).

**R15-5-153. Four-inch Pipes or Valves**

Gross receipts from the sale of pipes, valves, or fire hydrants with an inside diameter of four inches or more are deductible from the tax base if the pipes, valves, or fire hydrants are to be used to transport oil, natural gas, artificial gas, water, or coal slurry.

**Historical Note**

Adopted effective August 9, 1993 (Supp. 93-3).

**R15-5-154. Computer Hardware and Software**

- A. Gross receipts derived from services rendered in whole or in part in connection with the sale of computer hardware are exempt, including gross receipts derived from charges imposed for professional and technological services such as analysis, design, support engineering services, classroom instruction, and data conversion services.
- B. Except as provided in subsection (C), gross receipts derived from the sale of computer software programs are taxable, regardless of the method that a retail business uses to transfer the programs to its customers.
- C. Gross receipts derived from charges imposed for the following business activities originate from nontaxable service activities and are therefore not taxable:
  - 1. The original creation of an electronic data processing program for the specific use of an individual customer, or
  - 2. The modification of a prewritten computer software program for the specific use of an individual customer, if the charge for the modification is shown separately on the sales invoice and records.

**Historical Note**

Renumbered from R15-5-1853 effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 11 A.A.R. 2950, effective September 10, 2005 (Supp. 05-3).

**R15-5-155. Delivery Sales of Tobacco Products**

**A. In this Section:**

- 1. "Delivery sale" means a sale made by using any of the following:
  - a. The mail or a delivery service.
  - b. The Internet or a computer network.
  - c. Any other electronic method.
- 2. "Tobacco product" has the same meaning as prescribed in A.R.S. § 36-798.06.

- B. A retailer, including a remote seller or marketplace seller, or marketplace facilitator shall not make or facilitate a delivery sale of any tobacco product that violates A.R.S. § 36-798.06.**

**Historical Note**

New Section made by exempt rulemaking at 25 A.A.R. 3010, effective October 1, 2019 (Supp. 19-3).

**R15-5-156. Sales of Prescription Drugs and Prosthetic Appliances**

**A. In this Section:**

- 1. "Drug" means an article that, according to federal or state law, is:
  - a. Recognized in the official United States Pharmacopeia, official Homeopathic Pharmacopeia of the United States, official National Formulary, or any supplement to these documents; or
  - b. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals; or

- c. Not food and is intended to affect the structure or any function of the body of humans or animals; or
  - d. Intended for use as a component of any article specified in subsections (a), (b), or (c).
2. "Drug on a prescription" means prescription drug.
  3. "Food" means an article used for food or drink for humans or animals, chewing gum, or an article used as a component of such an article.
  4. "Hearing aid" means any wearable device designed as a remedy or to compensate for defective human hearing, including parts, attachments, accessories, and earmolds.
  5. "Legend drug" means a drug that 21 U.S.C. 353(b)(4)(A) requires to bear the symbol "Rx only" before dispensing.
  6. "Nonprescription product" means a drug or other article that can be purchased by the final consumer of the drug or article without a prescription, regardless of whether purchased on the advice or recommendation of a member of the medical, dental, or veterinarian profession. Examples include over-the-counter drugs and those dietary supplements, vitamins, minerals, herbs, and other similar supplements that do not qualify as prescription drugs.
  7. "Over-the-counter drug" means a drug that is subject to federal labeling requirements in 21 CFR 201.66.
  8. "Prescriber" means a member of the medical, dental, or veterinary profession authorized by federal or state law to prescribe a drug.
  9. "Prescription" means an order for a drug issued in any form.
  10. "Prescription drug" means a legend drug or a drug that, according to federal or state law, can be dispensed only:
    - a. Upon a written prescription of a prescriber for the drug;
    - b. Upon an oral prescription by the prescriber for the drug that federal or state law requires be reduced promptly to a form of writing by the prescriber and then filed by a pharmacist or the prescriber; or
    - c. By refilling a written or oral prescription if refilling is authorized by the prescriber for the drug either in the original prescription or by oral order that is reduced promptly to writing and then filed by a pharmacist or the prescriber.
  11. "Prescription eyeglasses" includes frames and other component parts of eyeglasses if purchased for use with prescription lenses.
  12. "Prosthetic appliance" means an artificial device that fully or partially replaces a part or function of the human body or increases the acuity of a sense organ.
- B. Gross receipts from sales of the following kinds of tangible personal property are not subject to tax:
1. Prescription drugs, including those used in the course of treating patients;
  2. Medical oxygen, pursuant to A.R.S. § 42-5061(A)(8);
  3. Insulin, insulin syringes, and glucose strips, whether or not prescribed;
  4. Prosthetic appliances, prescribed or recommended by a statutorily-authorized individual;
  5. Durable medical equipment, pursuant to A.R.S. § 42-5061(A)(13);
  6. Prescription eyeglasses and contact lenses; and
  7. Hearing aids. Batteries and cords are subject to tax.
- C. Gross receipts from the sale of component and repair parts for any tangible personal property that is exempt under either subsection (B) or (F) are not subject to tax.
- D. If a written prescription or recommendation is required to purchase tangible personal property, a vendor of the property shall maintain the prescription or recommendation as part of the vendor's records. The vendor's records for documenting sales shall provide reasonable detail to allow the Department, upon inspection, to identify property as exempt.
- E. Gross receipts from the sale to the final consumer of nonprescription products and those medical supplies or appliances not provided for under subsection (B) are subject to tax.
- F. Gross receipts from the sale of nonprescription products or other medical supplies or appliances to doctors, dentists, or veterinarians are subject to tax unless the sale qualifies as a sale for resale and the doctor, dentist, or veterinarian is a retailer in the business of reselling the property.

#### **Historical Note**

Renumbered from R15-5-1819 and amended effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 11 A.A.R. 2952, effective September 10, 2005 (Supp. 05-3).

#### **R15-5-157. Membership Fees**

- A. Membership, admission, or other fees charged by a limited-access retail business shall be considered part of the taxable gross income of the business activity.
- B. For purposes of this rule, "a limited-access retail business" means a business which does not sell to the general public but which charges a membership fee or a membership due in order to obtain access to the business or to obtain discounts or preferential treatment in the purchase or rental of tangible personal property from or through the business.

- C. Gross income shall not include separately billed amounts paid to secure ownership interests or rights in the business which can be transferred or assigned.

**Historical Note**

Renumbered from R15-5-3036 and amended effective August 9, 1993 (Supp. 93-3).

**R15-5-158. Postage Stamps**

- A. A retailer's gross receipts from the sale of postage stamps are not included in the tax base under the retail classification if the stamps are sold for the purpose of transporting mail.
- B. A retailer's gross receipts from the sale of postage stamps are included in the tax base under the retail classification if the stamps are sold for any purpose other than transporting mail.
- C. The Department shall presume that a postage stamp is sold for a purpose other than transporting mail if the postage stamp is sold for at least 50% more than its face value. A retailer may overcome the presumption; however, the burden of proof will remain on the retailer.
- D. A retailer's gross receipts from the sale of cancelled postage stamps are included in the tax base under the retail classification.

**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 4112, effective October 4, 2000 (Supp. 00-4).

**R15-5-170. Interstate and Foreign Transactions**

- A. Gross receipts from sales of tangible personal property made in interstate or foreign commerce are deductible from the tax base if all of the following apply:
1. The order is received from a location outside of Arizona; and
  2. The retailer ships or delivers the tangible personal property to a location outside of Arizona for use outside of Arizona.
- B. In meeting the above requirements, if delivery is made by the retailer to a common carrier for transportation to a location outside Arizona, the common carrier is deemed to be the agent of the retailer for purposes of this rule regardless of who is responsible for payment of the freight charges.
- C. Suitable records shall be kept to substantiate the deduction for a sale made in interstate commerce. As such, records shall identify the tangible personal property sold and the delivery destination. The following records may be sufficient to substantiate the exemption:
1. Suitable records for substantiating the receipt of an order from out-of-state may include purchase orders, letters, or written memoranda on the receipt of orders placed by telephone.
  2. Suitable records for substantiating out-of-state shipments include:
    - a. Internal delivery orders supported by receipts of expenses incurred in delivering the property and signed on the delivery date by the person who delivers the property;
    - b. Common carrier's receipt or bill of lading;
    - c. Parcel post receipt;
    - d. Export declaration;
    - e. Receipt from a licensed broker; or
    - f. Proof of export or import signed by a customs officer.

**Historical Note**

Renumbered from R15-5-1814 and amended effective August 9, 1993 (Supp. 93-3).

**R15-5-171. Sales to a Common Carrier**

Gross receipts from sales made to a common carrier, engaged in interstate business, for delivery by the common carrier to a location outside of Arizona and for use outside of Arizona shall not be taxable if the order is received from a location outside of Arizona and the Arizona retailer prepays the freight charge.

**Historical Note**

Adopted effective August 9, 1993 (Supp. 93-3).

**R15-5-172. Sales by Florists**

- A. Gross receipts from sales made by florists are taxable. Delivery and relay or transmittal charges, when separately stated, are deductible from the tax base.
- B. Orders received by an Arizona florist from an out-of-state customer for delivery within Arizona are taxable. Orders received by an Arizona florist by an out-of-state customer for delivery out-of-state are not taxable.
- C. When the florist conducts transactions through a delivery association, the following shall apply:
1. Gross receipts from sales made by an Arizona florist, where the order is subsequently transmitted to another florist for filling and delivery, whether inside or outside of Arizona, are taxable.

2. Gross receipts from sales by Arizona florists who deliver from a transmitted order of another florist, whether the ordering florist is inside or outside of Arizona, are not taxable.

**Historical Note**

Adopted effective August 9, 1993 (Supp. 93-3).

**R15-5-173. Sales of Property Subsequently Taken Out-of- state**

Gross receipts from sales of tangible personal property by Arizona vendors made to purchasers who subsequently take the property out-of-state do not qualify as exempt unless otherwise specifically exempted by statute.

**Historical Note**

Adopted effective August 9, 1993 (Supp. 93-3).

**R15-5-174. Sales to Non-U.S. Citizens**

Gross receipts from sales to non-U.S. citizens are subject to the tax unless otherwise exempt.

**Historical Note**

Adopted effective August 9, 1993 (Supp. 93-3).

**R15-5-180. Sales by Businesses in Federal Areas**

Gross receipts from sales by businesses not operated by or as an agency of the Federal Government, located on military bases or other federal areas, are subject to tax.

**Historical Note**

Renumbered from R15-5-1825 and amended effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 13 A.A.R. 682, effective April 7, 2007 (Supp. 07-1).

**R15-5-181. Governmental Organizations**

- A. Gross receipts from the sale of tangible personal property to the state or its political subdivisions are taxable unless otherwise exempt. Gross receipts from the sale of tangible personal property to the Federal Government or its departments and agencies are taxable at the rate prescribed by statute, unless otherwise exempt.
- B. Gross receipts from the sale of tangible personal property by the state or its political subdivisions, when acting in a proprietary capacity, are taxable unless otherwise exempt.
- C. Gross receipts from the sale of tangible personal property by the Federal Government are not taxable.

**Historical Note**

Renumbered from R15-5-1803 and amended effective August 9, 1993 (Supp. 93-3).

**R15-5-182. Nonprofit Organizations**

- A. Gross receipts from the sale of tangible personal property to nonprofit churches, schools, and other nonprofit organizations are subject to tax unless otherwise exempt.
- B. Gross receipts from the sale of tangible personal property by a charitable nonprofit organization, recognized as such for income tax purposes by the Internal Revenue Service, are not subject to tax.
- C. For purposes of the statutory exemption and this rule, the Internal Revenue Service recognition of a charitable nonprofit organization is defined in Internal Revenue Code § 501(c)(3).

**Historical Note**

Renumbered from R15-5-1804 and amended effective August 9, 1993 (Supp. 93-3). Amended by final rulemaking at 13 A.A.R. 682, effective April 7, 2007 (Supp. 07-1).

**R15-5-183. Exempt Sales to Health Organizations**

- A. Gross receipts from the sale of tangible personal property to qualifying hospitals, qualifying health care organizations, rehabilitation programs for mentally or physically handicapped persons, and qualifying community health centers are exempt from tax if such purchases are exempt from tax pursuant to statutory provisions.
- B. The Department may, upon review of the written request and any other information requested by the Department to make a proper determination, provide an Exemption Letter to organization meeting the statutory criteria. The Exemption Letter shall be valid for a period of 12 months from the first day of the month following the issue date of the Exemption Letter unless the organization's tax exempt status changes prior to the end of the 12-month period, or the organization misrepresented or omitted material information in its exemption request.
- C. Qualifying hospitals, qualifying health care organizations, rehabilitation programs for mentally or physically handicapped persons, and qualifying community health centers shall annually submit to the Department a written request for an Exemption Letter. The request shall be submitted at least 30 days prior to the first day of the exemption period. For purposes of this rule, "exemption period" means the 12-month period beginning on the first

day of the month following the issue date of the Exemption Letter or the 12-month period requested by the organization.

1. Qualifying hospitals shall attach to their annual exemption request a copy of their current license issued by the Department of Health Services.
2. Qualifying health care organizations shall attach to their exemption request letter the statutorily required annual financial audit and a copy of their Internal Revenue Code 501(c) recognition unless the Department has previously received a copy of this recognition.
3. Rehabilitation programs for mentally or physically handicapped persons shall attach to their exemption request a copy of their Internal Revenue Code 501(c)(3) recognition unless the Department has previously received a copy of this recognition.
4. Qualifying community health centers shall attach to their exemption request documentation supporting the statutory criteria and a copy of their Internal Revenue Code 501(c)(3) recognition unless the Department has previously received a copy of this recognition.

**Historical Note**

Renumbered from R15-5-1821 and amended effective August 9, 1993 (Supp. 93-3). Amended effective April 21, 1995 (Supp. 95-2).

**ARTICLE 4. AMUSEMENT CLASSIFICATION**

Section

R15-5-403. Amusement Devices

R15-5-404. Other Income

R15-5-406. Health or Fitness Establishments and Private Recreational Establishments

**R15-5-403. Amusement Devices**

Gross proceeds of sales or gross income from the operation of coin-operated and other devices that provide amusement are included in the tax base under the amusement classification. Examples include: devices that play prerecorded music, electronic games, pinball games, and billiard tables.

1. The tax base from the business of operating amusement devices is the gross amount received from the amusement devices without deduction for commissions paid, rental cost for the equipment, or other expenses.
2. The individual having direct control of the funds generated by the amusement devices shall pay the tax to the Department.

**Historical Note**

Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 13 A.A.R. 682, effective April 7, 2007 (Supp. 07-1).

**R15-5-404. Other Income**

Gross receipts from the sale of programs, souvenirs, or any other items of tangible personal property are included in the tax base under the retail classification.

**Historical Note**

Amended effective April 21, 1995 (Supp. 95-2). Amended effective September 22, 1997 (Supp. 97-3).

**R15-5-406. Health or Fitness Establishments and Private Recreational Establishments**

A. The operator of a "health or fitness establishment" or a "private recreational establishment," as defined in A.R.S. § 42-5073(C), shall exclude from the tax base under the amusement classification all gross proceeds of sales or gross income from membership fees and initiation fees charged for the use of the establishment, or any portion of the establishment, for 28 days or more, and fees charged for the use of the establishment by bona fide accompanied guests of members. Any other fees for the use of a health or fitness establishment or a private recreational establishment, or any portion of the establishment, are included in the tax base of the amusement classification.

B. Gross proceeds of sales or gross income derived from other businesses that are located on the premises of a health, fitness, or recreational business shall not be considered when determining whether a health, fitness, or recreational business is a "health or fitness establishment" or a "private recreational establishment" if the other businesses are separate and independent from the health, fitness, or recreational business. Whether the other businesses are separate and independent depends upon the facts in each case. The Department considers several factors in making this determination including but not limited to the following:

1. Whether the business is open to both members and nonmembers;

2. Whether the primary purpose of the business is closely related to the primary purpose of the health, fitness, or recreational business;
3. Whether the business could exist without the health, fitness, or recreational business; and
4. Whether the business shares assets or employees with the health, fitness, or recreational business.

**Historical Note**

Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 13 A.A.R. 682, effective April 7, 2007 (Supp. 07-1).

General and Specific Authorizing Statutes:

42-1005. Powers and duties of director

A. The director shall be directly responsible to the governor for the direction, control and operation of the department and shall:

1. Make such administrative rules as he deems necessary and proper to effectively administer the department and enforce this title and title 43.
2. On or before November 15 of each year issue a written report to the governor and legislature concerning the department's activities during the year. In any election year a copy of this report shall be made available to the governor-elect and to the legislature-elect.
3. On or before December 15 of each year issue a supplemental report which shall also contain proposed legislation recommended by the department for the improvement of the system of taxation in the state.
4. In addition to the report required by paragraph 2 of this subsection, on or before November 15 of each year issue a written report to the governor and legislature detailing the approximate costs in lost revenue for all state tax expenditures in effect at the time of the report. For the purpose of this paragraph, "tax expenditure" means any tax provision in state law which exempts, in whole or in part, any persons, income, goods, services or property from the impact of established taxes including deductions, subtractions, exclusions, exemptions, allowances and credits.
5. Annually, on or before January 10, prepare and submit to the legislature a report containing a summary of all the revisions made to the internal revenue code during the preceding calendar year.
6. Provide such assistance to the governor and the legislature as they may require.
7. Delegate such administrative functions, duties or powers as he deems necessary to carry out the efficient operation of the department.

B. The director may enter into an agreement with the taxing authority of any state which imposes a tax on or measured by income to provide that compensation paid in that state to residents of this state is exempt in that state from liability for income tax, the requirement for filing a tax return and withholding tax from compensation. Compensation paid in this state to residents of that state is reciprocally exempt from the requirements of title 43.

42-5001. Definitions

In this article and article 2 of this chapter, unless the context otherwise requires:

1. "Business" includes all activities or acts, personal or corporate, engaged in or caused to be engaged in with the object of gain, benefit or advantage, either directly or indirectly, but does not include either:

(a) Casual activities or sales.

(b) The transfer of electricity from a solar photovoltaic generation system to an electric utility distribution system.

2. "Distribution base" means the portion of the revenues derived from the tax levied by this article and articles 5 and 8 of this chapter designated for distribution to counties, municipalities and other purposes according to section 42-5029, subsection D.

3. "Engaging", when used with reference to engaging or continuing in business, includes the exercise of corporate or franchise powers.

4. "Gross income" means the gross receipts of a taxpayer derived from trade, business, commerce or sales and the value proceeding or accruing from the sale of tangible personal property or service, or both, and without any deduction on account of losses.

5. "Gross proceeds of sales" means the value proceeding or accruing from the sale of tangible personal property without any deduction on account of the cost of property sold, expense of any kind or losses, but cash discounts allowed and taken on sales are not included as gross income.

6. "Gross income" and "gross proceeds of sales" do not include goods, wares or merchandise, or value thereof, returned by customers if the sale price is refunded either in cash or by credit, nor the value of merchandise traded in on the purchase of new merchandise when the trade-in allowance is deducted from the sales price of the new merchandise before completion of the sale.

7. "Gross receipts" means the total amount of the sale, lease or rental price, as the case may be, of the retail sales of retailers, including any services that are a part of the sales, valued in money, whether received in money or otherwise, including all receipts, cash, credits and property of every kind or nature, and any amount for which credit is allowed by the seller to the purchaser without any deduction from the amount on account of the cost of the property sold, materials used, labor or service performed, interest paid, losses or any other expense. Gross receipts do not include cash discounts allowed and taken nor the sale price of property returned by customers if the full sale price is refunded either in cash or by credit.

8. "Person" or "company" includes an individual, firm, partnership, joint venture, association, corporation, estate or trust, this state, any county, city, town, district, other than a school district, or other political subdivision and any other group or combination acting as a unit, and the plural as well as the singular number.

9. "Qualifying community health center":

(a) Means an entity that is recognized as nonprofit under section 501(c)(3) of the United States internal revenue code, that is a community-based, primary care clinic that has a community-based board of directors and that is either:

(i) The sole provider of primary care in the community.

(ii) A nonhospital affiliated clinic that is located in a federally designated medically underserved area in this state.

(b) Includes clinics that are being constructed as qualifying community health centers.

10. "Qualifying health care organization" means an entity that is recognized as nonprofit under section 501(c) of the United States internal revenue code and that uses, saves or invests at least eighty per cent of all monies that it receives from all sources each year only for health and medical related educational and charitable services, as documented by annual financial audits prepared by an independent certified public accountant, performed according to generally accepted auditing standards and filed annually with the department. Monies that are used, saved or invested to lease, purchase or construct a facility for health and medical related education and charitable services are included in the eighty per cent requirement.

11. "Qualifying health sciences educational institution" means an entity that is recognized as nonprofit under section 501(c) of the United States internal revenue code and that solely provides graduate and postgraduate education in the health sciences. For the purposes of this paragraph, "health sciences" includes medicine, nursing, physician's assistant studies, pharmacy, physical therapy, occupational therapy, biomedical sciences, podiatry, clinical psychology, cardiovascular science, nurse anesthesia, dentistry, optometry and veterinary medicine.

12. "Qualifying hospital" means any of the following:

(a) A licensed hospital which is organized and operated exclusively for charitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(b) A licensed nursing care institution or a licensed residential care institution or a residential care facility operated in conjunction with a licensed nursing care institution or a licensed kidney dialysis center, which provides medical services, nursing services or health related services and is not used or held for profit.

(c) A hospital, nursing care institution or residential care institution which is operated by the federal government, this state or a political subdivision of this state.

(d) A facility that is under construction and that on completion will be a facility under subdivision (a), (b) or (c) of this paragraph.

13. "Retailer" includes every person engaged in the business classified under the retail classification pursuant to section 42-5061 and, when in the opinion of the department it is necessary for the efficient administration of this article, includes dealers, distributors, supervisors, employers and salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, whether in making sales on their own behalf or on behalf of the dealers, distributors, supervisors or employers.

14. "Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatever, including consignment transactions and auctions, of tangible personal property or other activities taxable under this chapter, for a consideration, and includes:

(a) Any transaction by which the possession of property is transferred but the seller retains the title as security for the payment of the price.

(b) Fabricating tangible personal property for consumers who furnish either directly or indirectly the materials used in the fabrication work.

(c) Furnishing, preparing or serving for a consideration any tangible personal property consumed on the premises of the person furnishing, preparing or serving the tangible personal property.

15. "Solar daylighting" means a device that is specifically designed to capture and redirect the visible portion of the solar beam, while controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.

16. "Solar energy device" means a system or series of mechanisms designed primarily to provide heating, to provide cooling, to produce electrical power, to produce mechanical power, to provide solar daylighting or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means, including wind generator systems that produce electricity. Solar energy systems may also have the capability of storing solar energy for future use. Passive systems shall clearly be designed as a solar energy device, such as a trombe wall, and not merely as a part of a normal structure, such as a window.

17. "Tangible personal property" means personal property which may be seen, weighed, measured, felt or touched or is in any other manner perceptible to the senses.

18. "Tax year" or "taxable year" means either the calendar year or the taxpayer's fiscal year, if permission is obtained from the department to use a fiscal year as the tax period instead of the calendar year.

19. "Taxpayer" means any person who is liable for any tax which is imposed by this article.

20. "Wholesaler" or "jobber" means any person who sells tangible personal property for resale and not for consumption by the purchaser.

42-5061. Retail classification; definitions

A. The retail classification is comprised of the business of selling tangible personal property at retail. The tax base for the retail classification is the gross proceeds of sales or gross income derived from the business. The tax imposed on the retail classification does not apply to the gross proceeds of sales or gross income from:

1. Professional or personal service occupations or businesses that involve sales or transfers of tangible personal property only as inconsequential elements.
2. Services rendered in addition to selling tangible personal property at retail.
3. Sales of warranty or service contracts. The storage, use or consumption of tangible personal property provided under the conditions of such contracts is subject to tax under section 42-5156.
4. Sales of tangible personal property by any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.
5. Sales to persons engaged in business classified under the restaurant classification of articles used by human beings for food, drink or condiment, whether simple, mixed or compounded.
6. Business activity that is properly included in any other business classification that is taxable under this article.
7. The sale of stocks and bonds.
8. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.
9. Prosthetic appliances as defined in section 23-501 prescribed or recommended by a health professional who is licensed pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
10. Insulin, insulin syringes and glucose test strips.
11. Prescription eyeglasses or contact lenses.

12. Hearing aids as defined in section 36-1901.

13. Durable medical equipment that has a center for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

14. Sales of motor vehicles to nonresidents of this state for use outside this state if the motor vehicle dealer ships or delivers the motor vehicle to a destination out of this state.

15. Food, as provided in and subject to the conditions of article 3 of this chapter and section 42-5074.

16. Items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786).

17. Textbooks by any bookstore that are required by any state university or community college.

18. Food and drink to a person that is engaged in a business that is classified under the restaurant classification and that provides such food and drink without monetary charge to its employees for their own consumption on the premises during the employees' hours of employment.

19. Articles of food, drink or condiment and accessory tangible personal property to a school district or charter school if such articles and accessory tangible personal property are to be prepared and served to persons for consumption on the premises of a public school within the district or on the premises of the charter school during school hours.

20. Lottery tickets or shares pursuant to title 5, chapter 5.1, article 1.

21. The sale of cash equivalents and the sale of precious metal bullion and monetized bullion to the ultimate consumer, but the sale of coins or other forms of money for manufacture into jewelry or works of art is subject to the tax and the gross proceeds of sales or gross income derived from the redemption of any cash equivalent by the holder as a means of payment for goods or services that are taxable under this article is subject to the tax. For the purposes of this paragraph:

(a) "Cash equivalents" means items or intangibles, whether or not negotiable, that are sold to one or more persons, through which a value denominated in money is purchased in advance and may be redeemed in full or in part for tangible personal property, intangibles or services. Cash equivalents include gift cards, stored value cards, gift

certificates, vouchers, traveler's checks, money orders or other instruments, orders or electronic mechanisms, such as an electronic code, personal identification number or digital payment mechanism, or any other prepaid intangible right to acquire tangible personal property, intangibles or services in the future, whether from the seller of the cash equivalent or from another person. Cash equivalents do not include either of the following:

(i) Items or intangibles that are sold to one or more persons, through which a value is not denominated in money.

(ii) Prepaid calling cards or prepaid authorization numbers for telecommunications services made taxable by subsection P of this section.

(b) "Monetized bullion" means coins and other forms of money that are manufactured from gold, silver or other metals and that have been or are used as a medium of exchange in this or another state, the United States or a foreign nation.

(c) "Precious metal bullion" means precious metal, including gold, silver, platinum, rhodium and palladium, that has been smelted or refined so that its value depends on its contents and not on its form.

22. Motor vehicle fuel and use fuel that are subject to a tax imposed under title 28, chapter 16, article 1, sales of use fuel to a holder of a valid single trip use fuel tax permit issued under section 28-5739, sales of aviation fuel that are subject to the tax imposed under section 28-8344 and sales of jet fuel that are subject to the tax imposed under article 8 of this chapter.

23. Tangible personal property sold to a person engaged in the business of leasing or renting such property under the personal property rental classification if such property is to be leased or rented by such person.

24. Tangible personal property sold in interstate or foreign commerce if prohibited from being so taxed by the constitution of the United States or the constitution of this state.

25. Tangible personal property sold to:

(a) A qualifying hospital as defined in section 42-5001.

(b) A qualifying health care organization as defined in section 42-5001 if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

(c) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind and visually impaired children and children with multiple disabilities from the time of birth to age twenty-one.

(d) A qualifying community health center as defined in section 42-5001.

(e) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(f) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

(g) A qualifying health sciences educational institution as defined in section 42-5001.

(h) Any person representing or working on behalf of another person described in subdivisions (a) through (g) of this paragraph if the tangible personal property is incorporated or fabricated into a project described in section 42-5075, subsection O.

26. Magazines or other periodicals or other publications by this state to encourage tourist travel.

27. Tangible personal property sold to:

(a) A person that is subject to tax under this article by reason of being engaged in business classified under section 42-5075 or to a subcontractor working under the control of a person engaged in business classified under section 42-5075, if the property so sold is any of the following:

(i) Incorporated or fabricated by the person into any real property, structure, project, development or improvement as part of the business.

(ii) Incorporated or fabricated by the person into any project described in section 42-5075, subsection O.

(iii) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

(b) A person that is not subject to tax under section 42-5075 and that has been provided a copy of a certificate under section 42-5009, subsection L, if the property so sold is incorporated or fabricated by the person into the real property, structure, project, development or improvement described in the certificate.

28. The sale of a motor vehicle to:

(a) A nonresident of this state if the purchaser's state of residence does not allow a corresponding use tax exemption to the tax imposed by article 1 of this chapter and if the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01.

(b) An enrolled member of an Indian tribe who resides on the Indian reservation established for that tribe.

29. Tangible personal property purchased in this state by a nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for persons with mental or physical disabilities if the programs are exclusively for training, job placement, rehabilitation or testing.

30. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

31. Sales of commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

32. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

33. Sales of seeds, seedlings, roots, bulbs, cuttings and other propagative material to persons who use those items to commercially produce agricultural, horticultural, viticultural or floricultural crops in this state.

34. Machinery, equipment, technology or related supplies that are only useful to assist a person with a physical disability as defined in section 46-191 or a person who has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

35. Sales of natural gas or liquefied petroleum gas used to propel a motor vehicle.

36. Paper machine clothing, such as forming fabrics and dryer felts, sold to a paper manufacturer and directly used or consumed in paper manufacturing.

37. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity sold to a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for twenty full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

38. Sales of liquid, solid or gaseous chemicals used in manufacturing, processing, fabricating, mining, refining, metallurgical operations, research and development and, beginning on January 1, 1999, printing, if using or consuming the chemicals, alone or as part of an integrated system of chemicals, involves direct contact with the materials from which the product is produced for the purpose of causing or permitting a chemical or physical change to occur in the materials as part of the production process. This paragraph does not include chemicals that are used or consumed in activities such as packaging, storage or transportation but does not affect any deduction for such chemicals that is otherwise provided by this section. For the purposes of this paragraph, "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

39. Through December 31, 1994, personal property liquidation transactions, conducted by a personal property liquidator. From and after December 31, 1994, personal property liquidation transactions shall be taxable under this section provided that nothing in this subsection shall be construed to authorize the taxation of casual activities or transactions under this chapter. For the purposes of this paragraph:

(a) "Personal property liquidation transaction" means a sale of personal property made by a personal property liquidator acting solely on behalf of the owner of the personal property sold at the dwelling of the owner or on the death of any owner, on behalf of the surviving spouse, if any, any devisee or heir or the personal representative of the estate of the deceased, if one has been appointed.

(b) "Personal property liquidator" means a person who is retained to conduct a sale in a personal property liquidation transaction.

40. Sales of food, drink and condiment for consumption within the premises of any prison, jail or other institution under the jurisdiction of the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

41. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing or renting such property.

42. Livestock and poultry feed, salts, vitamins and other additives for livestock or poultry consumption that are sold to persons who are engaged in producing livestock, poultry, or livestock or poultry products or who are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

43. Sales of implants used as growth promotants and injectable medicines, not already exempt under paragraph 8 of this subsection, for livestock or poultry owned by or in possession of persons who are engaged in producing livestock, poultry, or livestock or poultry products or who are engaged in feeding livestock or poultry commercially. For the purposes of this paragraph, "poultry" includes ratites.

44. Sales of motor vehicles at auction to nonresidents of this state for use outside this state if the vehicles are shipped or delivered out of this state, regardless of where title to the motor vehicles passes or its free on board point.

45. Tangible personal property sold to a person engaged in business and subject to tax under the transient lodging classification if the tangible personal property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, that are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

46. Sales of alternative fuel, as defined in section 1-215, to a used oil fuel burner who has received a permit to burn used oil or used oil fuel under section 49-426 or 49-480.

47. Sales of materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

(a) Printed or photographic materials, beginning August 7, 1985.

(b) Electronic or digital media materials, beginning July 17, 1994.

48. Tangible personal property sold to a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

49. Sales of alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.

50. Sales of any spirituous, vinous or malt liquor by a person that is licensed in this state as a wholesaler by the department of liquor licenses and control pursuant to title 4, chapter 2, article 1.

51. Sales of tangible personal property to be incorporated or installed as part of environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.

52. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

53. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for any school district, charter school, community college or state university. For the purposes of this paragraph:

(a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.

(b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

54. Sales of motor vehicle fuel and use fuel to a qualified business under section 41-1516 for off-road use in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

55. Sales of repair parts installed in equipment used directly by a qualified business under section 41-1516 in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

56. Sales or other transfers of renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this paragraph, "renewable energy credit" means a unit created administratively by the corporation commission or governing body of a public power utility to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

57. Computer data center equipment purchased by the owner, operator or qualified colocation tenant of the computer data center or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in a computer data center that is certified by the Arizona commerce authority under section 41-1519. To qualify for this deduction, at the time of purchase, the owner, operator or qualified colocation tenant must present to the retailer its certificate that is issued pursuant to section 41-1519 and that establishes its qualification for the deduction. For the purposes of this paragraph, "computer data center", "computer data center

equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

58. Orthodontic devices dispensed by a dental professional who is licensed under title 32, chapter 11 to a patient as part of the practice of dentistry.

59. Sales of tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection O, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

(a) "Affiliated Indian" means an individual native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.

(b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.

(c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of the Indian tribe.

B. In addition to the deductions from the tax base prescribed by subsection A of this section, the gross proceeds of sales or gross income derived from sales of the following categories of tangible personal property shall be deducted from the tax base:

1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

2. Mining machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface. "Mining" includes underground, surface and open pit operations for extracting ores and minerals.

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection O, and consisting of central office switching equipment, switchboards, private branch exchange equipment,

microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media that are components of carrier systems.

4. Machinery, equipment or transmission lines used directly in producing or transmitting electrical power, but not including distribution. Transformers and control equipment used at transmission substation sites constitute equipment used in producing or transmitting electrical power.

5. Neat animals, horses, asses, sheep, raptures, swine or goats used or to be used as breeding or production stock, including sales of breedings or ownership shares in such animals used for breeding or production.

6. Pipes or valves four inches in diameter or larger used to transport oil, natural gas, artificial gas, water or coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:

(a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation regulations (14 Code of Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

(b) Any foreign government.

(c) Persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state. This subdivision also applies to corporations that are not incorporated in this state, regardless of maintaining a place of business in this state, if the principal corporate office is located outside this state and the property will not be used in this state other than in removing the property from this state.

8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

9. Railroad rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

10. Machinery or equipment used directly to drill for oil or gas or used directly in the process of extracting oil or gas from the earth for commercial purposes.

11. Buses or other urban mass transit vehicles that are used directly to transport persons or property for hire or pursuant to a governmentally adopted and controlled urban mass transportation program and that are sold to bus companies holding a federal certificate of

convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

12. Groundwater measuring devices required under section 45-604.

13. New machinery and equipment consisting of tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 6 of this subsection and that are used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state. For the purposes of this paragraph:

(a) "New machinery and equipment" means machinery and equipment that have never been sold at retail except pursuant to leases or rentals that do not total two years or more.

(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

14. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an integral part of the prototype or new product or that is required for machinery or equipment otherwise exempt under this section to function effectively. Research and development do not include manufacturing quality control, routine consumer product testing, market research, sales promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

15. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:

(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations part 25.

(b) Any satellite television or data transmission facility, if both of the following conditions are met:

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations part 25.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services.

For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

16. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 14 of this subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

17. Machinery and equipment used directly in the feeding of poultry, the environmental control of housing for poultry, the movement of eggs within a production and packaging facility or the sorting or cooling of eggs. This exemption does not apply to vehicles used for transporting eggs.

18. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

19. Machinery and equipment that are sold to a person engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection O, if the machinery and equipment are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

20. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

(a) Repair or replacement parts purchased for the machinery or equipment described in this paragraph.

(b) Machinery or equipment purchased to replace machinery or equipment for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

21. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2024 by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this deduction, the qualified business at the time of purchase must present its certification approved by the department.

C. The deductions provided by subsection B of this section do not include sales of:

1. Expendable materials. For the purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 15 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

8. Machinery and equipment or other tangible personal property used by a contractor in the performance of a contract.

D. In addition to the deductions from the tax base prescribed by subsection A of this section, there shall be deducted from the tax base the gross proceeds of sales or gross income derived from sales of machinery, equipment, materials and other tangible personal property used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility as described in section 41-1514.02. This subsection applies for ten full consecutive calendar or fiscal years after the start of initial construction.

E. In computing the tax base, gross proceeds of sales or gross income from retail sales of heavy trucks and trailers does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4051.

F. If a person is engaged in an occupation or business to which subsection A of this section applies, the person's books shall be kept so as to show separately the gross proceeds of sales of tangible personal property and the gross income from sales of services, and if not so kept the tax shall be imposed on the total of the person's gross proceeds of sales of tangible personal property and gross income from services.

G. If a person is engaged in the business of selling tangible personal property at both wholesale and retail, the tax under this section applies only to the gross proceeds of the sales made other than at wholesale if the person's books are kept so as to show separately the gross proceeds of sales of each class, and if the books are not so kept, the tax under this section applies to the gross proceeds of every sale so made.

H. A person who engages in manufacturing, baling, crating, boxing, barreling, canning, bottling, sacking, preserving, processing or otherwise preparing for sale or commercial use any livestock, agricultural or horticultural product or any other product, article, substance or commodity and who sells the product of such business at retail in this state is deemed, as to such sales, to be engaged in business classified under the retail classification. This subsection does not apply to businesses classified under the:

1. Transporting classification.
2. Utilities classification.
3. Telecommunications classification.
4. Pipeline classification.
5. Private car line classification.
6. Publication classification.

7. Job printing classification.

8. Prime contracting classification.

9. Restaurant classification.

I. The gross proceeds of sales or gross income derived from the following shall be deducted from the tax base for the retail classification:

1. Sales made directly to the United States government or its departments or agencies by a manufacturer, modifier, assembler or repairer.

2. Sales made directly to a manufacturer, modifier, assembler or repairer if such sales are of any ingredient or component part of products sold directly to the United States government or its departments or agencies by the manufacturer, modifier, assembler or repairer.

3. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract.

4. Sales of overhead materials or other tangible personal property to a manufacturer, modifier, assembler or repairer if the gross proceeds of sales or gross income derived from the property by the manufacturer, modifier, assembler or repairer will be exempt under paragraph 3 of this subsection.

J. There shall be deducted from the tax base fifty percent of the gross proceeds or gross income from any sale of tangible personal property made directly to the United States government or its departments or agencies that is not deducted under subsection I of this section.

K. The department shall require every person claiming a deduction provided by subsection I or J of this section to file on forms prescribed by the department at such times as the department directs a sworn statement disclosing the name of the purchaser and the exact amount of sales on which the exclusion or deduction is claimed.

L. In computing the tax base, gross proceeds of sales or gross income does not include:

1. A manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.

2. The waste tire disposal fee imposed pursuant to section 44-1302.

M. There shall be deducted from the tax base the amount received from sales of solar energy devices. The retailer shall register with the department as a solar energy retailer. By registering, the retailer acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

N. In computing the tax base in the case of the sale or transfer of wireless telecommunications equipment as an inducement to a customer to enter into or continue a contract for telecommunications services that are taxable under section 42-5064, gross proceeds of sales or gross income does not include any sales commissions or other compensation received by the retailer as a result of the customer entering into or continuing a contract for the telecommunications services.

O. For the purposes of this section, a sale of wireless telecommunications equipment to a person who holds the equipment for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064 is considered to be a sale for resale in the regular course of business.

P. Retail sales of prepaid calling cards or prepaid authorization numbers for telecommunications services, including sales of reauthorization of a prepaid card or authorization number, are subject to tax under this section.

Q. For the purposes of this section, the diversion of gas from a pipeline by a person engaged in the business of:

1. Operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.

2. Converting natural gas into liquefied natural gas, for the sole purpose of fueling compressor equipment used in the conversion process, is not a sale of gas to the operator of the compressor equipment.

R. For the purposes of this section, the transfer of title or possession of coal from an owner or operator of a power plant to a person in the business of refining coal is not a sale of coal if both of the following apply:

1. The transfer of title or possession of the coal is for the purpose of refining the coal.

2. The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this paragraph, "coal refining process" means the application of a coal additive system that aids in the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

S. If a seller is entitled to a deduction pursuant to subsection B, paragraph 15, subdivision (b) of this section, the department may require the purchaser to establish that the

requirements of subsection B, paragraph 15, subdivision (b) of this section have been satisfied. If the purchaser cannot establish that the requirements of subsection B, paragraph 15, subdivision (b) of this section have been satisfied, the purchaser is liable in an amount equal to any tax, penalty and interest which the seller would have been required to pay under article 1 of this chapter if the seller had not made a deduction pursuant to subsection B, paragraph 15, subdivision (b) of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and related to the tangible personal property purchased. The amount shall be treated as transaction privilege tax to the purchaser and as tax revenues collected from the seller to designate the distribution base pursuant to section 42-5029.

T. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the retail classification from businesses selling tangible personal property at retail:

1. On the premises of a multipurpose facility that is owned, leased or operated by the tourism and sports authority pursuant to title 5, chapter 8.
2. At professional football contests that are held in a stadium located on the campus of an institution under the jurisdiction of the Arizona board of regents.

U. In computing the tax base for the sale of a motor vehicle to a nonresident of this state, if the purchaser's state of residence allows a corresponding use tax exemption to the tax imposed by article 1 of this chapter and the rate of the tax in the purchaser's state of residence is lower than the rate prescribed in article 1 of this chapter or if the purchaser's state of residence does not impose an excise tax, and the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall be deducted from the tax base a portion of the gross proceeds or gross income from the sale so that the amount of transaction privilege tax that is paid in this state is equal to the excise tax that is imposed by the purchaser's state of residence on the nonexempt sale or use of the motor vehicle.

V. For the purposes of this section:

1. "Aircraft" includes:

- (a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.
- (b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

2. "Other accessories and related equipment" includes aircraft accessories and equipment such as ground service equipment that physically contact aircraft at some point during the overall carrier operation.

3. "Selling at retail" means a sale for any purpose other than for resale in the regular course of business in the form of tangible personal property, but transfer of possession, lease and rental as used in the definition of sale mean only such transactions as are found on investigation to be in lieu of sales as defined without the words lease or rental.

W. For the purposes of subsection I of this section:

1. "Assembler" means a person who unites or combines products, wares or articles of manufacture so as to produce a change in form or substance without changing or altering the component parts.

2. "Manufacturer" means a person who is principally engaged in the fabrication, production or manufacture of products, wares or articles for use from raw or prepared materials, imparting to those materials new forms, qualities, properties and combinations.

3. "Modifier" means a person who reworks, changes or adds to products, wares or articles of manufacture.

4. "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from that would otherwise be included in the retail classification, and that are used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based on generally accepted accounting principles and consistent with government contract accounting standards.

5. "Repairer" means a person who restores or renews products, wares or articles of manufacture.

6. "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.

42-5073. Amusement classification

A. The amusement classification is comprised of the business of operating or conducting theaters, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, menageries, fairs, races, contests, games, billiard or pool parlors, bowling alleys, public dances, dance halls, boxing and wrestling matches, skating rinks, tennis courts, except as provided in subsection B of this section, video games, pinball machines, sports events or any other business charging admission or user fees for exhibition, amusement or entertainment, including the operation or sponsorship of events by a tourism and sports authority under title 5, chapter 8. For the purposes of this section, admission or user fees include, but are not limited to, any revenues derived from any form of contractual agreement for rights to or use of premium or special seating facilities or arrangements. The amusement classification does not include:

1. Activities or projects of bona fide religious or educational institutions.
2. Private or group instructional activities. For the purposes of this paragraph, "private or group instructional activities" includes, but is not limited to, performing arts, martial arts, gymnastics and aerobic instruction.
3. The operation or sponsorship of events by the Arizona exposition and state fair board or county fair commissions.
4. A musical, dramatic or dance group or a botanical garden, museum or zoo that is qualified as a nonprofit charitable organization under section 501(c)(3) of the United States internal revenue code and if no part of its net income inures to the benefit of any private shareholder or individual.
5. Exhibition events in this state sponsored, conducted or operated by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with major league baseball teams or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.
6. Operating or sponsoring rodeos that feature primarily farm and ranch animals in this state and that are sponsored, conducted or operated by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.
7. Sales of admissions to intercollegiate football contests if the contests are both:

(a) Operated by a nonprofit organization that is exempt from taxation under section 501(c)(3) of the internal revenue code and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

(b) Not held in a multipurpose facility that is owned or operated by the tourism and sports authority pursuant to title 5, chapter 8.

8. Activities and events of, or fees and assessments received by, a homeowners organization from persons who are members of the organization or accompanied guests of members. For the purposes of this paragraph, "homeowners organization" means a mandatory membership organization comprised of owners of residential property within a specified residential real estate subdivision development or similar area and established to own property for the benefit of its members where both of the following apply:

(a) No part of the organization's net earnings inures to the benefit of any private shareholder or individual.

(b) The primary purpose of the organization is to provide for the acquisition, construction, management, maintenance or care of organization property.

9. Activities and events of, or fees received by, a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

10. Arranging an amusement activity as a service to a person's customers if that person is not otherwise engaged in the business of operating or conducting an amusement personally or through others. This exception does not apply to businesses that operate or conduct amusements pursuant to customer orders and send the billings and receive the payments associated with that activity, including when the amusement is performed by third party independent contractors. For the purposes of this paragraph, "arranging" includes billing for or collecting amusement charges from a person's customers on behalf of the persons providing the amusement.

B. The tax base for the amusement classification is the gross proceeds of sales or gross income derived from the business, except that the following shall be deducted from the tax base:

1. The gross proceeds of sales or gross income derived from memberships, including initiation fees, which provide for the right to use a health or fitness establishment or a private recreational establishment, or any portion of an establishment, including tennis and other racquet courts at that establishment, for participatory purposes for twenty-eight days or more and fees charged for use of the health or fitness establishment or private recreational establishment by bona fide accompanied guests of members, except that this paragraph does not include additional fees, other than initiation fees, charged by a health

or fitness establishment or a private recreational establishment for purposes other than memberships which provide for the right to use a health or fitness establishment or private recreational establishment, or any portion of an establishment, for participatory purposes for twenty-eight days or more and accompanied guest use fees.

2. Amounts that are exempt under section 5-111, subsection H.

3. The gross proceeds of sales or gross income derived from membership fees, including initiation fees, that provide for the right to use a transient lodging recreational establishment, including golf courses and tennis and other racquet courts at that establishment, for participatory purposes for twenty-eight days or more, except that this paragraph does not include additional fees, other than initiation fees, that are charged by a transient lodging recreational establishment for purposes other than memberships and that provide for the right to use a transient lodging recreational establishment or any portion of the establishment for participatory purposes for twenty-eight days or more.

4. The gross proceeds of sales or gross income derived from sales to persons engaged in the business of transient lodging classified under section 42-5070, if all of the following apply:

(a) The persons who are engaged in the transient lodging business sell the amusement to another person for consideration.

(b) The consideration received by the transient lodging business is equal to or greater than the amount to be deducted under this subsection.

(c) The transient lodging business has provided an exemption certificate to the person engaging in business under this section.

5. The gross proceeds of sales or gross income derived from:

(a) Business activity that is properly included in any other business classification under this article and that is taxable to the person engaged in that classification, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

(b) Business activity that is arranged by the person who is subject to tax under this section and that is not taxable to the person conducting the activity due to an exclusion, exemption or deduction under this section or section 42-5062, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

(c) Business activity that is arranged by a person who is subject to tax under this section and that is taxable to another person under this section who conducts the activity, but the gross proceeds of sales or gross income to be deducted shall not exceed the consideration paid to the person conducting the activity.

C. For the purposes of subsection B of this section:

1. "Health or fitness establishment" means a facility whose primary purpose is to provide facilities, equipment, instruction or education to promote the health and fitness of its members and at least eighty per cent of the monthly gross revenue of the facility is received through accounts of memberships and accompanied guest use fees which provide for the right to use the facility, or any portion of the facility, under the terms of the membership agreement for participatory purposes for twenty-eight days or more.

2. "Private recreational establishment" means a facility whose primary purpose is to provide recreational facilities, such as tennis, golf and swimming, for its members and where at least eighty per cent of the monthly gross revenue of the facility is received through accounts of memberships and accompanied guest use fees which provide for the right to use the facility, or any portion of the facility, for participatory purposes for twenty-eight days or more.

3. "Transient lodging recreational establishment" means a facility whose primary purpose is to provide facilities for transient lodging, that is subject to taxation under this chapter and that also provides recreational facilities, such as tennis, golf and swimming, for members for a period of twenty-eight days or more.

D. Until December 31, 1988, the revenues from hayrides and other animal-drawn amusement rides, from horseback riding and riding instruction and from recreational tours using motor vehicles designed to operate on and off public highways are exempt from the tax imposed by this section. Beginning January 1, 1989, the gross proceeds or gross income from hayrides and other animal-drawn amusement rides, from horseback riding and from recreational tours using motor vehicles designed to operate on and off public highways are subject to taxation under this section. Tax liabilities, penalties and interest paid for taxable periods before January 1, 1989 shall not be refunded unless the taxpayer requesting the refund provides proof satisfactory to the department that the taxes will be returned to the customer.

E. If a person is engaged in the business of offering both exhibition, amusement or entertainment and private or group instructional activities, the person's books shall be kept to show separately the gross income from exhibition, amusement or entertainment and the gross income from instructional activities. If the books do not provide this separate accounting, the tax is imposed on the person's total gross income from the business.

F. The department shall separately account for revenues collected under the amusement classification for the purposes of section 42-5029, subsection D, paragraph 4, subdivision (b).

G. For purposes of section 42-5032.01, the department shall separately account for revenues collected under the amusement classification from sales of admissions to:

1. Events that are held in a multipurpose facility that is owned or operated by the tourism and sports authority pursuant to title 5, chapter 8, including intercollegiate football contests that are operated by a nonprofit organization that is exempt from taxation under section 501(c)(3) of the internal revenue code.

2. Professional football contests that are held in a stadium located on the campus of an institution under the jurisdiction of the Arizona board of regents.

**DEPARTMENT OF ADMINISTRATION**

Title 2, Chapter 10, Department of Administration - Risk Management Division



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - FIVE-YEAR REVIEW REPORT

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**MEETING DATE:** February 2, 2021

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** January 14, 2021

**SUBJECT:** Arizona Department of Administration  
Title 2, Chapter 10, Article 3

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This Five-Year-Review Report (5YRR) from the Department of Administration (DOA) relates to rules in Title 2, Chapter 10, Article 3, regarding Risk Management. The report covers the following rule:

**R2-10-301 - Insurance: Purchase and Contracts**

The Department did not propose a course of action in the last 5YRR.

### **Proposed Action**

DOA is not proposing any changes to the rule.

**1. Has the agency analyzed whether the rules are authorized by statute?**

Yes, the Department cites to both general and specific statutory authority.

2. **Summary of the agency's economic impact comparison and identification of stakeholders:**

The Department oversees policies and procedures for Risk Management in administering liability insurance for state agencies. The Department has determined that the economic impact from the previous five year review has remained unchanged, and does not have any adverse impact on small business, consumers, or other state agencies.

The stakeholders include: the Department and any other state agencies subject to the rule. The Department is impacted by ensuring the policies and procedures regarding liability insurance for state agencies are met. State agencies are impacted by having to ensure that they meet the standards set by the Department.

3. **Has the agency analyzed the costs and benefits of the rulemaking and determined that the rules impose the least burden and costs to those who are regulated?**

The Department believes that the rule imposes the least burden and costs to the agencies regulated by the rule. Risk Management has ensured the policies, procedures, paperwork, and compliance costs effectively work for agencies, but that they are also efficient, cost effective, and necessary to achieving the regulatory objectives for the Department to properly manage insurance for the state.

4. **Has the agency received any written criticisms of the rules over the last five years?**

Yes, the Department indicates they have not received any written criticisms to the rule.

5. **Has the agency analyzed the rules' clarity, conciseness, and understandability?**

Yes, the Department indicates the rule is clear, concise, and understandable.

6. **Has the agency analyzed the rules' consistency with other rules and statutes?**

Yes, the Department indicates the rule is consistent with other rules and statutes.

7. **Has the agency analyzed the rules' effectiveness in achieving its objectives?**

Yes, the Department indicates the rule is effective in achieving its objective.

8. **Has the agency analyzed the current enforcement status of the rules?**

Yes, the Department indicates the rule is enforced as written.

9. **Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

Not applicable, there are no corresponding federal laws.

10. **For rules adopted after July 29, 2010, do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

Not applicable. The rule does not require the issuance of a permit.

11. **Conclusion**

As mentioned above, the report contains only one rule, R2-10-301. Currently, the Department is not proposing any changes to the rule. The rule is over clear, concise and understandable. Council staff recommends approval of this report.

**Douglas A. Ducey**  
Governor



**Andy Tobin**  
Director

**ARIZONA DEPARTMENT OF ADMINISTRATION**

OFFICE OF THE DIRECTOR  
100 NORTH FIFTEENTH AVENUE • SUITE 403  
PHOENIX, ARIZONA 85007  
(602) 542-1500

December 10, 2020

Nicole Sornsin, Chair  
Governor's Regulatory Review Council  
100 N. 15<sup>th</sup> Avenue, Suite 402  
Phoenix, Arizona 85007

Dear Mrs. Sornsin:

In compliance with A.R.S. § 41-1056, the Arizona Department of Administration (ADOA) submits a report of its five-year-review of Title 2, Chapter 10 of the Arizona Administrative Code. I certify that the Department is in compliance with A.R.S. § 41-1091. This Chapter contains rules authorized by statute that govern the administering of liability insurance for state agencies.

If you have any questions regarding this five-year-review report or need additional information prior to the council meeting when the report is considered, please contact Liz Pence, ADOA State Risk Manager at (602) 542-1461. Individuals from the Department will be present at the council meeting to answer any questions that the members may have about this five-year-review report.

Sincerely,

  
[Andrew Tobin \(Dec 10, 2020 15:32 MST\)](#)

Andy Tobin  
Director

cc: Liz Pence, State Risk Manager



**ADOA-Risk Management Division  
Five Year Review Report  
A.A.C. Title 2, Chapter 10, Article 3**

Introduction

The Department adopted rules as authorized by statute to provide policies and procedures in administering liability insurance for state agencies. The rules were adopted July 27, 1983 and include R2-10-301 through R2-10-304, inclusive. R2-10-302 through R2-10-304 was repealed by rulemaking dated December 18, 1992.

The Department amended R2-10-301 in December 2005 and requested a rescheduling of the five-year report due date based on this rulemaking. The amended rule was approved by GRRC on December 6, 2005. The approved rule was published in the *Register* on December 30, 2005 and became effective February 4, 2006.

Except as otherwise noted, the following information is identical for the rule in this Article: R2-10-301.

1. General and specific statutes authorizing the rules:

A.R.S. §41-621 – Provides general authority for the rule

A.R.S. §§ 41-621(Q) and 41-623(A) – Provides specific authority for the rule

2. Objective of the rules including the purpose for the existence of the rules:

The Department believes the rules are effective in achieving their objective.

The objective of the rule is to establish the Department's policies and procedures for Risk Management in administering liability insurance for state agencies.

**Article 3 Risk Management**

**R2-10-301 Insurance: Purchase and Contracts**

R2-10-301 prescribes the approval procedures for state agencies to follow when seeking insurance or entering into contractual agreements that expand the state's liabilities.

3. Effectiveness of the rules in achieving the objective, including a summary of any available data supporting the conclusion reached:

The rules effectively achieve their objective.

4. Consistency of the rules with other rules and statutes:

The Department believes the following rule is consistent with state rule(s): R2-10-301.

5. Agency enforcement policy, including whether the rules are currently being enforced and, if so, whether there are any problems with enforcement:

The Department is currently enforcing the following rule: R2-10-301.

6. Clarity, conciseness, and understandability of the rules:

The Department considers the language for the rule to be clear, concise, and understandable.

7. Summary of the written criticisms of the rules received by the agency within the five years immediately preceding the five-year review report, including letters, memoranda, reports, written analysis submitted to agency questioning whether the rules are based on valid scientific or reliable principles or methods, and written allegations made in litigation or administrative proceedings in which the agency was a party that the rules are discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the result of the litigation or administrative proceedings:

The Department has not received written criticisms regarding the rules during the last five years.

8. A comparison of the current economic, small business, and consumer impact of the rules with economic, small business, and consumer impact statement prepared on the last rulemaking of the rule or, if no economic, small business, and consumer impact statement was prepared on the last rulemaking of the rule, an assessment of the actual economic, small business, and consumer impact of the rules:

The information provided with the last adoption of rule in December 2005 estimated that there would be no adverse impact on small business as it does not impose any new requirements nor does it amend any existing requirements impacting small business. Consumers are not impacted by these rules.

Since the last review, the Department currently estimates that the rule does not have any adverse impact on small business or consumers in the state, nor has the effect on state agencies changed.

9. Any analysis submitted to the agency by another person regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of businesses in other states:

None

10. If applicable, has the agency completed the course of action indicated in the agency's previous five-year review report?:

The Department indicated in the previous five-year review report that no course of action was necessary for the rules.

11. A determination that the probable benefits of the rules outweigh within this state the probable costs of the rules, and the rules impose the least burden and costs to persons regulated by the rules, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective:

The Department believes that the rule imposes the least burden and costs to the agencies regulated by the rule. Risk Management has made every effort to ensure the policies, procedures, paperwork, and compliance costs effectively work for agencies, but that they are also efficient, cost effective, and necessary to achieving the regulatory objectives for the Department to properly manage insurance for the state.

12. A determination that the rules are not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law, indicating whether:

- a. There is a similar regulatory framework governing the same subject matter under federal law,

There is no similar regulatory framework or federal law applicable to the subject matter of the rules.

- b. The rules are more restrictive than a similar requirement in federal law, and

There is no similar requirement in federal law.

- c. There is statutory authority for more restrictive requirements than those in federal law.

Federal law does not apply to this rule.

13. For a rule adopted after July 29, 2010, that requires issuance of a regulatory permit, license or agency authorization, whether the rule complies with A.R.S. § 41-1037, indicating whether:

- a. The rule requires issuance of a regulatory permit, license, or agency authorization;

Not applicable.

- b. The permit, license, or agency authorization falls within the definition of “general permit” in A.R.S. § 41-1001, if a permit, license or agency authorization is issued; or

Not applicable as answer was provided in 13(a).

- c. An exception applies under A.R.S. § 41-1037, if a general permit is not issued.

Not applicable as answer was provided in 13(a).

- 14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

The Department is not considering a course of action in amending the rules at this time.

Title 2, Chapter 10, Article 3

Risk Management Division

Article 3 – Insurance: Purchase and Contracts

RULE TEXT

### ARTICLE 3. INSURANCE: PURCHASE AND CONTRACTS

#### **R2-10-301. Insurance: Purchase and Contracts**

- A.** An agency seeking to purchase property, liability, or workers' compensation insurance shall request RM's approval in writing at least 90 days before the desired effective date of coverage.
- RM shall not reimburse an agency for the purchase of property, liability, or workers' compensation insurance that has not been approved by RM.
- B.** An agency shall submit a written request for approval to RM before the agency does one or more of the following:
1. Names a non-state entity as an additional insured in a contract;
  2. Provides a Certificate of Insurance;
  3. Indemnifies, holds harmless, or limits the liability of any party to a contract, lease, or other written agreement; or
  4. Waives the state's right to subrogate with regard to any party to a contract, lease, or other written agreement.
- C.** The written request prescribed in subsection (B) shall be signed by the agency director and include all of the following:
1. The circumstances of the request;
  2. Whether the party to the contract, lease, or written agreement is a sole source for the state;
  3. The level or additional risk of loss to the state resulting from the requested action;
  4. Whether the requested action helps the agency accomplish the agency's mission; and
  5. An explanation of why the action to be approved is in the best interest of the state.
- D.** If a contract requires the state to be named as an additional insured, the contracting agency shall place the name of the contracting agency and the state on the additional insured endorsement.

#### **Historical Note**

Adopted effective July 27, 1983 (Supp. 83-4). Amended effective June 12, 1989 (Supp. 89-2). Amended effective December 18, 1992 (Supp. 92-4). Amended effective January 12, 1995 (Supp. 95-1). Amended by final rulemaking at 11 A.A.R. 5453, effective February 4, 2006 (Supp. 05-4).

#### **R2-10-302. Repealed**

#### **Historical Note**

Adopted effective July 27, 1983 (Supp. 83-4). Amended effective June 12, 1989 (Supp. 89-2). Repealed effective December 18, 1992 (Supp. 92-4).

#### **R2-10-303. Repealed**

#### **Historical Note**

Adopted effective July 27, 1983 (Supp. 83-4). Former Section R2-10-303 repealed, new Section R2-10-303 adopted effective June 12, 1989 (Supp. 89-2). Repealed effective December 18, 1992 (Supp. 92-4).

#### **R2-10-304. Repealed**

#### **Historical Note**

Adopted effective July 27, 1983 (Supp. 83-4). Amended effective June 12, 1989 (Supp. 89-4). Repealed effective December 18, 1992 (Supp. 92-4).

**A COPY OF THE GENERAL AND SPECIFIC STATUTES  
AUTHORIZING THE RULES**

A.A.C. Title 2, Chapter 10  
Arizona Department of Administration  
Risk Management Division

41-621. Purchase of insurance; coverage; limitations; exclusions; definitions

A. The department of administration shall obtain insurance against loss, to the extent it is determined necessary and in the best interests of this state as provided in subsection F of this section, on the following:

1. All state-owned buildings, including those of the universities, excluding buildings of community colleges, whether financed in whole or in part by state monies or buildings in which the state has an insurable interest as determined by the department of administration.

2. Contents in any buildings owned, leased or rented, in whole or in part, by or to this state, excluding buildings of community colleges, and reported to the department of administration.

3. This state and its departments, agencies, boards and commissions and all officers, agents and employees thereof and such others as may be necessary to accomplish the functions or business of the state and its departments, agencies, boards and commissions against liability for acts or omissions of any nature while acting in authorized governmental or proprietary capacities and in the course and scope of employment or authorization except as prescribed by this chapter.

4. All personal property reported to the department of administration, including vehicles and aircraft owned by the state and its departments, agencies, boards and commissions and all nonowned personal property that is under the clear responsibility of this state because of written leases or other written agreements.

5. This state and its departments, agencies, boards and commissions against casualty, use and occupancy and liability losses of every nature except as prescribed by this chapter.

6. Workers' compensation and employers' liability insurance.

7. Design and construction of buildings, roads, environmental remediations and other construction projects.

8. Other exposures to loss where insurance may be required to protect this state and its departments, agencies, boards and commissions and all officers, agents and employees acting in the course and scope of employment or authorization except as prescribed by this chapter.

B. To the extent it is determined necessary and in the best interests of this state, the department of administration shall obtain insurance or provide for state self-insurance against property damage caused by clients and liability coverage resulting from the direct or incidental care of clients participating in programs of this state and its departments, agencies, boards or commissions relating to custodial care. The insurable programs shall include foster care, programs for persons with developmental disabilities, an independent living program pursuant to section 8-521 and respite-sitter service programs. The department shall obtain insurance or provide for state self-insurance pursuant to this subsection to protect the clients participating in these programs and individual providers of these program services on behalf of this state and its departments, agencies, boards or commissions. The insurance provided under this subsection

does not include medical or workers' compensation coverage for providers. The department may include in its annual budget request pursuant to section 41-622, subsection D a charge for the insurance or self-insurance provided in this subsection. To assist in carrying out this subsection, the department shall establish a seven-member advisory board in accordance with the following provisions:

1. The board shall consist of three members appointed by the director of the department of administration, at least one of whom shall be a foster parent, one member appointed by the director of the department of economic security, one member appointed by the director of the department of child safety, one member appointed by the director of the state department of corrections, and one member appointed by the administrative director of the courts.
  2. The board shall elect a chairman from among its members.
  3. The board shall hold at least two meetings a year or shall meet at the call of the chairman.
  4. Board members shall serve for three-year terms.
  5. Board members are not eligible to receive compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.
  6. The board shall provide advice to the department regarding coverage and administration of this subsection and shall assist the department in coordinating its activities pursuant to this subsection with state departments, agencies, boards and commissions.
- C. The department of administration may obtain insurance against loss, to the extent it is determined necessary and in the best interests of this state as provided in subsection F of this section for the professional liability of individual physicians and psychiatrists who provide services under a contract with the state department of corrections. Coverage is limited to acts and omissions committed inside a state department of corrections facility while in the performance of the contract and to individual physicians and psychiatrists who demonstrate to the satisfaction of the state department of corrections that they cannot otherwise obtain professional liability coverage for the services required by the contract. The director of the department of administration may impose on the state department of corrections a deductible for each loss that arises out of a professional liability claim pursuant to this subsection. Any changes in deductible amounts established by the director shall be subject to review by the joint legislative budget committee.
- D. The department of administration may obtain property, liability, disability or workers' compensation insurance, self-insure or develop risk retention pools to provide for payment of property loss or casualty claims or disability insurance claims against contractors of this state with the approval of the joint legislative budget committee. With respect to insurance, self-insurance or risk retention pools for contractors licensed and contracted to do work for this state, the coverage afforded applies with respect to the conduct of the business entity of that contractor. The pool is available to all contractors regardless of the amount that the state-

contracted work bears in relation to the amount of nonstate contracted work. The contractor shall be terminated from the pool if the contractor ceases to be a state contractor.

E. The department of administration may determine, in the best interests of this state, that state self-insurance is necessary or desirable and, if that decision is made, shall provide for state self-insurance for losses arising out of state property, liability or workers' compensation claims prescribed by subsection A of this section. If the department of administration provides state self-insurance, such coverage shall be excess over any other valid and collectible insurance. The director of the department of administration may impose on state departments, agencies, boards and commissions a deductible for each loss that arises out of a property, liability or workers' compensation loss pursuant to this subsection. Any changes in deductible amounts established by the director shall be subject to review by the joint legislative budget committee.

F. In carrying out this chapter, the department of administration shall establish and provide the state with some or all of the necessary risk management services, or shall contract for risk management services pursuant to chapter 23 of this title, as the director of the department of administration deems necessary in the best interest of the state, and in addition to other specifications of such coverage as deemed necessary, may determine self-insurance to be established. Chapter 23 of this title does not apply to the department of administration's procurement of insurance to cover losses arising out of state property or liability claims prescribed in subsections A and D of this section or excess loss insurance for the state's workers' compensation liability for individual or aggregate claims, or both, in such amounts and at such primary retention levels as the department of administration deems in the best interest of this state. In purchasing insurance to cover losses arising out of state property or liability claims prescribed by subsection A of this section, the department of administration is not subject to title 20, chapter 2, article 5.

G. A successful bidder for risk management services pursuant to this section is not entitled to receive directly or indirectly any sales commission, contingent commission, excess profit commission, or other commissions, or anything of value, as payment for the risk management services except those amounts received directly from this state as payment for the risk management services.

H. The department of administration shall pay for purchased risk management services, premiums for insurance on state property and state liability and workers' compensation pursuant to this chapter.

I. A state officer, agent or employee acting in good faith, without wanton disregard of statutory duties and under the authority of an enactment that is subsequently declared to be unconstitutional, invalid or inapplicable, is not personally liable for an injury or damage caused thereby except to the extent that the officer, agent or employee would have been personally liable had the enactment been constitutional, valid and applicable.

J. A state officer, agent or employee, except as otherwise provided by statute, is not personally liable for an injury or damage resulting from an act or omission in a public official capacity where the act or omission was the result of the exercise of the discretion vested in the officer,

agent or employee and if the exercise of the discretion was done in good faith without wanton disregard of statutory duties.

K. This state and its departments, agencies, boards and commissions are immune from liability for losses arising out of a judgment for wilful and wanton conduct resulting in punitive or exemplary damages.

L. The following exclusions shall apply to subsections A, B and E of this section:

1. Losses against this state and its departments, agencies, boards and commissions that arise out of and are directly attributable to an act or omission determined by a court to be a felony by a person who is provided coverage pursuant to this article unless the state knew of the person's propensity for that action, except those acts arising out of the operation or use of a motor vehicle.

2. Losses arising out of contractual breaches.

M. If self-insurance coverage is determined to exist, the attorney general, with funds provided by the department of administration, shall provide for the defense, either through the attorney general's office or by appointment of outside legal counsel, of this state and its departments, agencies, boards and commissions and all officers, agents and employees thereof and such others as are insured by the department of administration for or on account of their acts or omissions covered pursuant to this chapter. All state departments, agencies, boards and commissions, all officers, agents and employees thereof and such others as are insured by the department of administration shall cooperate fully with the attorney general and department of administration in the defense of claims arising pursuant to this chapter.

N. A claim for liability damages made pursuant to this chapter may be settled and payment made up to the amount of \$25,000 or such higher limit as may be established by the joint legislative budget committee with the approval of the director of the department of administration. A claim over the amount of \$25,000 up to \$50,000 or such higher limit as may be established by the joint legislative budget committee may be settled and payment made with the approval of the director of the department of administration and the attorney general. Any claim over the amount of \$50,000 or such higher limit as may be established by the joint legislative budget committee may be settled and payment made with the approval of the director of the department of administration, the attorney general and the joint legislative budget committee. If it is in the best interest of this state, the joint legislative budget committee may establish higher settlement limits. Any settlements involving amounts in excess of \$50,000 or such higher limit as may be established by the joint legislative budget committee shall be approved by the department of administration, the attorney general and the joint legislative budget committee pursuant to the authority granted. The settlement of liability claims shall be solely the authority of the department of administration, the attorney general and the joint legislative budget committee. No state department, agency, board or commission or any officer, agent or employee of this state may voluntarily make any payment, assume any obligation, incur any expense or maintain the individual right of consent for liability claims made pursuant to this chapter except as provided by this section.

O. Neither the authority provided by this section to insure, nor the exercise of such authority, shall:

1. Impose any liability on this state or the departments, agencies, boards and commissions or any officers, agents and employees of this state unless such liability otherwise exists.
2. Impair any defense this state or the departments, agencies, boards and commissions or any officers, agents and employees of this state otherwise may have.

P. The department of administration shall pay, on behalf of any state officer, agent or employee, any damages, excluding punitive damages, for which the officer, agent or employee becomes legally responsible if the acts or omissions resulting in liability were within the officer's, agent's or employee's course and scope of employment. The department of administration may pay for all damages however designated that the officer, agent or employee becomes legally responsible for if the acts or omissions resulting in liability are determined by the director of the department of administration to be within the person's course and scope of employment.

**Q. The department of administration shall adopt such rules as are deemed necessary to carry out, implement and limit this chapter.**

R. For the purposes of determining whether a state officer, agent or employee is entitled to coverage under this chapter, "within the course and scope of employment or authorization" means:

1. The acts or omissions that the state officer, agent or employee is employed or authorized to perform.
2. The acts or omissions of the state officer, agent or employee occur substantially within the authorized time and space limit.
3. The acts or omissions are activated at least in part by a purpose to serve this state or its departments, agencies, boards or commissions.

S. To the extent it is determined necessary and in the best interest of this state, the department of administration may obtain design and construction insurance or provide for self-insurance against property damage caused by this state, its departments, agencies, boards and commissions and all officers and employees of this state in connection with the construction of public works projects. Workers' compensation liability insurance may be purchased to cover both general contractors and subcontractors doing work on a specific contracted worksite. The department may include in its annual budget request, pursuant to section 41-622, subsection D, the cost of the insurance purchased or provided. In connection with the construction of public works projects, the department of administration may also use an owner-controlled or wrap-up insurance program if all of the following conditions are met:

1. The total cost of the project is over \$50,000,000.

2. The program maintains completed operations coverage for a term during which coverage is reasonably commercially available as determined by the director of the department of insurance and financial institutions, but in no event for less than three years.

3. Bid specifications clearly specify for all bidders the insurance coverage provided under the program and the minimum safety requirements that shall be met.

4. The program does not prohibit a contractor or subcontractor from purchasing any additional insurance coverage that a contractor believes is necessary for protection from any liability arising out of the contract. The cost of the additional insurance shall not be passed through to this state on a contract bid.

5. The program does not include surety insurance.

T. The state may purchase an owner-controlled or wrap-up policy that has a deductible or self-insured retention as long as the deductible or self-insured retention does not exceed \$1,000,000.

U. For the purposes of subsections S and T of this section:

1. "Owner-controlled or wrap-up insurance" means a series of insurance policies issued to cover this state and all of the contractors, subcontractors, architects and engineers on a specified contracted worksite for purposes of general liability, property damage and workers' compensation.

2. "Specific contracted worksite" means construction being performed at one site or a series of contiguous sites separated only by a street, roadway, waterway or railroad right-of-way, or along a continuous system for the provision of water and power.

V. Notwithstanding any other statute the department of administration may:

1. Limit the liability of a person who contracts to provide goods, software or other services to this state.

2. Allow the person to disclaim incidental or consequential damages.

3. Indemnify or hold harmless any party to the contract.

#### 41-623. Risk management and loss control

**A. The department of administration shall promulgate rules and regulations to initiate and implement a risk management and loss control program for all state departments, agencies, boards and commissions for the purpose of reducing risks, accidents and property liability and workers' compensation losses.**

B. The department of administration shall annually provide each state department, agency, board and commission with a report of property, liability and workers' compensation claims filed and an analysis of the cause of loss. State departments, agencies, boards and commissions shall submit a reply to the department of administration outlining plans to correct property and liability exposures to loss.

C. The department of administration shall annually issue to the governor and legislature a summary report of property, liability and workers' compensation losses incurred by state departments, agencies, boards and commissions. The report shall include loss control plans and recommendations for corrective action.

D. All state departments, agencies, boards and commissions shall cooperate with, assist and provide requested information to the department of administration in the initiation, implementation and operation of the risk management and loss control program.

E. Concurrent with the commencement of planning for the construction, alteration or additions to state-owned or leased buildings, and the purchase of specialized personal property, the department of administration shall be consulted for the purpose of implementing the risk management and loss control program and to assure compliance with generally accepted loss control practices.

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

Title 18, Chapter 14, Articles 1-3, Department of Environmental Quality – Permit And Compliance Fees



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - FIVE-YEAR REVIEW REPORT

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**MEETING DATE:** February 2, 2021

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** January 14, 2021

**SUBJECT:** Arizona Department of Environmental Quality  
Title 18, Chapter 14, Articles 1-3

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This Five-Year-Review Report (5YRR) from the Department of Environmental Quality relates to rules in Title 18, Chapter 14, regarding Permit and Compliance Fees. The report covers the following:

**Article 1** - Water Quality Protection Fees

**Article 2** - Public Water System Design Review Fees

**Article 3** - Certified Operator Fees

In the last 5YRR of these rules the Department proposed to amend seven of its rules. The Department, for the reasons mentioned in the report, indicates it only completed one rulemaking that addressed one of the proposed changes in April 2017. The Department, as mentioned in the report, indicates it did not complete all of the proposed changes because some would require fee increases, and the Department would likely need legislative approval at this time to complete the changes.

### **Proposed Action**

\_\_\_\_\_The Department is currently not proposing any changes to the rules, and indicates it plans to maintain the status quo regarding Water Quality Protection fee rules until legislative authority is obtained.

1. **Has the agency analyzed whether the rules are authorized by statute?**

Yes, the Department cites to both general and specific statutory authority.

2. **Summary of the agency's economic impact comparison and identification of stakeholders:**

Stakeholders are identified as the Arizona Department of Environmental Quality (ADEQ) and entities subject to Water Quality Protection fees, Public Water System Design Review fees, and Certified Operator fees.

ADEQ believes that the rules' impact on the state's economy, small business and consumers has not changed since their effective dates. The qualitative assessments of the economic impact of the rules were accurate and costs have been minor. However, ADEQ has determined that the 2011 rulemaking for rules amended in 18 A.A.C. 14, Article 1 overestimated the revenue stream from programmatic fees, leaving some ADEQ programs underfunded. The rulemaking estimated a revenue of \$11,300,000. In each fiscal year from 2016 through 2019, the water quality fee fund was appropriated approximately \$10,500,000. Despite the amount appropriated, from fiscal years 2017 through 2019, ADEQ consistently received revenues well below its appropriations and well below the 2011 rulemaking forecast (e.g. FY17 revenues - \$6,556,315; FY18 revenue - \$6,556,315; and FY19 revenues - \$7,224,653). ADEQ has, and will continue to, innovate to maximize efficiencies using current resources until potential legislation necessary to increase relevant fees becomes law.

3. **Has the agency analyzed the costs and benefits of the rulemaking and determined that the rules impose the least burden and costs to those who are regulated?**

ADEQ believed that these rules impose the least burden and costs to regulated persons, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

4. **Has the agency received any written criticisms of the rules over the last five years?**

Yes, the Department indicates it received written criticisms to the rules.

5. **Has the agency analyzed the rules' clarity, conciseness, and understandability?**

Yes, the Department indicates the rules are clear, concise, and understandable.

6. **Has the agency analyzed the rules' consistency with other rules and statutes?**

Yes, the Department indicates the rules are consistent with other rules and statutes.

7. **Has the agency analyzed the rules' effectiveness in achieving its objectives?**

Yes, the Department indicates the rules are effective in achieving their objectives.

8. **Has the agency analyzed the current enforcement status of the rules?**

Yes, the Department indicates the rules are enforced as written.

9. **Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

Not applicable, there are no corresponding federal laws.

10. **For rules adopted after July 29, 2010, do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

Yes, the Department indicates the rules comply with A.R.S. § 41-1037.

11. **Conclusion**

As mentioned above, and for the reasons mentioned in the report, the Department is not proposing to amend any of its rules at this time. The rules are overall clear, concise, and understandable. Council staff recommends approval of this report.



Douglas A. Ducey  
Governor

ARIZONA DEPARTMENT  
OF  
ENVIRONMENTAL QUALITY



Misael Cabrera  
Director

December 18, 2020

Nicole Sornsin, Chair  
Governor's Regulatory Review Council  
100 N. 15<sup>th</sup> Avenue, #305  
Phoenix, AZ 85007

Re: Submittal of Five-Year Rule Review Report for A.A.C. Title 18, Chapter 14

Dear Chair Sornsin:

I am pleased to submit to you, pursuant to A.R.S. § 41-1056 and A.A.C. R1-6-301, our agency's 5-Year Review Report for Title 18, Chapter 14.

Pursuant to A.R.S. § 41-1056(A), I certify that ADEQ is in compliance with A.R.S. § 41-1091 requirements for filing of notices of substantive policy statements and annual publication of a substantive policy statement directory.

Please contact either John Hunt or Jon Rezabek in the Water Quality Division at (602) 771-4464 or (602) 771-8219; [hunt.john@azdeq.gov](mailto:hunt.john@azdeq.gov) or [rezabek.jon@azdeq.gov](mailto:rezabek.jon@azdeq.gov), respectively, if you have any questions.

Sincerely,

Misael Cabrera, P.E.  
Director

Enclosure

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**Arizona Department of Environmental Quality**

**Five-Year-Review Report**

**Title 18. Environmental Quality**

**Chapter 14. Department of Environmental Quality – Permit And Compliance Fees**

**Article 1. Water Quality Protection Fees;**

**Article 2. Public Water System Design Review Fees;**

**Article 3. Certified Operator Fees.**

**December 22, 2020**

**1. Authorization of the rule by existing statutes**

General Statutory Authority: A.R.S. §§ 49-104(B)(11) and (B)(13)(c)

Specific Statutory Authority: A.R.S. §§ 49-203(A)(8), 49-241.02, 49-255.01(J), and 49-332

**2. The objective of each rule:**

<b>Rule</b>	<b>Objective</b>
<b>R18-14-101</b>	The definition section defines important terms used in Article 1, so that the rules are understandable to the general public.
<b>R18-14-102</b>	This rule establishes an hourly rate fee for reviews of individual APPs, amendments to APPs, clean closure of a facility with an APP, AZPDES individual and individual reclaimed water permits. The hourly rate applies unless a flat fee is prescribed elsewhere.
<b>R18-14-103</b>	This rule establishes initial fees to be paid at the time a person submits a request for a water quality protection service to ADEQ. This rule specifies that up-front fees must be paid before ADEQ can begin to process an application associated with specific water quality permits subject to the hourly rate. ADEQ may set lower initial fees.
<b>R18-14-104</b>	This rule establishes the annual registration fees for individual APPs, and annual fees for individual AZPDES permits, approved pretreatment programs, and individual reclaimed water permits.
<b>R18-14-105</b>	This rule explains that ADEQ charges for the hours or portions of hours that ADEQ staff spend to review a request for water quality protection services, and the hours spent by a supervisor or unit manager if requested by the applicant.
<b>R18-14-106</b>	This rule establishes the requirements for reconsideration of a bill and provides the specifics on an appeal process. The request must be submitted to ADEQ by the due date for payment printed on the bill or within 35 days of the date for the invoice, whichever is greater.
<b>R18-14-107</b>	This rule establishes that county and other local governments may set fees independent of these rules for water quality protection services delegated by ADEQ.
<b>R18-14-108</b>	This rule establishes flat fees related to APP general permits as well as other water quality protection services requiring a flat fee.
<b>R18-14-109</b>	This rule establishes fees related to AZPDES General Permits, and the annual report for land applicators of biosolids.
<b>R18-14-110</b>	This rule establishes separate flat fees for the reclaimed water general permits.

<b>R18-14-111</b>	This rule identifies fees for other water quality protection services that are not directly related to an APP or AZPDES permit, such as dry wells registrations, transfer of dry well registration, and subdivision approvals.
<b>R18-14-112</b>	This rule implemented a set of fees that were introduced in 2011, making them applicable to water quality protection services on the effective date of the rules.
<b>R18-14-113</b>	This rule explains that ADEQ will publish an annual accounting of WQFF revenue and expenditure activity for the prior fiscal year.
<b>R18-14-201</b>	The definition section defines important terms used in Article 2, so that the rules are understandable to the general public.
<b>R18-14-202</b>	This rule establishes criteria to determine fees based on flat rates for design review services for public water systems.
<b>Table 1</b>	This table specifies the actual amounts and types of fees associated with design review services.
<b>R18-14-301</b>	This rule establishes flat rate fees for a certification or renewal under the operator certification program.
<b>R18-14-302</b>	This rule establishes fee payment methods acceptable to the ADEQ. This rule specifies that up-front fees must be paid before ADEQ will accept a request for certification or renewal. This rule establishes that if ADEQ does not accept an operator certificate renewal form, the certificate expires for failure to renew.
<b>R18-14-303</b>	This rule establishes that the fees in Article 3 apply to any application for a certification or renewal that is submitted on or after July 1, 2016.

3. **Are the rules effective in achieving their objectives?** Yes X No \_\_\_
4. **Are the rules consistent with other rules and statutes?** Yes X No \_\_\_
5. **Are the rules enforced as written?** Yes X No \_\_\_
6. **Are the rules clear, concise, and understandable?** Yes X No \_\_\_
7. **Has the agency received written criticisms of the rules within the last five years?** Yes X No \_\_\_

*If yes, please fill out the table below:*

<b>Rule</b>	<b>Criticism/Response</b>
<b>R18-14-104(B)</b>	<p><u>Criticism 1:</u> AZPDES Annual Fees: This section suggests that Annual Fees are subject to an hourly rate fee. However, ADEQ historically invoices the City for the full \$10,000 for the MS4 permit annually, without a breakdown of hours. The rule needs to be clarified if this is intended to be a flat rate annual lump sum fee, rather than hourly. Or, if the fee is based on an hourly rate, ADEQ needs to revise the billing system and the invoice should contain an itemized cost breakdown. As written, it is unclear how the hourly rate fee is applied to these annual fees. Please provide an example of how the hourly rate would apply, if applicable. In either case, the column heading for the Annual Fee should be changed to “Maximum Annual Fee” of \$10,000 for the MS4 permit.</p> <p><u>Response 1:</u> An individual Arizona Pollution Discharge Elimination System (AZPDES) permittee for a Municipal Separate Storm Sewer System (MS4) is charged a flat, annual</p>

	<p>fee of \$10,000 for water quality protection services. This fee pays for administration of the permit including reporting to EPA and compliance work and can be found in Table 3; AZPDES Annual Fees. Additionally, MS4 permittees are subject to hourly rate fees when permit writing or a modification is required. Permit writing or modifications are billed at an hourly rate of \$122/hour. See R18-14-102(B).</p>
<p><b>General</b></p>	<p><u>Criticism 1:</u> There is no way to identify changes to the rule. I only know what the rule is based on this, I do not know what the rule was.</p> <p><u>Response 1:</u> ADEQ believes the commenter may have understood this Five Year Review to be a rulemaking. In fact, this Five Year Rule Review is not a rulemaking, but a concise, statutorily mandated, written analysis of an agency’s administrative rules that covers the previous 5 years. If the commenter wishes to know more about past versions of a particular rule, a “Historical Note” appears after each Section in the Arizona Administrative Code that gives the cumulative history of the Section, including the rulemaking action, the Arizona Administrative Register citation, effective date, and Code Supplement number in which the Section was published. Lastly, past versions of rules can be requested from Arizona’s Secretary of State’s office.</p> <p><u>Criticism 2:</u> Perhaps the fees charged under Approval to Construct Public Water Supply Distribution System should be based on linear length of waterline and not service connections. We rarely see over 150 service connections, but we are reviewing thousands of linear feet of waterline. It would be a more equitable way of charging the fee. Under Water Treatment Plants and Blending Plans it should also specifically call out Point of Use / Point of Entry Devices since they are treatment options. Under Storage Tank it should also say Hydro-pneumatic Tank. Under Booster Pump perhaps it should say Booster Pump Station. Currently ADEQ charges per pump even if there are 4 pumps at one station because the rule says "(fees). . .are assessed on a per-unit basis where applicable". I would eliminate the fee line item Main Line Extension. It causes a lot of confusion and no one can agree upon the definition. I would like to add a nominal fee (\$50) to review Exemptions.</p> <p><u>Response 2:</u> ADEQ appreciates the comments and suggestions. ADEQ would need to solicit additional stakeholder input to determine what the economic impact would be if it were to make such a change. ADEQ has no immediate plans or need for a rulemaking at this time because the rules currently function as written. However, ADEQ will review this comment and seek additional input on this topic when a future rulemaking is required and pursued.</p> <p>Additionally, ADEQ agrees that Point of Use/Point of Entry Devices are treatment options and are subject to this rule. ADEQ is currently working on a substantive policy statement to bring visibility to this issue.</p> <p><u>Criticism 3:</u> There is limited justification for flat rate fees. The fees based on anticipated hours worked by the department make sense. How are the rates for MS4 permits or APP permits determined?</p> <p><u>Response 3:</u> ADEQ has set its flat fees for MS4 and APPs to match the costs necessary to support the programs and the corresponding number of full and part-time employees needed to administer the programs. These fees were set as part of a rulemaking that was conducted in 2011 and published in 17 A.A.R. 568. Despite program costs rising in the past 9 years, ADEQ has avoided raising its fees even though the 2011 rulemaking overestimated the revenue stream from programmatic fees, leaving some ADEQ programs underfunded.</p>

Criticism 4: Why so high of fees?

Response 4: ADEQ's Water Quality Division fees were designed to match the costs necessary to support the programs and the corresponding number of full and part-time employees needed to administer the programs. These fees were set as part of a rulemaking that was conducted in 2011 and published in 17 A.A.R. 568. Despite program costs rising in the past 9 years, ADEQ has avoided raising its fees even though the 2011 rulemaking overestimated the revenue stream from programmatic fees, leaving some ADEQ programs underfunded.

Criticism 5: This will create a financial burden on small water providers that are in the process of replacing their entire distribution system.

Response 5: It appears that this commenter believes ADEQ is proposing changes to its fees. As this is a Five-Year-Review Report, that is not the case. However, if the comment is to suggest that the fees are too high, please see Response 4 above.

Criticism 6: Dates for copper and lead testing need to be changed.

Response 6: ADEQ believes this criticism relates to monitoring and reporting dates for lead and copper sampling. The dates ADEQ uses are consistent with the federal requirements of the Safe Drinking Water Act. Dates for lead and copper monitoring do change from a six-month to an annual or every three-year monitoring period. An alternative monitoring period, based on population availability and temperature, can also be granted. But overall, dates for lead and copper testing are to mimic seasonal variability for each half of the year or to mimic the warmest temperature months throughout the nation. In addition, the months of June to September are the months when people usually use the most water due to the warmer weather.

Criticism 7: Operator certification renewal fees are excessive, professionals are being driven from their positions. Renewal fees are not reflective of predominant wages. Significant reduction of the fees is promptly warranted. -- I have always felt that fees should be charged to help ADEQ be closer to self-sustaining. I do not feel these fees are excessive, but as I am over 70, the operator renewal fee is a lot for 4 certificates, but I will continue to pay them.

Response 7: ADEQ has worked to ensure that its fees are not excessive and that they instead reflect the costs associated with providing the relevant service. The fee amounts include other costs of administering the whole Program, such as all personnel costs and training. The fee amounts are based on the proportionate level of staff effort to perform a certification task. ADEQ's level of effort remains the same regardless of whether the operator is employed in the drinking water or wastewater industry, retired, or disabled. ADEQ incurs its costs of administering the Operator Certification Program, and as a fee for service agency, is seeking to recover those costs through the assessed fees.

Criticism 8: I feel the fees for operator certification, especially with reciprocity, are excessive and unnecessary. You are limiting the amount of operators who are eligible to work in the state.

Response 8: Please see Response 7.

Criticism 9: Will the applicant be told before assessing the fees under what paragraph the review will be done? Otherwise, applicants have to read through other titles to figure out what fees might apply.

	<p><u>Response 9:</u> Yes, applicants are told what fees will be assessed for an application beforehand. For example, in the Aquifer Protection Permits, before work on an application is started in earnest, an applicant for an individual permit or amendment is issued a Receipt of Application Letter, once the Department has reviewed the initially submitted materials. The letter specifies which type of permit is being applied for, the hourly rate and the maximum fee that could be charged, depending on the amount of time spent developing the permit. Furthermore, the letter states that monthly invoices will be sent to the applicant and provides information on how to review the details of the permit and its fees online. Generally, ADEQ works with applicants in an effort to make sure the correct fees are assessed.</p> <p><u>Criticism 10:</u> Does the 4.23 General Permit Annual Report at \$200 include an inspection by ADEQ staff?</p> <p><u>Response 10:</u> The \$200 4.23 General Permit Annual Report fee does not include an inspection from ADEQ staff. There is no charge for an inspection conducted by ADEQ's Inspection and Compliance Units (ICUs). Rather, the ICUs inspect facilities on a rolling basis depending on frequency of inspection, reporting, complaints and other factors.</p> <p><u>Criticism 11:</u> Eliminate references to "before 2011"</p> <p><u>Response 11:</u> The words referenced by the commenter do not occur in Chapter 14.</p>
<p><b>R18-14-105.B</b></p>	<p><u>Criticism 1:</u> R18-14-105.B.3 Fee Assessment and Collection. This section states that "Fees for water quality protection services shall be paid in U.S. dollars by cash, check, cashier's check, money order, or any other method acceptable to the Department." This section needs to be updated due to the creation of myDEQ. However, ADEQ should not limit payment options to credit card via myDEQ, but still allow for other payment options.</p> <p><u>Response 1:</u> MyDEQ does not limit payment options because it is designed to be efficient and flexible while meeting rule requirements. While myDEQ allows for payment via credit card or ACH payments (checks) in order to allow for efficient same-day permit issuance, ADEQ is able to accept the other payment methods. For example, ADEQ can accept wired fees and then provide an invoice and receipt via email.</p>
<p><b>R18-4-109.C</b></p>	<p><u>Criticism 1:</u> R18-4-109.C. AZPDES Water Quality Protection Services Flat Fees, Table 6 – AZPDES Water Quality Protection Services Flat Fees and R18-4-112 Implementation: The rule should be written so that a permittee cannot be charged a fee for the same general permit type at the same project/facility more than once per year. For example, if a construction project pays a fee for coverage under the Construction General Permit in May 2020, and a new Construction General Permit is issued in June 2020, the customer should not be required to pay for CGP coverage again until May 2021. R18-14-109. AZPDES Water Quality Protection Services Flat Fees, Table 6 – AZPDES Water Quality Protection Services Flat Fees – A sliding scale fee for SWPPP review should be included (e.g. if the entire SWPPP doesn't need to be reviewed, but only a specific portion the entire \$1000 fee should not be assessed).</p> <p><u>Response 1:</u> ADEQ appreciates this comment; however, ADEQ is not pursuing a rule change at this time. As noted above, the current fees are based on the costs to administer the associated programs. ADEQ will save this comment and seek stakeholder input on economic impact should any future changes be pursued.</p>

**8. Economic, small business, and consumer impact comparison:**

### **Article 1. Water Quality Protection Fees**

ADEQ amended most of 18 A.A.C. 14, Article 1 in 2011 and described probable economic impacts in qualitative and quantitative terms in the economic impact statement. At that time, ADEQ believed that most applicants would experience an increase in their permitting fees as ADEQ implemented a fee structure: 1) sufficient to support the water quality permitting program in the absence of the General Fund, and 2) representative of the actual cost of providing the service, from development through issuance and managing the permit once in effect. ADEQ believes that the impact of the Article 1 rules on the state's economy, small business and consumers has not changed since the effective date. However, ADEQ has determined that the 2011 rulemaking overestimated the revenue stream from programmatic fees, leaving some ADEQ programs underfunded. The rulemaking estimated a revenue of \$11,300,000. In each fiscal year from 2016 through 2019, the water quality fee fund was appropriated approximately \$10,500,000. Despite the amount appropriated, from fiscal years 2017 through 2019, ADEQ consistently received revenues well below its appropriations and well below the 2011 rulemaking forecast (e.g. FY17 revenues - \$6,556,315; FY18 revenues - \$6,556,315; and FY19 revenue - \$7,224,653). ADEQ has, and will continue to, innovate to maximize efficiencies using current resources until potential legislation necessary to increase relevant fees becomes law.

### **Article 2. Public Water System Design Review Fees**

ADEQ described probable economic impacts in qualitative and quantitative terms in the economic impact statement prepared when it created these rules in 2008. ADEQ believes that the qualitative assessments of the economic impacts to the rules were accurate and any costs have been minor. ADEQ believes that the Article 2 rules impact on the state's economy, small business and consumers has not changed since the rules became effective on December 6, 2008.

ADEQ reports revenues of public water system design review as part of the annual accounting under R18-14-113.

ADEQ has reported the following information:

- Fiscal Year 2016: Total revenues - \$299,632
- Fiscal Year 2017: Total revenues - \$240,095
- Fiscal Year 2018: Total revenues - \$301,800
- Fiscal Year 2019: Total revenues - \$379,089

### **Article 3. Certified Operator Fees**

ADEQ described probable economic impacts in qualitative and quantitative terms in the economic impact statement prepared when it created these rules in 2014. ADEQ believes that the qualitative assessments of the economic impacts to the rules were accurate and any costs have been minor. ADEQ believes that the Article 3 rules impact on the state's economy, small business and consumers has not changed since the rules became effective on July 1, 2016.

ADEQ reports revenues of operator certification as part of the annual accounting under R18-14-113. ADEQ has reported the following information:

- Fiscal Year 2017: Total revenues - \$241,077
- Fiscal Year 2018: Total revenues - \$300,260
- Fiscal Year 2019: Total revenues - \$567,011.

9. **Has the agency received any business competitiveness analyses of the rules?** Yes \_\_\_ No X

10. **Has the agency completed the course of action indicated in the agency’s previous five-year-review report?**

*Please state what the previous course of action was and if the agency did not complete the action, please explain why not.*

Rule	Explanation
<p><b>R18-14-103</b></p>	<p><u>Proposed Course of Action:</u> ADEQ evaluated its rules in accordance with Executive Order 2015-01, Paragraph 5. In its evaluation submitted to the Office of the Governor, ADEQ proposed to repeal this rule as limiting flexibility of payment and efficiency of processing. ADEQ proposes to amend this rule in order to repeal the initial fee requirement but retain the language in subsection (C). As ADEQ reviews and establishes its rulemaking priorities, and pending the status of the rule moratorium, ADEQ anticipates submitting a rulemaking to the Council by December 2018. Additionally, ADEQ must ensure that a future rulemaking complies with the qualification on fee increases in A.R.S. §§ 49-241.02(A), 49-255.01(J), and 49-332(A).</p> <p><u>Completed:</u> No</p> <p><u>Explanation:</u> ADEQ reviewed the rule and determined the necessary flexibility already exists in rule and in administrative practice (see the previous discussion on myDEQ, for example). Thus, ADEQ has determined the rulemaking proposed in 2015 is no longer necessary. Additionally, it is unlikely this proposed rulemaking would comply with the applicable prohibition on fee increases without legislative approval in A.R.S. §§ 49-241.02(A) and 49-255.01(J).</p>
<p><b>R18-4-106</b></p>	<p><u>Proposed Course of Action:</u> ADEQ evaluated its rules in accordance with Executive Order 2015-01, Paragraph 5. In its evaluation submitted to the Office of the Governor, ADEQ proposed to amend this rule as the invoice review process may contradict with the appeal process in 18 A.A.C. 1, Article 2. As ADEQ reviews and establishes its rulemaking priorities, and pending the status of the rule moratorium, ADEQ anticipates submitting a rulemaking to the Council by December 2018. Additionally, ADEQ must ensure that a future rulemaking complies with the qualification on fee increases in A.R.S. §§ 49-241.02(A), 49-255.01(J), and 49-332(A).</p> <p><u>Completed:</u> Yes</p> <p><u>Explanation:</u> Yes, ADEQ completed this proposed course of action via a purposeful expiration of the potentially contradicting rules in 18 A.A.C. 1, Article 2. See 23 A.A.R. 1575, effective April 28, 2017.</p>
<p><b>R18-14-108</b></p>	<p><u>Proposed Course of Action:</u> ADEQ wants to examine fee amounts in the rulemaking process to ensure that fees continue to represent ADEQ’s level of effort. As ADEQ reviews and establishes its rulemaking priorities, and pending the status of the rule moratorium, ADEQ anticipates submitting a rulemaking to the Council by December 2018. Additionally, ADEQ must</p>

	<p>ensure that a future rulemaking complies with the qualification on fee increases in A.R.S. §§ 49-241.02(A), 49-255.01(J), and 49-332(A).</p> <p><u>Completed:</u> No</p> <p><u>Explanation:</u> ADEQ has analyzed the fees in this rule and has determined that fee increases are likely appropriate. However, ADEQ is not pursuing a rulemaking at this time because legislative approval may be required for such an effort pursuant to A.R.S. § 49-241.02(A).</p>
<b>R18-14-109</b>	<p><u>Proposed Course of Action:</u></p> <p>ADEQ wants to examine fee amounts and fee schedules in the rulemaking process to ensure that fees continue to represent ADEQ’s level of effort. As ADEQ reviews and establishes its rulemaking priorities, and pending the status of the rule moratorium, ADEQ anticipates submitting a rulemaking to the Council by December 2018. Additionally, ADEQ must ensure that a future rulemaking complies with the qualification on fee increases in A.R.S. §§ 49-241.02(A), 49-255.01(J), and 49-332(A).</p> <p><u>Completed:</u> No</p> <p><u>Explanation:</u> ADEQ has analyzed the fees in this rule and has determined that fee increases are likely appropriate. However, ADEQ is not pursuing a rulemaking at this time because legislative approval is likely required for such an effort pursuant to A.R.S. § 49-255.01(J).</p>
<b>R18-14-111</b>	<p><u>Proposed Course of Action:</u></p> <p>ADEQ evaluated its rules in accordance with Executive Order 2015-01, Paragraph 5. In its evaluation submitted to the Office of the Governor, ADEQ proposed to amend this rule to allow for expedited subdivision review. As ADEQ reviews and establishes its rulemaking priorities, and pending the status of the rule moratorium, ADEQ anticipates submitting a rulemaking to the Council by December 2018. Additionally, ADEQ must ensure that a future rulemaking complies with the qualification on fee increases in A.R.S. §§ 49-241.02(A), 49-255.01(J), and 49-332(A).</p> <p><u>Completed:</u> No</p> <p><u>Explanation:</u> Due to the standing moratorium on rulemaking, higher priority strategic planning and agency resource constraints, ADEQ has not engaged in this proposed rulemaking. Furthermore, ADEQ is not pursuing a rulemaking at this time because legislative approval is likely required for such an effort pursuant to A.R.S. §§ 49-241.02(A) and 49-332(A).</p>
<b>R18-14-112</b>	<p><u>Proposed Course of Action:</u></p> <p>ADEQ evaluated its rules in accordance with Executive Order 2015-01, Paragraph 5. In its evaluation submitted to the Office of the Governor, ADEQ proposed to repeal this rule as the implementation was no longer required. ADEQ proposes to repeal this rule after it amends the AZPDES rules in 18 A.A.C. 9, Article 9 in order to specify payment requirement language for AZPDES permits. As ADEQ reviews and establishes its rulemaking priorities, and pending the status of the rule moratorium, ADEQ anticipates submitting a rulemaking to the Council by December 2018. Additionally, ADEQ must ensure that a future rulemaking complies with the qualification on fee increases in A.R.S. §§ 49-241.02(A), 49-255.01(J), and 49-332(A).</p> <p><u>Completed:</u> No</p> <p><u>Explanation:</u> ADEQ has determined that the proposed rulemaking would likely not comply with the applicable prohibition on fee increases pursuant to A.R.S. § 49-255.01(J). Therefore, ADEQ is not pursuing this rulemaking at this time.</p>
<b>R18-14-202</b>	<p><u>Proposed Course of Action:</u></p> <p>ADEQ evaluated its rules in accordance with Executive Order 2015-01, Paragraph 5. In its evaluation submitted to the Office of the Governor, ADEQ proposed to amend this rule so that the fees are based on design flow similar to the sewer fees. As ADEQ reviews and</p>

	<p>establishes its rulemaking priorities, and pending the status of the rule moratorium, ADEQ anticipates submitting a rulemaking to the Council by December 2018.</p> <p><u>Completed:</u> No</p> <p><u>Explanation:</u> Upon further review, ADEQ has determined that fees are appropriately set as they are. While this proposed course of action would be reasonable, ADEQ would need to perform an economic impact analysis before engaging in a rulemaking involving fees. Additionally, due to the standing moratorium on rulemaking, higher priority strategic planning and agency resource constraints, ADEQ has not engaged in this proposed rulemaking.</p>
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**11. A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective:**

ADEQ believes that these rules impose the least burden and costs to regulated persons, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.

**12. Are the rules more stringent than corresponding federal laws? Yes  No**

*Please provide a citation for the federal law(s). And if the rule(s) is more stringent, is there statutory authority to exceed the requirements of federal law(s)?*

No corresponding federal rules apply.

**13. For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rules are in compliance with the general permit requirements of A.R.S. § 41-1037 or explain why the agency believes an exception applies:**

**Article 1. Water Quality Protection Fees**

These rules were amended after July 29, 2010. The rules comply with A.R.S. § 41-1037 as they govern the procedures and establish the amounts of fees for individual permit applications, and flat fee rates for general permits or other types of water quality protection services that are substantially similar in nature, where such permits are authorized by the underlying permit rules.

**Article 2. Public Water System Design Review Fees**

These rules were amended before July 29, 2010. The rules in Article 2 govern the procedures and establish the amounts for ADEQ to assess flat fees for design review services for public water systems.

**Article 3. Certified Operator Fees**

These rules were finalized after July 29, 2010. The rules comply with A.R.S. § 41-1037 as they govern the procedures and establish a flat rate fee for a certification or renewal under the operator certification program. Operator certification classifications are permitted under A.R.S § 49-352(A).

**14. Proposed course of action**

*If possible, please identify a month and year by which the agency plans to complete the course of action.*

ADEQ's proposed course of action is to maintain the status quo regarding the Water Quality Protection fee rules until legislative authority is obtained. The 2011 rulemaking that addressed some of the fee rules in Chapter 14 overestimated the revenue stream from programmatic fees, leaving some ADEQ programs underfunded. Therefore, a fee increase may ultimately be necessary. However, ADEQ is statutorily constrained from pursuing many of those fee increases absent specific statutory authority from the Arizona legislature (*e.g.* A.R.S. §§ 49-241.02(A), 49-255.01(J), and 49-332(A)). ADEQ will continue to innovate to maximize efficiencies using current resources until potential legislation necessary to increase relevant fees becomes law. Of final note, ADEQ is aware of the listed exemptions to the rulemaking moratorium in Executive Order 2020-02 and their limitation to rulemaking actions.

## TITLE 18. ENVIRONMENTAL QUALITY

## CHAPTER 14. DEPARTMENT OF ENVIRONMENTAL QUALITY - PERMIT AND COMPLIANCE FEES

## ARTICLE 1. WATER QUALITY PROTECTION FEES

*Article 1, consisting of Sections R18-14-101 through R18-14-108, adopted effective November 15, 1996 (Supp. 96-4).*

## Section

- R18-14-101. Definitions
- R18-14-102. Hourly Rate and Maximum Fees for Water Quality Protection Services
  - Table 1. Repealed
- R18-14-103. Initial Fees
- R18-14-104. Annual Fees for Water Quality Protection Services Subject to Hourly Rate Fee
  - Schedule A. Repealed
  - Schedule B. Repealed
  - Schedule C. Repealed
  - Schedule D. Repealed
- R18-14-105. Fee Assessment and Collection
- R18-14-106. Reconsideration of a Bill; Appeal Process
- R18-14-107. Effect on County Fees
- R18-14-108. APP Water Quality Protection Services Flat Fees
- R18-14-109. AZPDES Water Quality Protection Services Flat Fees
- R18-14-110. Reclaimed Water Flat Fees
- R18-14-111. Other Flat Fees
- R18-14-112. Implementation
- R18-14-113. Annual Report

## ARTICLE 2. PUBLIC WATER SYSTEM DESIGN REVIEW FEES

*Article 2, consisting of Sections R18-14-201 through R18-14-202 and Table 1, made by final rulemaking at 14 A.A.R. 4102, effective December 6, 2008 (Supp. 08-4).*

## Section

- R18-14-201. Definitions
- R18-14-202. Flat Rate Fees
  - Table 1. Design Review Service Fees

## ARTICLE 3. CERTIFIED OPERATOR FEES

*Article 3, consisting of Sections R18-14-301 through R18-14-303, made by final rulemaking at 21 A.A.R. 2597, effective July 1, 2016 (Supp. 15-4).*

## Section

- R18-14-301. Certified Operator Fees
- R18-14-302. Fee Assessment and Collection
- R18-14-303. Implementation

## ARTICLE 1. WATER QUALITY PROTECTION FEES

## R18-14-101. Definitions

In addition to the definitions in A.R.S. §§ 49-201, 49-241.02, 49-255, 49-331, and A.A.C. R18-9-101, A.A.C. R18-9-701, and A.A.C. R18-9-A901, the following terms apply to this Article:

1. "APP" means an Aquifer Protection Permit.
2. "Complex modification" means:
  - a. A revision of an individual Aquifer Protection Permit for a facility within a mining sector as defined in A.R.S. § 49-241.02(F)(1); and
  - b. A revision of an individual Aquifer Protection Permit for a facility within a non-mining sector due to any of the following:
    - i. An expansion of an existing pollutant management area requiring a new or relocated point of

- ii. compliance;
  - ii. A new subsurface disposal including injection or recharge, or new wetlands construction;
  - iii. Submission of data indicating contamination, or identification of a discharging facility or pollutants not included in previous applications that requires reevaluation of BADCT; or
  - iv. Closure of a facility that cannot meet the clean closure requirements of A.R.S. § 49-252 and requires post-closure care, monitoring, or remediation.
3. "Courtesy review" means a design review service that the Department performs within 30 days from the date of receiving the submittals, of the 60 percent completion specifications, design report, and construction drawings for a sewage collection system.
  4. "Priority review" means a design review service for an APP Type 4 permit application that the Department completes using not more than 50 percent of the total review time-frame for the applicable Type 4 permit application as specified in 18 A.A.C. 1, Table 10.
  5. "Request" means a written application, notice, letter, or memorandum submitted by an applicant to the Department for water quality protection services. The Department considers a request made on the date it is received by the Department.
  6. "Review hours" means the hours or portions of hours that the Department's staff spends on a request for a water quality protection service. Review hours include the time spent by the project manager and technical review team members, and if requested by the applicant, the supervisor or unit manager.
  7. "Review-related costs" means any of the following costs applicable to a specific request for water quality protection service:
    - a. Presiding officer services for public hearings on a permitting decision,
    - b. Court reporter services for public hearings on a permitting decision,
    - c. Facility rentals for public hearings on a permitting decision,
    - d. Charges for laboratory analyses performed during the review, and
    - e. Other reasonable and necessary review-related expenses documented in writing by the Department and agreed to by an applicant.
  8. "Standard modification" means an amendment to an individual Aquifer Protection Permit that is not a complex modification.
  9. "Water quality protection service" means:
    - a. Reviewing a request for an APP determination of applicability;
    - b. Issuing, renewing, amending, transferring, or denying an aquifer protection permit, an AZPDES permit, or a reclaimed water permit;
    - c. Reviewing supplemental information required by a permit condition, including closure for an APP;
    - d. Performing an APP clean closure plan review;
    - e. Issuing or denying a Certificate of Approval for Sanitary Facilities for a Subdivision;
    - f. Registering or transferring registration of a dry well;
    - g. Conducting a site visit;

- h. Reviewing proprietary and other reviewed products under A.A.C. R18-9-A309(E);
- i. Reviewing, processing, and managing documentation related to an AZPDES general permit, including a notice of intent, notice of termination, certificate of no exposure, and waiver;
- j. Registering and reporting land application of biosolids; or
- k. Pretreatment program review, inspection, or audit.

**Historical Note**

Adopted effective November 15, 1996 (Supp. 96-4). Amended by final rulemaking at 7 A.A.R. 564, effective January 2, 2001 (Supp. 01-1). Amended by final rulemaking at 17 A.A.R. 568, effective July 1, 2011 (Supp. 11-2).

**R18-14-102. Hourly Rate and Maximum Fees for Water Quality Protection Services**

- A. The Department shall assess and collect an hourly rate fee for a water quality protection service, except for minor permit amendments specified under A.A.C. R18-9-A211(C)(1), (2) and (3) and A.A.C. R18-9-B906(B), unless a flat fee is otherwise designated in this Article.
- B. Hourly rate fees. The Department shall calculate the fee using an hourly rate of \$122, multiplied by the number of review hours to provide a water quality protection service, plus any applicable review-related costs, up to the maximum fee specified in subsection (C). The Department shall not charge an applicant for the first 60 minutes of Department pre-application consultation time costs for the project manager.
- C. Maximum fees for a water quality protection service assessed at an hourly rate are as follows:

**Table 1. Maximum Fees**

Program Area	Permit Type	Maximum Fee
APP	Individual or area-wide	\$200,000
APP	Complex modification to individual or area-wide	\$150,000
APP	Clean closure of facility	\$50,000
APP	Standard modification to individual or area-wide (per modification up to the maximum fee, and modification can be reassigned under A.A.C. R18-1-516): <ul style="list-style-type: none"> <li>▪ Maximum fee (cumulative per submittal) \$150,000</li> <li>▪ Modification under A.A.C. R18-9-A211(C)(1) through (3) No fee</li> <li>▪ Modification under A.A.C. R18-9-A211(C)(4) through (6) \$5,000</li> <li>▪ Modification under A.A.C. R18-9-A211(C)(7), (D)(2)(b) through (i), and (k) through (l) \$15,000</li> <li>▪ Modification under A.A.C. R18-9-A211(D)(2)(a) and (j) \$25,000</li> <li>▪ Modification under A.A.C. R18-9-A211(B) that is not classified as complex modification under R18-14-101(2) \$25,000</li> </ul>	
APP	For an APP issued before July 1, 2011, the fee for a submittal required by a compliance schedule is assessed per submittal and cumulative up to the maximum fee. The applicable maximum fee for all compliance schedule submissions shall be according to one of the three maximum fee categories listed below. The maximum fee is for the lifetime of the APP unless a new compliance schedule is established in the APP due to a modification that is classified as both a significant amendment under A.A.C. R18-9-A211(B) and a complex modification under R18-14-101(2) <ul style="list-style-type: none"> <li>▪ For a permit with a compliance schedule where one or more submissions require a permit modification that requires a determination or reevaluation of BADCT, the fee is assessed as described above for each standard modification, with a maximum fee for the permit's entire compliance schedule of: \$150,000</li> <li>▪ For a permit with a compliance schedule where one or more submissions require a permit modification, but no determination or reevaluation of BADCT is required, the fee is assessed as described above for each standard modification, with a maximum fee for the permit's entire compliance schedule of: \$100,000</li> <li>▪ For a permit with a compliance schedule requiring one or more submissions that require ADEQ review but do not require a permit modification, the maximum fee for the permit's entire compliance schedule is: \$100,000</li> </ul>	
APP	For an APP issued on or after July 1, 2011, the fee for a submittal required by a compliance schedule is assessed per submittal and cumulative up to the maximum fee for the lifetime of the APP	\$100,000
APP	Determination of applicability	\$15,000
APP	Reviewing proprietary and other reviewed products under A.A.C. R18-9-A309(E)	\$15,000
AZPDES	Individual permit for municipal separate storm sewer system	\$40,000

Department of Environmental Quality - Permit and Compliance Fees

Program Area	Permit Type	Maximum Fee
AZPDES	Individual permit for wastewater treatment plant (based on gallons of discharge per day)	
	▪ 3,000 to 99,999	\$15,000
	▪ 100,000 to 999,999	\$20,000
	▪ 1,000,000 to 9,999,999	\$30,000
	▪ 10,000,000 or more	\$50,000
AZPDES	Individual permit for a facility or activity that is not a wastewater treatment plant or a municipal separate storm sewer	\$30,000
AZPDES	Amendment to an individual permit	\$12,500
AZPDES	Approval of a new or revised pretreatment program under AZPDES	\$10,000
AZPDES	Consolidated individual permit for multiple AZPDES individual permits, as allowed under A.A.C. R18-9-B901(C)	Aggregate of the applicable maximum fees
Reclaimed	Reclaimed water individual permit	\$32,000

**Historical Note**

Adopted effective November 15, 1996 (Supp. 96-4). Amended by final rulemaking at 7 A.A.R. 564, effective January 2, 2001 (Supp. 01-1). Amended by final rulemaking at 17 A.A.R. 568, effective July 1, 2011 (Supp. 11-2).

**Table 1. Repealed**

**Historical Note**

New Table adopted by final rulemaking at 7 A.A.R. 564, effective January 2, 2001 (Supp. 01-1). Table 1 repealed by final rulemaking at 17 A.A.R. 568, effective July 1, 2011 (Supp. 11-2).

**R18-14-103. Initial Fees**

- A. A person shall submit the applicable fee at the time a request for a water quality protection service is submitted to the Department.
- B. For each water quality protection service subject to an hourly rate fee established under R18-14-102:
  - 1. An applicant shall submit a \$2,000 initial fee at the time a request is submitted to the Department for review.

- 2. If requested by an applicant, the Department may set a lower initial fee when the Department estimates a review fee that is less than the applicable initial fee.

- C. The Department shall not review a request for a water quality protection service if the applicant or permittee has not paid any fee due under this Article, unless the applicant or permittee has an outstanding water quality protection service bill that is under appeal pursuant to R18-14-106.

**Historical Note**

Adopted effective November 15, 1996 (Supp. 96-4). Amended by final rulemaking at 7 A.A.R. 564, effective January 2, 2001 (Supp. 01-1). Amended by final rulemaking at 17 A.A.R. 568, effective July 1, 2011 (Supp. 11-2).

**R18-14-104. Annual Fees for Water Quality Protection Services Subject to Hourly Rate Fee**

- A. Annual Registration Fees. The annual registration fee required under A.R.S. § 49-242 is in Table 2:

**Table 2. APP Annual Registration Fees**

Discharge or Influent per Day under the Individual APP or Notice of Disposal (in Gallons)	Annual Registration Fee	Annual Registration Fee if New Facility Under New APP Not Yet Constructed
3,000 to 9,999	\$500	\$250
10,000 to 99,999	\$1,000	\$250
100,000 to 999,999	\$2,500	\$500
1,000,000 to 9,999,999	\$6,000	\$625
10,000,000 or more	\$8,500	\$750

- B. The Department shall assess an annual fee for an AZPDES-related water quality protection service subject to an hourly rate fee as listed in Table 3:

**Table 3. AZPDES Annual Fees**

Permit Type	Annual Fee	Annual Fee if New Facility Under New AZPDES Not Yet Constructed
Municipal separate storm sewer system	\$10,000	N/A
Wastewater treatment plant (based on gallons of discharge per day):		
▪ Less than 99,999	\$250	\$250
▪ 100,000 to 999,999	\$500	\$500
▪ 1,000,000 to 9,999,999	\$2,500	\$625
▪ 10,000,000 or more	\$4,000	\$750

Facility or activity that is not a wastewater treatment plant or municipal separate storm sewer and designated in the permit as either:		
Major	\$2,500	\$625
Minor	\$500	\$500
Pretreatment program	\$3,000	N/A
Consolidated individual permit for multiple AZPDES individual permits, as allowed under A.A.C. R18-9-B901(C)	Aggregate of the applicable annual fees of each individual permit	Aggregate of the applicable annual fees of each individual permit

C. The Department shall assess an annual fee of \$500 for an individual reclaimed water permit.

**Historical Note**

Adopted effective November 15, 1996 (Supp. 96-4). Amended by final rulemaking at 7 A.A.R. 564, effective January 2, 2001 (Supp. 01-1). Amended by final rulemaking at 17 A.A.R. 568, effective July 1, 2011 (Supp. 11-2).

**Schedule A. Repealed**

**Historical Note**

Schedule A adopted effective November 15, 1996 (Supp. 96-4). Schedule repealed by final rulemaking at 7 A.A.R. 564, effective January 2, 2001 (Supp. 01-1).

**Schedule B. Repealed**

**Historical Note**

Schedule B adopted effective November 15, 1996 (Supp. 96-4). Schedule repealed by final rulemaking at 7 A.A.R. 564, effective January 2, 2001 (Supp. 01-1).

**Schedule C. Repealed**

**Historical Note**

Schedule C adopted effective November 15, 1996 (Supp. 96-4). Schedule repealed by final rulemaking at 7 A.A.R. 564, effective January 2, 2001 (Supp. 01-1).

**Schedule D. Repealed**

**Historical Note**

Schedule D adopted effective November 15, 1996 (Supp. 96-4). Schedule repealed by final rulemaking at 7 A.A.R. 564, effective January 2, 2001 (Supp. 01-1).

**R18-14-105. Fee Assessment and Collection**

- A. Billing. The Department shall bill an applicant for water quality protection services subject to an hourly rate no more than monthly, but at least quarterly. The following information shall be included in each bill:
  - 1. The dates of the billing period;
  - 2. The date and number of review hours itemized by employee name, position type and specifically describing:
    - a. Each water quality protection service performed,
    - b. Each facility involved and program component, and
    - c. The hourly rate for each water quality protection service performed;
  - 3. A description and amount of each review-related cost incurred for the project;
  - 4. The total fees paid to date, the total fees due for the billing period, the date when the fees are due, which shall be at least 35 days after the date on the bill, and the maximum fee for the project.
- B. Final bill. After the Department makes a final determination whether to grant or deny a request for water quality protection services subject to an hourly rate fee, or when an applicant withdraws or closes the request, the Department shall prepare a final itemized bill of its review.
  - 1. If the total fee exceeds the amount of the initial fee plus all invoicing, the Department shall issue a final itemized

bill for the cost of the water quality protection services up to the applicable maximum fee established under R18-14-102.

- 2. If the total fee is less than the initial fee and all paid invoicing charges, the Department shall refund the difference to the applicant.
- 3. Fees for water quality protection services shall be paid in U.S. dollars by cash, check, cashier's check, money order, or any other method acceptable to the Department.
- 4. The Department shall not release the final permit or approval until the final itemized bill is paid in full.

**Historical Note**

Adopted effective November 15, 1996 (Supp. 96-4). Amended by final rulemaking at 7 A.A.R. 564, effective January 2, 2001 (Supp. 01-1). Amended by final rulemaking at 17 A.A.R. 568, effective July 1, 2011 (Supp. 11-2).

**R18-14-106. Reconsideration of a Bill; Appeal Process**

- A. A person may seek review of a bill by filing a written request for reconsideration with the Director.
  - 1. The request shall specify, in detail, why the bill is in dispute and shall include any supporting documentation.
  - 2. The written request for reconsideration shall be delivered to the Director in person, by mail, or by facsimile on or before the payment due date or within 35 days of the invoice print date, whichever is greater.
- B. The Director shall make a final decision on the request for reconsideration of the bill and mail a final written decision to the person within 20 working days after the date the Director receives the written request.

**Historical Note**

Adopted effective November 15, 1996 (Supp. 96-4). Amended by final rulemaking at 7 A.A.R. 564, effective January 2, 2001 (Supp. 01-1).

**R18-14-107. Effect on County Fees**

Nothing in this Chapter affects the authority of county or other local governments to charge fees for implementing delegated Department water quality protection programs in accordance with statutory authority.

**Historical Note**

Adopted effective November 15, 1996 (Supp. 96-4). Amended by final rulemaking at 7 A.A.R. 564, effective January 2, 2001 (Supp. 01-1).

**R18-14-108. APP Water Quality Protection Services Flat Fees**

- A. The Department shall assess a flat fee for an APP water quality protection service listed in this Section.

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- B. Type 1 General Permits. No fee is required, except as stated in A.A.C. R18-9-A304(A)(2).  
 C. Fees for Type 2 and Type 3 General Permits and related water quality protection services are listed in Table 4. For purposes of this Section, “complex” is defined in A.A.C. R18-1-501(9). “Standard” means any permit that does not meet the definition of complex.

**Table 4. Type 2 and 3 General Permit Fees**

Permit Description	Permit Fee	Renewal Fee
Standard Type 2	\$1,500	\$500
Complex Type 2	\$3,000	\$1,000
Standard Type 3	\$4,500	\$1,500
Complex Type 3	\$7,500	\$2,500
Amendment to Notice of Intent	Same as applicable renewal fee	N/A
Transfer of permit authorization	\$50	N/A
If a site contains more than one facility covered by the same Type 2 or Type 3 General Permit and each facility is substantially similar in design, construction, and operation, the first facility is paid at the full applicable fee, and each additional facility is:	Half the applicable fee	Half the applicable fee

- D. Fees for Type 4 General Permits and related water quality protection services are listed in Table 5.

**Table 5. Type 4 General Permit Fees**

Water Quality Protection Service	Description	Permit Fee
4.01 General Permit: Sewage Collection Systems	Under each Notice of Intent to Discharge, the fee is assessed on a per-component basis for the components listed below and is assessed cumulatively up to the maximum fee: <ul style="list-style-type: none"> <li>▪ Maximum fee</li> <li>▪ Force mains with design flow less than or equal to 10,000 gpd</li> <li>▪ Each additional increment of 50,000 gpd or less of force mains</li> <li>▪ Gravity sewer with design flow less than or equal to 10,000 gpd</li> <li>▪ Each additional increment of 50,000 gpd or less of gravity sewer</li> <li>▪ Each sewer lift station</li> <li>▪ Each depressed sewer</li> <li>▪ Realignment of existing sewer for a contiguous project that is less than 300 linear feet with no change in design flow or pipe size</li> </ul>	\$25,000 \$1,000 \$1,000 \$1,000 \$1,000 \$1,000 \$1,000 \$500
4.01 General Permit courtesy review	If an applicant requests courtesy review, the Department shall approve or deny the request. When determining whether to approve a courtesy review request, the Department shall consider the complexity of the project and the Department’s current work load	One-third applicable fee upon submittal, then balance of fee if Notice of Intent to Discharge is submitted with final documentation within 180 days of first submittal
4.23 General Permit: 3,000 to less than 24,000 Gallons per day Design Flow	<ul style="list-style-type: none"> <li>▪ Onsite wastewater treatment facility with up to:                             <ul style="list-style-type: none"> <li>• Three treatment technologies and disposal methods consisting of technologies or designs that are covered under other Type 4 general permits; and</li> <li>• Two onsite wastewater treatment facilities</li> </ul> </li> <li>▪ Maximum fee (cumulative)</li> <li>▪ Each additional onsite wastewater treatment facility on same Notice of Intent to Discharge up to maximum fee</li> <li>▪ Each additional treatment technology or disposal method consisting of technologies or designs that are covered under other Type 4 general permits on same Notice of Intent to Discharge up to maximum fee</li> </ul>	\$3,600 \$7,500 \$1,200 \$500
4.23 General Permit annual report	Annual report required under A.A.C. R18-9-E323(G)	\$200
Type 4 General Permits (4.02 through 4.22)	<ul style="list-style-type: none"> <li>▪ Maximum fee</li> <li>▪ First Type 4 general permit</li> <li>▪ Each additional Type 4 general permit on same Notice of Intent to Discharge</li> </ul>	\$3,700 \$1,200 \$500

Water Quality Protection Service	Description	Permit Fee
Alternative Design under A.A.C. R18-9-A312(G)	A request for an alternative design, installation, or operational feature, per alternative design: <ul style="list-style-type: none"> <li>▪ Type 4.01 general permit</li> <li>▪ All other Type 4 general permits</li> </ul>	\$750 \$250
Interceptor under A.A.C. R18-9-A315	A design requiring an interceptor (per interceptor)	\$100
Transfer	Transfer of discharge authorization	\$50
Priority Review	If an applicant requests priority review, the Department shall approve or deny the request. When determining whether to approve a priority review request, the Department shall consider the complexity of the project and the Department's current work load.	Double the Applicable Fee (including any applicable maximum fee)

**Historical Note**

Adopted effective November 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 7 A.A.R. 564, effective January 2, 2001 (Supp. 01-1). New Section made by exempt rulemaking at 16 A.A.R. 851, effective July 1, 2010 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 1505, effective July 1, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 568, effective July 1, 2011 (Supp. 11-2).

**R18-14-109. AZPDES Water Quality Protection Services Flat Fees**

- A. The Department shall assess a flat fee for an AZPDES water quality protection service, as described in Table 6.
- B. In addition to the requirements in A.A.C. R18-9-A907(B), a draft permit will state the category and fee assigned to the permit and the factors for establishing the fee, according to Table 6. Any person may comment on the fee category assignment as part of the public comment period described in A.A.C. R18-9-A908.
- C. Annual Fee. The Department shall bill an annual fee to permittees who have not filed a notice of termination for an applicable general permit.

**Table 6. AZPDES Water Quality Protection Services Flat Fees**

Category	Factors for Establishing Fees	Initial Fee	Annual Fee	
Municipal Separate Storm Sewer System General Permit	The fee is based on the population of the permitted area: <ul style="list-style-type: none"> <li>▪ Less than or equal to 10,000</li> <li>▪ Greater than 10,000 but less than or equal to 100,000</li> <li>▪ Greater than 100,000</li> </ul>	\$2,500 \$5,000 \$7,500	\$2,500 \$5,000 \$7,500	
	The fee for a non-traditional municipal separate storm sewer system, such as a hospital, college or military facility	\$5,000	\$5,000	
	Construction General Permit	The fee is based on the amount of acreage identified in the Notice of Intent: <ul style="list-style-type: none"> <li>▪ Less than or equal to 1 acre</li> <li>▪ Greater than 1 acre but less than or equal to 50 acres</li> <li>▪ Greater than 50 acres</li> </ul>	\$250 \$350 \$500	\$250 \$350 \$500
		Pollution prevention plan review	\$1,000	N/A
Waiver <ul style="list-style-type: none"> <li>▪ Each additional submittal due to deficiency</li> </ul>		\$500 \$750	N/A N/A	
If more than one person must apply for general permit coverage of the same facility or discharge activity, each person pays:		Fee applicable to the amount of acreage each person controls	Fee applicable to the amount of acreage each person controls	
Multi-Sector General Permit		The fee is based on the amount of acreage identified in the Notice of Intent: <ul style="list-style-type: none"> <li>▪ Less than or equal to 1 acre</li> <li>▪ Greater than 1 acre but less than or equal to 40 acres</li> <li>▪ Greater than 40 acres</li> </ul>	\$350 \$500 \$1,000	\$350 \$500 \$1,000
Multi-Sector General Permit	Pollution prevention plan review	\$1,000	N/A	
	Waiver <ul style="list-style-type: none"> <li>▪ Each additional submittal due to deficiency</li> </ul>	\$500	N/A	
	Certificate of No Exposure	\$1,250	N/A	
	If more than one person must apply for general permit coverage of the same facility or discharge activity, each person pays:	Fee applicable to the amount of acreage each person controls	Fee applicable to the amount of acreage each person controls	

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Category	Factors for Establishing Fees	Initial Fee	Annual Fee
General Permits for Non-Stormwater Discharges	The fee is based on the Department’s total anticipated staff hours (including permit development, customer service, review of the notice of intent, and annual data review and inspections) divided by the total number of potential permittees over a five-year period:		
	▪ Level 1A	\$250	\$250
	• Staff hours: 1,500		
	• Number of potential permittees: 750		
	▪ Level 1B	\$500	\$500
	• Staff hours: 1,500		
	• Number of potential permittees: 375		
	▪ Level 2	\$1,250	\$1,250
	• Staff hours: 1,000		
	• Number of potential permittees: 100		
▪ Level 3	\$1,500	\$1,500	
• Staff hours: 1,300			
• Number of potential permittees: 100			
▪ Level 4A	\$2,000	\$2,000	
• Staff hours: 1,600			
• Number of potential permittees: 100			
▪ Level 4B	\$2,500	\$2,500	
• Staff hours: 1,900			
• Number of potential permittees: 100			
	Pollution prevention plan review	\$1,000	N/A
	▪ Each additional submittal due to deficiency	\$500	N/A
Emergency Discharge General Permit	Authorization for emergency discharge	\$10,000	N/A
Transfer	Authorization for permit transfer as allowed under A.A.C. R18-9-B905	\$50	N/A
Biosolids Land Applicators	Initial registration	\$500	N/A
	Registration amendment	\$250	N/A
	Annual report based on amount of dry metric tons applied		
	▪ Less than or equal to 7,500 dry metric tons	N/A	\$2,500
	▪ Greater than 7,500 dry metric tons but less than or equal to 15,000 dry metric tons	N/A	\$3,000
	▪ Greater than 15,000 dry metric tons	N/A	\$4,500

**Historical Note**

New Section made by final rulemaking at 17 A.A.R. 568, effective July 1, 2011 (Supp. 11-2).

**R18-14-110. Reclaimed Water Flat Fees**

The Department shall assess a flat fee for a reclaimed water quality protection service as listed in Table 7. For purposes of this Section, “complex” is defined in A.A.C. R18-1-501(9). “Standard” means any permit that does not meet the definition of complex.

**Table 7. Reclaimed Water General Permit Fees**

Permit Description	Permit Fee	Renewal Fee
Standard Type 2	\$600	\$450
Complex Type 2	\$750	\$575
Standard Type 3	\$1,500	\$1,250
Complex Type 3	\$2,000	\$1,500
Amendment to Notice of Intent	Same as applicable renewal fee	N/A
Transfer of permit authorization	\$50	N/A

**Historical Note**

New Section made by final rulemaking at 17 A.A.R. 568, effective July 1, 2011 (Supp. 11-2).

**R18-14-111. Other Flat Fees**

Flat fees. The Department shall assess a flat fee for the following water quality protection services:

1. Dry well registration, \$100 per dry well;
2. Dry well transfer of registration, \$50 per transfer;
3. Certificate of Approval for Sanitary Facilities for Subdivisions.
  - a. Subdivision with public sewerage system: \$800 for every increment of 150 lots or less;
  - b. Subdivision with individual sewerage system:
    - i. \$500 for less than 10 lots;
    - ii. \$1,000 for greater than 10 lots but less than 50 lots;
    - iii. \$1,000 for each additional increment of 50 lots or less.
  - c. If water from a central system is not provided to the lot, the fee is one and one-half the applicable fee stated in subsection (3)(a) or (b).
  - d. Condominium subdivision: \$1,000 for every increment of 150 units or less.

**Historical Note**

New Section made by final rulemaking at 17 A.A.R. 568, effective July 1, 2011 (Supp. 11-2).

**R18-14-112. Implementation**

The fees in this Article apply on July 1, 2011. For fees related to the AZPDES program:

1. A person shall submit the applicable fee when requesting a water quality protection service as specified in an AZPDES General Permit or in 18 A.A.C. 9, Article 9; and
2. A person is responsible for paying the annual fee for an AZPDES general permit, even if the person filed for coverage before the effective date of these rules.

**Historical Note**

New Section made by final rulemaking at 17 A.A.R. 568, effective July 1, 2011 (Supp. 11-2).

**R18-14-113. Annual Report**

By December 1 of each year, the Department shall publish an accounting of Water Quality Fee Fund revenue and expenditure activity for the prior fiscal year.

**Historical Note**

New Section made by final rulemaking at 17 A.A.R. 568, effective July 1, 2011 (Supp. 11-2).

## ARTICLE 2. PUBLIC WATER SYSTEM DESIGN REVIEW FEES

**R18-14-201. Definitions**

In addition to the definitions in A.A.C. R18-1-501, and 18 A.A.C. 4, the following terms apply to this Article:

“Design review” means the process for reviewing an application for an Approval to Construct as prescribed in A.A.C. R18-5-505(B).

“Design review service” means all activities related to processing an application for an Approval to Construct, including reviewing, approving, or denying an application, conducting a pre-application meeting or site visit, or other activity required to review an Approval to Construct application.

“Distribution system” has the same meaning prescribed in A.A.C. R18-5-101.

“Priority Review” means a design review service where a license application is reviewed using not more than 50% of the total review time-frame for an Approval to Construct license application.

“Public water system” has the same meaning prescribed in A.R.S. § 49-352(B).

“Licensing time-frame” means a period of time described and defined in A.R.S. Title 41, Chapter 6, Article 7.1, and 18 A.A.C. 1, Article 5.

“Water treatment plant” has the same meaning prescribed in A.A.C. R18-5-101.

**Historical Note**

Section made by final rulemaking at 14 A.A.R. 4102, effective December 6, 2008 (Supp. 08-4).

**R18-14-202. Flat Rate Fees**

- A. The Department shall assess and collect a flat rate fee for design review services for public water systems.
- B. Design criteria for public water systems are specified in 18 A.A.C. 4 and 18 A.A.C. 5.
- C. An applicant shall submit public water system design review fees with an application for an Approval to Construct, as specified in 18 A.A.C. 5, Article 5.
- D. The flat rate fees for a design review service:
  1. Are established in Table 1, are assessed on a per-unit basis where applicable, and are cumulative unless otherwise specified in this Article;
  2. Shall be paid by cash, check, cashier’s check, money order, or any other method acceptable to the Department; and
  3. Shall be paid in full before the Department issues approval of an application.
- E. The Department shall refund 50 percent of the application fee paid by an applicant if, during the administrative completeness review time-frame period, the applicant:
  1. Fails to respond in a reasonably timely manner, as set forth in A.A.C. R18-1-507, to a notice of administrative deficiencies requesting additional information under A.A.C. R18-1-503, and the Department denies the application; or
  2. Withdraws the application.
- F. If an application is denied under A.A.C. R18-1-507 after the end of the administrative completeness review time-frame, the Department shall retain the flat fee paid by the applicant.
- G. If an applicant requests priority review, the Department shall approve or deny the request. When determining whether to approve a priority review request, the Department shall consider the complexity of the project and the Department’s current work load. If priority review is approved by the Department, the applicant shall pay the priority review fee specified in Table 1.
- H. State agencies are exempt from all fees imposed under this Article pursuant to A.R.S. § 49-353(A)(2)(b).

**Historical Note**

Section made by final rulemaking at 14 A.A.R. 4102, effective December 6, 2008 (Supp. 08-4).

Table 1. Design Review Service Fees

Public Water System Design Review Application Types	Fees <sup>1, 2</sup>
Approval to Construct Public Water Supply Distribution System:	
• 150 or fewer service connections	\$900
• 151 to 300 service connections	\$1,400
• 301 to 450 service connections	\$1,900
• 451 to 600 service connections	\$2,400
• 601 to 750 service connections	\$2,900
• Each additional 150 service connections	Add \$500
Water Treatment Plants and Blending Plans (including new source approval if applicable):	
• < 0.1 mgd	\$1,500
• ≥ 0.1 mgd and < 1 mgd	\$2,000
• ≥ 1 mgd and < 5 mgd	\$3,000
• ≥ 5 mgd	\$5,000
Well (including new source approval if applicable)	\$1,250
Storage Tank	\$800
Booster Pump	\$800
Main Line Extension	\$250
Chlorinators/Disinfection Devices	\$250
Extension of Time to Construct <sup>3</sup>	50% of the application fee, not to exceed \$500
Priority Review Fee <sup>4</sup>	Double the Standard Fee

- 1 Fees are calculated on a per-unit basis; i.e., a separate fee is assessed for each separate storage tank, booster pump, disinfection device, or main line extension.
- 2 Fees for each application type are cumulative; an applicant must pay the total of all pertinent fees.
- 3 Extensions of time to construct are issued pursuant to A.A.C. R18-5-505(E); the Section states that an Approval to Construct becomes void if construction is not commenced or completed within a specified time period, unless the Department grants an extension of time.
- 4 Priority Review Projects require Department authorization prior to filing.

#### Historical Note

Table 1, Design Review Service Fees, made by final rulemaking at 14 A.A.R. 4102, effective December 6, 2008 (Supp. 08-4).

### ARTICLE 3. CERTIFIED OPERATOR FEES

#### R18-14-301. Certified Operator Fees

- A. Definition terms from A.A.C. R18-5-101 apply to this Article.
- B. The Department shall assess and collect a flat rate fee for a certification or renewal under the operator certification program.
- C. A person shall submit the applicable fee when requesting a certification or renewal under 18 A.A.C. 5, Article 1, as described below:
  1. An applicant that seeks new certification shall submit a \$65 fee per certification.
  2. An operator that has not held a lower grade level for the required amount of time requests the Department's determination on experience and education in order to be admitted to a higher grade certification examination shall submit a fee of \$150 per application.
  3. An applicant that requests a certificate based on reciprocity with another jurisdiction shall submit a fee of \$250 per application.
  4. An operator submitting a certificate renewal shall submit a \$150 fee for each certificate. If the operator has multiple certificates, the first certificate is \$150, and each additional certificate with the same expiration date is \$50.

#### Historical Note

New Section made by final rulemaking at 21 A.A.R. 2597, effective July 1, 2016 (Supp. 15-4).

#### R18-14-302. Fee Assessment and Collection

- A. Fees for certification or renewal shall be paid in U.S. dollars by cash, check, cashier's check, money order, or any other method acceptable to the Department.
- B. The Department shall not accept a request for a certification or renewal without the appropriate fee.
- C. If the Department does not accept an operator certificate renewal form, required according to A.A.C. R18-5-107(B), the certificate expires for failure to renew according to A.A.C. R18-5-108.

#### Historical Note

New Section made by final rulemaking at 21 A.A.R. 2597, effective July 1, 2016 (Supp. 15-4).

#### R18-14-303. Implementation

The fees in this Article apply to any application for a certification or renewal that is submitted on or after July 1, 2016.

#### Historical Note

New Section made by final rulemaking at 21 A.A.R. 2597, effective July 1, 2016 (Supp. 15-4).

#### 49-104. Powers and duties of the department and director

##### A. The department shall:

1. Formulate policies, plans and programs to implement this title to protect the environment.
2. Stimulate and encourage all local, state, regional and federal governmental agencies and all private persons and enterprises that have similar and related objectives and purposes, cooperate with those agencies, persons and enterprises and correlate department plans, programs and operations with those of the agencies, persons and enterprises.
3. Conduct research on its own initiative or at the request of the governor, the legislature or state or local agencies pertaining to any department objectives.
4. Provide information and advice on request of any local, state or federal agencies and private persons and business enterprises on matters within the scope of the department.
5. Consult with and make recommendations to the governor and the legislature on all matters concerning department objectives.
6. Promote and coordinate the management of air resources to ensure their protection, enhancement and balanced utilization consistent with the environmental policy of this state.
7. Promote and coordinate the protection and enhancement of the quality of water resources consistent with the environmental policy of this state.
8. Encourage industrial, commercial, residential and community development that maximizes environmental benefits and minimizes the effects of less desirable environmental conditions.
9. Ensure the preservation and enhancement of natural beauty and man-made scenic qualities.
10. Provide for the prevention and abatement of all water and air pollution including that related to particulates, gases, dust, vapors, noise, radiation, odor, nutrients and heated liquids in accordance with article 3 of this chapter and chapters 2 and 3 of this title.
11. Promote and recommend methods for the recovery, recycling and reuse or, if recycling is not possible, the disposal of solid wastes consistent with sound health, scenic and environmental quality policies. The department shall report annually on its revenues and expenditures relating to the solid and hazardous waste programs overseen or administered by the department.
12. Prevent pollution through the regulation of the storage, handling and transportation of solids, liquids and gases that may cause or contribute to pollution.
13. Promote the restoration and reclamation of degraded or despoiled areas and natural resources.
14. Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.
15. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

16. Unless specifically authorized by the legislature, ensure that state laws, rules, standards, permits, variances and orders are adopted and construed to be consistent with and no more stringent than the corresponding federal law that addresses the same subject matter. This paragraph does not adversely affect standards adopted by an Indian tribe under federal law.

17. Provide administrative and staff support for the oil and gas conservation commission.

B. The department, through the director, shall:

1. Contract for the services of outside advisers, consultants and aides reasonably necessary or desirable to enable the department to adequately perform its duties.

2. Contract and incur obligations reasonably necessary or desirable within the general scope of department activities and operations to enable the department to adequately perform its duties.

3. Utilize any medium of communication, publication and exhibition when disseminating information, advertising and publicity in any field of its purposes, objectives or duties.

4. Adopt procedural rules that are necessary to implement the authority granted under this title, but that are not inconsistent with other provisions of this title.

5. Contract with other agencies, including laboratories, in furthering any department program.

6. Use monies, facilities or services to provide matching contributions under federal or other programs that further the objectives and programs of the department.

7. Accept gifts, grants, matching monies or direct payments from public or private agencies or private persons and enterprises for department services and publications and to conduct programs that are consistent with the general purposes and objectives of this chapter. Monies received pursuant to this paragraph shall be deposited in the department fund corresponding to the service, publication or program provided.

8. Provide for the examination of any premises if the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed on the premises. The director shall give the owner or operator the opportunity for its representative to accompany the director on an examination of those premises. Within forty-five days after the date of the examination, the department shall provide to the owner or operator a copy of any report produced as a result of any examination of the premises.

9. Supervise sanitary engineering facilities and projects in this state, authority for which is vested in the department, and own or lease land on which sanitary engineering facilities are located, and operate the facilities, if the director determines that owning, leasing or operating is necessary for the public health, safety or welfare.

10. Adopt and enforce rules relating to approving design documents for constructing, improving and operating sanitary engineering and other facilities for disposing of solid, liquid or gaseous deleterious matter.

11. Define and prescribe reasonably necessary rules regarding the water supply, sewage disposal and garbage collection and disposal for subdivisions. The rules shall:

(a) Provide for minimum sanitary facilities to be installed in the subdivision and may require that water systems plan for future needs and be of adequate size and capacity to deliver specified minimum quantities of drinking water and to treat all sewage.

(b) Provide that the design documents showing or describing the water supply, sewage disposal and garbage collection facilities be submitted with a fee to the department for review and that no lots in any subdivision be offered for sale before compliance with the standards and rules has been demonstrated by approval of the design documents by the department.

12. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious conditions at those places. The rules shall prescribe minimum standards for the design of and for sanitary conditions at any public or semipublic swimming pool or bathing place and provide for abatement as public nuisances of premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of health services and shall be consistent with the rules adopted by the director of the department of health services pursuant to section 36-136, subsection I, paragraph 10.

13. Prescribe reasonable rules regarding sewage collection, treatment, disposal and reclamation systems to prevent the transmission of sewage borne or insect borne diseases. The rules shall:

(a) Prescribe minimum standards for the design of sewage collection systems and treatment, disposal and reclamation systems and for operating the systems.

(b) Provide for inspecting the premises, systems and installations and for abating as a public nuisance any collection system, process, treatment plant, disposal system or reclamation system that does not comply with the minimum standards.

(c) Require that design documents for all sewage collection systems, sewage collection system extensions, treatment plants, processes, devices, equipment, disposal systems, on-site wastewater treatment facilities and reclamation systems be submitted with a fee for review to the department and may require that the design documents anticipate and provide for future sewage treatment needs.

(d) Require that construction, reconstruction, installation or initiation of any sewage collection system, sewage collection system extension, treatment plant, process, device, equipment, disposal system, on-site wastewater treatment facility or reclamation system conform with applicable requirements.

14. Prescribe reasonably necessary rules regarding excreta storage, handling, treatment, transportation and disposal. The rules may:

(a) Prescribe minimum standards for human excreta storage, handling, treatment, transportation and disposal and shall provide for inspection of premises, processes and vehicles and for abating as public nuisances any premises, processes or vehicles that do not comply with the minimum standards.

(b) Provide that vehicles transporting human excreta from privies, septic tanks, cesspools and other treatment processes shall be licensed by the department subject to compliance with the rules. The department may require payment of a fee as a condition of licensure. The department may establish by rule a fee as a condition of licensure, including a maximum fee. As part of the rulemaking process, there must be public notice and comment and a review of the rule by the joint legislative budget committee. The department shall not increase that fee by rule without specific statutory authority for the increase. The fees shall be deposited, pursuant to sections 35-146 and 35-147, in the solid waste fee fund established by section 49-881.

15. Perform the responsibilities of implementing and maintaining a data automation management system to support the reporting requirements of title III of the superfund amendments and reauthorization act of 1986 (P.L. 99-499) and article 2 of this chapter.

16. Approve remediation levels pursuant to article 4 of this chapter.

17. Establish or revise fees by rule pursuant to the authority granted under title 44, chapter 9, article 8 and chapters 4 and 5 of this title for the department to adequately perform its duties. All fees shall be fairly assessed and impose the least burden and cost to the parties subject to the fees. In establishing or revising fees, the department shall base the fees on:

(a) The direct and indirect costs of the department's relevant duties, including employee salaries and benefits, professional and outside services, equipment, in-state travel and other necessary operational expenses directly

related to issuing licenses as defined in title 41, chapter 6 and enforcing the requirements of the applicable regulatory program.

- (b) The availability of other funds for the duties performed.
- (c) The impact of the fees on the parties subject to the fees.
- (d) The fees charged for similar duties performed by the department, other agencies and the private sector.

18. Appoint a person with a background in oil and gas conservation to act on behalf of the oil and gas conservation commission and administer and enforce the applicable provisions of title 27, chapter 4 relating to the oil and gas conservation commission.

C. The department may:

1. Charge fees to cover the costs of all permits and inspections it performs to ensure compliance with rules adopted under section 49-203, except that state agencies are exempt from paying those fees that are not associated with the dredge and fill permit program established pursuant to chapter 2, article 3.2 of this title. For services provided under the dredge and fill permit program, a state agency shall pay either:

- (a) The fees established by the department under the dredge and fill permit program.
- (b) The reasonable cost of services provided by the department pursuant to an interagency service agreement.

2. Monies collected pursuant to this subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the water quality fee fund established by section 49-210.

3. Contract with private consultants for the purposes of assisting the department in reviewing applications for licenses, permits or other authorizations to determine whether an applicant meets the criteria for issuance of the license, permit or other authorization. If the department contracts with a consultant under this paragraph, an applicant may request that the department expedite the application review by requesting that the department use the services of the consultant and by agreeing to pay the department the costs of the consultant's services. Notwithstanding any other law, monies paid by applicants for expedited reviews pursuant to this paragraph are appropriated to the department for use in paying consultants for services.

D. The director may:

1. If the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed, inspect any person or property in transit through this state and any vehicle in which the person or property is being transported and detain or disinfect the person, property or vehicle as reasonably necessary to protect the environment if a violation exists.

2. Authorize in writing any qualified officer or employee in the department to perform any act that the director is authorized or required to do by law.

#### 49-203. Powers and duties of the director and department

A. The director shall:

1. Adopt, by rule, water quality standards in the form and subject to the considerations prescribed by article 2 of this chapter.

2. Adopt, by rule, a permit program that is consistent with but no more stringent than the requirements of the clean water act for the point source discharge of any pollutant or combination of pollutants into navigable waters. The program and the rules shall be sufficient to enable this state to administer the permit program identified in section 402(b) of the clean water act including the sewage sludge requirements of section 405 of the clean water act and as prescribed by article 3.1 of this chapter.

3. Adopt, by rule, a program to control nonpoint source discharges of any pollutant or combination of pollutants into navigable waters.

4. Adopt, by rule, an aquifer protection permit program to control discharges of any pollutant or combination of pollutants that are reaching or may with a reasonable probability reach an aquifer. The permit program shall be as prescribed by article 3 of this chapter.

5. Adopt, by rule, the permit program for underground injection control described in the safe drinking water act.

6. Adopt, by rule, technical standards for conveyances of reclaimed water and a permit program for the direct reuse of reclaimed water.

7. Adopt, by rule or as permit conditions, discharge limitations, best management practice standards, new source performance standards, toxic and pretreatment standards and other standards and conditions as reasonable and necessary to carry out the permit programs and regulatory duties described in paragraphs 2 through 5 of this subsection.

8. Assess and collect fees to revoke, issue, deny, modify or suspend permits issued pursuant to this chapter and to process permit applications. The director may also assess and collect costs reasonably necessary if the director must conduct sampling or monitoring relating to a facility because the owner or operator of the facility has refused or failed to do so on order by the director. The director shall set fees that are reasonably related to the department's costs of providing the service for which the fee is charged. Monies collected from aquifer protection permit fees and from Arizona pollutant discharge elimination system permit fees shall be deposited, pursuant to sections 35-146 and 35-147, in the water quality fee fund established by section 49-210. Monies from other permit fees shall be deposited, pursuant to sections 35-146 and 35-147, in the water quality fee fund unless otherwise provided by law. Monies paid by an applicant for review by consultants for the department pursuant to section 49-241.02, subsection D shall be deposited, pursuant to sections 35-146 and 35-147, in the water quality fee fund established by section 49-210. State agencies are exempt from all fees imposed pursuant to this chapter except for those fees associated with the dredge and fill permit program established pursuant to article 3.2 of this chapter. For services provided under the dredge and fill permit program, a state agency shall pay either:

(a) The fees established by the department under the dredge and fill permit program.

(b) The reasonable cost of services provided by the department pursuant to an interagency service agreement.

9. Adopt, modify, repeal and enforce other rules that are reasonably necessary to carry out the director's functions under this chapter.

10. Require monitoring at an appropriate point of compliance for any organic or inorganic pollutant listed under section 49-243, subsection I if the director has reason to suspect the presence of the pollutant in a discharge.

11. Adopt rules establishing what constitutes a significant increase or adverse alteration in the characteristics or volume of pollutants discharged for purposes of determining what constitutes a major modification to an existing facility under the definition of new facility pursuant to section 49-201. Before the adoption of these rules, the director shall determine whether a change at a particular facility results in a significant increase or adverse alteration in the characteristics or volume of pollutants discharged on a case-by-case basis, taking into account site conditions and operational factors.

B. The director may:

1. On presentation of credentials, enter into, on or through any public or private property from which a discharge has occurred, is occurring or may occur or on which any disposal, land application of sludge or treatment regulated by this chapter has occurred, is occurring or may be occurring and any public or private property where records relating to a discharge or records that are otherwise required to be maintained as prescribed by this chapter are kept, as reasonably necessary to ensure compliance with this chapter. The director or a department employee may take samples, inspect and copy records required to be maintained pursuant to this chapter, inspect equipment, activities, facilities and monitoring equipment or methods of monitoring, take photographs and take other action reasonably necessary to determine the application of, or compliance with, this chapter. The owner or managing agent of the property shall be afforded the opportunity to accompany the director or department employee during inspections and investigations, but prior notice of entry to the owner or managing agent is not required if reasonable grounds exist to believe that notice would frustrate the enforcement of this chapter. If the director or department employee obtains any samples before leaving the premises, the director or department employee shall give the owner or managing agent a receipt describing the samples obtained and a portion of each sample equal in volume or weight to the portion retained. If an analysis is made of samples, or monitoring and testing are performed, a copy of the results shall be furnished promptly to the owner or managing agent.

2. Require any person who has discharged, is discharging or may discharge into the waters of the state under article 3, 3.1 or 3.2 or 3.3 of this chapter and any person who is subject to pretreatment standards and requirements or sewage sludge use or disposal requirements under article 3.1 of this chapter to collect samples, to establish and maintain records, including photographs, and to install, use and maintain sampling and monitoring equipment to determine the absence or presence and nature of the discharge or indirect discharge or sewage sludge use or disposal.

3. Administer state or federal grants, including grants to political subdivisions of this state, for the construction and installation of publicly and privately owned pollutant treatment works and pollutant control devices and establish grant application priorities.

4. Develop, implement and administer a water quality planning process, including a ranking system for applicant eligibility, wherein appropriated state monies and available federal monies are awarded to political subdivisions of this state to support or assist regional water quality planning programs and activities.

5. Enter into contracts and agreements with the federal government to implement federal environmental statutes and programs.

6. Enter into intergovernmental agreements pursuant to title 11, chapter 7, article 3 if the agreement is necessary to more effectively administer the powers and duties described in this chapter.

7. Participate in, conduct and contract for studies, investigations, research and demonstrations relating to the causes, minimization, prevention, correction, abatement, mitigation, elimination, control and remedy of discharges and collect and disseminate information relating to discharges.

8. File bonds or other security as required by a court in any enforcement actions under article 4 of this chapter.

9. Adopt by rule a permit program for the discharge of dredged or fill material into navigable waters for purposes of implementing the permit program established by 33 United States Code section 1344.

C. Subject to section 38-503 and other applicable statutes and rules, the department may contract with a private consultant for the purposes of assisting the department in reviewing aquifer protection permit applications and on-site wastewater treatment facilities to determine whether a facility meets the criteria and requirements of this chapter and the rules adopted by the director. Except as provided in section 49-241.02, subsection D, the department shall not use a private consultant if the fee charged for that service would be greater than the fee the department would charge to provide that service. The department shall pay the consultant for the services rendered by the consultant from fees paid by the applicant or facility to the department pursuant to subsection A, paragraph 8 of this section.

D. The director shall integrate all of the programs authorized in this section and other programs affording water quality protection that are administered by the department for purposes of administration and enforcement and shall avoid duplication and dual permitting to the maximum extent practicable.

#### 49-241.02. Payment for aquifer protection permit fees; definitions

A. Only for a one-time rule making after July 29, 2010, the director shall establish by rule fees for aquifer protection permits, including maximum fees and fees for individual or area-wide permits, complex and standard modifications to permits and clean closure of a nonpermitted facility. After the one-time rule making, the director shall not increase those fees by rule without specific statutory authority for the increase. Monies collected pursuant to this section shall be deposited, pursuant to sections 35-146 and 35-147, in the water quality fee fund established by section 49-210.

B. Each permit action application submitted by the applicant is subject to a maximum fee.

C. Notwithstanding any other provision in this section, an applicant may request that the department waive the applicable maximum fee for processing an application for a permit action. On requesting the waiver, the applicant agrees to pay the total direct costs incurred by the department in processing the application and the department may process the application for a permit action.

D. If the department contracts with a consultant under section 49-203, an applicant may request that the department expedite the application review by requesting that the department use the services of the consultant and agreeing to pay to the department the costs of the consultant's services regardless of the other provisions of this section.

E. The department shall review the revenues derived from and expenses incurred for processing permit action applications through June 30, 2014 to determine the adequacy of the maximum fees, and by August 31, 2014, the department shall issue a report to the legislature on its findings.

F. For the purposes of this section:

1. "Complex modification" means, for purposes of the mining sector, any of the following:

(a) Any new tailing impoundment, leach pad or stockpile, or process solution impoundment or conveyance required to have an individual permit under this article, unless this new facility is within an approved passive containment capture zone under section 49-243, subsection G, paragraph 1.

(b) The expansion of the footprint of any tailing impoundment, leach pad or stockpile, or process solution impoundment or conveyance permitted under this article if the expanded facility is not located within a passive containment capture zone under section 49-243, subsection G, paragraph 1, and the expansion either:

(i) Requires expansion of the pollutant management area and a new or relocated point of compliance.

(ii) Extends over a geologic unit of higher hydraulic conductivity than the original facility, unless the original facility is lined and the same liner is extended to cover the entire expansion area.

(c) A new or expanded waste rock pile is not considered to be a discharging facility under section 49-241, subsection B and may be categorized as a complex modification for purposes of this section only if the department determines all of the following:

(i) The new or expanded waste rock pile otherwise qualifies as a discharging facility and is not exempted under section 49-250.

(ii) The new or expanded waste rock pile is located outside of a passive containment capture zone under section 49-243, subsection G, paragraph 1.

(iii) The new or expanded waste rock pile either requires expansion of the pollutant management area and a new or relocated point of compliance or it extends over a geologic unit of higher hydraulic conductivity than the original facility.

2. "Maximum fee" means the maximum amount the director establishes by rule for services for a permit action.

3. "Permit action" means:

(a) Issuance of an individual or area-wide aquifer protection permit to operate or to close.

(b) Issuance of a complex modification of an individual or area-wide aquifer protection permit.

(c) Issuance of a clean closure approval.

(d) Issuance of a standard modification of an individual or area-wide aquifer protection permit.

(e) Denial of any application.

(f) Processing any permit action application request that the applicant withdraws.

G. The department shall adopt a rule to define "complex modification" for other nonmining aquifer protection permit sectors.

49-255.01. Arizona pollutant discharge elimination system program; rules and standards; affirmative defense; fees; general permit; exemption from termination

A. A person shall not discharge except under either of the following conditions:

1. In conformance with a permit that is issued or authorized under this article.
2. Pursuant to a permit that is issued or authorized by the United States environmental protection agency until a permit that is issued or authorized under this article takes effect.

B. The director shall adopt rules to establish an AZPDES permit program consistent with the requirements of sections 402(b) and 402(p) of the clean water act. This program shall include requirements to ensure compliance with section 307 and requirements for the control of discharges consistent with sections 318 and 405(a) of the clean water act. The director shall not adopt any requirement that is more stringent than or conflicts with any requirement of the clean water act. The director may adopt federal rules pursuant to section 41-1028 or may adopt rules to reflect local environmental conditions to the extent that the rules are consistent with and no more stringent than the clean water act and this article.

C. The rules adopted by the director shall provide for:

1. Issuing, authorizing, denying, modifying, suspending or revoking individual or general permits.
2. Establishment of permit conditions, discharge limitations and standards of performance as prescribed by section 49-203, subsection A, paragraph 7, including case by case effluent limitations that are developed in a manner consistent with 40 Code of Federal Regulations section 125.3(c).
3. Modifications and variances as allowed by the clean water act.
4. Other provisions necessary for maintaining state program authority under section 402(b) of the clean water act.

D. This article does not affect the validity of any existing rules that are adopted by the director and that are equivalent to and consistent with the national pollutant discharge elimination system program authorized under section 402 of the clean water act until new rules for AZPDES discharges are adopted pursuant to this article.

E. An upset constitutes an affirmative defense to any administrative, civil or criminal enforcement action brought for noncompliance with technology-based permit discharge limitations if the permittee complies with all of the following:

1. The permittee demonstrates through properly signed contemporaneous operating logs or other relevant evidence that:
  - (a) An upset occurred and that the permittee can identify the specific cause of the upset.
  - (b) The permitted facility was being properly operated at the time of the upset.
  - (c) If the upset causes the discharge to exceed any discharge limitation in the permit, the permittee submitted notice to the department within twenty-four hours of the upset.
  - (d) The permittee has taken appropriate remedial measures including all reasonable steps to minimize or prevent any discharge or sewage sludge use or disposal that is in violation of the permit and that has a reasonable likelihood of adversely affecting human health or the environment.
2. In any administrative, civil or criminal enforcement action, the permittee shall prove, by a preponderance of the evidence, the occurrence of an upset condition.

F. Compliance with a permit issued pursuant to this article shall be deemed compliance with both of the following:

1. All requirements in this article or rules adopted pursuant to this article relating to state implementation of sections 301, 302, 306 and 307 of the clean water act, except for any standard that is imposed under section 307 of the clean water act for a toxic pollutant that is injurious to human health.
2. Limitations for pollutants in navigable waters adopted pursuant to sections 49-221 and 49-222, if the discharge of the pollutant is specifically limited in a permit issued pursuant to this article or the pollutant was specifically identified as present or potentially present in facility discharges during the application process for the permit.

G. Notwithstanding section 49-203, subsection D, permits that are issued under this article shall not be combined with permits issued under article 3 of this chapter.

H. The decision of the director to issue or modify a permit takes effect on issuance if there were no changes requested in comments that were submitted on the draft permit unless a later effective date is specified in the decision. In all other cases, the decision of the director to issue, deny, modify, suspend or revoke a permit takes effect thirty days after the decision is served on the permit applicant, unless either of the following applies:

1. Within the thirty day period, an appeal is filed with the water quality appeals board pursuant to section 49-323.
2. A later effective date is specified in the decision.

I. In addition to other reservations of rights provided by this chapter, nothing in this article shall impair or affect rights or the exercise of rights to water claimed, recognized, permitted, certificated, adjudicated or decreed pursuant to state or other law.

J. Only for a one-time rule making after July 29, 2010, the director shall establish by rule fees, including maximum fees, for processing, issuing and denying an application for a permit pursuant to this section. After the one-time rule making, the director shall not increase those fees by rule without specific statutory authority for the increase. Monies collected pursuant to this section shall be deposited, pursuant to sections 35-146 and 35-147, in the water quality fee fund established by section 49-210.

K. Any permit conditions concerning threatened or endangered species shall be limited to those required by the endangered species act.

L. When developing a general permit for discharges of storm water from construction activity, the director shall provide for reduced control measures at sites that retain storm water in a manner that eliminates discharges from the site, except for the occurrence of an extreme event. Reduced control measures shall be available if all of the following conditions are met:

1. The nearest downstream receiving water is ephemeral and the construction site is a sufficient distance from a water warranting additional protection as described in the general permit.
2. The construction activity occurs on a site designed so that all storm water generated by disturbed areas of the site exclusive of public rights-of-way is directed to one or more retention basins that are designed to retain the runoff from an extreme event. For the purposes of this subsection, "extreme event" means a rainfall event that meets or exceeds the local one hundred-year, two-hour storm event as calculated by an Arizona registered professional engineer using industry practices.
3. The owner or operator complies with good housekeeping measures included in the general permit.
4. The owner or operator maintains the capacity of the retention basins.

5. Construction conforms to the standards prescribed by this section.

M. If the director commences proceedings for the renewal of a general permit issued pursuant to this article, the existing general permit shall not expire and coverage may continue to be obtained by new dischargers until the proceedings have resulted in a final determination by the director. If the proceedings result in a decision not to renew the general permit, the existing general permit shall continue in effect until the last day for filing for review of the decision of the director not to renew the permit or until any later date that is fixed by court order.

N. This program is exempt from section 41-3102.

### 49-332. Registration

- A. A person who owns an existing dry well that is or has been used for disposal shall register the well on a registration form provided by the director. This form shall be accompanied by a registration fee established by the director by rule in a one-time rule making after the effective date of this amendment to this section. After the one-time rule making, the director shall not increase that fee by rule without specific statutory authority for the increase. Monies collected by the department shall be deposited, pursuant to sections 35-146 and 35-147, in the water quality fee fund established by section 49-210. The registration form shall include information that the director determines is necessary to meet the purpose of this article.
- B. The director shall assign a registration number to each dry well registered pursuant to this section and shall maintain a permanent record of the information contained on the registration form and the registration number.
- C. An owner who brings a dry well into operation after August 13, 1986 shall register the well on a registration form provided by the director and shall pay the registration fee established by the director by rule within thirty days of beginning operations.
- D. A person who installs a dry well shall notify the owner of the registration requirements of subsection C of this section.
- E. This article shall not be construed to legalize any dry well that exists on August 13, 1986 and that is not in compliance with this chapter and chapter 5 of this title.

**MEDICAL BOARD**

Title 4, Chapter 16, Article 2, Licensure



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - FIVE-YEAR REVIEW REPORT

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**MEETING DATE:** February 2, 2021

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** January 14, 2021

**SUBJECT:** Arizona Medical Board  
Title 4, Chapter 16

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This Five-Year-Review Report (5YRR) from the Arizona Medical Board relates to rules in Title 4, Chapter 16, Article 2 regarding Licensure.

The last 5YRR of these rules was approved by the Council on May 3, 2011. The Board proposed to amend all of its rules in that report. The rules were later made and amended in an exempt rulemaking that went into effect on October 1, 2015. The Council rescheduled the next 5YRR to 2020.

### **Proposed Action**

\_\_\_\_\_ The Board is proposing to amend one of its rules, R4-16-201, to improve its effectiveness, and consistency with other rules and statutes.

\_\_\_\_\_ **1. Has the agency analyzed whether the rules are authorized by statute?**

Yes, the Board cites to both general and specific statutory authority.

2. **Summary of the agency's economic impact comparison and identification of stakeholders:**

Stakeholders are identified as the Arizona Medical Board (Board), and the Board's licensees and applicants.

In 2015, the Board made an exempt rulemaking, meaning that no economic, small business, and consumer impact statement was prepared. However, the Board estimated that the rulemaking would have a minimal positive economic impact for licensees and applicants by:

- Making the rules consistent with the ADA (Americans with Disabilities Act)
- Broadening requirements regarding the submission of necessary photographs
- Permitting electronic submission of documentation
- Permitting use of credential verification organizations

The Board believes its estimate of some positive economic impact was accurate for the current 26,362 licensees and 2,138 applicants during the last fiscal year. The Board issued 520 expedited licenses under the terms of the interstate medical licensure compact. Additionally, there were 32 applications for pro bono registration and two applications for locum tenens registration. In FY2020, the Board renewed 11,537 licenses and issued 1,959 new licenses.

In a rulemaking that went into effect in 2018, the Board ensured that a temporary license fee did not expire under A.R.S. § 41-1008(E). This only imposed economic costs on the Board to complete the regular rulemaking.

3. **Has the agency analyzed the costs and benefits of the rulemaking and determined that the rules impose the least burden and costs to those who are regulated?**

The Board determined the benefits of the rules outweigh their costs and the rules impose the least burden and costs on licensees and applicants consistent with achieving the goal of protecting public health and safety.

Costs and burdens resulting from the rules include:

- Requiring an applicant to complete an application and submit or have submitted multiple documents
- Requiring an applicant to submit a complete set of fingerprints for a background investigation

- Requiring a licensee to submit a biennial renewal application including an affirmation of completing 40 hours of required CME
- Specifying licensing fees and service charges

4. **Has the agency received any written criticisms of the rules over the last five years?**

The Board indicates they have not received any written criticisms of the rules.

5. **Has the agency analyzed the rules' clarity, conciseness, and understandability?**

Yes, the Board indicates the rules are overall clear, concise, and understandable.

6. **Has the agency analyzed the rules' consistency with other rules and statutes?**

Yes, the Board indicates the rules are overall consistent with other rules and statutes with the exception of the following:

**R4-16-201** - Application for Licensure by Examination or Endorsement

7. **Has the agency analyzed the rules' effectiveness in achieving its objectives?**

Yes, the Board indicates the rules are overall effective in achieving their objectives with the exception of the following:

**R4-16-201** - Application for Licensure by Examination or Endorsement

8. **Has the agency analyzed the current enforcement status of the rules?**

Yes, the Board indicates the rules are enforced as written.

9. **Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

The Board indicates rules are consistent with the Americans with Disabilities Act. There are no other corresponding federal laws that apply to these rules.

10. **For rules adopted after July 29, 2010, do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

Not applicable. The rules do not require the issuance of a general permit.

11. **Conclusion**

As mentioned above, and for the reasons mentioned in the report, the Board is proposing to amend one of its rules to improve its effectiveness and consistency with other rules and statutes. The Board plans to submit a Rulemaking to the Council by September 30, 2021.

Council staff recommends approval of this report.



## Arizona Medical Board

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### Executive Director

Patricia E. McSorley

December 18, 2020

**VIA EMAIL: [grrc@azdoa.gov](mailto:grrc@azdoa.gov)**

Nicole Sornsins, Chair  
Governor's Regulatory  
Review Council 100 North  
15th Avenue, Suite 305  
Phoenix, Arizona 85007

**RE: Arizona Medical Board  
4 A.A.C. 16, Article 2  
(Licensure) Five-year-review  
Report**

Dear Ms. Sornsins:

The Arizona Medical Board submits the referenced five-year-review report for Council's review and approval. The report is due under an extension on December 29, 2020.

The Board certifies it is in compliance with A.R.S. 41-1091.

For questions about this report, please contact Patricia McSorley at 480-551-2791 or [patricia.mcsorley@azmd.gov](mailto:patricia.mcsorley@azmd.gov).

Sincerely,

Patricia McSorley  
Executive Director

**Five-year-review Report**  
**A.A.C. Title 4. Professions and Occupations**  
**Chapter 16. Arizona Medical Board**  
**Submitted for February 2, 2021**

INTRODUCTION

The Board's mission is to protect public safety through the judicious licensing, regulation and education of all allopathic physicians. A.R.S. § 32-1403(A) indicates the primary duty of the Board is to protect the public from unlawful, incompetent, unqualified, impaired, or unprofessional practitioners of allopathic medicine through licensure, regulation, and rehabilitation. Allopathic medicine is the system of medical practice that treats disease by using remedies that produce effects different from or incompatible with those produced by the disease under treatment.

Statute that generally authorizes the agency to make rules: A.R.S. §§ 32-1403(A)(8) and 32-1404(D)

The Board did an exempt rulemaking that amended all the rules in Article 2 in 2015. Since that time, the following statutory changes have impacted the Board:

- Laws 2015, Chapter 251 amended A.R.S. § 32-1422 regarding basic requirements for granting a license. The amendment required applicants to have submitted directly to the Board information regarding all medical employment during the five years before application.
- Laws 2016, Chapter 137 added A.R.S. § 32-1438 regarding temporary licensure and A.R.S. § 32-1439 prohibits requiring an applicant to hold or maintain a specialty certification as a condition for licensure. It also added A.R.S. § 32-3241 adopting the interstate medical licensure compact.

Under Laws 2019, Chapter 55, the legislature amended A.R.S. § 32-4302 regarding universal recognition of out-of-state occupational or professional licenses held by an individual who has established residency in Arizona.

The Board plans to conduct a rulemaking to address statutory changes made since 2015 and to conform R4-16-201(C) with the definition of medical employment found at A.R.S. § 32-1422.

1. Specific statute authorizing the rule:

R4-16-201. A.R.S. §§ 32-1422, 32-1425, 32-1426, and 32-1427

R4-16-201.1. A.R.S. § 32-1430

R4-16-202. A.R.S. §§ 32-1428 and 32-1436

R4-16-203. A.R.S. § 32-1429

R4-16-205. A.R.S. §§ 32-1403(A)(9), 32-1404(A)(9), 32-1422(A)(8), 32-1427(A), 32-1430(A), and 32-1436

R4-16-205.1. A.R.S. § 32-3208

R4-16-206. A.R.S. §§ 41-1072 through 41-1079

Table 1. A.R.S. §§ 41-1072 through 41-1079

2. Objective of the rules:

R4-16-201. Application for Licensure by Examination or Endorsement: The objective of this rule is to specify the content of an application for a license by the U.S. Medical Licensing Examination, endorsement, or endorsement with the Special Purposes Examination, including information required to be submitted directly to the Board by third parties. The rule also specifies confidential questions regarding alcohol and drug use and how to obtain a waiver of documentation requirements.

R4-16-201.1. Application for Renewal of License: The objective of this rule is to specify the content of a renewal application including confidential questions regarding alcohol and drug use and affirmation of completing required continuing medical education.

R4-16-202. Application and Reapplication for Pro Bono Registration: The objective of this rule is to specify the requirements for registration by a physician who is not a licensee in Arizona to allow the physician to practice in Arizona for 60 days in a year.

R4-16-203. Application for Locum Tenens Registration: The objective of this rule is to specify the requirements for registration by a physician who is not a licensee in Arizona to allow the physician to register to practice in Arizona for a maximum of 180 days.

R4-16-205. Fees and Charges: The objective of this rule is to specify the fees the Board charges for its licensing activities and charges for services provided by the Board.

R4-16-205.1. Mandatory Reporting Requirement: The objective of this rule is to provide notice of the mandatory reporting requirement applicable to all medical practitioners.

R4-16-206. Time Frames for Licenses, Permits, and Registrations: The objective of this rule is to specify the time frames within which the Board will act on a license, registration, or permit application.

Table 1. Time Frames: The objective of this rule is to specify in table form the time frames within which the Board will act on a license, registration, or permit application.

3. Are the rules effective in achieving their objectives? Mostly yes

The Board determined the rules are generally effective in achieving their objectives because the Board is able to license and regulate physicians. However, the Board believes the following changes will make the rules more effective:

- As stated above, the Board believes the definition of medical employment in R4-16-201(C) needs to be made compatible with the definition in A.R.S. § 32-1422.
- The Board believes R4-16-201(C)(1) needs to be amended to permit either a notarized copy of an applicant's birth certificate or passport or a certified copy of the documents from a governmental certifying agency.

4. Are the rules consistent with other rules and statutes? Mostly yes

The rules are generally consistent with other rules and statutes. However, the Board determined R4-16-201(C)(4) does not comply with statute. A.R.S. § 32-1422(A)(11)(b) states, regarding submission of documents:

All medical employment for the five years preceding application If the applicant is employed by a hospital or medical group or organization, the board shall accept the confirmation required under this subdivision from the applicant's employer. For the purposes of the subdivision, medical employment included all medical professional activities.

The Board intends to remove the language in R4-16-201(C)(4) referring to hospital affiliations. The statutory definition of medical employment includes hospital affiliations.

5. Are the rules enforced as written? Yes

6. Are the rules clear, concise, and understandable? Yes

7. Has the agency received written criticisms of the rules within the last five years? No

8. Economic, small business, and consumer impact comparison:

Because the 2015 rulemaking that made or amended all the rules was an exempt rulemaking, no economic, small business, and consumer impact statement was prepared. However, the Board estimated the rulemaking would have minimal positive economic impact for licensees and applicants because the rulemaking made only the following adjustments, all of which were beneficial to applicants and licensees:

- Making the rules consistent with the ADA
- Broadening requirements regarding the submission of necessary photographs
- Permitting electronic submission of documentation
- Permitting use of credential verification organizations

The Board believes its estimate of some positive economic impact was accurate for the current 26,362 licensees and 2,138 applicants during the last fiscal year. The Board issued 520 expedited licenses under the terms of the interstate medical licensure compact. Additionally, there were 32 applications for pro bono registration and two applications for locum tenens registration. In FY2020, the Board renewed 11,537 licenses and issued 1,959 new licenses.

The Board has 46.5 FTE employees who also provide support services to the Arizona Regulatory Board of Physician Assistants.

The rulemaking that went into effect on March 10, 2018 (See 24 A.A.R. 182) amended R4-16-201.1 to include a statement on a renewal application that the licensee had obtained an hour of CME addressing the effective and safe prescribing of opioids. R4-16-205, which was previously amended in an exempt rulemaking was amended in the regular rulemaking process to avoid having the fee for a temporary license expire under the terms of A.R.S. § 41-1008(E). The rulemaking did not require a licensee to obtain more than the required 40 hours of CME. Rather it simply required affirmation that one of the hours of CME addressed drug addiction and opioid prescribing, as required by the governor. Because the fee for a temporary license already existed, ensuring the fee did not expire under A.R.S. § 41-1008(E) only imposed economic costs on the Board to complete the regular rulemaking. During the last year, the Board issued 27 temporary licenses.

9. Has the agency received any business competitiveness analyses of the rules? No

10. How the agency completed the course of action indicated in the agency's previous 5YRR?

Yes

The Board performed its last review of Article 2 rules in 2010. The report on the review was approved by the Council on May 3, 2011. In the report, the Board indicated it planned to amend all the rules. All of the rules were made or amended in an exempt rulemaking that went into effect on October 15, 2015 (See 21 A.A.R. 2678). As a result of that rulemaking, in a letter dated November 2, 2015, the Council rescheduled a 5YRR of the rules until 2020. Due to statutory changes, one of the rules, R4-16-205, was amended twice more (See 23

A.A.R. 2056 and 24 A.A.R. 182), and another rule, R4-16-201.1 was amended a second time (See 24 A.A.R. 182).

11. A determination after analysis that the probable benefits of the rule outweigh within this state the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective:

The Board determined the benefits of the rules outweigh their costs and the rules impose the least burden and costs on licensees and applicants consistent with achieving the goal of protecting public health and safety. A.R.S. § 32-1422 establishes basic requirements for granting a license to practice medicine; A.R.S. § 32-1430 requires a license be renewed biennially; A.R.S. § 32-1434 requires licensees to obtain CME; and A.R.S. § 32-1436 authorizes the Board to establish fees and charges.

Costs and burdens resulting from the rules include:

- Requiring an applicant to complete an application and submit or have submitted multiple documents
- Requiring an applicant to submit a complete set of fingerprints for a background investigation
- Requiring a licensee to submit a biennial renewal application including an affirmation of completing 40 hours of required CME
- Specifying licensing fees and service charges

12. Are the rules more stringent than corresponding federal laws? No

One of the amendments made in the 2015 rulemaking ensured the rules are consistent with the Americans with Disabilities Act. There are many federal laws that impact the practice of medicine but none appear to be directly applicable to the Article 2 rules.

13. For a rule made after July 29, 2010, that requires issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037:

The Board issues the licenses and permits listed in Table 1. The Board's statutes require individualized licenses be issued so a general permit is not applicable. The following statutes are applicable:

- License by examination: A.R.S. § 32-1425
- License by endorsement: A.R.S. § 32-1426
- Pro bono registration: A.R.S. § 32-1428
- Locum tenens registration: A.R.S. § 32-1429
- Teaching license: A.R.S. § 32-1432
- Education teaching permit: A.R.S. § 32-1432.01
- Training permit; one-year training permit: A.R.S. § 32-1432.02
- Registration to dispense: A.R.S. § 32-1491

14. Proposed course of action:

The Board will amend R4-16-201 to address the issues identified in this report. It will submit the rulemaking to the Council by September 30, 2021.

**NOT OFFICIAL – The authenticated pdf version of this Chapter is the official codified version of these rules.**

**TITLE 4. PROFESSIONS AND OCCUPATIONS  
CHAPTER 16. ARIZONA MEDICAL BOARD**

**Supp. 19-4**

This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of October 1, 2019 through December 31, 2019

**Questions about these rules? Contact:**

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(Authority: A.R.S. § 32-1401 et seq.)

**ARTICLE 2. LICENSURE**

*Article 2 heading, recodified to Article 3 heading, at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1).*

*Article 2, consisting of Sections R4-16-201 through R4-16-205, adopted effective September 22, 1995 (Supp. 95-3).*

Section	
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**ARTICLE 2. LICENSURE**

**R4-16-201. Application for Licensure by Examination or Endorsement**

- A.** For purposes of this Article, unless otherwise specified:
1. “ABMS” means American Board of Medical Specialties.
  2. “ECFMG” means Educational Commission for Foreign Medical Graduates.
  3. “FCVS” means Federation Credentials Verification Service.
  4. “FLEX” means Federation Licensing Examination.
  5. “LMCC” means Licentiate of the Medical Council of Canada.
  6. “NBME” means National Board of Medical Examiners.
  7. “Primary source” means the original source or an approved agent of the original source of a specific credential that can verify the accuracy of a qualification reported by an applicant.
  8. “SPEX” means Special Purposes Examination.
  9. “USMLE” means United States Medical Licensing Examination.
- B.** An applicant for licensure to practice medicine by Step 3 of the USMLE or endorsement shall submit the following information on an application form available on request from the Board and on the Board’s web site:

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1. Applicant's full name, Social Security number, business and home addresses, primary e-mail address, business and home telephone numbers, and date and place of birth;
  2. Name of the school of medicine from which the applicant graduated and date of graduation;
  3. A complete list of the applicant's internship, residency, and fellowship training;
  4. List of all licensing examinations taken;
  5. Names of the states, U.S. territories, or provinces in which the applicant has applied for or been granted a license or registration to practice medicine, including license number, date issued, and current status of the license;
  6. A statement of whether the applicant:
    - a. Has had an application for medical licensure denied or rejected by another state or province licensing board, and if so, an explanation;
    - b. Has ever had any disciplinary or rehabilitative action taken against the applicant by another licensing board, including other health professions, and if so, an explanation;
    - c. Has had any disciplinary actions, restrictions, or limitations taken against the applicant while participating in any type of training program or by any health care provider, and if so, an explanation;
    - d. Has been found in violation of a statute, rule, or regulation of any domestic or foreign governmental agency, and if so, an explanation;
    - e. Is currently under investigation by any medical board or peer review body, and if so, an explanation;
    - f. Has been subject to discipline resulting in a medical license being revoked, suspended, limited, cancelled during investigation, restricted, or voluntarily surrendered, or resulting in probation or entry into a consent agreement or stipulation and if so, an explanation;
    - g. Has had hospital privileges revoked, denied, suspended, or restricted, and if so, an explanation;
    - h. Has been named as a defendant in a malpractice matter currently pending or that resulted in a settlement or judgment against the applicant, and if so, an explanation;
    - i. Has been subjected to any regulatory disciplinary action, including censure, practice restriction, suspension, sanction, or removal from practice, imposed by any agency of the federal or state government, and if so, an explanation;
    - j. Has had the authority to prescribe, dispense, or administer medications limited, restricted, modified, denied, surrendered, or revoked by a federal or state agency as a result of disciplinary or other adverse action, and if so, an explanation;
    - k. Has been found guilty or entered into a plea of no contest to a felony, a misdemeanor involving moral turpitude in any state, and if so, an explanation;
  7. Whether the applicant is currently certified by any of the American Board of Medical Specialties;
  8. The applicant's intended specialty;
  9. Consistent with the Board's authority at A.R.S. § 32-1422(B), other information the Board may deem necessary to evaluate the applicant fully;
  10. Whether the applicant completed a training unit prescribed by the Board regarding the requirements of A.R.S. Title 32, Chapter 13 and this Chapter;
  11. In addition to the answers provided under subsections (B)(1) through (B)(10), the applicant shall answer the following confidential question:
    - a. Whether the applicant has received treatment within the last five years for use of alcohol or a controlled substance, prescription-only drug, or dangerous drug or narcotic or a physical, mental, emotional, or nervous disorder or condition that currently affects the applicant's ability to exercise the judgment and skills of a medical professional;
    - b. If the answer to subsection (B)(11)(a) is yes:
      - i. A detailed description of the use, disorder, or condition; and
      - ii. An explanation of whether the use, disorder, or condition is reduced or ameliorated because the applicant receives ongoing treatment and if so, the name and contact information for all current treatment providers and for all monitoring or support programs in which the applicant is currently participating; and
    - c. A copy of any public or confidential agreement or order relating to the use, disorder, or condition, issued by a licensing agency or health care institution within the last five years, if applicable; and
  12. A notarized statement, signed by the applicant, verifying the truthfulness of the information provided, and that the applicant has not engaged in any acts prohibited by Arizona law or Board rules, and authorizing release of any required records or documents to complete application review.
- C. In addition to the application form required under subsection (B), an applicant for licensure to practice medicine by Step 3 of the USMLE or endorsement shall submit the following:
1. A notarized copy of the applicant's birth certificate or passport;
  2. Evidence of legal name change if the applicant's legal name is different from that shown on the document submitted under subsection (C)(1);
  3. Documentation listed under A.R.S. § 41-1080(A) showing that the applicant's presence in the U.S. is authorized under federal law;
  4. Complete list of all hospital affiliations and medical employment for the five years before the date of application;
  5. Verification of any medical malpractice matter currently pending or resulting in a settlement or judgment against the applicant, including a copy of the complaint and either the agreed terms of settlement or the judgment and a narrative statement specifying the nature of the occurrence resulting in the medical malpractice action. An applicant who is unable to obtain a document required under this subsection may apply under subsection (E) a waiver of the requirement;

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6. A full set of fingerprints and the processing charge specified in R4-16-205;
  7. A paper or digital headshot photograph of the applicant taken no more than 60 days before the date of application; and
  8. The fee authorized under A.R.S. § 32-1436 and specified in R4-16-205.
- D.** In addition to the requirements of subsections (B) and (C), an applicant for licensure to practice medicine by Step 3 of the USMLE or endorsement shall have the following submitted to the Board, electronically or in hard copy, by the primary source, ECFMG, Veridoc, or FCVS:
1. Official transcript or other authentication of graduation from a school of medicine;
  2. Verification of completion of postgraduate training;
  3. Verification of ECFMG certification if the applicant graduated from an unapproved school of medicine;
  4. Examination and Board history report scores for USMLE, FLEX, NBME, and SPEX;
  5. Verification of LMCC exam score or state written exam score;
  6. Verification of licensure from every state in which the applicant has ever held a medical license;
  7. Verification of all hospital affiliations during the five years before the date of application. Under A.R.S. § 32-1422(A)(11)(b), this verification is required to be on the hospital's official letterhead or the electronic equivalent; and
  8. Verification of all medical employment during the five years before the date of application. Under A.R.S. § 32-1422(A)(11)(b), this verification may be submitted by the employer.
- E.** As provided under A.R.S. § 32-1422(F), the Board may waive a documentation requirement specified under subsections (C)(5) and (D).
1. To obtain a waiver under this subsection, an applicant shall submit a written request that includes the following information:
    - a. Applicant's name;
    - b. Date of request;
    - c. Document required under subsection (C)(5) or (D) for which waiver is requested;
    - d. Detailed description of efforts made by the applicant to provide the document as required under subsection (C)(5) or (D);
    - e. Reason the applicant's inability to provide the document as required under subsection (C)(5) or (D) is due to no fault of the applicant; and
    - f. If applicable, documents that support the request for waiver.
  2. The Board shall consider the request for waiver at its next regularly scheduled meeting.
  3. In determining whether to grant the request for waiver, the Board shall consider whether the applicant:
    - a. Made appropriate and sufficient effort to satisfy the requirement under subsection (C)(5) or (D); and
    - b. Demonstrated that compliance with the requirement under subsection (C)(5) or (D) is not possible because:
      - i. The entity responsible for issuing the required document no longer exists;
      - ii. The original of the required document was destroyed by accident or natural disaster;
      - iii. The entity responsible for issuing the required document is unable to provide verification because of armed conflict or political strife; or
      - iv. Another valid reason beyond the applicant's control prevents compliance with the requirement under subsection (C)(5) or (D).
  4. In determining whether to grant the request for waiver, the Board shall:
    - a. Consider whether it is possible for the Board to obtain the required document from other source; and
    - b. Request the applicant to obtain and provide additional information the Board believes will facilitate the Board's decision.
  5. If the Board determines the applicant is unable to comply with a requirement under subsection (C)(5) or (D) in spite of the applicant's best effort and for a reason beyond the applicant's control, the Board may grant the request for waiver and include the decision in the Board's official record for the applicant.
  6. The Board shall provide the applicant with written notice of its decision regarding the request for waiver. The Board's decision is not subject to review or appeal.
- F.** As provided under A.R.S. § 32-1426(B), the Board may require an applicant for licensure by endorsement who passed an examination specified in A.R.S. § 32-1426(A) more than ten years before the date of application to provide evidence the applicant is able to engage safely in the practice of medicine. The Board may consider one or more of the following to determine whether the applicant is able to engage safely in the practice of medicine:
1. If an applicant is board certified by one of the specialties recognized by the ABMS, this criteria is considered met.
  2. If an applicant obtains a passing score on a SPEX examination, this criteria is considered met.
  3. The Board may also consider any combination of the following:
    - a. The applicant's records,
    - b. The applicant's practice history,
    - c. A physical or psychological assessment of the applicant.

**Historical Note**

Adopted effective September 22, 1995 (Supp. 95-3). Amended by final rulemaking at 8 A.A.R. 2319, effective May 9, 2002 (Supp. 02-2). Former Section R4-16-201 recodified to R4-16-301; New Section R4-16-201 recodified from R4-16-106 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1). Amended by exempt rulemaking at 20 A.A.R. 1995, effective July 11, 2014 (Supp. 14-3). Amended by final exempt rulemaking at 21 A.A.R. 2678, effective October 15, 2015 (Supp. 15-4). Amended by final exempt rulemaking at 22 A.A.R. 778, effective January 14, 2016 (Supp. 16-1).

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**R4-16-201.1. Application for Renewal of License**

- A. Under A.R.S. § 32-1430(A), an individual licensed under A.R.S. Title 32, Chapter 13, shall renew the license every other year on or before the licensee's birthday.
- B. To renew a license, a licensee shall submit the following information on an application form available on request from the Board and on the Board's web site:
1. The licensee's full name, license number, business and home addresses, primary e-mail address, and business and home telephone numbers;
  2. Identification of changes to medical specialties and fields of practice;
  3. A statement of whether, since the time of last license issuance, the licensee:
    - a. Has had an application for medical licensure denied or rejected by another state or province licensing board and if so, an explanation;
    - b. Has had any disciplinary or rehabilitative action taken against the licensee by another licensing board, including other health professions and if so, an explanation;
    - c. Has had any disciplinary action, restriction, or limitation taken against the licensee by any program or health care provider and if so, an explanation;
    - d. Has been subject to discipline resulting in a medical license being revoked, suspended, limited, cancelled during an investigation, restricted, or voluntarily surrendered, or resulting in probation or entry into a consent agreement or stipulation and if so, an explanation;
    - e. Has had hospital privileges revoked, denied, suspended, or restricted and if so, an explanation (do not report if the licensee's hospital privileges were suspended due to failure to complete hospital records and reinstated after no more than 90 days);
    - f. Has been subjected to disciplinary action including censure, practice restriction, suspension, sanction, or removal from practice by an agency of the state or federal government and if so, an explanation;
    - g. Has had the authority to prescribe, dispense, or administer medications limited, restricted, modified, denied, surrendered, or revoked by a federal or state agency as a result of disciplinary or other adverse action and if so, an explanation;
    - h. Has been found guilty or entered into a plea of no contest to a felony, a misdemeanor involving moral turpitude, or an alcohol or drug-related offense in any state and if so, an explanation; and
    - i. Has failed the SPEX;
  4. A statement of whether the licensee understands and complies with the medical records and recordkeeping requirements in A.R.S. §§ 32-3211 and 12-2297;
  5. A statement of whether the licensee has completed at least 40 hours of CME as required under A.R.S. § 32-1434 and R4-16-102, including the hour of CME required under R4-16-102(A)(1);
  6. A statement of whether the licensee requests that the license be inactivated or cancelled; and
  7. A statement of whether the licensee completed a training unit prescribed by the Board regarding the requirements of A.R.S. Title 32, Chapter 13 and this Chapter.
- C. Additionally, the licensee shall answer the following confidential question:
1. Whether the applicant has received treatment since the last renewal for use of alcohol or a controlled substance, prescription-only drug, or dangerous drug or narcotic or a physical, mental, emotional, or nervous disorder or condition that currently affects the applicant's ability to exercise the judgment and skills of a medical professional;
  2. If the answer to subsection (C)(1) is yes:
    - a. A detailed description of the use, disorder, or condition; and
    - b. An explanation of whether the use, disorder, or condition is reduced or ameliorated because the applicant receives ongoing treatment and if so, the name and contact information for all current treatment providers and for all monitoring or support programs in which the applicant is currently participating; and
  3. A copy of any public or confidential agreement or order relating to the use, disorder, or condition, issued by a licensing agency or health care institution since the last renewal, if applicable.
- D. To renew a license, a licensee shall submit the following with the required application form:
1. If the document submitted under R4-16-201(C)(3) was a limited form of work authorization issued by the federal government, evidence that the licensee's presence in the U.S. continues to be authorized under federal law;
  2. The renewal fee specified under R4-16-205 and, if applicable, the penalty fee for late renewal; and
  3. An attestation that all information submitted is correct.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 2678, effective October 15, 2015 (Supp. 15-4). Amended by final rulemaking at 24 A.A.R. 182, effective March 10, 2018 (Supp. 18-1).

**R4-16-202. Application and Reapplication for Pro Bono Registration**

- A. An applicant for a pro bono registration to practice medicine for a maximum of 60 days in a calendar year in Arizona shall submit the following information on an application form available on request from the Board and on the Board's web site:
1. Applicant's full name, Social Security number, business and home addresses, primary e-mail address, and business and home telephone numbers;
  2. List of all states, U.S. territories, and provinces in which the applicant is or has been licensed to practice medicine;
  3. A statement verifying that the applicant:

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- a. Agrees to render all medical services without accepting a fee or salary; or
  - b. Agrees to perform only initial or follow-up examinations at no cost to the patient or the patient's family through a charitable organization,
- B.** In addition to the application form required under subsection (A), an applicant for a pro bono registration to practice medicine shall submit documentation listed under A.R.S. § 41-1080(A) showing that the applicant's presence in the U.S. is authorized under federal law.
- C.** An applicant may make application for a pro bono registration annually. A previously registered applicant may apply for a pro bono registration by submitting the following information on an application form available on request from the Board and on the Board's web site:
- 1. Applicant's full name, home address and telephone number, and primary e-mail address;
  - 2. Number of previous pro bono registration;
  - 3. Name of each state, U.S. territory, and province in which the applicant holds an active medical license;
  - 4. A statement whether since issuance of the last pro bono registration:
    - a. Any disciplinary action has been taken against the applicant, and
    - b. Any unresolved complaints are currently pending against the applicant with any state board; and
  - 5. If the document submitted under R4-16-202(B) was a limited form of work authorization issued by the federal government, evidence that the applicant's presence in the U.S. continues to be authorized under federal law.

**Historical Note**

Adopted effective September 22, 1995 (Supp. 95-3). Amended by final rulemaking at 8 A.A.R. 2319, effective May 9, 2002 (Supp. 02-2). Former Section R4-16-202 recodified to R4-16-302; New Section R4-16-202 recodified from R4-16-107 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1). Amended by final exempt rulemaking at 21 A.A.R. 2678, effective October 15, 2015 (Supp. 15-4).

**R4-16-203. Application for Locum Tenens Registration**

- A.** An applicant for a locum tenens registration to practice medicine for a maximum of 180 consecutive days in Arizona shall submit an application form available on request from the Board and on the Board's web site that provides the information required under R4-16-201(B).
- B.** In addition to the application form required under subsection (A), an applicant for a locum tenens registration to practice medicine shall have the following submitted directly to the Board, electronically or in hard copy, by the primary source, ECFMG, Veridoc, or FCVS:
- 1. Official transcript or other authentication of graduation from a school of medicine;
  - 2. Verification of completion of postgraduate training;
  - 3. A statement completed by the sponsoring Arizona-licensed physician giving the reason for the request for issuance of the registration;
  - 4. Verification of ECFMG certification if the applicant graduated from an unapproved school of medicine; and
  - 5. Verification of licensure from every state in which the applicant has ever held a medical license.
- C.** In addition to the application form required under subsection (A), an applicant for a locum tenens registration to practice medicine shall submit the following:
- 1. Documentation listed under A.R.S. § 41-1080(A) showing that the applicant's presence in the U.S. is authorized under federal law;
  - 2. A full set of fingerprints and the charge specified in R4-16-205;
  - 3. A copy of a government-issued photo identification; and
  - 4. The fee specified under R4-16-205.

**Historical Note**

Adopted effective September 22, 1995 (Supp. 95-3). Amended by final rulemaking at 8 A.A.R. 2319, effective May 9, 2002 (Supp. 02-2). Former Section R4-16-203 recodified to R4-16-303; New Section R4-16-203 recodified from R4-16-108 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1). Amended by final exempt rulemaking at 21 A.A.R. 2678, effective October 15, 2015 (Supp. 15-4).

**R4-16-204. Repealed****Historical Note**

Adopted effective September 22, 1995 (Supp. 95-3). Amended by final rulemaking at 8 A.A.R. 2319, effective May 9, 2002 (Supp. 02-2). Former Section R4-16-204 recodified to R4-16-304; New Section R4-16-204 recodified from R4-16-103 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1). Repealed by final exempt rulemaking at 21 A.A.R. 2678, effective October 15, 2015 (Supp. 15-4).

**R4-16-205. Fees and Charges**

- A.** As specifically authorized under A.R.S. § 32-1436(A), the Board establishes and shall collect the following fees, which are nonrefundable unless A.R.S. § 41-1077 applies:
- 1. Application for a license through endorsement, USMLE Step 3, or Endorsement with SPX Examination, \$500;

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2. Issuance of an initial license, \$500, prorated from date of issuance to date of license renewal;
  3. Renewal of license for two years, \$500;
  4. Application to reactivate an inactive license, \$500;
  5. Locum tenens registration, \$350;
  6. Annual registration of an approved internship, residency, clinical fellowship program, or short-term residency program, \$50;
  7. Annual teaching license at an approved school of medicine or at an approved hospital internship, residency, or clinical fellowship program, \$250;
  8. Five-day teaching permit at an approved school of medicine or at an approved hospital internship, residency, or clinical fellowship program, \$100;
  9. Initial registration to dispense drugs and devices, \$200;
  10. Annual renewal to dispense drugs and devices, \$150;
  11. Penalty fee for late renewal of an active license, \$350; and
  12. Application for temporary license, \$250.
- B.** As specifically authorized under A.R.S. § 32-1436(B), the Board establishes the following charges for the services listed:
1. Processing fingerprints to conduct a criminal background check, \$50;
  2. Providing a duplicate license, \$50;
  3. Verifying a license, \$10 per request;
  4. Providing a copy of records, documents, letters, minutes, applications, and files, \$1 for the first three pages and 25¢ for each additional page;
  5. Providing a copy of annual allopathic medical directory, \$30; and
  6. Providing an electronic medium containing public information about licensed physicians, \$100.

**Historical Note**

Adopted effective September 22, 1995 (Supp. 95-3). Amended by final rulemaking at 8 A.A.R. 2319, effective May 9, 2002 (Supp. 02-2). Former Section R4-16-205 recodified to R4-16-305; New Section R4-16-205 recodified from R4-16-109 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1). Amended by final rulemaking 19 A.A.R. 1300, effective July 6, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 2569, effective September 2, 2014 (Supp. 14-3). Amended by final exempt rulemaking at 21 A.A.R. 2678, effective October 15, 2015 (Supp. 15-4). Amended by final exempt rulemaking at 22 A.A.R. 778, effective January 14, 2016 (Supp. 16-1). Amended by final exempt rulemaking at 23 A.A.R. 2056, effective August 9, 2017 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 182, effective March 10, 2018 (Supp. 18-1).

**R4-16-205.1. Mandatory Reporting Requirement**

- A.** As required under A.R.S. § 32-3208, an applicant, licensee, permit holder, or registrant who is charged with a misdemeanor involving conduct that may affect patient safety or a felony shall provide written notice of the charge to the Board within 10 working days after the charge is filed.
- B.** An applicant, licensee, permit holder, or registrant may obtain a list of reportable misdemeanors on request from the Board and on the Board's web site.
- C.** Failure to comply with A.R.S. § 32-3208 and this Section is unprofessional conduct.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 2678, effective October 15, 2015 (Supp. 15-4).

**R4-16-206. Time Frames for Licenses, Permits, and Registrations**

- A.** For each type of license, permit, or registration issued by the Board, the overall time frame under A.R.S. § 41-1072(2) is shown on Table 1.
- B.** For each type of license, permit, or registration issued by the Board, the administrative completeness review time frame under A.R.S. § 41-1072(1) is shown on Table 1 and begins on the date the Board receives an application and all required documentation and information.
  1. If the required application is not administratively complete, the Board shall send a written deficiency notice to the applicant.
    - a. In the deficiency notice, the Board shall state each deficiency and the information required to complete the application or supporting documentation required to complete the application. In the deficiency notice, the Board shall include a written notice that the application is withdrawn if the applicant does not submit the additional required information or documentation within the time provided for response.
    - b. Within the time provided in Table 1 for response to a deficiency notice, the applicant shall submit to the Board the documentation or information specified in the notice. The time frame for the Board to finish the administrative completeness review is suspended from the date of the notice until the date the Board receives the documentation or information from the applicant.
  2. Within 30 days after receipt of a deficiency notice, an applicant who disagrees with the deficiency notice may submit to the Board a written request for a hearing regarding the deficiency notice.
  3. The Board shall schedule and conduct the applicant's deficiency hearing according to provisions prescribed under A.R.S. § 32-1427(E).
  4. In addition to hearing provisions prescribed under subsection (B)(3), the Board shall send the following to the applicant in writing:

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- a. A notice of the scheduled hearing at least 21 days before the hearing date; and
  - b. The Board's decision within 30 days after the hearing and notice of any applicable right of appeal.
- C. For each type of license, permit, or registration issued by the Board, the substantive review time frame under A.R.S. § 41-1072(3) is shown on Table 1.
1. The Board may request make a comprehensive written request for additional information from an applicant according to provisions prescribed under A.R.S. § 41-1075 during the substantive review time frame. In any request for additional information, the Board shall include a written notice that the application is withdrawn if the applicant does not submit the additional information within the time provided for response.
  2. In response to a single comprehensive written request from the Board under A.R.S. § 41-1075(A), the applicant shall submit the information identified to the Board within the time to respond specified in Table 1. The time frame for the Board to finish the substantive review is suspended from the date the Board sends the comprehensive written request for additional information until the date the Board receives the additional information from the applicant.
  3. If the Board determines the applicant does not meet all substantive criteria for a license, permit, or registration as required under A.R.S. Title 32, Chapter 13 or this Chapter, the Board shall send written notice of denial to the applicant. The Board shall include notice of any applicable right of appeal in the denial notice.
  4. If the applicant meets all substantive criteria for a license, permit, or registration required under A.R.S. Title 32, Chapter 13 and this Chapter, the Board shall issue the applicable license, permit, or registration to the applicant.
- D. An applicant may receive a 30-day extension of the time provided under subsection (B)(1) or (C)(2) by providing written notice to the Board's Executive Director before the time expires.
- E. If a licensee does not apply for license renewal according to the biennial renewal requirement, the licensee's license expires according to provisions prescribed under A.R.S. § 32-1430(A) unless the licensee is under investigation according to provisions under A.R.S. § 32-3202. If a licensee makes timely application according to the biennial renewal requirement but fails to respond timely to a deficiency notice under subsection (B)(1) or a request for additional information under subsection (C)(2) and fails to request from the Executive Director an extension of time to respond, the licensee's license expires according to provisions prescribed under A.R.S. § 32-1430(A).

**Historical Note**

New Section recodified from R4-16-104 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1). Amended by final rulemaking at 11 A.A.R. 2944, effective September 10, 2005 (Supp. 05-3). Amended by final exempt rulemaking at 21 A.A.R. 2678, effective October 15, 2015 (Supp. 15-4).

**R4-16-207. Repealed****Historical Note**

New Section recodified from R4-16-105 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1). Amended by final rulemaking at 11 A.A.R. 2944, effective September 10, 2005 (Supp. 05-3). Repealed by final exempt rulemaking at 21 A.A.R. 2678, effective October 15, 2015 (Supp. 15-4).

**Table 1. Time Frames****Time Frames (in calendar days)**

Type of License	Overall Time Frame	Administrative Review Time Frame	Time to Respond to Deficiency Notice	Substantive Review Time Frame	Time to Respond to Request for Additional Information
Initial License by Examination or Endorsement	240	120	365	120	90
Biennial License Renewal	90	45	60	45	60
Locum Tenens or Pro Bono Registration	120	60	90	60	30
Teaching License	40	20	30	20	30
Educational Teaching Permit	20	10	30	10	10
Training Permit	40	20	30	20	30
Short-term Training Permit	40	20	30	20	30
One-year Training Permit	40	20	30	20	30

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Annual Registration to Dispense Drugs and Devices	150	45	30	105	30
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**Historical Note**

Table 1 recodified from Article 1 to end of Article 2 at 11 A.A.R. 1283, effective March 25, 2005 (Supp. 05-1). Amended by final rulemaking at 11 A.A.R. 2944, effective September 10, 2005 (Supp. 05-3). Amended by final exempt rulemaking at 21 A.A.R. 2678, effective October 15, 2015 (Supp. 15-4).

As of February 15, 2020

32-1401. Definitions

In this chapter, unless the context otherwise requires:

1. "Active license" means a valid and existing license to practice medicine.
2. "Adequate records" means legible medical records, produced by hand or electronically, containing, at a minimum, sufficient information to identify the patient, support the diagnosis, justify the treatment, accurately document the results, indicate advice and cautionary warnings provided to the patient and provide sufficient information for another practitioner to assume continuity of the patient's care at any point in the course of treatment.
3. "Advisory letter" means a nondisciplinary letter to notify a licensee that either:
  - (a) While there is insufficient evidence to support disciplinary action, the board believes that continuation of the activities that led to the investigation may result in further board action against the licensee.
  - (b) The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action.
  - (c) While the licensee has demonstrated substantial compliance through rehabilitation or remediation that has mitigated the need for disciplinary action, the board believes that repetition of the activities that led to the investigation may result in further board action against the licensee.
4. "Approved hospital internship, residency or clinical fellowship program" means a program at a hospital that at the time the training occurred was legally incorporated and that had a program that was approved for internship, fellowship or residency training by the accreditation council for graduate medical education, the association of American medical colleges, the royal college of physicians and surgeons of Canada or any similar body in the United States or Canada approved by the board whose function is that of approving hospitals for internship, fellowship or residency training.
5. "Approved school of medicine" means any school or college offering a course of study that, on successful completion, results in the degree of doctor of medicine and whose course of study has been approved or accredited by an educational or professional association, recognized by the board, including the association of American medical colleges, the association of Canadian medical colleges or the American medical association.
6. "Board" means the Arizona medical board.
7. "Completed application" means that the applicant has supplied all required fees, information and correspondence requested by the board on forms and in a manner acceptable to the board.
8. "Direct supervision" means that a physician, physician assistant licensed pursuant to chapter 25 of this title or nurse practitioner certified pursuant to chapter 15 of this title is within the same room or office suite as the medical assistant in order to be available for consultation regarding those tasks the medical assistant performs pursuant to section 32-1456.

9. "Dispense" means the delivery by a doctor of medicine of a prescription drug or device to a patient, except for samples packaged for individual use by licensed manufacturers or repackagers of drugs, and includes the prescribing, administering, packaging, labeling and security necessary to prepare and safeguard the drug or device for delivery.

10. "Doctor of medicine" means a natural person holding a license, registration or permit to practice medicine pursuant to this chapter.

11. "Full-time faculty member" means a physician who is employed full time as a faculty member while holding the academic position of assistant professor or a higher position at an approved school of medicine.

12. "Health care institution" means any facility as defined in section 36-401, any person authorized to transact disability insurance, as defined in title 20, chapter 6, article 4 or 5, any person who is issued a certificate of authority pursuant to title 20, chapter 4, article 9 or any other partnership, association or corporation that provides health care to consumers.

13. "Immediate family" means the spouse, natural or adopted children, father, mother, brothers and sisters of the doctor and the natural or adopted children, father, mother, brothers and sisters of the doctor's spouse.

14. "Letter of reprimand" means a disciplinary letter that is issued by the board and that informs the physician that the physician's conduct violates state or federal law and may require the board to monitor the physician.

15. "Limit" means taking a nondisciplinary action that alters the physician's practice or professional activities if the board determines that there is evidence that the physician is or may be mentally or physically unable to safely engage in the practice of medicine.

16. "Medical assistant" means an unlicensed person who meets the requirements of section 32-1456, has completed an education program approved by the board, assists in a medical practice under the supervision of a doctor of medicine, physician assistant or nurse practitioner and performs delegated procedures commensurate with the assistant's education and training but does not diagnose, interpret, design or modify established treatment programs or perform any functions that would violate any statute applicable to the practice of medicine.

17. "Medically incompetent" means a person who the board determines is incompetent based on a variety of factors, including:

(a) A lack of sufficient medical knowledge or skills, or both, to a degree likely to endanger the health of patients.

(b) When considered with other indications of medical incompetence, failing to obtain a scaled score of at least seventy-five percent on the written special purpose licensing examination.

18. "Medical peer review" means:

(a) The participation by a doctor of medicine in the review and evaluation of the medical management of a patient and the use of resources for patient care.

(b) Activities relating to a health care institution's decision to grant or continue privileges to practice at that institution.

19. "Medicine" means allopathic medicine as practiced by the recipient of a degree of doctor of medicine.

20. "Office based surgery" means a medical procedure conducted in a physician's office or other outpatient setting that is not part of a licensed hospital or licensed ambulatory surgical center.

21. "Physician" means a doctor of medicine who is licensed pursuant to this chapter.

22. "Practice of medicine" means the diagnosis, the treatment or the correction of or the attempt or the claim to be able to diagnose, treat or correct any and all human diseases, injuries, ailments, infirmities or deformities, physical or mental, real or imaginary, by any means, methods, devices or instrumentalities, except as the same may be among the acts or persons not affected by this chapter. The practice of medicine includes the practice of medicine alone or the practice of surgery alone, or both.

23. "Restrict" means taking a disciplinary action that alters the physician's practice or professional activities if the board determines that there is evidence that the physician is or may be medically incompetent or guilty of unprofessional conduct.

24. "Special purpose licensing examination" means an examination that is developed by the national board of medical examiners on behalf of the federation of state medical boards for use by state licensing boards to test the basic medical competence of physicians who are applying for licensure and who have been in practice for a considerable period of time in another jurisdiction and to determine the competence of a physician who is under investigation by a state licensing board.

25. "Teaching hospital's accredited graduate medical education program" means that the hospital is incorporated and has an internship, fellowship or residency training program that is accredited by the accreditation council for graduate medical education, the American medical association, the association of American medical colleges, the royal college of physicians and surgeons of Canada or a similar body in the United States or Canada that is approved by the board and whose function is that of approving hospitals for internship, fellowship or residency training.

26. "Teaching license" means a valid license to practice medicine as a full-time faculty member of an approved school of medicine or a teaching hospital's accredited graduate medical education program.

27. "Unprofessional conduct" includes the following, whether occurring in this state or elsewhere:

(a) Violating any federal or state laws, rules or regulations applicable to the practice of medicine.

(b) Intentionally disclosing a professional secret or intentionally disclosing a privileged communication except as either act may otherwise be required by law.

(c) Committing false, fraudulent, deceptive or misleading advertising by a doctor of medicine or the doctor's staff, employer or representative.

(d) Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case, conviction by any court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.

- (e) Failing or refusing to maintain adequate records on a patient.
- (f) Exhibiting a pattern of using or being under the influence of alcohol or drugs or a similar substance while practicing medicine or to the extent that judgment may be impaired and the practice of medicine detrimentally affected.
- (g) Using controlled substances except if prescribed by another physician for use during a prescribed course of treatment.
- (h) Prescribing or dispensing controlled substances to members of the physician's immediate family.
- (i) Prescribing, dispensing or administering schedule II controlled substances as defined in section 36-2513, including amphetamines and similar schedule II sympathomimetic drugs in the treatment of exogenous obesity for a period in excess of thirty days in any one year, or the nontherapeutic use of injectable amphetamines.
- (j) Prescribing, dispensing or administering any controlled substance or prescription-only drug for other than accepted therapeutic purposes.
- (k) Dispensing a schedule II controlled substance that is an opioid, except as provided in section 32-1491.
- (l) Signing a blank, undated or predated prescription form.
- (m) Committing conduct that the board determines is gross malpractice, repeated malpractice or any malpractice resulting in the death of a patient.
- (n) Representing that a manifestly incurable disease or infirmity can be permanently cured, or that any disease, ailment or infirmity can be cured by a secret method, procedure, treatment, medicine or device, if this is not true.
- (o) Refusing to divulge to the board on demand the means, method, procedure, modality of treatment or medicine used in the treatment of a disease, injury, ailment or infirmity.
- (p) Having action taken against a doctor of medicine by another licensing or regulatory jurisdiction due to that doctor's mental or physical inability to engage safely in the practice of medicine or the doctor's medical incompetence or for unprofessional conduct as defined by that jurisdiction and that corresponds directly or indirectly to an act of unprofessional conduct prescribed by this paragraph. The action taken may include refusing, denying, revoking or suspending a license by that jurisdiction or a surrendering of a license to that jurisdiction, otherwise limiting, restricting or monitoring a licensee by that jurisdiction or placing a licensee on probation by that jurisdiction.
- (q) Having sanctions imposed by an agency of the federal government, including restricting, suspending, limiting or removing a person from the practice of medicine or restricting that person's ability to obtain financial remuneration.
- (r) Committing any conduct or practice that is or might be harmful or dangerous to the health of the patient or the public.

- (s) Violating a formal order, probation, consent agreement or stipulation issued or entered into by the board or its executive director under this chapter.
- (t) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision of this chapter.
- (u) Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of medicine or if applying for privileges or renewing an application for privileges at a health care institution.
- (v) Charging a fee for services not rendered or dividing a professional fee for patient referrals among health care providers or health care institutions or between these providers and institutions or a contractual arrangement that has the same effect. This subdivision does not apply to payments from a medical researcher to a physician in connection with identifying and monitoring patients for a clinical trial regulated by the United States food and drug administration.
- (w) Obtaining a fee by fraud, deceit or misrepresentation.
- (x) Charging or collecting a clearly excessive fee. In determining whether a fee is clearly excessive, the board shall consider the fee or range of fees customarily charged in this state for similar services in light of modifying factors such as the time required, the complexity of the service and the skill requisite to perform the service properly. This subdivision does not apply if there is a clear written contract for a fixed fee between the physician and the patient that has been entered into before the provision of the service.
- (y) Committing conduct that is in violation of section 36-2302.
- (z) Using experimental forms of diagnosis and treatment without adequate informed patient consent, and without conforming to generally accepted experimental criteria, including protocols, detailed records, periodic analysis of results and periodic review by a medical peer review committee as approved by the United States food and drug administration or its successor agency.
- (aa) Engaging in sexual conduct with a current patient or with a former patient within six months after the last medical consultation unless the patient was the licensee's spouse at the time of the contact or, immediately preceding the physician-patient relationship, was in a dating or engagement relationship with the licensee. For the purposes of this subdivision, "sexual conduct" includes:
- (i) Engaging in or soliciting sexual relationships, whether consensual or nonconsensual.
- (ii) Making sexual advances, requesting sexual favors or engaging in any other verbal conduct or physical contact of a sexual nature.
- (iii) Intentionally viewing a completely or partially disrobed patient in the course of treatment if the viewing is not related to patient diagnosis or treatment under current practice standards.
- (bb) Procuring or attempting to procure a license to practice medicine or a license renewal by fraud, by misrepresentation or by knowingly taking advantage of the mistake of another person or an agency.
- (cc) Representing or claiming to be a medical specialist if this is not true.

(dd) Maintaining a professional connection with or lending one's name to enhance or continue the activities of an illegal practitioner of medicine.

(ee) Failing to furnish information in a timely manner to the board or the board's investigators or representatives if legally requested by the board.

(ff) Failing to allow properly authorized board personnel on demand to examine and have access to documents, reports and records maintained by the physician that relate to the physician's medical practice or medically related activities.

(gg) Knowingly failing to disclose to a patient on a form that is prescribed by the board and that is dated and signed by the patient or guardian acknowledging that the patient or guardian has read and understands that the doctor has a direct financial interest in a separate diagnostic or treatment agency or in nonroutine goods or services that the patient is being prescribed if the prescribed treatment, goods or services are available on a competitive basis. This subdivision does not apply to a referral by one doctor of medicine to another doctor of medicine within a group of doctors of medicine practicing together.

(hh) Using chelation therapy in the treatment of arteriosclerosis or as any other form of therapy, with the exception of treatment of heavy metal poisoning, without:

(i) Adequate informed patient consent.

(ii) Conforming to generally accepted experimental criteria, including protocols, detailed records, periodic analysis of results and periodic review by a medical peer review committee.

(iii) Approval by the United States food and drug administration or its successor agency.

(ii) Prescribing, dispensing or administering anabolic-androgenic steroids to a person for other than therapeutic purposes.

(jj) Exhibiting a lack of or inappropriate direction, collaboration or direct supervision of a medical assistant or a licensed, certified or registered health care provider employed by, supervised by or assigned to the physician.

(kk) Knowingly making a false or misleading statement to the board or on a form required by the board or in a written correspondence, including attachments, with the board.

(ll) Failing to dispense drugs and devices in compliance with article 6 of this chapter.

(mm) Committing conduct that the board determines is gross negligence, repeated negligence or negligence resulting in harm to or the death of a patient.

(nn) Making a representation by a doctor of medicine or the doctor's staff, employer or representative that the doctor is boarded or board certified if this is not true or the standing is not current or without supplying the full name of the specific agency, organization or entity granting this standing.

(oo) Refusing to submit to a body fluid examination or any other examination known to detect the presence of alcohol or other drugs as required by the board pursuant to section 32-1452 or pursuant to a board investigation into a doctor of medicine's alleged substance abuse.

(pp) Failing to report in writing to the Arizona medical board or the Arizona regulatory board of physician assistants any evidence that a doctor of medicine or a physician assistant is or may be medically incompetent, guilty of unprofessional conduct or mentally or physically unable to safely practice medicine or to perform as a physician assistant.

(qq) As a physician who is the chief executive officer, the medical director or the medical chief of staff of a health care institution, failing to report in writing to the board that the hospital privileges of a doctor of medicine have been denied, revoked, suspended, supervised or limited because of actions by the doctor that appear to show that the doctor is or may be medically incompetent, is or may be guilty of unprofessional conduct or is or may be unable to engage safely in the practice of medicine.

(rr) Claiming to be a current member of the board or its staff or a board medical consultant if this is not true.

(ss) Failing to make patient medical records in the physician's possession promptly available to a physician assistant, a nurse practitioner, a person licensed pursuant to this chapter or a podiatrist, chiropractor, naturopathic physician, osteopathic physician or homeopathic physician licensed under chapter 7, 8, 14, 17 or 29 of this title on receipt of proper authorization to do so from the patient, a minor patient's parent, the patient's legal guardian or the patient's authorized representative or failing to comply with title 12, chapter 13, article 7.1.

(tt) Prescribing, dispensing or furnishing a prescription medication or a prescription-only device as defined in section 32-1901 to a person unless the licensee first conducts a physical or mental health status examination of that person or has previously established a doctor-patient relationship. The physical or mental health status examination may be conducted during a real-time telemedicine encounter with audio and video capability, unless the examination is for the purpose of obtaining a written certification from the physician for the purposes of title 36, chapter 28.1. This subdivision does not apply to:

(i) A physician who provides temporary patient supervision on behalf of the patient's regular treating licensed health care professional or provides a consultation requested by the patient's regular treating licensed health care professional.

(ii) Emergency medical situations as defined in section 41-1831.

(iii) Prescriptions written to prepare a patient for a medical examination.

(iv) Prescriptions written or prescription medications issued for use by a county or tribal public health department for immunization programs or emergency treatment or in response to an infectious disease investigation, public health emergency, infectious disease outbreak or act of bioterrorism. For the purposes of this item, "bioterrorism" has the same meaning prescribed in section 36-781.

(v) Prescriptions written or antimicrobials dispensed to a contact as defined in section 36-661 who is believed to have had significant exposure risk as defined in section 36-661 with another person who has been diagnosed with a communicable disease as defined in section 36-661 by the prescribing or dispensing physician.

(vi) Prescriptions written or prescription medications issued for administration of immunizations or vaccines listed in the United States centers for disease control and prevention's recommended immunization schedule to a household member of a patient.

(vii) Prescriptions for epinephrine auto-injectors written or dispensed for a school district or charter school to be stocked for emergency use pursuant to section 15-157 or for an authorized entity to be stocked pursuant to section 36-2226.01.

(viii) Prescriptions written by a licensee through a telemedicine program that is covered by the policies and procedures adopted by the administrator of a hospital or outpatient treatment center.

(ix) Prescriptions for naloxone hydrochloride or any other opioid antagonist approved by the United States food and drug administration that are written or dispensed for use pursuant to section 36-2228 or 36-2266.

(uu) Performing office based surgery using sedation in violation of board rules.

(vv) Practicing medicine under a false or assumed name in this state.

32-1402. Board; appointment; qualifications; term; removal; compensation; immunity; report

A. The Arizona medical board is established. The board consists of twelve members, four of whom shall represent the public and eight of whom shall be actively practicing medicine. One of the four public members shall be a licensed practical nurse or a professional nurse, as defined in chapter 15 of this title, with at least five years' experience. The eight physicians must be from at least three different counties of the state. Not more than five of the board members may be from any one county. Members of the board are appointed by the governor. All appointments shall be made promptly. The governor shall make all appointments pursuant to section 38-211.

B. Each doctor of medicine who is appointed to the board shall have been a resident of this state and actively engaged in the practice of medicine as a licensed physician in this state for at least the five years before appointment.

C. The term of office of a member of the board is five years, commencing on July 1 and terminating on July 1 of the fifth year. Each member is eligible for reappointment for not more than one additional term. However, the term of office for a member of the board appointed to fill a vacancy occasioned other than by expiration of a full term is for the unexpired portion of that term. Each member may be appointed only once to fill a vacancy caused other than by expiration of a term. The governor may reappoint that member to not more than two additional full terms. Each member of the board shall continue to hold office until the appointment and qualification of that member's successor, subject to the following exceptions:

1. A member of the board, after notice and a hearing before the governor, may be removed on a finding by the governor of continued neglect of duty, incompetence, or unprofessional or dishonorable conduct, in which event that member's term shall end when the governor makes this finding.

2. The term of any member automatically ends:

(a) On death.

(b) On written resignation submitted to the board chairman or to the governor.

(c) On absence from the state for a period of more than six months.

(d) For failure to attend three consecutive meetings of the board.

(e) Five years after retirement from the active practice of medicine.

D. The board shall annually elect, from among its membership, a chairman, a vice-chairman and a secretary, who shall hold their respective offices at the pleasure of the board.

E. Board members are eligible to receive compensation in the amount of up to two hundred fifty dollars per day for each day of actual service in the business of the board, including time spent in preparation for and attendance at board meetings, and all expenses necessarily and properly incurred in attending meetings of the board.

F. Members of the board are personally immune from suit with respect to all acts done and actions taken in good faith and in furtherance of the purposes of this chapter.

G. The board shall submit a written report to the governor, the Arizona regulatory board of physician assistants and the members of the health and human services committee of the senate and the health committee of the house of representatives, or their successor committees, no later than August 31 of each year on the board's licensing and disciplinary activities for the previous fiscal year. The report must include both of the following:

1. Information regarding staff turnover that indicates whether the person was temporary, part-time or full-time and in which department or division the person worked.

2. The number of investigators who have been hired and how many of them have completed the investigator training program required by section 32-1405.

H. Public members appointed to the board may submit a separate written report to the governor by August 31 of each year setting forth their comments relative to the board's licensing and disciplinary activities for the previous fiscal year.

32-1403. Powers and duties of the board; compensation; immunity; committee on executive director selection and retention

A. The primary duty of the board is to protect the public from unlawful, incompetent, unqualified, impaired or unprofessional practitioners of allopathic medicine through licensure, regulation and rehabilitation of the profession in this state. The powers and duties of the board include:

1. Ordering and evaluating physical, psychological, psychiatric and competency testing of licensed physicians and candidates for licensure as may be determined necessary by the board.

2. Initiating investigations and determining on its own motion whether a doctor of medicine has engaged in unprofessional conduct or provided incompetent medical care or is mentally or physically unable to engage in the practice of medicine.

3. Developing and recommending standards governing the profession.

4. Reviewing the credentials and the abilities of applicants whose professional records or physical or mental capabilities may not meet the requirements for licensure or registration as prescribed in article 2 of

this chapter in order for the board to make a final determination whether the applicant meets the requirements for licensure pursuant to this chapter.

5. Disciplining and rehabilitating physicians.

6. Engaging in a full exchange of information with the licensing and disciplinary boards and medical associations of other states and jurisdictions of the United States and foreign countries and the Arizona medical association and its components.

7. Directing the preparation and circulation of educational material the board determines is helpful and proper for licensees.

8. Adopting rules regarding the regulation and the qualifications of doctors of medicine.

9. Establishing fees and penalties as provided pursuant to section 32-1436.

10. Delegating to the executive director the board's authority pursuant to section 32-1405 or 32-1451. The board shall adopt substantive policy statements pursuant to section 41-1091 for each specific licensing and regulatory authority the board delegates to the executive director.

11. Determining whether a prospective or current Arizona licensed physician has the training or experience to demonstrate the physician's ability to treat and manage opiate-dependent patients as a qualifying physician pursuant to 21 United States Code section 823(g)(2)(G)(ii).

B. The board may appoint one of its members to the jurisdiction arbitration panel pursuant to section 32-2907, subsection B.

C. There shall be no monetary liability on the part of and no cause of action shall arise against the executive director or such other permanent or temporary personnel or professional medical investigators for any act done or proceeding undertaken or performed in good faith and in furtherance of the purposes of this chapter.

D. In conducting its investigations pursuant to subsection A, paragraph 2 of this section, the board may receive and review staff reports relating to complaints and malpractice claims.

E. The board shall establish a program that is reasonable and necessary to educate doctors of medicine regarding the uses and advantages of autologous blood transfusions.

F. The board may make statistical information on doctors of medicine and applicants for licensure under this article available to academic and research organizations.

G. The committee on executive director selection and retention is established consisting of the Arizona medical board and the chairperson and vice chairperson of the Arizona regulatory board of physician assistants. The committee is a public body and is subject to the requirements of title 38, chapter 3, article 3.1. The committee is responsible for appointing the executive director pursuant to section 32-1405. All members of the committee are voting members of the committee. The committee shall elect a chairperson and a vice chairperson when the committee meets but no more frequently than once a year. The chairperson shall call meetings of the committee as necessary, and the vice chairperson may call meetings of the committee that are necessary if the chairperson is not available. The presence of eight members of

the committee at a meeting constitutes a quorum. The committee meetings may be held using communications equipment that allows all members who are participating in the meeting to hear each other. If any discussions occur in an executive session of the committee, notwithstanding the requirement that discussions made at an executive session be kept confidential as specified in section 38-431.03, the chairperson and vice chairperson of the Arizona regulatory board of physician assistants may discuss this information with the Arizona regulatory board of physician assistants in executive session. This disclosure of executive session information to the Arizona regulatory board of physician assistants does not constitute a waiver of confidentiality or any privilege, including the attorney-client privilege.

H. The officers of the Arizona medical board and the Arizona regulatory board of physician assistants shall meet twice a year to discuss matters of mutual concern and interest.

I. The board may accept and expend grants, gifts, devises and other contributions from any public or private source, including the federal government. Monies received under this subsection do not revert to the state general fund at the end of a fiscal year.

**32-1403.01. Licensees; profiles; required information; updates; civil penalty**

A. The board shall make available to the public a profile of each licensee. The board shall make this information available through an internet website and, if requested, in writing. The profile available to the public may not contain any information received from the federal bureau of investigation relating to a federal criminal records check. The profile shall contain the following information:

1. A description of any conviction of a felony. For purposes of this paragraph, a licensee is deemed to be convicted if the licensee pled guilty, pled no contest or was found guilty by a court of competent jurisdiction.
2. A description of any conviction of a misdemeanor involving moral turpitude that results in disciplinary action. For purposes of this paragraph, a licensee is deemed to be convicted if the licensee pled guilty, pled no contest or was found guilty by a court of competent jurisdiction.
3. All final board disciplinary actions.
4. Any medical malpractice court judgments and any medical malpractice awards or settlements in which a payment is made to a complaining party that results in disciplinary action.
5. The name and location of the licensee's medical school and the date of graduation.
6. The name and location of the institution from which the licensee received graduate medical education and the date that education was completed.
7. The licensee's primary practice location.

B. Each licensee shall submit the information required pursuant to subsection A of this section each year as directed by the board. An applicant for licensure shall submit this information at the time of application. The applicant and licensee shall submit the information on a form prescribed by the board. A licensee shall submit immediately any changes in information required pursuant to subsection A, paragraphs 1, 2 and 4 of this section. The board shall update immediately its internet website to reflect

changes in information relating to subsection A, paragraphs 1 through 4 of this section. The board shall update the internet website information at least annually.

C. The board shall provide each licensee with the licensee's profile on request and shall make valid and verifiable corrections to the profile on notification at any time by the licensee. A change made by a licensee to an address or telephone number is subject to the requirements of section 32-1435.

D. It is an act of unprofessional conduct for a licensee to provide erroneous information pursuant to this section. In addition to other disciplinary action, the board may impose a civil penalty of not more than one thousand dollars for each erroneous statement.

E. If the board issues a nondisciplinary order or action against a licensee, the record of the nondisciplinary order or action is available to the public but may not appear on the board's website, except that a practice limitation or restriction, and documentation relating to that action, may appear on the board's website. On request, the board shall send within five business days, either electronically or by mail, information relating to any nondisciplinary order or action against a licensee to a person requesting the information.

#### 32-1404. Meetings; quorum; committees; rules; posting

A. The board shall hold regular quarterly meetings on a date and at the time and place designated by the chairman. The board shall hold special meetings, including meetings using communications equipment that allows all members participating in the meeting to hear each other, as the chairman determines are necessary to carry out the functions of the board. The board shall hold special meetings on any day that the chairman determines are necessary to carry out the functions of the board. The vice-chairman may call meetings and special meetings if the chairman is not available.

B. The presence of seven board members at a meeting constitutes a quorum. A majority vote of the quorum is necessary for the board to take any action.

C. The chairman may establish committees from the membership of the board and define committee duties necessary to carry out the functions of the board.

D. The board may adopt rules pursuant to title 41, chapter 6 that are necessary and proper to carry out the purposes of this chapter.

E. Meetings held pursuant to subsection A of this section shall be audio and video recorded. Beginning September 2, 2014, the board shall post the video recording on the board's website within five business days after the meeting.

#### 32-1405. Executive director; compensation; duties; appeal to the board

A. Subject to title 41, chapter 4, article 4, the committee on executive director selection and retention established by section 32-1403 shall appoint an executive director of the board who shall serve at the pleasure of the committee. The executive director shall not be a board member, except that the board may authorize the executive director to represent the board and to vote on behalf of the board at meetings of the federation of state medical boards of the United States.

B. The executive director is eligible to receive compensation set by the board within the range determined under section 38-611.

C. The executive director or the executive director's designee shall:

1. Subject to title 41, chapter 4, article 4 and, as applicable, articles 5 and 6, employ, evaluate, dismiss, discipline and direct professional, clerical, technical, investigative and administrative personnel necessary to carry on the work of the board. An investigator shall complete a nationally recognized investigator training program within one year of date of hire. Until an investigator completes a training program, the investigator shall work under the supervision of an investigator who has completed a training program.

2. Set compensation for board employees within the range determined under section 38-611.

3. As directed by the board, prepare and submit recommendations for amendments to the medical practice act for consideration by the legislature.

4. Subject to title 41, chapter 4, article 4, employ medical consultants and agents necessary to conduct investigations, gather information and perform those duties the executive director determines are necessary and appropriate to enforce this chapter.

5. Issue licenses, registrations and permits to applicants who meet the requirements of this chapter.

6. Manage the board's offices.

7. Prepare minutes, records, reports, registries, directories, books and newsletters and record all board transactions and orders.

8. Collect all monies due and payable to the board.

9. Pay all bills for authorized expenditures of the board and its staff.

10. Prepare an annual budget.

11. Submit a copy of the budget each year to the governor, the speaker of the house of representatives and the president of the senate.

12. Initiate an investigation if evidence appears to demonstrate that a physician may be engaged in unprofessional conduct or may be medically incompetent or mentally or physically unable to safely practice medicine.

13. Issue subpoenas if necessary to compel the attendance and testimony of witnesses and the production of books, records, documents and other evidence.

14. Provide assistance to the attorney general in preparing and sign and execute disciplinary orders, rehabilitative orders and notices of hearings as directed by the board.

15. Enter into contracts for goods and services pursuant to title 41, chapter 23 that are necessary to carry out board policies and directives.

16. Execute board directives.

17. Manage and supervise the operation of the Arizona regulatory board of physician assistants.

18. Issue licenses to physician assistant applicants who meet the requirements of chapter 25 of this title.
  19. Represent the board with the federal government, other states or jurisdictions of the United States, this state, political subdivisions of this state, the news media and the public.
  20. On behalf of the Arizona medical board, enter into stipulated agreements with persons under the jurisdiction of either the Arizona medical board or the Arizona regulatory board of physician assistants for the treatment, rehabilitation and monitoring of chemical substance abuse or misuse.
  21. Review all complaints filed pursuant to section 32-1451. The executive director shall submit all medical complaints alleging harm as a result of patient care to a medical consultant for review. The executive director shall submit to the medical consultant only those medical complaints that involve a standard of care issue and that require medical training and expertise to determine whether a violation has occurred. If delegated by the board, the executive director may also dismiss a complaint if the complaint is without merit. The executive director shall not dismiss a complaint if a court has entered a medical malpractice judgment against a physician. The executive director shall submit a report of the cases dismissed with the complaint number, the name of the physician and the investigation timeline to the board for review at its regular board meetings.
  22. If delegated by the board, directly refer cases to a formal hearing.
  23. If delegated by the board, close cases resolved through mediation.
  24. If delegated by the board, issue advisory letters.
  25. If delegated by the board, enter into a consent agreement if there is evidence of danger to the public health and safety.
  26. If delegated by the board, grant uncontested requests for inactive status and cancellation of a license pursuant to sections 32-1431 and 32-1433.
  27. If delegated by the board, refer cases to the board for a formal interview.
  28. Perform all other administrative, licensing or regulatory duties required by the board.
  29. Disseminate any information received from the office of ombudsman-citizens aide to the board at its regular board meetings.
- D. Medical consultants and agents appointed pursuant to subsection C, paragraph 4 of this section are eligible to receive compensation determined by the executive director in an amount not to exceed two hundred dollars for each day of service.
- E. A person who is aggrieved by an action taken by the executive director pursuant to subsection C, paragraphs 21 through 27 of this section or section 32-1422, subsection E may request the board to review that action by filing with the board a written request within thirty days after that person is notified of the executive director's action by personal delivery or, if the notification is mailed to that person's last known residence or place of business, within thirty-five days after the date on the notification. At the next regular board meeting, the board shall review the executive director's action. On review, the board shall approve, modify or reject the executive director's action.

### 32-1406. Arizona medical board fund

A. The Arizona medical board fund is established. Pursuant to sections 35-146 and 35-147, the board shall deposit ten per cent of all monies collected under the provisions of this chapter in the state general fund and deposit the remaining ninety per cent in the Arizona medical board fund.

B. Monies deposited in the fund are subject to section 35-143.01.

### 32-1407. Jurisdiction arbitration panel

A. When the board receives a complaint concerning a physician who is also licensed pursuant to chapter 29 of this title, the board shall immediately notify the board of homeopathic and integrated medicine examiners. If the boards disagree and if both boards continue to claim jurisdiction over the dual licensee, an arbitration panel shall decide jurisdiction pursuant to section 32-2907, subsections B, C, D and E.

B. If the licensing boards decide without resorting to arbitration which board or boards shall conduct the investigation, the board or boards conducting the investigation shall transmit all investigation materials, findings and conclusions to the other board with which the physician is licensed. The board or boards shall review this information to determine if disciplinary action shall be taken against the physician.

### 32-1421. Exemptions from licensing requirements

A. This article does not apply to any person while engaged in:

1. The provision of medical assistance in case of an emergency.
2. The administration of family remedies including the sale of vitamins, health foods or health food supplements or any other natural remedies, except drugs or medicines for which an authorized prescription is required by law.
3. The practice of religion, treatment by prayer or the laying on of hands as a religious rite or ordinance.
4. The practice of any of the healing arts of and by Indian tribes in this state.
5. The lawful practice of any of the healing arts to the extent authorized by a license issued by this state.
6. Activities or functions that do not require the exercise of a doctor of medicine's judgment for their performance, are not in violation of the laws of this state and are usually or customarily delegated by a doctor of medicine under the doctor's direction or supervision or are performed in accordance with the approval of a committee of physicians in a licensed health care institution.
7. The official duties of a medical officer in the armed forces of the United States, the United States department of veterans affairs or the United States public health service or their successor agencies, if the duties are restricted to federal lands.
8. Any act, task or function competently performed by a physician assistant in the proper performance of the physician assistant's duties.

9. The emergency harvesting of donor organs by a doctor of medicine or team of doctors of medicine licensed to practice medicine in another state or country for use in another state or country.

B. This article does not apply to:

1. A doctor of medicine residing in another jurisdiction who is authorized to practice medicine in that jurisdiction, if the doctor engages in actual single or infrequent consultation with a doctor of medicine licensed in this state and if the consultation regards a specific patient or patients.

2. A doctor of medicine who is licensed to practice in another jurisdiction if the doctor engages in the practice of medicine that is limited to patients with whom the doctor has an already established doctor-patient relationship and who reside outside this jurisdiction when both the doctor and the patient are physically in this state for not more than sixty consecutive days. For the purposes of this paragraph, "patient" means a person who is not a resident of this state and who is an athlete or a professional entertainer.

### 32-1422. Basic requirements for granting a license to practice medicine; credentials verification

A. An applicant for a license to practice medicine in this state pursuant to this article shall meet each of the following basic requirements:

1. Graduate from an approved school of medicine or receive a medical education that the board deems to be of equivalent quality.

2. Successfully complete an approved twelve-month hospital internship, residency or clinical fellowship program.

3. Have the physical and mental capability to safely engage in the practice of medicine.

4. Have a professional record that indicates that the applicant has not committed any act or engaged in any conduct that would constitute grounds for disciplinary action against a licensee under this chapter.

5. Not have had a license to practice medicine revoked by a medical regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction that constitutes unprofessional conduct pursuant to this chapter.

6. Not be currently under investigation, suspension or restriction by a medical regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter. If the applicant is under investigation by a medical regulatory board in another jurisdiction, the board shall suspend the application process and may not issue or deny a license to the applicant until the investigation is resolved.

7. Not have surrendered a license to practice medicine in lieu of disciplinary action by a medical regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction and that constitutes unprofessional conduct pursuant to this chapter.

8. Pay all fees required by the board.

9. Complete the application as required by the board.

10. Complete a training unit as prescribed by the board relating to the requirements of this chapter and board rules. The applicant shall submit proof with the application form of having completed the training unit.

11. Have submitted directly to the board, electronically or by hard copy, verification of the following:

(a) Licensure from every state in which the applicant has ever held a medical license.

(b) All medical employment for the five years preceding application. If the applicant is employed by a hospital or medical group or organization, the board shall accept the confirmation required under this subdivision from the applicant's employer. For the purposes of this subdivision, medical employment includes all medical professional activities.

12. Have submitted a full set of fingerprints to the board for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

B. The board may require the submission of credentials or other evidence, written and oral, and make any investigation it deems necessary to adequately inform itself with respect to an applicant's ability to meet the requirements prescribed by this section, including a requirement that the applicant for licensure undergo a physical examination, a mental evaluation and an oral competence examination and interview, or any combination thereof, as the board deems proper.

C. In determining if the requirements of subsection A, paragraph 4 of this section have been met, if the board finds that the applicant committed an act or engaged in conduct that would constitute grounds for disciplinary action, the board shall determine to its satisfaction that the conduct has been corrected, monitored and resolved. If the matter has not been resolved, the board shall determine to its satisfaction that mitigating circumstances exist that prevent its resolution.

D. In determining if the requirements of subsection A, paragraph 6 of this section have been met, if another jurisdiction has taken disciplinary action against an applicant, the board shall determine to its satisfaction that the cause for the action was corrected and the matter resolved. If the matter has not been resolved by that jurisdiction, the board shall determine to its satisfaction that mitigating circumstances exist that prevent its resolution.

E. The board may delegate authority to the executive director to deny licenses if applicants do not meet the requirements of this section.

F. Any credential information required to be submitted to the board pursuant to this article must be submitted, electronically or by hard copy, from the primary source where the document or information originated, except that the board may accept primary-source verified credentials from a credentials verification service approved by the board. The board is not required to verify any documentation or information received by the board from a credentials verification service that has been approved by the board. If an applicant is unable to provide a document or information from the primary source due to no fault of the applicant, the executive director shall forward the issue to the full board for review and determination. The board shall adopt rules establishing the criteria that must be met in order to waive a documentation requirement of this article.

[32-1422.01. Expedited licensure; medical licensure compact; fingerprinting](#)

Beginning September 1, 2017, applicants for expedited licensure pursuant to section 32-3241 shall submit a full set of fingerprints to the board for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation. Communication between the board and the interstate medical licensure compact commission regarding verification of physician eligibility for licensure under the medical licensure compact may not include any information received from the federal bureau of investigation relating to a state and federal criminal records check performed for the purposes of section 32-3241, section 5, subsection B, paragraph 2.

32-1423. Additional requirements for students graduating from an unapproved allopathic school of medicine

In addition to the basic requirements for licensure prescribed in section 32-1422, any applicant who has graduated from an unapproved school of medicine shall meet each of the following requirements:

1. Be able to read, write, speak, understand and be understood in the English language.
2. Hold a standard certificate issued by the educational council for foreign medical graduates, complete a fifth pathway program as provided in section 32-1424, subsection A, or complete thirty-six months as a full-time assistant professor or in a higher position in an approved school of medicine.
3. Successfully complete an approved twenty-four month hospital internship, residency or clinical fellowship program, in addition to the twelve months required in section 32-1422, subsection A, paragraph 2, for a total of thirty-six months of training unless the applicant successfully completed a fifth pathway program as provided by section 32-1424 or has served as a full-time assistant professor or in a higher position in an approved school of medicine for a total of thirty-six months.

32-1424. Fifth pathway program; licensure

A. In addition to the requirements for licensure prescribed in sections 32-1422 and 32-1423, an applicant for licensure under this article who attended a foreign school of medicine and successfully completed all the formal requirements to receive the degree of doctor of medicine except internship or social service, and is accordingly not eligible for certification by the educational council for foreign medical graduates, may be considered for licensure under this chapter if the applicant meets the following conditions:

1. Satisfactorily completes an approved fifth pathway program of one academic year of supervised clinical training under the direction of an approved school of medicine in the United States.
2. Successfully completes an approved twenty-four month internship, residency or clinical fellowship program upon completion of the fifth pathway program.

B. A document granted by a foreign school of medicine signifying completion of all the formal requirements for graduation from such foreign medical school except internship or social service training, or both, along with certification by the approved school of medicine in the United States of successful completion of the fifth pathway program is deemed the equivalent of a degree of doctor of medicine for purposes of licensure and practice as a physician in this state.

32-1425. Initial licensure

A. An applicant who meets the applicable requirements provided in section 32-1422, 32-1423 or 32-1424, has passed steps one and two of the United States medical licensing examination or one of the examination combinations prescribed in section 32-1426, subsection A, paragraph 6, subdivision (c), items (i) and (ii), has paid the fees required by this chapter and has filed a completed application found by the board to be true and correct is eligible for licensure as a doctor of medicine upon successful passage of step three of the United States medical licensing examination with a scaled score of at least seventy-five if the applicant has passed all three steps within a seven year period.

B. An applicant for licensure applying pursuant to section 32-1422, 32-1423 or 32-1424 may take the examination only after successfully completing six months of a board approved hospital internship, residency or clinical fellowship or fifth pathway program or serving as a full-time assistant professor or in a higher position in a board approved school of medicine in this state.

C. The board shall not grant a license until the applicant meets the requirements for licensure pursuant to this chapter.

### 32-1426. Licensure by endorsement

A. An applicant who is licensed in another jurisdiction or whose license under this chapter has been revoked or surrendered or has expired and who meets the applicable requirements prescribed in section 32-1422, 32-1423 or 32-1424, has paid the fees required by this chapter and has filed a completed application found by the board to be true and correct is eligible to be licensed to engage in the practice of medicine in this state through endorsement under any one of the following conditions:

1. The applicant is certified by the national board of medical examiners or its successor entity as having successfully passed all three parts of the United States medical licensing examination or its successor examination.
2. The applicant has successfully passed a written examination that the board determines is equivalent to the United States medical licensing examination and that is administered by any state, territory or district of the United States, a province of Canada or the medical council of Canada.
3. The applicant successfully completed the three-part written federation of state medical boards licensing examination administered by any jurisdiction before January 1, 1985 and obtained a weighted grade average of at least seventy-five on the complete examination. Successful completion of the examination shall be achieved in one sitting.
4. The applicant successfully completed the two component federation licensing examination administered after December 1, 1984 and obtained a scaled score of at least seventy-five on each component within a five-year period.
5. The applicant's score on the United States medical licensing examination was equal to the score required by this state for licensure pursuant to section 32-1425.
6. The applicant successfully completed one of the following combinations of examinations:
  - (a) Parts one and two of the national board of medical examiners examination, administered either by the national board of medical examiners or the educational commission for foreign medical graduates, with a successful score determined by the national board of medical examiners and passed either step three of

the United States medical licensing examination or component two of the federation licensing examination with a scaled score of at least seventy-five.

(b) The federation licensing examination component one examination and the United States medical licensing step three examination with scaled scores of at least seventy-five.

(c) Each of the following:

(i) Part one of the national board of medical examiners licensing examination with a passing grade as determined by the national board of medical examiners or step one of the United States medical licensing examination with a scaled score of at least seventy-five.

(ii) Part two of the national board of medical examiners licensing examination with a passing grade as determined by the national board of medical examiners or step two of the United States medical licensing examination with a scaled score of at least seventy-five.

(iii) Part three of the national board of medical examiners licensing examination with a passing grade as determined by the national board of medical examiners or step three of the United States medical licensing examination with a scaled score of at least seventy-five or component two of the federation licensing examination with a scaled score of at least seventy-five.

B. The board may require an applicant seeking licensure by endorsement based on successful passage of a written examination or combination of examinations, the most recent of which precedes by more than ten years the application for licensure by endorsement in this state, to take and pass a special purpose licensing examination to assist the board in determining the applicant's ability to safely engage in the practice of medicine. The board may also conduct a records review and physical and psychological assessments, if appropriate, and may review practice history to determine the applicant's ability to safely engage in the practice of medicine.

**32-1427. Application; hearing on deficiencies in application; interview; probationary license**

A. Each applicant for licensure shall submit a completed application as prescribed by the board together with the fee prescribed in this article. The board may require the submission of any evidence, credentials and other proof necessary for it to verify and determine if the applicant meets the requirements for licensure.

B. Each application submitted pursuant to this section shall contain the oath of the applicant that:

1. All of the information contained in the application and accompanying evidence or other credentials submitted are true.

2. The credentials submitted with the application were procured without fraud or misrepresentation or any mistake of which the applicant is aware and that the applicant is the lawful holder of the credentials.

3. The applicant authorizes the release of any information from any source requested by the board necessary for initial and continued licensure in this state.

C. All applications, completed or otherwise, together with all attendant evidence, credentials and other proof submitted with the applications are the property of the board.

D. The board, promptly and in writing, shall inform an applicant of any deficiency in the application that prevents the application from being processed.

E. On request the board shall grant an applicant who disagrees with the statement of deficiency a hearing before the board at its next regular meeting if there is time at that meeting to hear the matter. The board shall not delay this hearing beyond one regularly scheduled meeting. At any hearing granted pursuant to this subsection, the burden of proof is on the applicant to demonstrate that the alleged deficiencies do not exist.

F. Applications are considered withdrawn:

1. On the applicant's written request.
2. Except for good cause shown, if the applicant does not appear for an interview with the board.
3. If the applicant does not submit within one year of notification the necessary evidence, credentials or other proof identified by the board as being deficient pursuant to subsection D of this section.

G. The board may deny a license to an applicant who does not meet the requirements of this article.

H. If an applicant does not meet the requirements of section 32-1422, subsection A, paragraph 3 the board may issue a license subject to any of the following probationary conditions:

1. Require the licensee's practice to be supervised by another physician.
2. Restrict the licensee's practice.
3. Require the licensee to continue medical or psychiatric treatment.
4. Require the licensee to participate in a specified rehabilitation program.
5. Require the licensee to abstain from alcohol and other drugs.

I. If the board offers a probationary license to an applicant pursuant to subsection H of this section, it shall notify the applicant in writing of the following:

1. The applicant's specific deficiencies.
2. The probationary period.
3. The applicant's right to reject the terms of probation.
4. If the applicant rejects the terms of probation, the applicant's right to a hearing on the board's denial of the application.

#### 32-1428. Pro bono registration

A. The board may issue a pro bono registration to allow a doctor who is not a licensee to practice in this state for a total of up to sixty days each calendar year if the doctor:

1. Holds an active and unrestricted license to practice medicine in a state, territory or possession of the United States or an inactive license pursuant to section 32-1431.
2. Has never had the license revoked or suspended.
3. Is not the subject of an unresolved complaint.
4. Applies for registration on a yearly basis as prescribed by the board.
5. Agrees to render all medical services without accepting a fee or salary or performs only initial or follow-up examinations at no cost to the patient and the patient's family through a charitable organization.

B. The sixty days of practice prescribed pursuant to subsection A of this section may be performed consecutively or cumulatively during each calendar year.

C. For the purpose of meeting the requirements of subsection A of this section, an applicant shall provide the board the name of each state in which the person is licensed or has held a license and the board shall verify with the applicable regulatory board of each state that the applicant is licensed or has held a license, has never had a license revoked or suspended and is not the subject of an unresolved complaint. The board may accept the verification of the information required by subsection A, paragraphs 1, 2 and 3 of this section from each of the other state's regulatory board either electronically or by hard copy.

#### 32-1429. Locum tenens registration

A. The board may issue a registration to allow a doctor of medicine who is not a licensee to provide locum tenens medical services to substitute for or temporarily assist a doctor of medicine who holds an active license pursuant to this chapter or a doctor of osteopathy who holds an active license pursuant to chapter 17 of this title under the following conditions:

1. The applicant holds an active license to practice medicine issued by a state, district, territory or possession of the United States.
2. The applicant provides on forms and in a manner prescribed by the board proof that the applicant meets the applicable requirements of section 32-1422, 32-1423 or 32-1424.
3. The license of the applicant from the jurisdiction in which the applicant regularly practices medicine is current and unrestricted and has not been revoked or suspended for any reason and there are no unresolved complaints or formal charges filed against the applicant with any licensing board.
4. The doctor of medicine or doctor of osteopathy for whom the applicant for registration under this section is substituting or assisting provides to the board a written request for locum tenens registration of the applicant.
5. The applicant pays the fee prescribed under section 32-1436.

B. Locum tenens registration granted pursuant to this section is valid for a period of one hundred eighty consecutive days. A doctor of medicine is eligible to apply for and be granted locum tenens registration once every three years.

### 32-1430. License renewal; expiration

A. Except as provided in section 32-4301, each person holding an active license to practice medicine in this state shall renew the license every other year on or before the licensee's birthday and shall pay the fee required by this article, accompanied by a completed renewal form. The board shall provide the renewal form online and, on request, shall mail the form to the licensee. A licensee who does not renew an active license as required by this subsection on or before thirty days after the licensee's birthday must also pay a penalty fee as required by this article for late renewal. A licensee's license automatically expires if the licensee does not renew an active license within four months after the licensee's birthday. A person who practices medicine in this state after that person's active license has expired is in violation of this chapter.

B. A person renewing an active license to practice medicine in this state shall provide to the board as part of the renewal process a report of disciplinary actions, restrictions or any other action placed on or against that person's license or practice by another state licensing or disciplinary board or an agency of the federal government. This action may include denying a license or failing the special purpose licensing examination. The report shall include the name and address of the sanctioning agency or health care institution, the nature of the action taken and a general statement of the charges leading to the action taken.

C. The licensee shall submit proof with the renewal form of having completed a training unit as prescribed by the board relating to the requirements of this chapter and board rules.

D. A person whose license has expired may reapply for a license to practice medicine as provided in this chapter.

### 32-1431. Inactive license; application; practice prohibitions

A. A person holding a current active license to practice medicine in this state may request an inactive license from the board if both of the following are true:

1. The licensee is not presently under investigation by the board.
2. The board has not commenced any disciplinary proceeding against the licensee.

B. The board may grant an inactive license and waive the renewal fees and requirements for continuing medical education specified by section 32-1434 if the licensee provides evidence to the board's satisfaction that the licensee has totally retired from the practice of medicine in this state and any state, territory and district of the United States or any foreign country and has paid all of the fees required by this chapter before the request. The board may grant pro bono registration pursuant to section 32-1428 to a physician who holds an inactive license under this section.

C. During any period in which a medical doctor holds an inactive license, that person shall not engage in the practice of medicine or continue to hold or maintain a drug enforcement administration controlled substances registration certificate, except as permitted by a pro bono registration pursuant to section 32-1428. Any person who engages in the practice of medicine while on inactive license status is considered to be a person who practices medicine without a license or without being exempt from licensure as provided in this chapter.

D. The board may convert an inactive license to an active license if the applicant pays the renewal fee and presents evidence satisfactory to the board that the applicant possesses the medical knowledge and is

physically and mentally able to safely engage in the practice of medicine. The board may require any combination of physical examination, psychiatric or psychological evaluation or successful passage of the special purpose licensing examination or interview it finds necessary to assist it in determining the ability of a physician holding an inactive license to return to the active practice of medicine.

### 32-1432. Teaching license

A. A board approved school of medicine in this state or a teaching hospital's accredited graduate medical education program in this state may invite a doctor of medicine to provide and promote professional education through lectures, clinics or demonstrations. The doctor of medicine is prohibited from opening an office or designating a place to meet patients or receive calls relating to the practice of medicine in this state outside of the facilities and programs of the approved school or teaching hospital.

B. To receive a teaching license, the doctor of medicine shall:

1. Complete an application as prescribed by the board.

2. Pay all required fees.

3. Meet the basic requirements of section 32-1422 except for those relating to completing an approved hospital internship, residency or clinical fellowship program.

C. A teaching license is limited to a one year period. The doctor of medicine may reapply annually for no more than a total of four years. With each reapplication the doctor of medicine must submit all required fees and a petition from the school or teaching hospital asking the board for continuation of the teaching license.

D. The holder of a teaching license is not exempt from the requirements of this chapter with the exception of the training and examination requirements of this article.

E. A doctor of medicine holding a current teaching license at an approved school of medicine may convert that license into an active license by filing an application and meeting all applicable requirements of this article.

### 32-1432.01. Education teaching permit

A. The dean of a board approved school of medicine or the chairman of a teaching hospital's accredited graduate medical education program may invite a doctor of medicine who is not licensed in this state to demonstrate and perform medical procedures and surgical techniques for the sole purpose of promoting professional education for students, interns, residents, fellows and doctors of medicine in this state.

B. The chairman or dean of the inviting institution shall provide to the board evidence that an applicant for an educational permit has malpractice insurance in an amount that meets the requirements of the institution and that the applicant accepts all responsibility and liability for the procedures he performs within the scope of his permit. In a letter to the board, the chairman or the dean of the inviting institution shall outline the procedures and techniques that the doctor of medicine shall perform or demonstrate and the dates that this activity will occur. The letter shall also include a summary of the doctor's of medicine educational and professional background and be accompanied by the fee required pursuant to section 32-1436.

C. The inviting institution shall submit the fees and documents required pursuant to subsection B of this section no later than two weeks before the scheduled activity.

D. The board or its staff shall issue an educational teaching permit for no more than five days for each approved activity.

**32-1432.02. Training permit; short-term permits; discipline**

A. The board shall grant a one year renewable training permit to a person participating in a teaching hospital's accredited internship, residency or clinical fellowship training program to allow that person to function only in the supervised setting of that program. Before the board issues the permit, the person shall comply with the applicable registration requirements of this article and pay the fee prescribed in section 32-1436.

B. If a person who is participating in a teaching hospital's accredited internship, residency or clinical fellowship program must repeat or make up time in the program due to resident progression or other issues, the board may grant that person a training permit if requested to do so by the program's director of medical education or a person who holds an equivalent position. The permit limits the permittee to practicing only in the supervised setting of that program.

C. The board shall grant a training permit to a person who is not licensed in this state and who is participating in a short-term training program of four months or less conducted in an approved school of medicine or a hospital that has an accredited hospital internship, residency or clinical fellowship program in this state for the purpose of continuing medical education. Before the board issues the permit, the person shall comply with the applicable registration requirements of this article and pay the fee prescribed in section 32-1436.

D. A permittee is subject to the disciplinary regulation of article 3 of this chapter.

**32-1432.03. Training permits; approved schools**

The executive director may grant a one year training permit to a person who:

1. Participates in a program at an approved school of medicine or a hospital that has an approved hospital internship, residency or clinical fellowship program if the purpose of the program is to exchange technical and educational information.

2. Pays the prescribed fee.

3. Submits a written statement from the dean of the approved school of medicine or from the chairman of a teaching hospital's accredited graduate medical education program that:

(a) Includes a request for the permit and describes the purpose of the exchange program.

(b) Specifies that the host institution will provide liability coverage.

(c) Provides the name of a doctor of medicine who will serve as the preceptor of the host institution and provide appropriate supervision of the participant.

(d) States that the host institution has advised the participant that the participant may serve as a member of an organized medical team but shall not practice medicine independently and that this training does not accrue toward postgraduate training requirements for licensure.

### 32-1433. Cancellation of active license

On request of an active licensee, the board may cancel that person's license if both of the following are true:

1. The licensee is not presently under investigation by the board.
2. The board has not commenced any disciplinary proceeding against the licensee.

### 32-1434. Continuing medical education; audit

A. A person who holds an active license to practice medicine in this state shall satisfy a continuing medical education requirement that is designed to provide the necessary understanding of current developments, skills, procedures or treatment related to the practice of medicine in such amount and during such period as the board establishes by rule.

B. Compliance with subsection A of this section shall be documented at such times and in such manner as the board shall establish.

C. Failure of a person holding an active license to practice medicine to comply with this section without adequate cause being shown is grounds for probation, suspension or revocation of such person's license.

D. The board shall randomly audit, once every two years, at least ten per cent of physicians to verify continuing medical education compliance.

### 32-1435. Change of address; costs; penalties

A. Each active licensee shall promptly and in writing inform the board of the licensee's current residence address, office address and telephone number and of each change in residence address, office address or telephone number that may later occur.

B. The board may assess the costs incurred by the board in locating a licensee and in addition a penalty of not to exceed one hundred dollars against a licensee who fails to comply with subsection A within thirty days from the date of change. Notwithstanding any law to the contrary, monies collected pursuant to this subsection shall be deposited in the Arizona medical board fund.

### 32-1436. Fees and penalty

A. The board shall by a formal vote, at its annual fall meeting, establish nonrefundable fees and penalties that do not exceed the following:

1. For processing an application for an active license, seven hundred dollars.
2. For issuance of an active license, seven hundred dollars.

3. For an application to reactivate an inactive status license, five hundred dollars.
  4. For issuance of a duplicate license, fifty dollars.
  5. For renewal of an active license, seven hundred dollars.
  6. For late renewal of an active license, an eight hundred dollar penalty.
  7. For annual registration of an approved internship, residency, clinical fellowship program or short-term residency program, fifty dollars.
  8. For an annual teaching license at an approved school of medicine or at an approved teaching hospital's accredited graduate medical education program, four hundred dollars.
  9. For a five day educational teaching permit at an approved school of medicine or at an approved teaching hospital's accredited graduate medical education program, one hundred dollars.
  10. For locum tenens registration, five hundred dollars.
  11. For the sale of those copies of the annual medical directory that are not distributed free of charge, thirty dollars.
  12. For the sale of the annual medical directory on CD-ROM, one hundred dollars.
  13. For the sale of computerized tapes or diskettes not requiring programming, one hundred dollars.
  14. For verification of a license, ten dollars.
  15. For a copy of the minutes to board meetings during the current calendar year, twenty-five dollars for each set of minutes.
  16. For copying records, documents, letters, minutes, applications and files, one dollar for the first three pages and twenty-five cents for each additional page.
  17. For initial and annual registration to dispense drugs and devices, two hundred dollars.
  18. For renewal applications that the board returns to the licensee for proper completion, a fee that does not exceed the cost of processing the incomplete application.
- B. The board shall charge additional fees for services that are not required to be provided by this chapter but that the board deems necessary and appropriate to carry out its intent and purpose, except that these fees shall not exceed the actual cost of providing those services.
- C. Notwithstanding subsection A of this section, the board may return the license renewal fee on special request.
- D. The board shall provide computerized tapes or diskettes free to the management information systems office of the Arizona health care cost containment system.

E. The fee for minutes provided pursuant to this section includes postage. Annual subscription requests and fees for minutes shall be paid before February 1 of each year. Subscriptions for minutes of board meetings are not available for past years.

F. The fee for copying provided in this section includes postage. Copying fees for subpoenaed records shall be as prescribed in section 12-351.

G. The board may collect from the drawer of a dishonored check, draft order or note an amount allowed pursuant to section 44-6852.

### 32-1437. Training permits; qualified military health professionals

A. The board shall issue a training permit to a qualified military health professional who is practicing allopathic medicine in the United States armed forces and who is discharging the health professional's official duties by participating in a clinical training program based at a civilian hospital affiliated with the United States department of defense.

B. Before the board issues the training permit, the qualified military health professional must submit a written statement from the United States department of defense that the applicant:

1. Is a member of the United States armed forces who is performing duties for and at the direction of the United States department of defense at a location in this state approved by the United States department of defense.

2. Has a current license or is credentialed to practice allopathic medicine in a jurisdiction of the United States.

3. Meets all required qualification standards prescribed pursuant to 10 United States Code section 1094(d) relating to the licensure requirements for health professionals.

4. Has not had a license to practice revoked by a regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction that constitutes unprofessional conduct pursuant to this chapter.

5. Is not currently under investigation, suspension or restriction by a regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction that constitutes unprofessional conduct pursuant to this chapter.

6. Has not surrendered, relinquished or given up a license in lieu of disciplinary action by a regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction that constitutes unprofessional conduct pursuant to this chapter. This paragraph does not prevent the board from considering the request for a training permit of a qualified military health professional who surrendered, relinquished or gave up a license in lieu of disciplinary action by a regulatory board in another jurisdiction if that regulatory board subsequently reinstated the qualified military health professional's license.

C. The qualified military health professional may not open an office or designate a place to meet patients or receive calls relating to the practice of allopathic medicine in this state outside of the facilities and programs of the approved civilian hospital.

D. The qualified military health professional may not practice outside of the professional's scope of practice.

E. A training permit issued pursuant to this section is valid for one year. The qualified military health professional may apply annually to the board to renew the permit. With each application to renew the qualified military health professional must submit a written statement from the United States department of defense asking the board for continuation of the training permit.

F. The board may not impose a fee to issue or renew a training permit to a qualified military health professional pursuant to this section.

**32-1438. Temporary licensure; requirements; fee**

A. Beginning July 1, 2017, the board may issue a temporary license, which may not be renewed or extended, to allow a physician who is not a licensee to practice in this state for a total of up to two hundred fifty consecutive days if the physician meets all of the following requirements:

1. Holds an active and unrestricted license to practice medicine in a state, territory or possession of the United States.

2. Has applied for a license pursuant to section 32-1422 and meets the requirements specified in section 32-1422, subsection A, paragraphs 1 through 7.

3. Has paid any applicable fees.

B. The physician shall submit to the board a notarized affidavit attesting that the physician meets the requirements of subsection A, paragraphs 1 and 2 of this section. The physician shall notify the board immediately if any circumstance specified in subsection A, paragraphs 1 and 2 of this section changes during the application period for a temporary license or while holding a temporary license, at which time the board may suspend, deny or revoke the temporary license. The board may suspend, deny or revoke a temporary license and withdraw the application for initial licensure if the applicant has made a misrepresentation in the attestation required by this section or any other portion of the application pursuant to this chapter.

C. The board shall approve or deny an application under this section within thirty days after an applicant files a complete application. The approval of a temporary license pursuant to this section allows the physician to practice in this state without restriction.

D. If granted, the physician's temporary license expires the earlier of two hundred fifty days after the date the temporary license is granted or on approval or denial of the physician's license application submitted pursuant to section 32-1422.

E. For the purpose of meeting the requirements of subsection A of this section, an applicant shall provide the board the name of each state, territory or possession of the United States in which the person is licensed or has held a license and the board shall verify with the applicable regulatory board that the applicant holds an active and unrestricted license to practice medicine and has never had a license revoked or suspended or surrendered a license for disciplinary reasons. An applicant shall also provide the board with all medical employment as required by section 32-1422, subsection A. The board may accept the confirmation of this information from each other regulatory board verbally, in writing or through the use of the other regulatory board's website, which shall be followed by either an electronic or hard copy

of the verification required by section 32-1422, subsection F before the physician's permanent license is granted. If the board is unable to verify the information within the initial thirty days as required by subsection C of this section, the board may extend the time frame by an additional thirty days to receive the necessary verification.

F. The board may establish a fee in rule for temporary licensure under this section.

32-1439. Specialty certification; prohibited requirement for licensure; definition

A. The board may not require an applicant for licensure pursuant to this article to hold or maintain a specialty certification as a condition of licensure in this state. This subsection does not prohibit the board from considering an applicant's specialty certification as a factor in whether to grant a license to the applicant.

B. For the purposes of this section, "specialty certification" means certification by a board that specializes in one particular area of medicine and that may require examinations in addition to those required by this state to be licensed to practice medicine.

32-1451. Grounds for disciplinary action; duty to report; immunity; proceedings; board action; notice requirements

A. The board on its own motion may investigate any evidence that appears to show that a doctor of medicine is or may be medically incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of medicine. On written request of a complainant, the board shall review a complaint that has been administratively closed by the executive director and take any action it deems appropriate. Any person may, and a doctor of medicine, the Arizona medical association, a component county society of that association and any health care institution shall, report to the board any information that appears to show that a doctor of medicine is or may be medically incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable safely to engage in the practice of medicine. The board or the executive director shall notify the doctor as to the content of the complaint as soon as reasonable. Any person or entity that reports or provides information to the board in good faith is not subject to an action for civil damages. If requested, the board shall not disclose the name of a person who supplies information regarding a licensee's drug or alcohol impairment. It is an act of unprofessional conduct for any doctor of medicine to fail to report as required by this section. The board shall report any health care institution that fails to report as required by this section to that institution's licensing agency.

B. The chief executive officer, the medical director or the medical chief of staff of a health care institution shall inform the board if the privileges of a doctor to practice in that health care institution are denied, revoked, suspended or limited because of actions by the doctor that appear to show that the doctor is or may be medically incompetent, is or may be guilty of unprofessional conduct or is or may be mentally or physically unable to safely engage in the practice of medicine, along with a general statement of the reasons, including patient chart numbers, that led the health care institution to take the action. The chief executive officer, the medical director or the medical chief of staff of a health care institution shall inform the board if a doctor under investigation resigns or if a doctor resigns in lieu of disciplinary action by the health care institution. Notification shall include a general statement of the reasons for the resignation, including patient chart numbers. The board shall inform all appropriate health care institutions in this state as defined in section 36-401 and the Arizona health care cost containment system administration of a resignation, denial, revocation, suspension or limitation, and the general reason for that action, without

divulging the name of the reporting health care institution. A person who reports information in good faith pursuant to this subsection is not subject to civil liability.

C. The board or, if delegated by the board, the executive director shall require, at the doctor's expense, any combination of mental, physical or oral or written medical competency examinations and conduct necessary investigations, including investigational interviews between representatives of the board and the doctor to fully inform itself with respect to any information filed with the board under subsection A of this section. These examinations may include biological fluid testing and other examinations known to detect the presence of alcohol or other drugs. The board or, if delegated by the board, the executive director may require the doctor, at the doctor's expense, to undergo assessment by a board approved rehabilitative, retraining or assessment program. This subsection does not establish a cause of action against any person, facility or program that conducts an assessment, examination or investigation in good faith pursuant to this subsection.

D. If the board finds, based on the information it receives under subsections A and B of this section, that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, the board may restrict a license or order a summary suspension of a license pending proceedings for revocation or other action. If the board takes action pursuant to this subsection, it shall also serve the licensee with a written notice that states the charges and that the licensee is entitled to a formal hearing before the board or an administrative law judge within sixty days.

E. If, after completing its investigation, the board finds that the information provided pursuant to subsection A of this section is not of sufficient seriousness to merit disciplinary action against the license of the doctor, the board or a board committee may take any of the following actions:

1. Dismiss if, in the opinion of the board, the information is without merit.
2. Require the licensee to complete designated continuing medical education courses.
3. File an advisory letter. The licensee may file a written response with the board within thirty days after receiving the advisory letter.

F. If the board finds that it can take rehabilitative or disciplinary action without the presence of the doctor at a formal interview, it may enter into a consent agreement with the doctor to limit or restrict the doctor's practice or to rehabilitate the doctor in order to protect the public and ensure the doctor's ability to safely engage in the practice of medicine. The board may also require the doctor to successfully complete a board approved rehabilitative, retraining or assessment program at the doctor's own expense.

G. The board shall not disclose the name of the person who provided information regarding a licensee's drug or alcohol impairment or the name of the person who files a complaint if that person requests anonymity.

H. If after completing its investigation the board believes that the information is or may be true, it may request a formal interview with the doctor. If the doctor refuses the invitation for a formal interview or accepts and the results indicate that grounds may exist for revocation or suspension of the doctor's license for more than twelve months, the board shall issue a formal complaint and order that a hearing be held pursuant to title 41, chapter 6, article 10. If after completing a formal interview the board finds that the protection of the public requires emergency action, it may order a summary suspension of the license pending formal revocation proceedings or other action authorized by this section.

I. If after completing the formal interview the board finds the information provided under subsection A of this section is not of sufficient seriousness to merit suspension for more than twelve months or revocation of the license, it may take the following actions:

1. Dismiss if, in the opinion of the board, the complaint is without merit.
2. Require the licensee to complete designated continuing medical education courses.
3. File an advisory letter. The licensee may file a written response with the board within thirty days after the licensee receives the advisory letter.
4. Enter into an agreement with the doctor to restrict or limit the doctor's practice or professional activities or to rehabilitate, retrain or assess the doctor in order to protect the public and ensure the doctor's ability to safely engage in the practice of medicine. The board may also require the doctor to successfully complete a board approved rehabilitative, retraining or assessment program at the doctor's own expense pursuant to subsection F of this section.
5. File a letter of reprimand.
6. Issue a decree of censure. A decree of censure is an official action against the doctor's license and may include a requirement for restitution of fees to a patient resulting from violations of this chapter or rules adopted under this chapter.
7. Fix a period and terms of probation best adapted to protect the public health and safety and rehabilitate or educate the doctor concerned. Probation may include temporary suspension for not to exceed twelve months, restriction of the doctor's license to practice medicine, a requirement for restitution of fees to a patient or education or rehabilitation at the licensee's own expense. If a licensee fails to comply with the terms of probation, the board shall serve the licensee with a written notice that states that the licensee is subject to a formal hearing based on the information considered by the board at the formal interview and any other acts or conduct alleged to be in violation of this chapter or rules adopted by the board pursuant to this chapter, including noncompliance with the term of probation, a consent agreement or a stipulated agreement. A licensee shall pay the costs associated with probation monitoring each year during which the licensee is on probation. The board may adjust this amount on an annual basis. The board may allow a licensee to make payments on an installment plan if a financial hardship occurs. A licensee who does not pay these costs within thirty days after the due date prescribed by the board violates the terms of probation.

J. If the board finds that the information provided in subsection A of this section warrants suspension or revocation of a license issued under this chapter, it shall initiate formal proceedings pursuant to title 41, chapter 6, article 10.

K. In a formal interview pursuant to subsection H of this section or in a hearing pursuant to subsection J of this section, the board in addition to any other action may impose a civil penalty in the amount of not less than one thousand dollars nor more than ten thousand dollars for each violation of this chapter or a rule adopted under this chapter.

L. An advisory letter is a public document.

M. Any doctor of medicine who after a formal hearing is found by the board to be guilty of unprofessional conduct, to be mentally or physically unable safely to engage in the practice of medicine

or to be medically incompetent is subject to censure, probation as provided in this section, suspension of license or revocation of license or any combination of these, including a stay of action, and for a period of time or permanently and under conditions as the board deems appropriate for the protection of the public health and safety and just in the circumstance. The board may charge the costs of formal hearings to the licensee who it finds to be in violation of this chapter.

N. If the board acts to modify any doctor of medicine's prescription writing privileges, the board shall immediately notify the state board of pharmacy of the modification.

O. If the board, during the course of any investigation, determines that a criminal violation may have occurred involving the delivery of health care, it shall make the evidence of violations available to the appropriate criminal justice agency for its consideration.

P. The board may divide into review committees of not less than three members, including a public member. The committees shall review complaints not dismissed by the executive director and may take the following actions:

1. Dismiss the complaint if a committee determines that the complaint is without merit.
2. Issue an advisory letter. The licensee may file a written response with the board within thirty days after the licensee receives the advisory letter.
3. Conduct a formal interview pursuant to subsection H of this section. This includes initiating formal proceedings pursuant to subsection J of this section and imposing civil penalties pursuant to subsection K of this section.
4. Refer the matter for further review by the full board.

Q. Pursuant to sections 35-146 and 35-147, the board shall deposit all monies collected from civil penalties paid pursuant to this chapter in the state general fund.

R. Notice of a complaint and hearing is effective by a true copy of it being sent by certified mail to the doctor's last known address of record in the board's files. Notice of the complaint and hearing is complete on the date of its deposit in the mail. The board shall begin a formal hearing within one hundred twenty days of that date.

S. A physician who submits an independent medical examination pursuant to an order by a court or pursuant to section 23-1026 is not subject to a complaint for unprofessional conduct unless, in the case of a court-ordered examination, the complaint is made or referred by a court to the board, or in the case of an examination conducted pursuant to section 23-1026, the complaint alleges unprofessional conduct based on some act other than a disagreement with the findings and opinions expressed by the physician as a result of the examination. For the purposes of this subsection, "independent medical examination" means a professional analysis of medical status that is based on a person's past and present physical, medical and psychiatric history and conducted by a licensee or group of licensees on a contract basis for a court or for a workers' compensation carrier, self-insured employer or claims processing representative if the examination was conducted pursuant to section 23-1026.

T. The board may accept the surrender of an active license from a person who admits in writing to any of the following:

1. Being unable to safely engage in the practice of medicine.
2. Having committed an act of unprofessional conduct.
3. Having violated this chapter or a board rule.

U. In determining the appropriate disciplinary action under this section, the board shall consider all previous nondisciplinary and disciplinary actions against a licensee.

V. In determining the appropriate action under this section, the board may consider a direct or indirect competitive relationship between the complainant and the respondent as a mitigating factor.

**32-1451.01. Right to examine and copy evidence; witnesses; documents; testimony; representation**

A. In connection with the investigation by the board on its own motion, or as the result of information received pursuant to section 32-1451, subsection A, the board or its duly authorized agents or employees at all reasonable times may examine and copy any documents, reports, records or other physical evidence of the person it is investigating or that is in possession of any hospital, clinic, physician's office, laboratory, pharmacy, public or private agency, health care institution as defined in section 36-401 and health care provider and that relates to medical competence, unprofessional conduct or the mental or physical ability of a licensee to safely practice medicine.

B. For the purpose of all investigations and proceedings conducted by the board:

1. The board on its own initiative or on application of any person involved in the investigation may issue subpoenas to require the attendance and testimony of witnesses or to demand the production for examination or copying of documents or any other physical evidence that relates to medical competence, unprofessional conduct or the mental or physical ability of a licensee to safely practice medicine. Within five days after a person is served with a subpoena that person may petition the board to revoke, limit or modify the subpoena. The board shall do so if in its opinion the evidence required does not relate to unlawful practices covered by this chapter, is not relevant to the charge that is the subject matter of the hearing or investigation or does not describe with sufficient particularity the physical evidence whose production is required. Any member of the board or any agent designated by the board may administer oaths or affirmations, examine witnesses and receive evidence.

2. Any person appearing before the board may be represented by counsel.

3. On application by the board or by the person subpoenaed, the superior court may issue an order to either:

(a) Require the subpoenaed person to appear before the board or the duly authorized agent to produce evidence relating to the matter under investigation.

(b) Revoke, limit or modify the subpoena if in the court's opinion the evidence demanded does not relate to unlawful practices covered by this chapter, is not relevant to the charge which is the subject matter of the hearing or investigation or does not describe with sufficient particularity the evidence whose production is required.

C. Patient records, including clinical records, medical reports, laboratory statements and reports, any file, film, other report or oral statement relating to diagnostic findings or treatment of patients, any information from which a patient or the patient's family might be identified or any information received and records or reports kept by the board as a result of the investigation procedure outlined in this chapter are not available to the public.

D. This section and any other law making communications between a physician and a physician's patient privileged does not apply to investigations or proceedings conducted pursuant to this chapter. The board and its employees, agents and representatives shall keep in confidence the names of any patients whose records are reviewed during the course of investigations and proceedings pursuant to this chapter.

E. Hospital records, medical staff records, medical staff review committee records and testimony concerning these records and proceedings related to the creation of these records are not available to the public, shall be kept confidential by the board and are subject to the same provisions concerning discovery and use in legal actions as are the original records in the possession and control of hospitals, their medical staffs and their medical staff review committees. The board shall use such records and testimony during the course of investigations and proceedings pursuant to this chapter.

F. The court may find a person who does not comply with a subpoena issued pursuant to this section in contempt of court.

#### 32-1451.02. Disciplinary action; reciprocity

A. The board shall initiate an investigation pursuant to section 32-1451 if a medical regulatory board in another jurisdiction in the United States has taken disciplinary action against a licensee for an act that occurred in that jurisdiction that constitutes unprofessional conduct pursuant to this chapter.

B. The board shall order the summary suspension of a license pending proceedings for revocation or other action if a medical regulatory board in another jurisdiction in the United States has taken the same action because of its belief that the public health, safety or welfare imperatively required emergency action.

#### 32-1451.03. Complaints; requirements; confidentiality; exception

A. The board shall not act on its own motion or on any complaint received by the board in which an allegation of unprofessional conduct or any other violation of this chapter against a professional who holds an Arizona license occurred more than four years before the complaint is received by the board. The time limitation does not apply to:

1. Medical malpractice settlements or judgments or allegations of sexual misconduct or if an incident or occurrence involved a felony, diversion of a controlled substance or impairment while practicing by the licensee.

2. A board's consideration of the specific unprofessional conduct related to a licensee's failure to disclose conduct or a violation as required by law.

B. If a complainant wishes to have the complainant's identifying information withheld from the physician against whom the allegation of unprofessional conduct is being made, the board shall enter into a written agreement with the complainant stating that the complainant's identifying information will not be provided to the physician against whom the allegation of unprofessional conduct is being made to the

extent consistent with the administrative appeals process. The board shall post this policy on the board's website where a person would submit a complaint online.

C. The board shall not open an investigation if identifying information regarding the complainant is not provided.

#### 32-1451.04. Burden of proof

Except for disciplinary matters brought pursuant to section 32-1401, paragraph 27, subdivision (aa), the board has the burden of proof by clear and convincing evidence for disciplinary matters brought pursuant to this chapter.

#### 32-1452. Substance abuse treatment and rehabilitation; confidential program; private contract; funding; license restrictions; immunity

A. The board may establish a confidential program for the treatment and rehabilitation of doctors of medicine who are licensed pursuant to this chapter and physician assistants who are licensed pursuant to chapter 25 of this title and who are impaired by alcohol or drug abuse. This program shall include education, intervention, therapeutic treatment and posttreatment monitoring and support.

B. The board may contract with other organizations to operate the program established pursuant to subsection A of this section. A contract with a private organization shall include the following requirements:

1. Periodic reports to the board regarding treatment program activity.
2. Release to the board on demand of all treatment records.
3. Immediate reporting to the board of the name of an impaired doctor or physician assistant whom the treating organization believes to be misusing chemical substances.
4. Reports to the board, as soon as possible, of the name of a doctor or physician assistant who refuses to submit to treatment or whose impairment is not substantially alleviated through treatment.

C. The board may allocate an amount of not to exceed forty dollars from each fee it collects from the biennial renewal of active licenses pursuant to section 32-1436 for the operation of the program established by this section.

D. A doctor of medicine or physician assistant who commits unprofessional conduct as defined in section 32-1401, paragraph 27, subdivision (f) shall agree to enter into a consent agreement with the board or the doctor or physician assistant shall be placed on probation or shall be subject to other action as provided by law.

E. In order to determine that a doctor of medicine or physician assistant who has been placed on probationary order or who has entered into a consent agreement pursuant to this section has not committed unprofessional conduct as defined in section 32-1401, paragraph 27, subdivision (f) after that order is no longer in effect, the board or its designee may require the doctor of medicine or physician assistant to submit to body fluid examinations and other examinations known to detect the presence of

alcohol or other drugs at any time within five consecutive years following termination of the probationary order or consent agreement.

F. A doctor of medicine or physician assistant who is or was under a consent agreement or probationary order that is no longer in effect and who commits unprofessional conduct as defined in section 32-1401, paragraph 27, subdivision (f) shall request the board to place the license on inactive status with cause. If the doctor or physician assistant fails to do this, the board shall summarily suspend the license pursuant to section 32-1451, subsection D. In order to reactivate the license, the doctor or physician assistant shall successfully complete a long-term care residential program, an inpatient hospital treatment program, an intensive outpatient treatment program or any combination of these programs and shall meet the applicable requirements of section 32-1431, subsection D. After the doctor or physician assistant completes treatment, the board shall determine whether it should refer the matter for a formal hearing for the purpose of suspending or revoking the license or to place the licensee on probation for a minimum of five years with restrictions necessary to ensure the public's safety.

G. The board shall revoke the license of a doctor of medicine or physician assistant if that licensee commits unprofessional conduct as defined in section 32-1401, paragraph 27, subdivision (f) and was previously placed on probation pursuant to subsection D of this section and the probation is no longer in effect. The board may accept the surrender of the license if the licensee admits in writing to being impaired by alcohol or drug abuse.

H. An evaluator, teacher, supervisor or volunteer in the board's substance abuse treatment and rehabilitation program who acts in good faith within the scope of that program is not subject to civil liability, including malpractice liability, for the actions of a doctor or physician assistant who is attending the program pursuant to board action.

32-1452.01. Mental, behavioral and physical health evaluation and treatment; confidential program; private contract; immunity

A. The board may establish a confidential program for the evaluation, treatment and monitoring of persons who are licensed pursuant to this chapter and chapter 25 of this title and who have medical, psychiatric, psychological or behavioral health disorders that may impact their ability to safely practice medicine or perform health care tasks. The program shall include education, intervention, therapeutic treatment and posttreatment monitoring and support.

B. A licensee who has a medical, psychiatric, psychological or behavioral health disorder described in subsection A of this section may agree to enter into a consent agreement for participation in a program established pursuant to this section.

C. The board may contract with other organizations to operate a program established pursuant to this section. A contract with a private organization must include the following requirements:

1. Periodic reports to the board regarding treatment program activity.
2. Release to the board on demand of all treatment records.
3. Immediate reporting to the Arizona medical board of the name of a licensee who the treating organization believes is incapable of safely practicing medicine or performing health care tasks. If the licensee is a physician assistant, the Arizona medical board shall immediately report this information to the Arizona regulatory board of physician assistants.

D. An evaluator, teacher, supervisor or volunteer in a program established pursuant to this section who acts in good faith within the scope of that program is not subject to civil liability, including malpractice liability, for the actions of a licensee who is attending the program pursuant to board action.

### 32-1453. Judicial review

Except as provided in section 41-1092.08, subsection H, an appeal to the superior court in Maricopa county may be taken from final decisions of the board pursuant to title 12, chapter 7, article 6.

### 32-1454. Injunction

A. An injunction shall issue forthwith to enjoin the practice of medicine by either of the following:

1. One not licensed to practice medicine or exempt from the requirement therefor pursuant to this chapter.
2. A doctor of medicine whose continued practice will or well might cause irreparable damage to the public health and safety prior to the time proceedings under section 32-1451 could be instituted and completed.

B. In a petition for injunction pursuant to the paragraph numbered 1 of subsection A of this section it shall be sufficient to charge that the respondent on a day certain in a named county engaged in the practice of medicine without a license and without being exempt from the requirements therefor pursuant to this chapter. No showing of damage or injury as the result thereof shall be required.

C. In a petition for injunction pursuant to the paragraph numbered 2 of subsection A of this section there shall be set forth with particularity the facts which make it appear that irreparable damage to the public health and safety will or well might occur prior to the time proceedings under section 32-1451 could be instituted and completed.

D. An injunction shall issue forthwith to enjoin any act specified in section 32-1455, subsection B.

E. Such petition shall be filed by the board in the superior court of Maricopa county or in the county where the defendant resides or is found.

F. Issuance of injunction shall not relieve the respondent from being subject to any other proceedings under law provided for in this chapter or otherwise, and violation of an injunction shall be punished as for contempt of court.

G. In all other respects injunction proceedings under this section shall be governed as near as may be by the law otherwise applicable to injunctions.

### 32-1455. Violation; classification

A. The following acts are class 5 felonies:

1. The practice of medicine by a person not licensed or exempt from licensure pursuant to this chapter.
2. Securing a license to practice medicine pursuant to this chapter by fraud or deceit.

3. Impersonating a member of the board in issuing a license to practice medicine to another.

B. The following acts if committed by a person not licensed under this chapter or exempt from licensure pursuant to section 32-1421 are class 2 misdemeanors:

1. The use of the designation "M.D." in a way that would lead the public to believe that a person was licensed to practice medicine in this state.

2. The use of the designation "doctor of medicine", "physician", "surgeon", "physician and surgeon" or any combination thereof unless such designation additionally contains the description of another branch of the healing arts.

3. The use of the designation "doctor" by a member of another branch of healing arts unless there is set forth with each such designation the other branch of the healing arts concerned.

4. The use of any other words, initials, symbols or combination thereof which would lead the public to believe such person is licensed to practice medicine in this state.

32-1456. Medical assistants; use of title; violation; classification

A. A medical assistant may perform the following medical procedures under the direct supervision of a doctor of medicine, physician assistant or nurse practitioner:

1. Take body fluid specimens.

2. Administer injections.

B. The board by rule may prescribe other medical procedures which a medical assistant may perform under the direct supervision of a doctor of medicine, physician assistant or nurse practitioner on a determination by the board that the procedures may be competently performed by a medical assistant.

C. Without the direct supervision of a doctor of medicine, physician assistant or nurse practitioner, a medical assistant may perform the following tasks:

1. Billing and coding.

2. Verifying insurance.

3. Making patient appointments.

4. Scheduling.

5. Recording a doctor's findings in patient charts and transcribing materials in patient charts and records.

6. Performing visual acuity screening as part of a routine physical.

7. Taking and recording patient vital signs and medical history on medical records.

D. The board by rule shall prescribe medical assistant training requirements.

E. A person who uses the title medical assistant or a related abbreviation is guilty of a class 3 misdemeanor unless that person is working as a medical assistant under the direct supervision of a doctor of medicine, physician assistant or nurse practitioner.

32-1457. Acquired immune deficiency syndrome; disclosure of patient information; immunity; definition

A. Notwithstanding section 32-1401, it is not an act of unprofessional conduct for a doctor of medicine to report to the department of health services the name of a patient's spouse or sex partner or a person with whom the patient has shared hypodermic needles or syringes if the doctor of medicine knows that the patient has contracted or tests positive for the human immunodeficiency virus and that the patient has not or will not notify these people and refer them to testing. Before making the report to the department of health services, the doctor of medicine shall first consult with the patient and ask the patient to release this information voluntarily.

B. It is not an act of unprofessional conduct for a doctor of medicine who knows or has reason to believe that a significant exposure has occurred between a patient who has contracted or tests positive for the human immunodeficiency virus and a health care or public safety employee to inform the employee of the exposure. Before informing the employee, the doctor of medicine shall consult with the patient and ask the patient to release this information voluntarily. If the patient does not release this information the doctor of medicine may do so in a manner that does not identify the patient.

C. This section does not impose a duty to disclose information. A doctor of medicine is not civilly or criminally liable for either disclosing or not disclosing information.

D. If a doctor of medicine decides to make a disclosure pursuant to this section, he may request that the department of health services make the disclosure on his behalf.

E. For the purposes of this section, "significant exposure" means contact of a person's ruptured or broken skin or mucous membranes with another person's blood or body fluids, other than tears, saliva or perspiration, of a magnitude that the centers for disease control of the United States public health service have epidemiologically demonstrated can result in transmission of the human immunodeficiency virus.

32-1458. Reinstatement of revoked or surrendered license

A. On written application, the board may issue a new license to a physician whose license was previously revoked by the board or surrendered by the applicant if the applicant demonstrates to the board's satisfaction that the applicant is completely rehabilitated with respect to the conduct that was the basis for the revocation or the surrender. In making its decision, the board shall determine:

1. That the applicant has not engaged in any conduct during the revocation or surrender period that would have constituted a basis for revocation pursuant to section 32-1451.
2. If a criminal conviction was a basis of the revocation or surrender that the applicant's civil rights have been fully restored pursuant to statute or any other applicable recognized judicial or gubernatorial order.
3. That the applicant has made restitution to any aggrieved person as ordered by a court of competent jurisdiction.

4. That the applicant demonstrates any other standard of rehabilitation the board determines is appropriate.

B. Except as provided in subsection C of this section, a person shall not submit an application for reinstatement less than five years after the date of revocation or surrender.

C. The board shall vacate its previous order to revoke a license if that revocation was based on a conviction of a felony or an offense involving moral turpitude and that conviction has been reversed on appeal. The physician may submit an application for reinstatement as soon as the court enters the reversal.

D. An applicant for reinstatement shall comply with all licensing requirements prescribed by this chapter.

#### 32-1471. Health care provider and any other person; emergency aid; nonliability

Any health care provider licensed or certified to practice as such in this state or elsewhere, or a licensed ambulance attendant, driver or pilot as defined in section 41-1831, or any other person who renders emergency care at a public gathering or at the scene of an emergency occurrence gratuitously and in good faith shall not be liable for any civil or other damages as the result of any act or omission by such person rendering the emergency care, or as the result of any act or failure to act to provide or arrange for further medical treatment or care for the injured persons, unless such person, while rendering such emergency care, is guilty of gross negligence.

#### 32-1472. Limited liability for emergency health care at amateur athletic events

A health care provider licensed or certified pursuant to title 32 who agrees with any person or school to voluntarily attend an amateur athletic practice, contest or other event to be available to render emergency health care within the provider's authorized scope of practice and without compensation to an athlete injured during such event is not liable for any civil or other damages as the result of any act or omission by the provider rendering the emergency care, or as the result of any act or failure to act to provide or arrange for further medical treatment or care for the injured athlete, if the provider acts in good faith without gross negligence.

#### 32-1481. Limitation of liability

A. No physician, surgeon, hospital or person who assists a physician, surgeon or hospital in obtaining, preparing, injecting or transfusing blood or its components from one or more human beings to another human being shall be liable on the basis of implied warranty or strict tort liability for any such activity but such person or entity shall be liable for his or its negligent or wilful misconduct.

B. No nonprofit blood bank, tissue bank, donor or entity who donates, obtains, processes or preserves blood or its components from one or more human beings for the purpose of transfusing or transferring blood or its components to another human being shall be liable on the basis of implied warranty or strict tort liability for any such activity but such person or entity shall be liable for his or its negligent or wilful misconduct.

#### 32-1482. Reporting of hepatitis cases

The director of the department of health services for the purposes of reducing the transmission of hepatitis by injection or transfusion of blood and its components shall adopt rules and regulations for reporting of

cases of hepatitis and provide for the dissemination of information about such hepatitis cases to all federally licensed blood banks in the state and health care institutions which request such information.

32-1483. Notification to donors

Pursuant to rules promulgated by the director of the department of health services, all federally registered blood banks, blood centers and plasma centers in this state shall notify blood donors of any test results with significant evidence suggestive of syphilis, HIV or hepatitis B.

32-1491. Dispensing of drugs and devices; exception; civil penalty; conditions; definition

A. Except as provided in subsection B of this section, a doctor of medicine may dispense drugs and devices kept by the doctor if:

1. All drugs are dispensed in packages labeled with the following information:

(a) The dispensing doctor's name, address and telephone number.

(b) The date the drug is dispensed.

(c) The patient's name.

(d) The name and strength of the drug, directions for its use and any cautionary statements.

2. The dispensing doctor enters into the patient's medical record the name and strength of the drug dispensed, the date the drug is dispensed and the therapeutic reason.

3. The dispensing doctor keeps all drugs in a locked cabinet or room, controls access to the cabinet or room by a written procedure and maintains an ongoing inventory of its contents.

4. The doctor registers with the board to dispense drugs and devices and pays the registration fee prescribed by section 32-1436.

B. A doctor of medicine may not dispense a schedule II controlled substance that is an opioid, except for an implantable device or an opioid that is for medication-assisted treatment for substance use disorders.

C. Except in an emergency situation, a doctor who dispenses drugs without being registered by the board to do so is subject to a civil penalty by the board of not less than three hundred dollars and not more than one thousand dollars for each transaction and is prohibited from further dispensing for a period of time as prescribed by the board.

D. Before a physician dispenses a drug pursuant to this section, the physician shall give the patient a prescription and inform the patient that the prescription may be filled by the prescribing physician or by a pharmacy of the patient's choice.

E. A doctor shall dispense only to the doctor's own patient and only for conditions being treated by that doctor. The doctor shall provide direct supervision of a medical assistant, nurse or attendant involved in the dispensing process. For the purposes of this subsection, "direct supervision" means that a doctor is

present and makes the determination as to the legitimacy or the advisability of the drugs or devices to be dispensed.

F. This section shall be enforced by the board, which shall establish rules regarding labeling, recordkeeping, storage and packaging of drugs that are consistent with the requirements of chapter 18 of this title. The board may conduct periodic reviews of dispensing practices to ensure compliance with this section and applicable rules.

G. For the purposes of this section, "dispense" means the delivery by a doctor of medicine of a prescription drug or device to a patient, except for samples packaged for individual use by licensed manufacturers or repackagers of drugs, and includes the prescribing, administering, packaging, labeling and security necessary to prepare and safeguard the drug or device for delivery.

32-3248. Health professionals; controlled substances; initial prescriptions; limits; exceptions; definition

A. A health professional who is authorized under this title to prescribe controlled substances shall limit the initial prescription for a patient for a schedule II controlled substance that is an opioid to not more than a five-day supply, except that an initial prescription for a schedule II controlled substance that is an opioid following a surgical procedure is limited to not more than a fourteen-day supply.

B. Subsection A of this section does not apply to initial prescriptions if the patient:

1. Has an active oncology diagnosis.
2. Has a traumatic injury, not including a surgical procedure.
3. Is receiving hospice care.
4. Is receiving end-of-life care.
5. Is receiving palliative care.
6. Is receiving skilled nursing facility care.
7. Is receiving treatment for burns.
8. Is receiving medication-assisted treatment for a substance use disorder.
9. Is an infant who is being weaned off opioids at the time of hospital discharge.

C. If a health professional's prescribing authority under the relevant chapter of this title for schedule II controlled substances is more restrictive than the limit specified in subsection A of this section, the health professional's prescribing authority under the relevant chapter of this title applies.

D. An initial prescription for a schedule II controlled substance that is an opioid that is written for more than a five-day supply is deemed to meet the requirements of an exemption under this section when the initial prescription is presented to the dispenser. A pharmacist is not required to verify with the prescriber whether the initial prescription complies with this section.

E. For the purposes of this section, "initial prescription" means a prescription for a schedule II controlled substance that is an opioid that has not covered any portion of the past sixty days before the date the pharmacy dispenses the current prescription as evidenced by the controlled substances prescription monitoring program's central database tracking system.

32-3248.01. Schedule II controlled substances; dosage limit; exceptions; morphine; opioid antagonist

A. A health professional who is authorized under this title to prescribe controlled substances may not issue a new prescription to be filled or dispensed for a patient outside of a health care institution for a schedule II controlled substance that is an opioid that exceeds ninety morphine milligram equivalents per day.

B. The limit prescribed by subsection A of this section does not apply to:

1. A continuation of a prior prescription that was issued within the previous sixty days.
2. An opioid with a maximum approved total daily dose in the labeling as approved by the United States food and drug administration.
3. A prescription that is issued following a surgical procedure and that is limited to not more than a fourteen-day supply.
4. A patient who:
  - (a) Has an active oncology diagnosis.
  - (b) Has a traumatic injury, not including a surgical procedure.
  - (c) Is receiving hospice care.
  - (d) Is receiving end-of-life care.
  - (e) Is receiving palliative care.
  - (f) Is receiving skilled nursing facility care.
  - (g) Is receiving treatment for burns.
  - (h) Is receiving medication-assisted treatment for a substance use disorder.
  - (i) Is hospitalized.

C. If a health professional believes that a patient requires more than ninety morphine milligram equivalents per day and the patient is not exempt from the limit pursuant to subsection B of this section, the health professional shall first consult with a physician who is licensed pursuant to chapter 13 or 17 of this title and who is board-certified in pain, or an opioid assistance and referral call service, if available, that is designated by the department of health services. The consultation may be done by telephone or through telemedicine. If the opioid call service agrees with the higher dose, the health professional may issue a prescription for more than ninety morphine milligram equivalents per day. If the consulting

physician agrees with the higher dose, the health professional may issue a prescription for more than ninety morphine milligram equivalents per day. If the consulting physician is not available to consult within forty-eight hours after the request, the health professional may prescribe the amount that the health professional believes the patient requires and subsequently have the consultation. If the health professional is a physician who is licensed pursuant to chapter 13 or 17 of this title and is board-certified in pain, the health professional may issue a prescription for more than ninety morphine milligram equivalents per day without a consultation under this subsection.

D. If a patient is prescribed more than ninety morphine milligram equivalents per day pursuant to subsection B or C of this section, the prescribing health professional shall also prescribe for the patient naloxone hydrochloride or any other opioid antagonist that is approved by the United States food and drug administration for the treatment of opioid-related overdoses.

E. A prescription order for a schedule II controlled substance that is an opioid that is written for more than ninety morphine milligram equivalents per day is deemed to meet the requirements of an exemption under this section when the prescription order is presented to the dispenser. A pharmacist is not required to verify with the prescriber whether the prescription order complies with this section.

#### 32-3248.02. [Health professionals; substance use or addiction continuing education](#)

A health professional who is authorized under this title to prescribe schedule II controlled substances and who has a valid United States drug enforcement administration registration number or who is authorized under chapter 18 of this title to dispense controlled substances shall complete a minimum of three hours of opioid-related, substance use disorder-related or addiction-related continuing education each license renewal cycle. The three hours of continuing medical education or accredited continuing education that is approved by the applicable health profession regulatory board shall be included as part of any continuing education requirements for that health professional.

**DEPARTMENT OF AGRICULTURE**  
Title 3, Chapter 4, Article 10, Industrial Hemp



# GOVERNOR'S REGULATORY REVIEW COUNCIL

## ATTORNEY MEMORANDUM - ONE-YEAR REVIEW REPORT

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**MEETING DATE:** February 2, 2021

**TO:** Members of the Governor's Regulatory Review Council (Council)

**FROM:** Council Staff

**DATE:** January 14, 2021

**SUBJECT:** Arizona Department of Agriculture  
Title 3, Chapter 4, Article 10

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This One-Year-Review Report from the Department of Agriculture relates to rules in Title 3, Chapter 4, Article 10, regarding Industrial Hemp. These rules were adopted through an exempt rulemaking pursuant to Laws 2018, Ch. 287, § 9, which gave the Department a one year exemption from the rulemaking requirements of A.R.S. Title 41, Chapter 6.

The Department submitted this 1YRR pursuant to A.R.S. § 41-1095.

### **Proposed Action**

The Department indicates it's pursuing to amend several of its rules to improve overall clarity, conciseness, and understandability. More specifically, the Department plans to amend the rules to address industry criticisms, incorporate federal requirements, and reduce licensing fees. The Department indicates it filed a notice of docket opening with the Secretary of State, which was published on August 28, 2020 under Volume 26, Issue 35, page 1764.

#### **1. Has the agency analyzed whether the rules are authorized by statute?**

Yes. The Department cites both general and specific statutory authority for these rules.

2. **Summary of the agency’s economic impact comparison and identification of stakeholders:**

The statutory purpose of the industrial hemp program was to “improve the economy and agricultural vitality” of Arizona. The Department bears minimal costs in implementing the Program. Other than the Department, no political subdivision is directly affected by the Program. Beneficiaries of the programs are hemp growers, nurseries, harvesters, transporters, and processors as well as customers for hemp products and the State of Arizona.

In 2019, there were 359 Program licensees. Slightly less than half of those licensees were hemp growers. Licensing fees in 2021 were reduced 33% overall. All licensing fees are placed in the Industrial Hemp Trust Fund for the benefit of the Program and do not revert to the state general fund. Therefore, the Program has little or no effect on state revenues.

3. **Has the agency analyzed the costs and benefits of the rulemaking and determined that the rules impose the least burden and costs to those who are regulated?**

The Department indicates that it has determined that the benefits of the rules in Title 3, Chapter 4 Article 10 outweigh the costs imposed to the regulated community, and are the least burdensome and cost effective. The Department also indicates it is pursuing amendments to ensure that the language conforms to enforcement and is clear, concise and understandable. These proposed amendments would address industry criticism, incorporate federal requirements, and reduce licensing fees.

4. **Has the agency received any written criticisms of the rules since the rule was adopted?**

The Department indicates they have not received any formal written criticism to the rules, however stakeholders have expressed concerns and criticisms of the licensing fees being too high.

5. **Has the agency analyzed the rules’ clarity, conciseness, and understandability?**

Yes, the Department indicates the rules are overall clear, concise, and understandable, with the exception of the following:

**R3-4-1001** - Definitions

**R3-4-1003** - License; Applications; Renewals; Withdrawal

6. **Has the agency analyzed the rules’ consistency with other rules and statutes?**

Yes, the Department indicates the rules are consistent with Arizona’s rules and statutes, but they are not consistent with federal rules.

7. **Has the agency analyzed the rules' effectiveness in achieving its objectives?**

Yes, the Department indicates the rules are effective in achieving their objectives.

8. **Has the agency analyzed the current enforcement status of the rules?**

Yes, the Department indicates the rules are overall enforced as written with the exception of, R2-4-1106.

9. **Are the rules more stringent than corresponding federal law and, if so, is there statutory authority to exceed the requirements of federal law?**

Yes, the Department indicates the rules are not more stringent than federal law.

10. **Has the agency completed any additional process required by law?**

Not applicable. No additional process is required.

11. **Do the rules require a permit or license and, if so, does the agency comply with A.R.S. § 41-1037?**

Not applicable. The rules do not require the issuance of a general permit or license.

12. **Conclusion**

As mentioned above, and for the reasons mentioned in the report, the Department is proposing to amend its rules. The Department has started the rulemaking process, and has filed a Notice of Docket opening with the Secretary of State. Council staff finds that the Department submitted an adequate report pursuant to A.R.S. § 41-1095. Council staff recommends approval of this report.

DOUGLAS A. DUCEY  
Governor



MARK W. KILLIAN  
Director

# Arizona Department of Agriculture

Plant Services Division  
1688 W. Adams Street, Phoenix, Arizona 85007  
P: (602) 542-0994 F: (602) 542-1004

December 11, 2020

Nicole Sornsins, Chair  
Governor's Regulatory Review Council  
100 N. 15th Avenue, Suite 402  
Phoenix, Arizona 85007

**RE: One-Year Review Report for A.A.C. Title 3, Chapter 4, Article 10**

Dear Ms. Sornsins:

Enclosed please find the Arizona Department of Agriculture's (Department) one-year review report for A.A.C. Title 3, Chapter 4, Article 10. All rules in the Article have been reviewed, and there is no intention for a rule to expire under A.R.S. § 41-1056(J). Also enclosed are copies of the rules and the authorizing statutes.

The Department certifies, in accordance with A.R.S. § 41-1056(A), that it is in compliance with A.R.S. § 41-1091.

Please contact Deanie Reh at (602) 542-8334 or [deanie.reh@azag.gov](mailto:deanie.reh@azag.gov) with any questions about this report.

Sincerely,

Mark Killian  
Director

cc: Deanie Reh, Assistant Attorney General

Enclosures:  
Five-Year Review Report  
Current Rules  
Authorizing statutes

ARIZONA DEPARTMENT OF AGRICULTURE

1 YEAR REVIEW REPORT

Title 3, Chapter 4, Article 10

December 11, 2020

1. **Authorization of the rule by existing statutes**

Authorizing Statute: A.R.S § 3-107(A)

Implementing Statute: A.R.S. § 3-313

2. **The objective of each rule:**

Rule	Objective
R3-4-1001	Define terms used in the Article
R3-4-1002	Indicates the requirements to be eligible to possess an industrial hemp program license.
R3-4-1003	Sets out the terms and conditions of possessing an industrial hemp license; indicate required application information; indicate provisions for program withdrawals, site modification requests, and license transfers.
R3-4-1004	Provides direction for qualifying for an exemption of licensing fees under a research exemption.
R3-4-1005	Provides information and direction on program fees.
Table 1.	List of all program fees.
R3-4-1006	Provides information on the requirements for authorized hemp seed and other planting materials.
R3-4-1007	Indicates the requirements for industrial hemp sites and signage requirements.
R3-4-1008	Indicates the requirements for regulatory compliance including recordkeeping and crop compliance.
R3-4-1011	Describes all notification and reporting requirements.
R3-4-1012	Indicates what actions violate the program regulations.
R3-4-1013	Indicates measures for complying with program regulations after a violation has occurred.
R3-4-1014	Sets out the penalties for program violations.

3. **Are the rules effective in achieving their objectives?** Yes X No \_\_\_

The rules in Title 3, Chapter 4 Article 10 are effective in achieving their objective.

4. **Are the rules consistent with other rules and statutes?** Yes \_\_\_ No X

The rules in Title 3, Chapter 4 Article 10 are consistent with other Arizona rules and statutes. The rules are not consistent with federal rules.

5. **Are the rules enforced as written?** Yes X No \_\_\_

Excluding rule 1006, all rules are enforced as written. Rule 1006 is not enforced as written by not requiring a grower to submit documentation to the Department for seed or planting material prior to planting. The Department intends to amend this rule in a Notice of Proposed Rulemaking to be consistent with this practice.

6. **Are the rules clear, concise, and understandable?** Yes  No

The rules in Title 3, Chapter 4 Article 10 are mostly clear, concise and understandable. The Department intends to file a rulemaking to amend to the definitions in rule 1001 and clarify eligibility requirements in 1003.

7. **Has the agency received written criticisms of the rules within the last five years?** Yes  No

The Department has not received formal written criticisms of the rules. However, stakeholders have expressed concerns and criticism that the licensing fees are too high and that the State's definition of what is used for the determination of compliance is not clearly stated. The Department is amending the licensing fees to reduce the economic burden, and amending the definition of the compound for compliance to be consistent with industry terms.

8. **Economic, small business, and consumer impact comparison:**

No economic impact statement has been done at this time.

9. **Has the agency received any business competitiveness analyses of the rules?** Yes  No

No business competitive analysis has been received.

10. **Has the agency completed the course of action indicated in the agency's previous five-year-review report?**

Article effective May 30, 2019, no previous five-year-review report for this Article.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective:**

The Department has determined that the benefits of the rules in Title 3, Chapter 4 Article 10 outweigh the costs imposed to the regulated community, and (except for the proposed amendments to the rules) are the least burdensome and cost effective.

12. **Are the rules more stringent than corresponding federal laws?** Yes  No

The rules in Title 3, Chapter 4, Article 10 are not more stringent than Federal law.

13. **For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rules are in compliance with the general permit requirements of A.R.S. § 41-1037 or explain why the agency believes an exception applies:**

The licenses issued under Title 3, Chapter 4 Article 10 are only issued to qualifying applicants that must go through a review process to ensure completeness and accuracy and does not qualify as a general permit.

14. **Proposed course of action**

The Department filed with the Secretary of State's Office a notice of docket opening that was published to the Arizona Administrative Register on August 28, 2020 under Volume 26, Issue 35, page 1764. The Department is pursuing amendments to ensure that the language conforms to enforcement and is clear, concise, and understandable. Proposed changes will also address industry criticism, incorporate federal requirements, and reduce licensing fees.

**TITLE 3. AGRICULTURE**  
**CHAPTER 4. DEPARTMENT OF AGRICULTURE - PLANT SERVICES DIVISION**  
**ARTICLE 10. INDUSTRIAL HEMP**

Section

- R3-4-1001. Definitions
- R3-4-1002. Program Eligibility
- R3-4-1003. Licenses; Applications; Renewals; Withdrawal
- R3-4-1004. Industrial Hemp Research
- R3-4-1005. Fees
- Table 1. Fee Schedule
- R3-4-1006. Authorized Seed and Propagative Materials
- R3-4-1007. Location Requirements; Signage
- R3-4-1008. Compliance; Recordkeeping; Audits
- R3-4-1011. Notifications; Reports
- R3-4-1012. Unauthorized Activity; Violations
- R3-4-1013. Corrective Actions
- R3-4-1014. Penalties

**ARTICLE 10. INDUSTRIAL HEMP**

**R3-4-1001. Definitions**

In addition to the definitions provided in A.R.S. §§ 3-201, 3-311, and A.A.C. R3-4-101, the following terms apply to this article.

"0.300%" shall have the same meaning as three-tenths percent.

"Associate Director" means the Associate Director of the Plant Services Division.

"Certified laboratory" means the State Agriculture Laboratory or any laboratory certified by the State Agriculture Laboratory to perform compliance analysis of industrial hemp.

"Hemp" has the same meaning as industrial hemp.

"Intentionally" means the state of mind defined in A.R.S. § 13-105(10)(a) or any successor statute.

"Knowingly" means the state of mind defined in A.R.S. § 13-105(10)(a) or any successor statute.

"Licensing Agreement" means a contract between the Department and an applicant that indicates the terms and conditions required for a license issued pursuant to this article.

"Manmade causes" means the influence to an industrial hemp crop created by a person, including but not limited to, irrigation, fertilization, chemical application, or physical interference.

"Natural causes" means the influence to an industrial hemp crop created by elements of nature including, but not limited to, temperature, wind, rain, hail, or flood.

"Program" means the Industrial Hemp Program.

"Propagative material" means any industrial hemp seedlings, explants, transplants, propagules, or other rooted material that is grown in a soilless media.

"Responsible party" means an individual that has signing authority of a partnership, limited liability company, association, company or corporation.

"THC" means Tetrahydrocannabinol

"Total Delta-9 THC concentration" means the total calculable amount of the chemical compound, Delta-9 THC.

### **R3-4-1002. Program Eligibility**

- A.** Eligibility requirements. Unless otherwise determined to be ineligible under this article and notwithstanding any other law, a person or responsible party that applies for a program license or registration shall:
1. Possess a valid fingerprint clearance card issued by the Arizona Department of Public Safety pursuant to A.R.S. § 41-1758.07.
  2. Be a citizen of the United States or a legal resident alien, an individual who applies for a program license, is enrolled in an academic program at an accredited college or university, and does not meet the criteria in this Section may be sponsored by an academic member of that college or university who meets the eligibility criteria in this Section and provides proof of eligibility as required in subsection (B)(2).
  3. Be eighteen (18) years of age or older at the time of application.
- B.** Proof of eligibility.
1. The Department shall accept a legible photo copy, paper or electronic, of the applicants fingerprint clearance card described in subsection (A)(1).
  2. The Department shall accept the documents listed in A.R.S. § 41-1080(A) as evidence of age and United States Citizenship or legal residency.

### **R3-4-1003. Licenses; Applications; Renewals; Withdrawal**

- A.** Any person that grows, harvests, transports, or processes industrial hemp in any of the following categories shall obtain the appropriate license from the Department and shall abide by the terms and conditions set forth in the licensing agreement with the Department. Types of licenses include:
1. Grower - An authorized Grower license shall allow the licensee to obtain seed or propagative materials pursuant to this article for planting, possess authorized seed and/or propagative materials for planting, cultivate the crop, harvest plant parts, possess and store harvested plant parts, and transport plant parts for processing.
  2. Nursery - An authorized Nursery license shall allow the licensee to propagate eligible seed and propagative materials for planting for a licensed grower. A licensed Nursery shall not grow industrial hemp for harvesting purposes, unless also licensed with the Department as a Grower.
  3. Harvester - An authorized Harvester license shall allow the licensee to engage in the activity of harvesting an eligible industrial hemp crop for a licensed grower.
  4. Transporter - An authorized Transporter license shall allow the licensee to engage in the transport of a harvested industrial hemp crop for a licensed grower.
  5. Processor - An authorized Processor license shall allow the licensee to engage in the processing, handling, and storage of industrial hemp or hemp seed at one or more authorized locations in the state. The licensee may sell, distribute, transfer, or gift any products processed from harvested hemp that is not restricted in section R3-4-1012
- B.** At a minimum, applications for a license shall contain the information required in subsections R3-4-1003(B)(1) through (6), plus any additional information that may be required by the Department. Location information shall be retained by the Department for not less than three years. Licensing fees are due at the time of application (R3-4-1005).
1. All licenses.
    - a. Full name, mailing address, telephone number and email address.
    - b. Fingerprint clearance card identification number of the person or responsible party applying;

- c. If the applicant represents a business entity, the full name of the business, the principal Arizona business location address, the full name, title, and email address of the of the responsible party;
  - d. Tax ID or Social Security Number; and
  - e. Disclosure and explanation of any instance in which the applicant has been denied, debarred, suspended, revoked, or otherwise prohibited from participating in any public procurement or licensing activity.
2. Grower's license.
- a. Registered planting site(s): street address or major crossroads, legal description, and GPS coordinates for each field, greenhouse, building or site where industrial hemp will be grown, updated annually, or within thirty days following a change;
  - b. Estimated acreage for each outdoor location and/or square footage for indoor or each greenhouse locations intended for planting.
  - c. Maps or aerial photos depicting each site where industrial hemp will be grown, handled, and/or stored, with appropriate designations for entrances, field boundaries, and specific locations corresponding to the GPS coordinates;
  - d. Storage location(s) (expressed in GPS coordinates) for seed or propagative materials, and harvested plants and plant parts.
  - e. Maps or aerial photos depicting each site where industrial hemp seed and/or propagative materials will be stored and labeled with the corresponding GPS coordinates;
3. Nursery License.
- a. Storage location(s) (expressed in GPS coordinates) for seed or propagative materials;
  - b. Locations (expressed in GPS coordinates) of all propagation areas; and
  - c. labeled maps or aerial photos depicting storage and propagation areas.
4. Harvester License. Maps and the street address, legal description, and GPS coordinates for each location the harvesting equipment will be primarily based.
5. Transporter License. Maps and the street address, legal description, and GPS coordinates for each location the transporting vehicles and equipment will be primarily based.
6. Processor License.
- a. Identification of the part of a harvested hemp crop or plant to be received for processing, in the following categories:
    - i. Floral and leaf material;
    - ii. Seed for oil or grain;
    - iii. Stalks for fiber or hurds;
    - iv. Seed or propagative materials for planting;
  - b. Registered processing site(s): Street address or major crossroads, legal description, and GPS coordinates for each building or site where hemp will be processed or stored; or where mobile processing equipment will be primarily based; and
  - c. Labeled maps or aerial photos depicting the information in subsection (b).
- C. Application submission dates. Applications may be submitted at any time during the year, but the expiration date of the license shall be on December 31st annually, or biennially for a two-year renewal as authorized in subsection (D). Renewal applications will be due no later than December 15th.

- D.** Application for one or two-year renewals. At a licensee's discretion, a person that has been licensed by the Department under the industrial hemp program may apply for a one or two year renewal provided:
1. The person was licensed in the industrial hemp program within the previous calendar year;
  2. The license of the person was in good standing at the time of renewal;
  3. There is no change in the person or responsible party licensed;
  4. There is no change in the physical location of the industrial hemp site;
  5. The licensee does not owe any civil penalties, fees, or late charges to the Department; and
  6. The person submits the associated fee for a one or two-year renewal.
- E.** Licensing agreements. All approved applicants for a license shall complete a licensing agreement issued by the Department prior to receiving a license. The licensing agreement may include additional terms and conditions as needed to ensure compliance with this article, applicable state and federal laws, and rules and orders of the Director, but, at a minimum the applicant will agree to:
1. Provide access, for authorized Department inspectors, at any time, to all hemp and hemp seed, planted or stored, and all records to determine compliance with this article and any state or federal law, rule or order regulating Cannabis as an agricultural crop;
  2. Maintain all records, as stated in section R3-4-1008 of this article;
  3. Pay all fees required indicated in Table 1;
  4. Comply with all pesticide use restrictions;
  5. Comply with all seed laws of the state;
  6. Defend, indemnify, and hold harmless the Department from liability for the destruction of any crop or harvested plant in violation of this article;
  7. Be solely responsible for all financial or other losses;
  8. Be solely responsible for all land use restrictions, applicable city and county zoning, building, and fire codes and ordinances; and
  9. Follow all regulatory, notification and reporting requirements.
- F.** Program withdrawal. A licensee that intends to voluntarily withdraw from the program shall submit to the Department a withdrawal notice as prescribed by the Department and comply with the following conditions.
1. Unless otherwise authorized by the Associate Director, the licensee shall complete a withdrawal notice at least two weeks prior to withdrawal of the Program;
  2. Any industrial hemp or hemp seed, planted, harvested, or stored must be inspected by the Department prior to transport off of the property, destruction or transfer to a new or existing licensee;
  3. Any licensing and inspection fees paid or invoiced prior to any notice of withdrawal are not eligible for refund; and
  4. Withdrawal after submittal of an application but prior to issuance of a license will be prohibited unless the Department determines, in its sole discretion, that such withdrawal is appropriate.
- G.** Site modification. Anytime a licensed grower, processor or nursery modifies the registered site during the licensing period by changing the location of an existing site or by adding additional sites under the license, the licensee shall submit a site modification application and associated site modification fee listed in Table 1 of this article.
- H.** License transfer. The transfer of an Industrial hemp license is authorized only if the licensee and eligible program applicant completes a Department issued transfer application and submits any applicable transfer fees listed in Table 1 of this article. The receiver of a transferred license shall

complete a licensing application, and execute a licensing agreement as required by this Article, and all duties and responsibilities of the licensee shall be transferred to and acknowledged by the receiver in a written agreement between the licensee and receiver. Any license or other fees paid by the licensee shall be credited to the benefit of the receiver.

#### **R3-4-1004. Industrial Hemp Research**

- A.** A person, company, college or university that conducts research into the growth, harvesting techniques, transportation methods, or processing of industrial hemp is required to obtain a license pursuant to this article.
- B.** A person, company, college or university conducting not-for-profit research may be exempted from the licensing fee(s) provided:
  - 1. The applicant submits to the Department a request for an exemption of the licensing fee;
  - 2. The applicant provides a summary of the research to be conducted;
  - 3. The applicant provides a summary of the benefit to the agricultural community that will be gained;
  - 4. The applicant signs into an agreement with the Department that as a result of the research conducted the applicant will not gain any monetary profit;
  - 5. The research will be conducted in compliance with this article or any other law, rule, or order governing the production of industrial hemp; and
  - 6. The results or summary of the research will be published or made publicly available.
- C.** Intellectual property. The Department holds no rights to any intellectual property of the licensee.
- D.** Restrictions. A licensee shall not change not-for-profit research to for-profit research without notifying the Department and paying the required licensing fee.

#### **R3-4-1005. Fees**

- A.** All licensing and/or registration fees are due at the time of application.
- B.** A Grower applicant or licensee is not required to pay separate harvester and/or transporter licensing fees, unless providing harvesting and/or transport services for other licensed growers.
- C.** Inspection and assessment fees are invoiced by the Department and are due within 30 days of the invoice date.
- D.** Site modification fees. The appropriate fee shall be submitted at the time an applicant submits a site modification application as provided in R3-4-1003(G)
- E.** Processor Assessment fees are based on tonnage reports, shipping manifests or scale receipts of unprocessed hemp plants or plant parts received.
- F.** All outstanding Inspection and Assessment fees invoiced prior to November 15th, shall be paid in full prior to the Department's processing of a licensee's renewal application.
- G.** THC sample analysis fees. A licensee will be invoiced for any analytical fees beyond the samples selected to determine regulatory compliance. These include:
  - 1. Any pre-harvest re-samples for crops that indicated a result above the threshold for compliance;
  - 2. Post-harvest samples that have been determined to be a regulatory concern by the Department; or
  - 3. By request from the grower that requires official analysis for commerce.

**Table 1. Fee Schedule**

License	Licensing Fee	Inspection/Assessment Fee
Grower	\$1,500 per license	\$25 per outdoor acre up to 100 acres \$5 acre for each additional acre \$75 per indoor facility up to 3 acres; \$25 per acre for facilities over 3 acres \$150 per THC sample analysis (G) \$150 per THC sample analysis (G)
Nursery	\$1,000 per license	NA
Harvester	\$150 per license	N/A
Transporter	\$150 per license	N/A
Processor	\$3,000 per license	\$0.5 ton Fiber \$5 ton Oil Seed/Grain \$100 ton floral material \$150 per THC sample analysis (G)
All	Site modification fee: \$300	N/A

**R3-4-1006. Authorized Seed and Propagative Material**

- A.** Authorized seeds and propagative material. Seeds and propagative materials authorized for use by a licensee is not a guarantee a crop will produce a Total Delta-9 THC concentration of not greater than 0.300%. Seeds and propagative material that are used to produce an industrial hemp crop or plant shall:
1. Be produced from an industrial hemp crop or plant; and
  2. Originate from either:
    - a. A person, business, college or university licensed or certified in a state or federal program authorized to produce industrial hemp; or
    - b. A foreign source that is authorized by the country of origin to export industrial hemp seed or propagative material to produce an industrial hemp crop.
- B.** Each licensed grower or nursery is responsible for the acquisition of seed or propagative materials used for the growth of industrial hemp. The licensee shall provide the Department the following information prior to planting:
1. A copy of the seed or propagative material producer's certificate, license or equivalent documentation authorizing the production of industrial hemp;
  2. An official analysis of the crop or plant that produced the seed or propagative material that indicates the crop or plant contained a Total Delta-9 THC concentration of not greater than 0.300% on a dry weight basis;
  3. Phytosanitary certificates or nursery certificates issued by a plant regulatory official for any propagative materials to ensure compliance with A.R.S. § 3-211 and 3 A.A.C. 2; and
  4. A pre-planting report, on a form provided by the Department, which includes:

- a. The variety/strain name of the material;
  - b. The amount or quantity of the material;
  - c. The lot number(s) of the material; and
  - d. The name, address, phone number and email address of the seed or propagative material provider.
- C.** Labeling requirements. All Industrial Hemp seed or propagative material sold within or into Arizona must be labeled as to variety/strain or hybrid name, and origin. Labelers of seed or propagative material must provide to the Department, breeder descriptions and variety release information including any subsequent updates/amendments to these descriptions.
- 1. For purposes of labeling, the number or other designations of hybrid industrial hemp shall be used as a variety name.
  - 2. All Industrial Hemp seed for planting purposes sold within or into Arizona is subject to the Arizona seed laws under A.R.S. §§ 3-231 et seq. and 3 A.A.C. 4.
- D.** Restrictions.
- 1. A person that receives seed or propagative materials that does not comply with this article or any other phytosanitary, seed or labeling law of the state shall immediately notify the Department and hold the seed or propagative material until a disposition is provided by the Department.
  - 2. The Department may direct a licensee to place a shipment of seed or propagative material on hold to ensure compliance with this Article and any other law or regulation that may apply to the shipment of agricultural seed and plants for planting purposes.

**R3-4-1007. Location Requirements; Signage**

- A.** Location requirements.
- 1. A Licensed Grower or Processor shall not grow, process, or store industrial hemp in any residential dwelling.
  - 2. A Licensee is responsible for maintaining compliance with all applicable city and county land use restrictions, zoning laws, building, and fire codes and ordinances.
  - 3. A registered location shall be made available for inspection at the request of an inspector during normal business hours.
  - 4. A licensed grower or processor shall not grow, process, or store any forms of Cannabis that are not classified as industrial hemp within a single structure at the registered location.
- B.** Signage. A licensed grower or processor shall conspicuously post signage at the perimeter of the registered location that includes the following information:
- 1. The statement, "Arizona Department of Agriculture Industrial Hemp Program - No Trespassing Allowed";
  - 2. Licensee's name and license number; and
  - 3. The Arizona Department of Agriculture, Industrial Hemp Program phone number.

**R3-4-1008. Compliance; Recordkeeping; Audits**

- A.** General compliance requirements.
- 1. All licensees are subject to audits to ensure compliance with the recordkeeping requirements in subsection (B);
  - 2. An authorized Department inspector shall be allowed access to all growing, storage, and processing locations of a licensee's industrial hemp crop, hemp seed, propagative material,

harvested material, handling and processing equipment to conduct a visual inspection and determine if a violation of this article may exist.

- B. Recordkeeping.** All licensees may be audited to ensure compliance with all recordkeeping requirements. A licensee shall comply with the recordkeeping requirements in this subsection at a minimum. Additional recordkeeping requirements may be established as set in policy and updated annually.
1. All records documenting the growth, propagation, harvesting, storage, agronomic data, shipping, receiving, transportation, distribution, processing, sale, purchase, third party analysis or research of all plants, seeds and materials shall be kept within the state of Arizona and made available for inspection on request.
  2. An in-state agent must be maintained for receipt and storage of records.
  3. All records shall be maintained for not less than five years.
- C. Sampling and testing.** All licensees are subject to the collection of a representative sample of any *Cannabis* plant, hemp crop or harvested hemp in possession of the licensee or licensee's agent to determine the total concentration of Delta-9 THC as reported by a certified laboratory to ensure compliance with this article and any state or federal law, rule or order regulating *Cannabis* as an agricultural commodity.
1. Sampling method. The Department shall publish a policy on the methods in which a *Cannabis* plant or crop may be sampled, which may be updated annually as needed.
  2. Only an authorized Department inspector may collect an official sample to determine compliance with this article.
  3. When collecting an official sample, an authorized Department inspector shall:
    - a. Collect a representative sample of the crop, plants or harvested crop;
    - b. Split the official sample as follows:
      - i. One-third for retention by the Department or to provide to a certified laboratory for compliance with this article;
      - ii. One-third for confirmation of analytical results if required; and
      - iii. One-third that is provided to the licensee for retention or to utilize for additional analysis by a third party laboratory. Any results provided to the licensee by a third party laboratory do not supersede official results.
    - c. Label all official samples with an official sample number, sample date, collector name, location ID, and grower license ID number;
    - d. Apply official custody seals to all official samples; and
    - e. Complete an official chain of custody form that is signed and dated by the inspector and licensee or the licensee's representative.
  4. Sample transport and submission. The Department shall not be liable for samples that are detained by any federal, state or local law enforcement agency.
    - a. If a certified laboratory receives a sample with a broken custody seal or incomplete or missing chain of custody, that sample shall be null and void;
    - b. All official samples retained by the Department are the property of the Department; and
    - c. The Department is not liable to reimburse the licensee for official samples collected.
  5. Sample results. Any result provided to the Department by a certified laboratory is the property of the state and a copy shall be provided to the licensee.
- D. Volunteer hemp plants.** It shall be the responsibility of the licensee to monitor and destroy.

### **R3-4-1011. Notifications; Reports**

- A.** All notifications and reports for licensees shall be made on forms provided by the Department unless otherwise indicated in this section or as directed by the Associate Director.
- B.** Grower Licensees shall notify the Department of the following activity:
  - 1. Notice of intent to harvest no less than 14 days prior to harvest;
  - 2. Intent to transport a harvested crop no less than 72 hours prior to shipment or transport;
  - 3. Notify the Department of any significant damage or destruction of a crop or harvested crop caused by natural or manmade causes within 48 hours of discovery of the damage or destruction.
  - 4. Notify the Department within 14 days if any change in business information including business name, address, contact information or responsible party.
- C.** Planting report. Within 7 days after planting, complete and submit a planting report that includes:
  - 1. The Growers license number;
  - 2. The location(s) where a crop was planted (the "site"), expressed in GPS Coordinates and displayed on a map or aerial photo;
  - 3. The variety name(s) of each planting corresponding to the location indicated in subsection (C)(2); and
  - 4. The actual area planted of each site.
- D.** Grower and nursery reports. By December 31st of each year, a grower or nursery shall provide the Department a report of the following:
  - 1. The sale or distribution of any industrial hemp grown under the grower's license;
  - 2. The name and address of the person or entity receiving the industrial hemp; and
  - 3. The amount of the industrial hemp sold or distributed
- E.** Processor notifications. A licensed processor shall notify the department of all shipments of industrial hemp imported from outside of the state for processing within 72 hours of receipt of the shipment. The notification shall include:
  - 1. A copy of the shipping manifest that indicates the name, physical address, and phone number of the shipper, and the total weight of the hemp commodity in the shipment;
  - 2. A copy of the documentation issued by a regulatory official that attests the hemp commodity contains a Total Delta-9 THC Concentration not greater than 0.300%; and
  - 3. A copy of the industrial hemp grower's certificate, license or equivalent documentation authorizing the production of industrial hemp in that state;
  - 4. A phytosanitary certificate or certificate of inspection issued by a plant regulatory official; and
  - 5. Documentation issued at origin that attests to the owner, origin, type and amount of hemp material in the shipment.
- F.** Other notifications. A licensee shall notify the Department within 72 hours from receipt of results of any third party analysis that determined a hemp crop or plant sample contained a Delta-9 THC concentration greater than 0.300%.

### **R3-4-1012. Unauthorized Activity; Violations**

- A.** A licensee shall have committed a violation of this article by:
  - 1. Failing to provide a legal description of land on which a licensee grows, processes, stores or researches industrial hemp or hemp seed;
  - 2. Failing to obtain the proper license with the Department;
  - 3. Producing or distributing Cannabis sativa, with a total Delta-9 THC concentration greater than 0.300% on a dry weight basis, unless otherwise permitted by state or federal law, rule or order;

4. Violating a term or condition of the signed licensing agreement or corrective action plan; or
  5. Violating any law, rule, or order in the regulation of industrial hemp.
- B.** False Statement. Any person who materially falsifies any information contained in an application to participate in the program established under this article shall be ineligible to participate in the program.
- C.** No unauthorized person shall:
1. Grow, cultivate, handle, store, harvest, transport, import or process industrial hemp
  2. Trespass on a property registered as an industrial hemp site;
  3. Disturb, damage or destroy an industrial hemp plant or crop on a registered location; or
  4. Tamper, damage or destroy posted signage as required under R3-4-1008.
- D.** No authorized program licensee shall:
1. Offer for sale, trade, transfer possession of, gift, or otherwise relinquish possession of industrial hemp plants, plant parts, or hemp seed that is capable of germination to an unauthorized person;
  2. Destroy an industrial hemp crop, stored industrial hemp or hemp seed without prior notification to the Department.
  3. Transport industrial hemp plants, seed, propagative material or unprocessed harvested industrial hemp without notifying the Department; or
  4. Import or export industrial hemp plants or plant parts for processing; seed or propagative material for planting purposes without notifying the Department and complying with all import or export regulatory requirements as determined by a regulatory official.
- E.** Intentional or Knowing Violations. Any violation that is determined to be committed intentionally or knowingly shall be reported to the State Attorney General and any relevant state and local law enforcement agencies.

**R3-4-1013. Corrective Actions**

- A.** In addition to being subject to possible license suspension, license revocation, and monetary civil penalty procedures set forth in A.A.C. R3-4-1014, a person who is found by the Department to have violated any law, rule or Director's Order governing that person's participation in the program shall be subject to a corrective action plan.
- B.** The Associate Director may impose a written and dated corrective action plan for a negligent violation of any law, rule or Director's Order governing a person's participation in the hemp program.
- C.** Corrective action plans issued by the Department shall include, at a minimum, the following information:
1. The requirements a person must fulfill to correct a violation of this article as indicated in subsection (D);
  2. A reasonable date by which the person shall complete violation corrections; and
  3. A requirement for periodic reports from the violator to the department about the violator's compliance with the corrective action plan, laws, rules or Director's Orders for a period of at least three (3) years from the date of the corrective action plan.
- D.** Corrective Action Plan. The Department may prescribe one or more of the following provisions to a person in violation of this article.
1. Hemp crops or harvested hemp shall not be removed from the licensee's registered hemp site if found in violation of Section R3-4-1012 (A)(3) by having a Total Delta-9 THC concentration of greater than 0.300% on a dry weight basis.

2. In addition to one or more of the components listed in A.R.S. § 3-317, a corrective action plan may contain one or more of the requirements:
    - a. Stripping stalks and destruction of floral material;
    - b. Sterilization of seed and destruction of floral material;
    - c. THC remediation of leaf and floral material as prescribed by the Associate Director;
    - d. Education and training; and/or
    - e. Other corrective measures prescribed by the Associate Director.
  3. Failure to complete the prescribed corrective measure within the timeframe indicated in the corrective action plan or to complete any component of a corrective action plan shall constitute a second violation of this Article.
  4. The cost of implementing a corrective action plan is the burden of the licensee.
- E.** Repeat violations. A person that violates this article, the laws governing the production of industrial hemp, or any order issued by the Associate Director three times in a five-year period shall be ineligible for license issued by the Department for a period of five years beginning on the date of the third violation.

#### **R3-4-1014. Penalties**

- A.** Civil penalties. A person that violates this article, a licensing requirement, a licensing term or condition, or any other rule or order of the Department within a five year period may be fined as follows:
1. First offense - \$1,000
  2. Second offense - \$2,500
  3. Third offense - \$5000
- B.** License suspension. A person that violates this article, a licensing requirement, a licensing term or condition, or any other rule or order of the Department may have their licensing privileges suspended until completion of any corrective actions prescribed in Section R3-4-1013.
- C.** License revocation. A person that intentionally violates this article, a licensing requirement, a licensing term or condition, or any other rule or order of the Department, or who commits a third offense within a five year period:
1. Shall have all licenses issued pursuant to this article revoked;
  2. All hemp crops, seed, and harvested industrial hemp of the licensee shall be seized and destroyed as prescribed by the Associate Director.
  3. The person found in violation shall be responsible for the cost of the destruction of all hemp crops, seed, and harvested material; and
  4. The person in violation shall not be eligible for a license under this article for a period not less than five years.
- D.** Intentional or knowing violations shall be punished according to A.R.S. §§ 3-319 and or 13-3405.

**ARIZONA REVISED STATUTES**  
**TITLE 3. AGRICULTURE; CHAPTER 1. AGRICULTURAL ADMINISTRATION;**  
**ARTICLE 1. DEPARTMENT OF AGRICULTURE**

3-107. Organizational and administrative powers and duties of the director

A. The director shall:

1. Formulate the program and policies of the department and adopt administrative rules to effect its program and policies.
2. Ensure coordination and cooperation in the department in order to achieve a unified policy of administering and executing its responsibilities.
3. Subject to section 35-149, accept, expend and account for gifts, grants, devises and other contributions of money or property from any public or private source, including the federal government. All contributions shall be included in the annual report under paragraph 6 of this subsection. Monies received under this paragraph shall be deposited, pursuant to sections 35-146 and 35-147, in special funds for the purpose specified, which are exempt from the provisions of section 35-190 relating to lapsing of appropriations.
4. Contract and enter into interagency and intergovernmental agreements pursuant to title 11, chapter 7, article 3 with any private party or public agency.
5. Administer oaths to witnesses and issue and direct the service of subpoenas requiring witnesses to attend and testify at or requiring the production of evidence in hearings, investigations and other proceedings.
6. Not later than September 30 each year, issue a report to the governor and the legislature of the department's activities during the preceding fiscal year. The report may recommend statutory changes to improve the department's ability to achieve the purposes and policies established by law. The director shall provide a copy of the report to the Arizona state library, archives and public records.
7. Establish, equip and maintain a central office in Phoenix and field offices as the director deems necessary.
8. Sign all vouchers to expend money under this title, which shall be paid as other claims against this state out of the appropriations to the department.
9. Coordinate agricultural education efforts to foster an understanding of Arizona agriculture and to promote a more efficient cooperation and understanding among agricultural educators, producers, dealers, buyers, mass media and the consuming public to stimulate the production, consumption and marketing of Arizona agricultural products.
10. Employ staff subject to title 41, chapter 4, article 4 and terminate employment for cause as provided by title 41, chapter 4, article 5.

11. Conduct hearings on appeals by producers regarding the assessed actual costs of the plow up and the penalty of one hundred fifty per cent for unpaid costs pursuant to section 3-204.01. The director may adopt rules to implement this paragraph.

12. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

B. The director may:

1. Authorize in writing any qualified officer or employee in the department to perform any act that the director is authorized or required to do by law.

2. Construct and operate border inspection stations or other necessary facilities in this state and cooperate by joint agreement with an adjoining state in constructing and operating border inspection stations or other facilities within the boundaries of this state or of the adjoining state.

3. Cooperate with agencies of the United States and other states and other agencies of this state and enter into agreements in developing and administering state and federal agricultural programs regarding the use of department officers, inspectors or other resources in this state, in other states or in other countries.

4. Cooperate with the office of tourism in distributing Arizona tourist information.

5. Enter into compliance agreements with any person, state or regulatory agency. For the purposes of this paragraph, "compliance agreement" means any written agreement or permit between a person and the department for the purpose of enforcing the department's requirements.

6. Abate, suppress, control, regulate, seize, quarantine or destroy any agricultural product or foodstuff that is adulterated or contaminated as the result of an accident at a commercial nuclear generating station as defined in section 26-301, paragraph 1. A person owning an agricultural product or foodstuff that has been subject to this paragraph may request a hearing pursuant to title 41, chapter 6, article 10.

7. Engage in joint venture activities with businesses and commodity groups that are specifically designed to further the mission of the department, that comply with the constitution and laws of the United States and that do not compete with private enterprise.

8. Sell, exchange or otherwise dispose of personal property labeled with the "Arizona grown" trademark. Revenues received pursuant to this paragraph shall be credited to the commodity promotion fund established by section 3-109.02.

**ARIZONA REVISED STATUTES**  
**TITLE 3. AGRICULTURE; CHAPTER 2. REGULATORY PROVISIONS;**  
**ARTICLE 4.1. INDUSTRIAL HEMP**

3-313. Rulemaking; fees; intent

A. For the purposes of carrying out this article, the director shall:

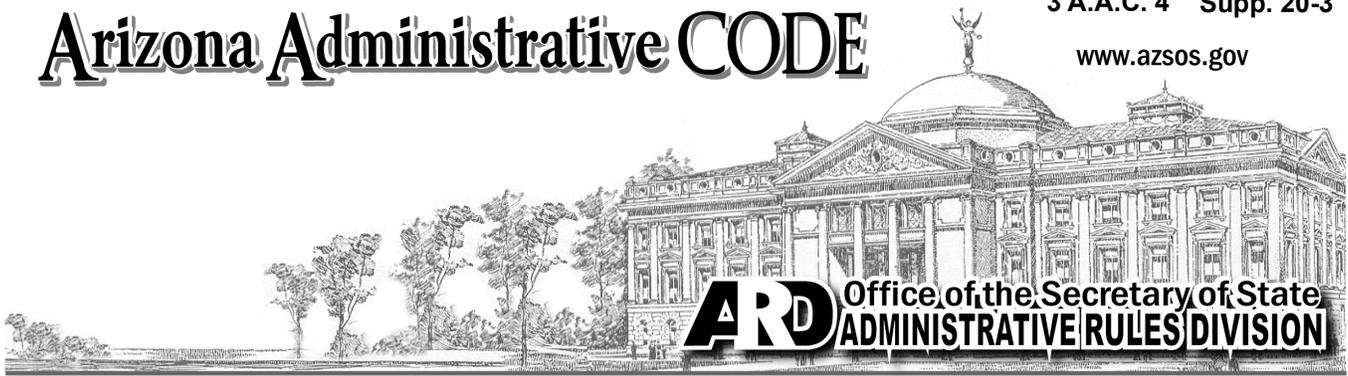
1. Adopt rules pursuant to title 41, chapter 6 to oversee the licensing, production and management of industrial hemp and hemp seed in this state pursuant to this article.
2. Adopt fees by rule.
3. Authorize qualified applicants to propagate, harvest, transport or process, or any combination thereof, industrial hemp according to rules adopted by the director.

B. The legislature intends that the fees adopted pursuant to subsection A, paragraph 2 of this section be used to fund the department's activities in licensing, testing, inspecting and supervising industrial hemp production.

# Arizona Administrative CODE

3 A.A.C. 4 Supp. 20-3

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## TITLE 3. AGRICULTURE

### CHAPTER 4. DEPARTMENT OF AGRICULTURE - PLANT SERVICES DIVISION

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The table of contents on the first page contains quick links to the referenced page numbers in this Chapter. Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of July 1, 2020 through September 30, 2020 (Supp. 20-3).

[R3-4-301. Nursery Certification](#) ..... [22](#)

#### Questions about these rules? Contact:

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#### The release of this Chapter in Supp. 20-3 replaces Supp. 19-4, 1-50 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

## PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director  
ADMINISTRATIVE RULES DIVISION

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### RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

### THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into titles. Titles are divided into chapters. A chapter includes state agency rules. Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each chapter.

First Quarter: January 1 - March 31

Second Quarter: April 1 - June 30

Third Quarter: July 1 - September 30

Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2019 is cited as Supp. 19-1.

Please note: The Office publishes by chapter, not by individual rule section. Therefore there might be only a few sections codified in each chapter released in a supplement. Historical notes at the end of a section provide an effective date and information when a rule was last updated.

### AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate chapters of the *Administrative Code* in Supp. 18-1 to comply with A.R.S. § 41-1012(B) and A.R.S. § 5302(1), (2)(d) through (e), and (3)(d) through (e).

A certification verifies the authenticity of each *Code* chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

### HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

### ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, [www.azleg.gov](http://www.azleg.gov). An agency’s authority

note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

### SESSION LAW REFERENCES

Arizona Session Law references in a chapter can be found at the Secretary of State’s website, under Services-> Legislative Filings.

### EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at [www.azsos.gov/rules](http://www.azsos.gov/rules), click on the *Administrative Register* link.

Editor’s notes at the beginning of a chapter provide information about rulemaking sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

### EXEMPTIONS AND PAPER COLOR

At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

### PERSONAL USE/COMMERCIAL USE

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*Rhonda Paschal, managing rules editor, assisted with the editing of this chapter.*



Administrative Rules Division
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TITLE 3. AGRICULTURE

CHAPTER 4. DEPARTMENT OF AGRICULTURE - PLANT SERVICES DIVISION

Authority: A.R.S. §§ 3-107, 3-201 et seq., 3-441 et seq., and 3-481 et seq.

Title 3, Chapter 4, Article 1, Sections R3-4-101 through R3-4-109 renumbered from Title 3, Chapter 1, Article 1, Sections R3-1-01 through R3-1-09; Title 3, Chapter 4, Article 2, Sections R3-4-201 through R3-4-248 renumbered from Title 3, Chapter 1, Article 2, Sections R3-1-50 through R3-1-77; Title 3, Chapter 4, Article 3, Sections R3-4-301 through R3-4-307 renumbered from Title 3, Chapter 1, Article 3, Sections R3-1-301 through R3-1-307; Title 3, Chapter 4, Article 4, Sections R3-4-401 through R3-4-408 renumbered from Title 3, Chapter 1, Article 4, Sections R3-1-401 through R3-1-408; Title 3, Chapter 4, Article 5, Sections R3-4-501 through R3-4-504 renumbered from Title 3, Chapter 1, Article 5, Sections R3-1-501 through R3-1-504; Title 3, Chapter 4, Article 6, Sections R3-4-601 through R3-4-633 and Appendix 1 renumbered from Title 3, Chapter 1, Article 6, Sections R3-1-601 through R3-1-633 and Appendix 1; Title 3, Chapter 4, Article 7, Sections R3-4-701 through R3-4-708 renumbered from Title 3, Chapter 7, Article 1, Sections R3-7-101 through R3-7-108; Title 3, Chapter 4, Article 8, Sections R3-4-801 through R3-4-807 renumbered from Title 3, Chapter 7, Article 2, Sections R3-7-201 through R3-7-207 (Supp. 91-4).

ARTICLE 1. GENERAL PROVISIONS

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Article 5, consisting of Sections R3-4-501 through R3-4-505 adopted effective October 15, 1993 (Supp. 93-4).

Article 5, consisting of Sections R3-4-501 through R3-4-504 repealed effective October 15, 1993 (Supp. 93-4).

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Article 6, consisting of Sections R3-4-601 through R3-4-618 and Appendix A, adopted effective July 6, 1993 (Supp. 93-3).

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Title 3, Chapter 4, Article 6, Sections R3-4-601 through R3-4-633 and Appendix 1 renumbered from Title 3, Chapter 1, Article 6, Sections R3-1-601 through R3-1-633 and Appendix 1.

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(Authority: A.R.S. § 3-481 et seq.)

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(Authority: A.R.S. § 3-441 et seq.)

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## CHAPTER 4. DEPARTMENT OF AGRICULTURE - PLANT SERVICES DIVISION

## ARTICLE 1. GENERAL PROVISIONS

**R3-4-101. Definitions**

In addition to the definitions provided in A.R.S. §§ 3-201, 3-231, 3-441, and 3-481, the following terms apply to this Chapter:

“Appliance” means any box, tray, container, ladder, tent, vehicle, implement, or any article or thing that is or may be used in growing, harvesting, handling, packing, or transporting any agricultural commodity.

“Carrier” means any plant or thing that can transport or harbor a plant pest.

“Certificate” means an original document issued by the Department, the United States Department of Agriculture, or authorized officer of the state of origin, stating name, quantity, and nature of the regulated commodity, and the compliance information required by a specific regulation.

“Commodity” means any plant, produce, soil, material, or thing that may be subject to federal and state laws and rules.

“Container” means any box, crate, lug, chest, basket, carton, barrel, keg, drum, can, sack, or other receptacle for a commodity.

“Cotton” means all parts of *Gossypium* spp., except manufactured cotton products.

“Equipment” means any vehicle, device, implement, ladder, tent, or any article or thing that is or may be used in growing, harvesting, handling, packing, or transporting any agricultural commodity.

“Gin trash” means organic waste or materials resulting from ginning cotton.

“Host” means a plant on or in which a pest can live or reproduce, or both.

“Husk” means the membranous outer envelope of many seeds and fruit, such as an ear of corn or a nut.

“Infested” means:

- (i) Any plant or other material on or in which a pest is found, or
- (ii) A geographical area where a pest is known to occur.

“Inspector” means an employee of the Department or other governmental agency who enforces any law or rule of the Department.

“Lot” means any one group of plants or things, whether or not containerized that is set apart or is separate from any other group.

“Nursery” means real property or other premises on or in which nursery stock is propagated, grown, or cultivated or from which source nursery stock is offered for distribution or sale. (A.R.S. § 3-201(5))

“Permit” means an official document authorizing the movement of a host plant and carrier.

“Person” means an individual, partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any character, or another agency.

“Pests” includes all noxious weeds, insects, diseases, mites, spiders, nematodes and other animal or plant organisms found injurious, or likely to become injurious, to any domesticated,

cultivated, native or wild plant, or to the product of any such plant. (A.R.S. § 3-201(7))

“Phyto-sanitary certificate” means a certificate issued by a plant regulatory official for the purpose of certifying a commodity or appliance as pest free.

“Plant” or “crop” includes every kind of vegetation, wild or domesticated, and any part thereof, as well as seed, fruit or other natural product of such vegetation. (A.R.S. § 3-201(8))

“Processed product” means any fruit, vegetable, or other food product covered under the regulations in this part which has been preserved by any recognized commercial process, including, but not limited to canning, freezing, dehydrating, drying, the addition of chemical substances, or by fermentation. (7 CFR § 52.2)

“Sell” means to exchange for money or its equivalent including to offer, expose, or possess a commodity for sale or to otherwise exchange, barter, or trade.

“Soil” means any non-liquid combination of organic, or organic and inorganic material in which plants can grow.

“Subcontainer” means any container being used within another container.

“Transport” means moving an article from one point to another.

“Treatment” means an application of a substance as either a spray, mist, dust, granule, or fumigant; or a process in which a substance or procedure is used to control or eradicate a plant pest.

“Vector” means an organism (usually an insect) that may carry a pathogen from one host plant to another.

“Vehicle” means an automotive device, such as a car, bus, truck, or private or recreational vehicle.

**Historical Note**

Former Rule 1; Amended effective June 16, 1977 (Supp. 77-3). Section R3-1-01 renumbered to R3-4-101 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2). New Section R3-4-101 renumbered from R3-4-102 without change, effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Amended by final rulemaking at 19 A.A.R. 3860, effective January 4, 2014 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**R3-4-102. Licensing Time-frames**

**A.** Overall time-frame. The Department shall issue or deny a license within the overall time-frames listed in Table 1 after receipt of the complete application. The overall time-frame is the total of the number of days provided for the administrative completeness review and the substantive review.

**B.** Administrative completeness review.

1. The administrative completeness review time-frame established in Table 1 begins on the date the Department receives the application. The Department shall notify the applicant in writing within the administrative completeness review time-frame whether the application or request is incomplete. The notice shall specify what information is missing. If the Department does not provide notice to the applicant within the administrative completeness review time-frame, the Department considers the application complete.

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2. An applicant with an incomplete license application shall supply the missing information within the completion request period established in Table 1. The administrative completeness review time-frame is suspended from the date the Department mails the notice of missing information to the applicant until the date the Department receives the information.
  3. If the applicant fails to submit the missing information before the expiration of the completion request period, the Department shall close the file, unless the applicant requests an extension. An applicant whose file has been closed may obtain a license by submitting a new application.
- C. Substantive review. The substantive review time-frame established in Table 1 shall begin after the application is administratively complete.
1. If the Department makes a comprehensive written request for additional information, the applicant shall submit the additional information identified by the request within the additional information period provided in Table 1. The substantive review time-frame is suspended from the date of the Department request until the information is received by the Department. If the applicant fails to provide the information identified in the written request within the additional information period, the Department shall deny the license.
  2. The Department shall issue a written notice granting or denying a license within the substantive review time-frame. If the application is denied, the Department shall send the applicant written notice explaining the reason for the denial with citations to supporting statutes or rules, the applicant's right to seek a fair hearing, and the time period in which the applicant may appeal the denial.

**Historical Note**

Former Rule 2; Amended effective June 19, 1978 (Supp. 78-3). Section R3-1-02 renumbered to R3-4-102 (Supp. 91-4). Section repealed, new Section adopted effective January 6, 1994 (Supp. 94-1). Section R3-4-102 renumbered to R3-4-101; new Section R3-4-102 adopted effective October 8, 1998 (Supp. 98-4).

**R3-4-103. Repealed**

**Historical Note**

Former Rule 3. Section R3-1-03 renumbered to R3-4-103 (Supp. 91-4). Repealed effective September 22, 1994 (Supp. 94-3).

**R3-4-104. Repealed**

**Historical Note**

Former Rule 4. Section R3-1-04 renumbered to R3-4-104 (Supp. 91-4). Repealed effective September 22, 1994 (Supp. 94-3).

**R3-4-105. Repealed**

**Historical Note**

Former Rule 5. Section R3-1-05 renumbered to R3-4-105 (Supp. 91-4). Amended effective September 22, 1994 (Supp. 94-3). Section repealed by final rulemaking at 6 A.A.R. 41, effective December 8, 1999 (Supp. 99-4).

**R3-4-106. Repealed**

**Historical Note**

Former Rule 6. Section R3-1-06 renumbered to R3-4-106 (Supp. 91-4). Repealed effective September 22, 1994 (Supp. 94-3).

**R3-4-107. Repealed**

**Historical Note**

Former Rule 7. Section R3-1-07 renumbered to R3-4-107 (Supp. 91-4). Amended effective September 22, 1994 (Supp. 94-3). Section repealed by final rulemaking at 19 A.A.R. 3860, effective January 4, 2014 (Supp. 13-4).

**R3-4-108. Repealed**

**Historical Note**

Former Rule 8. Section R3-1-08 renumbered to R3-4-108 (Supp. 91-4). Repealed effective September 22, 1994 (Supp. 94-3).

**R3-4-109. Repealed**

**Historical Note**

Former Rule 9. Section R3-1-09 renumbered to R3-4-109 (Supp. 91-4). Repealed effective September 22, 1994 (Supp. 94-3).

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Table 1. Time-frames (Calendar Days)

License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time-frame
<b>QUARANTINE</b>						
Plant and Crop Safeguards, Inspection, and Certification	R3-4-203	14	14	30	30	44
Boll Weevil and Pink Bollworm	R3-4-204(D)	14	14	30	30	44
Small-Grain Crop Approval	R3-4-204(E)(4)(b)	14	14	30	30	44
Boll Weevil and Pink Bollworm	R3-4-218	14	14	30	30	44
Lettuce Mosaic	R3-4-233	14	14	30	30	44
Noxious Weeds	R3-4-245	14	14	30	30	44
Colored Cotton	A.R.S. § 3-205.02 R3-4-501	14	0	0	0	14
<b>NURSERY</b>						
General Nursery Stock Inspection	R3-4-301(B)	30	14	1 yr	14	1 yr, 30 days
Special Nursery Stock Inspection: Ozonium Root Rot	R3-4-301(C)					
• Method of Growing		7	14	60	14	67
• New Renewal		7	14	30	14	37
• Indicator Crop Planted on Applicant's Property		7	14	4 yrs	14	4 yrs, 7 days
Special Nursery Stock Inspection: Rose Mosaic	R3-4-301(C)	7	14	180	14	187
Special Nursery Stock Inspection: Brown Garden Snail	R3-4-301(C)	7	14	30	14	37
Special Nursery Stock Inspection: Other	R3-4-301(C)	7	14	30	14	37
Phytosanitary Field Inspection	A.R.S. § 3-233(A)(7) R3-4-407	30	7	210	7	240
<b>STANDARDIZATION</b>						
Experimental Pack and Product for Fruit and Vegetables	A.R.S. § 3-487 R3-4-740	7	7	7	7	14
Experimental Pack and Product for Citrus Fruit	A.R.S. § 3-445 R3-4-814	7	7	7	7	14
Citrus Fruit Dealer, Packer, or Shipper License	A.R.S. § 3-449	14	14	14	14	28
Fruit and Vegetable Dealer, Packer, or Shipper License	A.R.S. § 3-492	14	14	14	14	28
<b>SEED DEALERS AND LABELERS</b>						
Seed Dealer	A.R.S. § 3-235 R3-4-408	14	14	14	14	28
Seed Labeler	A.R.S. § 3-235 R3-4-408	14	14	14	14	28

**Historical Note**

Table 1 adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 7 A.A.R. 3812, effective August 10, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 3633, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 8 A.A.R. 4454, effective October 2, 2002 (Supp. 02-4). Amended Section references under Arizona Native Plants to

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correspond to recodification at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 10 A.A.R. 2665, effective June 8, 2004 (Supp. 04-2). Amended by final rulemaking at 19 A.A.R. 3860, effective January 4, 2014 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**ARTICLE 2. QUARANTINE****R3-4-201. Definitions**

In addition to the definitions provided in A.R.S. §§ 3-201, 3-231, 3-441, 3-481, and R3-4-101, the following terms apply to this Article:

“Associate Director” means the Associate Director of the Plant Services Division.

“Common carrier” means any person transporting a commodity or equipment for compensation or commercial purpose.

“Compliance agreement” means a written agreement or permit between a person and the Department for the purpose of allowing the movement or production of a regulated commodity or used equipment from a quarantined area of this state and containing demonstrated safeguarding measures to ensure compliance with the purposes of A.R.S. Title 3, Chapter 2, Article 1.

“Cotton harvesting machine” means any machine used to pick or harvest raw cotton in a field.

“Firewood” means wood that has been cut, sawn, or chopped into a shape and size commonly used for fuel, or other wood intended for fuel.

“Fumigate” means to apply a gaseous substance to a commodity or used equipment in a closed area to eradicate a pest.

“Green lumber” means freshly sawn, unseasoned wood.

“Hull” means the dry outer covering of a seed or nut.

“Infected” means any plant or other material on or in which a disease is found.

“Label” means all tags and other written, printed, or graphic representations in any form, accompanying or pertaining to a plant or other commodity.

“Limited permit” means a permit issued by the Department to a common carrier or responsible party to transport a commodity or used equipment that would otherwise be restricted.

“Master permit” means a permit issued by the Department to another state department of agriculture that gives that other state authority to certify, in accordance with the terms of the permit, that a regulated commodity or used equipment may enter Arizona without a quarantine compliance certificate.

“Origin inspection agreement” means a permit issued by the Department to a person that specifies terms to ship or transport a regulated commodity or used equipment into Arizona, which importation would otherwise be prohibited by this Article, and that the State Plant Regulatory Official agrees with.

“Package” means:

- (i) Any container, box, bag, or envelope used for the shipment of a commodity or used equipment through postal and parcel services, or
- (ii) Individual packets of seeds for planting.

“Pest free” means apparently free from all regulated plant pests, as determined by an inspection.

“Pest Management Program” means any state or federally recognized program designed for the prevention, monitoring, and control of a pest or disease. Based on a targeted management (Integrated Pest Management) or holistic approach (Total Systems Approach Program) that incorporates best management

practices, monitoring, cultivation practices, cultural controls, treatment programs and/or pest resistant plant varieties, cultivars or hybrids for the control or effective management of any live life stages of a pest or disease.

“Quarantine compliance certificate” means a certificate issued by a plant regulatory official of the originating state that establishes that a commodity or used equipment has been treated or inspected to comply with Arizona quarantine rules and orders and includes a certificate of inspection.

“Receiver” means any person or place of business listed on a bill of lading, manifest, or freight bill as a consignee or destination for a commodity or used equipment.

“Regulated plant pest” means all live life stages of an arthropod, disease, plant, nematode, or snail that is regulated or considered under quarantine by a state or federal law, rule or order enforced by the Department.

“Responsible party” means a common carrier, person, or place of business that is legally responsible for the possession of a commodity or used equipment.

“Stub or soca cotton” means cotton stalks of a previous crop that begin to show signs of growth.

“Treatment Manual” means the USDA-APHIS-PPQ Treatment Manual, T301—Cotton and Cotton Products, revised May 2017. The Treatment Manual is incorporated by reference, does not include any later amendments or editions, and is available from the Department and online at [http://www.aphis.usda.gov/import\\_export/plants/manuals/ports/downloads/treatment.pdf](http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/treatment.pdf).

**Historical Note**

Former Rule, Quarantine Regulation 2; Amended effective July 1, 1975 (Supp. 75-1). Former Section R3-4-50 repealed, new Section R3-4-50 adopted effective October 23, 1978 (Supp. 78-5). Section R3-1-50 renumbered to R3-4-201 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Amended by final rulemaking at 19 A.A.R. 3860, effective January 4, 2014 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**R3-4-202. Domestic Importation**

- A. Any commodity shipped or transported into the state shall be made available for inspection if required to determine whether the commodity is free of all live pests subject to federal and state laws and rules.
- B. Restrictions.
  1. Prior to or upon delivery, a shipper, consignor, or broker of a commodity, regulated or otherwise, (excluding processed products) which is shipped into the state must provide the receiver with a bill of lading, manifest, or other similar documentation that indicates:
    - a. The contact information of the consignor and consignee;
    - b. The contents of the shipment; and
    - c. The origin of the commodity.
  2. A shipper, consignor, or broker must provide common carriers documentation prior to shipment containing the following additional information for any commodity that is shipped or transported into the state that is regulated by

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this Article or other state or federal law, rule or order enforced by the Department:

- a. The name and physical address of the shipper and receiver;
  - b. A certificate of inspection for nursery stock, if applicable;
  - c. The botanical or common name of the commodity, if applicable;
  - d. The trade or descriptive name of the used container or used equipment, if applicable;
  - e. The quantity of each type of commodity;
  - f. The county and state or foreign country where each commodity originated;
  - g. Any other certificate or permit required by this Article or other state or federal law, rule or order enforced by the Department.
3. Common carriers shall provide the receiver of a commodity regulated by this Article or other state or federal law, rule or order enforced by the Department, with the documentation required under subsection (B)(2) at the time the regulated commodity is delivered to the receiver.
  4. Certificate of Release. Any person receiving a regulated commodity from a post office, package transportation and delivery terminal, or any carrier without a Certificate of Release shall immediately notify the Department and request an inspection.
- E.** Disposition of commodity. When a common carrier is in possession of, or responsible for, a commodity that has been inspected by an inspector and found in violation of this Article or other state or federal law, rule or order enforced by the Department, and elects to ship the commodity out-of-state, A.R.S. § 3-210:
1. The inspector shall notify the shipper, consignor or broker that the commodity is being shipped out-of-state.
  2. The common carrier shall follow the directions provided by the inspector on moving the commodity out-of-state.

**Historical Note**

Former Rule, Quarantine Regulation 3. Section R3-1-51 renumbered to R3-4-202 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). New Section R3-4-202 renumbered from R3-4-201 and amended by final rulemaking at 19 A.A.R. 3860, effective January 4, 2014 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**R3-4-203. Plant and Crop Safeguards, Inspection, and Certification**

- A.** Definitions. In addition to the definitions provided in A.R.S. § 3-201, R3-4-101 and R3-4-201, the following terms apply to this Section:
1. "Actionable arthropod pest" means any arthropod pest that the Associate Director has determined to be an imminent threat to agriculture and horticulture within the state. Table 2, Actionable Arthropod Pests includes, but is not limited to, arthropod pests that would require immediate action and are prohibited from entry into the state.
  2. "Actionable nematode pest" means any nematode pest that the Associate Director has determined to be an imminent threat to agriculture and horticulture within the state. Table 3, Actionable Nematode Pests includes, but is not limited to, nematode pests that would require immediate action and are prohibited from entry into the state.
  3. "Pest Management Program" means any state or federally recognized program designed for the prevention, monitoring, and control of an actionable arthropod pest or

actionable nematode pest. Based on a targeted management (Integrated Pest Management) or holistic approach (Total Systems Approach Program) that incorporates best management practices, monitoring, cultivation practices, cultural controls, treatment programs and/or pest resistant plant varieties, cultivars or hybrids for the control of any live life stages of an actionable arthropod pest or actionable nematode pest associated with the commodity, with a zero pest presence tolerance.

- B.** Regulated area. Unless otherwise indicated, all states, districts, and territories of the United States.
- C.** Commodities covered.
1. All plants and plant products for propagation, including nursery stock (bareroot or potted), budwood, seed for planting, cuttings, stolons, and tissue culture shipped or transported into the state that is a known host for an actionable arthropod pest or actionable nematode pest from the place of origin. Additionally, all agricultural, ornamental, and vegetable seed shall comply with the laws and regulations in Article 4 and any other law, order or federal regulation enforced by the Department.
  2. All commercially harvested bulk shipments of a plant or crop, excluding processed products, which are shipped or transported into the state that may harbor an actionable arthropod pest.
  3. All domestic soil shipped or transported into the state that is:
    - a. Not authorized under a permit or compliance agreement issued by the U.S. Department of Agriculture;
    - b. Not sterilized and not packaged for retail sale;
    - c. Attached to a plant for the purpose of propagation; or
    - d. Used for the purpose of landscaping or grading.
  4. All firewood and green lumber with attached bark.
  5. All used equipment utilized for the propagation, harvesting, transport, and/or maintenance of a commodity listed in subsections (C)(1), (2), (3), or (4).
- D.** Restrictions.
1. For commodities listed in subsection (C) that are not accompanied by proof of compliance with this Section as indicated in the remainder of subsection (D); or are found infested with, or exposed to, an actionable arthropod pest or actionable nematode pest may be placed under quarantine until a disposition is determined by an inspector, A.R.S. § 3-203.
  2. In addition to the requirements under any other Section in this Article, law, order, or federal law enforced by the Department, the commodities listed in subsection (C)(1), are authorized for shipment or transport into the state provided a plant regulatory official at the place of origin issues a certificate of origin and statement of compliance with this Section by one of the following:
    - a. For an actionable arthropod pest known to occur at origin:
      - i. The commodities in the shipment or shipments are inspected and a plant regulatory official provides a certificate attesting that the commodity is apparently free of any live life stages of an actionable arthropod pest;
      - ii. The Associate Director and State Plant Regulatory Official of the origin state has placed the producer under a compliance agreement, authorizing a Pest Management Program for actionable arthropod pests, and has provided certification of compliance to the producer if all

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- provisions of a Pest Management Program are met; or
- iii. A certificate attesting to treatment for actionable arthropod pests known to occur in the origin location is issued by a plant regulatory official.
- b. For an actionable nematode pest known to occur at origin:
    - i. The origin state determined through an annual survey conducted within the 12-month period immediately before shipment that the actionable nematode pests do not exist on the property or in the facility used to grow the commodity.
    - ii. The commodity in the shipment was sampled two weeks before shipment, and found free of actionable nematode pests.
    - iii. The commodity was protected from infestation of the actionable nematode pests by implementing all of the following steps:
      - (1) Propagated from clean seed or from cuttings taken 12 inches or higher above ground level;
      - (2) Planted in sterilized soil or other media prepared or treated to ensure freedom from actionable nematode pests;
      - (3) Retained in a sterilized container or bed;
      - (4) Placed on a sterilized bench or sterilized support 18 inches or higher from the ground or floor level; and
      - (5) Found pest-free using a sampling method approved by the Associate Director.
3. In addition to the requirements under any other Section in this Article, law, order, or federal law enforced by the Department, the commodities listed in subsection (C)(2), are authorized for shipment or transport into the state provided a plant regulatory official at the place of origin issues a certificate of origin and statement of compliance with this Section by one of the following:
    - a. Authorize and validate compliance for an area-wide control program for actionable arthropod pests known to occur at the origin location;
    - b. Inspect bulk shipments of commodities by standard risk-based sampling rates to achieve a 95% confidence level that the shipment is apparently free of any live life stages of an actionable arthropod pest known to occur at origin; or
    - c. Require treatment for actionable arthropod pests known to occur in the origin location by a method known to control the pest and verify effectiveness of treatment.
  4. In addition to the requirements under any other Section in this Article, law, order, or federal law enforced by the Department, the commodities listed in subsection (C)(3), are authorized for shipment or transport into the state provided a plant regulatory official at the place of origin issues a certificate of origin and statement of compliance with this Section by one of the following:
    - a. Authorize and validate a Pest Management Program or an area-wide control program for actionable arthropod pests; or
    - b. Require treatment for actionable arthropod pests known to occur in the origin location by a method known to control the pest.
  5. In addition to the requirements under any other Section in this Article, law, order, or federal law enforced by the Department, the commodities listed in subsection (C)(4), are authorized for shipment or transport into the state provided a plant regulatory official at the place of origin issues a certificate of origin and statement of compliance with this Section by one of the following:
    - a. Heat treatment as indicated in the USDA Treatment Manual, Heat Treatment Schedule: T314-a; and accompanied by a treatment certificate issued by a certified heat-treatment facility, or a state or federal regulatory official; or
    - b. Any other method approved by the Associate Director that eliminates all live life stages of an actionable arthropod pest.
  6. In addition to the requirements under any other Section in this Article, law, order, or federal law enforced by the Department, a plant regulatory official shall ensure that the commodity listed in subsection (C)(5) is accompanied by a certificate issued by the origin state attesting that the commodity is reasonably free of all soil and extraneous plant material that could harbor a live life stage of an actionable arthropod pest.
- E. Exemptions.
1. The Associate Director may issue an exemption to a restriction in this Section at the request of a State Plant Regulatory Official on an area-wide or county-wide basis, under the following conditions:
    - a. For an area-wide or county-wide exemption of a commodity (Master Permit):
      - i. The State Plant Regulatory Official agrees to comply with the conditions of a Master Permit that indicates the necessary safeguarding measures including monitoring, inspection, treatment, alternate treatment, and/or certification of the commodity.
      - ii. The Department may suspend or revoke a Master Permit if one or more shipments of a commodity are not in compliance with the conditions of the authorized Master Permit or live life stages of an actionable arthropod pest or actionable nematode pest are found.
    - b. For an exemption provided to a shipper of a commodity (Origin Inspection Agreement):
      - i. The State Plant Regulatory Official and the shipper agree to comply with the conditions of an Origin Inspection Agreement that indicates the necessary safeguarding measures including monitoring, inspection, treatment, alternate treatment, and/or certification of the commodity.
      - ii. The Department may suspend or revoke an Origin Inspection Agreement if one or more shipments of a commodity are not in compliance with the conditions of the Origin Inspection Agreement or live life stages of an actionable arthropod or actionable nematode pest are found.
  2. Notwithstanding any other restriction, the Associate Director may declare a state, or an area within a state, exempt to a condition in this Section if it is demonstrated by a State Plant Regulatory Official that an actionable arthropod pest or actionable nematode pest is known not to occur in the origin state and that the actionable arthropod pest or actionable nematode pest is part of a state or federal authorized pest monitoring program that justifies the "free from" status.

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- F. Violations. Any shipper of a commodity listed in subsection (C) that is not in compliance with the restrictions indicated in subsection (D), or an actionable arthropod pest or actionable nematode pest are found on the shipment, the shipper may be temporarily suspended from shipping or transporting commodities listed in subsection (C) into the state under the following guidelines:
- The shipper will be notified of the violations and corrective measures will be provided;
  - The origin State Plant Regulatory Official will be notified of the violation and suspension;
  - The shipper will be required to contact the origin State Plant Regulatory Official to confirm completion of corrective measures;
  - The origin State Plant Regulatory Official will contact the Department to request approval to retract the suspension upon successful completion of the corrective measures; and
  - The Associate Director may retract the suspension upon satisfactory completion of the corrective measures.

**Historical Note**

Former Rule, Quarantine Regulation 4. Repealed effective October 23, 1978 (Supp. 78-5). Section R3-1-52 renumbered to R3-4-203 (Supp. 91-4). New Section made by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**R3-4-204. Cotton Pest Management: Interior**

- A. Definitions. The following terms apply to this Section:
- "Crop remnant" means the stalks, leaves, bolls, lint, pods, and seeds of cotton.
  - "Stub cotton" means cotton stalks of a previous crop that begin to show signs of growth.
  - "Volunteer cotton" means a sprout from seed of a previous crop.
- B. Regulated commodities and appliances. Cotton, all parts.
- C. Cultural practices.
- Arizona's cultural zones are:
    - Zone "A" -- Yuma County west of a line extended directly north and directly south of Avenue 58E.
    - Zone "B" -- Cochise County, Graham County, and Greenlee County.
    - Zone "C" -- Mohave County and La Paz County, except for the following: T6N, R11W, 12W, 13W; T5N, R12W, 13W; T4N, R12W, 14W, 15W; T3N, R10W, 11W; and T2N, R11W.
    - Zone "D" -- Pima County; the following portions of Pinal County: T10S, R10E, sections 34-36; T10S, R11E, section 31; T7S, R16E; T6S, R16E; T5S, R15E; T5S, R16E and T4S, R14E; and the following portions of the Aguila area: T6N, R8W; T7N, R8W, 9W, 10W; T7N, R11W, other than sections 24, 25 and 36; and T8N, R9W, sections 31-36.
    - Zone "E" -- All portions of the state not included in zones "A", "B", "C", and "D."
  - No stub or volunteer cotton shall be grown in or allowed to grow in the state. The landowner or grower shall be responsible for eliminating stub or volunteer cotton.
  - Tillage deadline. Except as provided in subsection (C)(4), a grower shall ensure that a crop remnant of a host plant remaining in the field after harvest is shredded and the land tilled to destroy the host plant and its root system so no stalks remain attached to the soil before the following dates or before planting another crop, whichever occurs earlier: Zone "A", January 15; Zone "B", March 1; Zone

"C", February 15; Zone "D", March 1; Zone "E", February 15.

- Rotational crop following cotton harvest.
  - If a grower elects to plant a small-grain crop following a cotton harvest, the grower may, after the host plant is shredded, irrigate and plant with wheat, barley, or oats (or other similar small-grain crops approved in writing by the Associate Director before planting) instead of tilling as prescribed in subsection (C)(3). The small-grain crop shall be planted before the tillage deadline for the zone.
  - The Associate Director shall approve small-grain crops other than wheat, barley, and oats, if the planting, growth, and harvest cycles of the small-grain crop prevents the maturation of stub or volunteer cotton. A grower shall submit a written request for approval of a small-grain crop, other than wheat, barley, or oats, at least 15 days before the tillage deadline for the zone. The written request shall include the scientific and common name of the proposed small-grain crop and the estimated date of harvest.
  - If a grower elects to plant a crop other than an approved small-grain crop following a cotton harvest, the requirements specified in subsection (C)(3) apply.
- Planting dates.
  - A grower who meets the tillage deadline specified in subsection (C)(3) for the preceding cotton crop year shall not plant cotton earlier than 15 days after the tillage deadline for the zone.
  - A grower who does not meet the tillage deadline specified in subsection (C)(3) for the preceding cotton crop year shall not plant cotton on a farm until 15 days after the grower ensures that all crop remnants of a host plant remaining in the fields after harvest are shredded and the land tilled to destroy the host plant and its root system so no stalks remain attached to the soil.
- Dry planting. Any grower who meets the tillage deadline for the zone may dry plant cotton five days after the tillage deadline for that zone, but shall not water until 15 days after the tillage deadline for that zone.
- An inspector shall give written notice to any owner or person in charge or control of the nuisance found in violation of subsection (C). The processes established in subsections (C)(3) and (C)(4) shall be repeated, as necessary, to destroy the pests.

**Historical Note**

Former Rule, Quarantine Regulation 5. Amended effective January 24, 1978 (Supp. 78-1). Former Section R3-4-53 repealed, new Section R3-4-53 adopted effective December 2, 1982. See also R3-4-53.01 through R3-4-53.07 (Supp. 82-6). Section R3-1-53 renumbered to R3-4-204 (Supp. 91-4). Section repealed, new Section adopted effective May 7, 1993 (Supp. 93-2). Amended effective September 22, 1994 (Supp. 94-3). Amended effective July 10, 1995 (Supp. 95-3). Amended effective November 7, 1996 (Supp. 96-4). Amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 2082, effective May 15, 2000 (Supp. 00-2). Amended by final rulemaking at 19 A.A.R. 3860, effective January 4,

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2014 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**R3-4-205. Renumbered****Historical Note**

Adopted effective December 2, 1982. See also R3-4-53 and R3-4-53.02 through R3-4-53.07 (Supp. 82-6). Section R3-1-53.01 renumbered to R3-4-205 (Supp. 91-4). Repealed effective May 7, 1993 (Supp. 93-2). New Section adopted effective December 20, 1994 (Supp. 94-4). Section R3-4-205 renumbered to R3-4-501 and amended, effective April 9, 1998 (Supp. 98-2).

**R3-4-206. Repealed****Historical Note**

Adopted effective December 2, 1982. See also R3-4-53, R3-4-53.01 and R3-4-53.03 through R3-4-53.07 (Supp. 82-6). Section R3-1-53.02 renumbered to R3-4-206 (Supp. 91-4). Repealed effective May 7, 1993 (Supp. 93-2).

**R3-4-207. Repealed****Historical Note**

Adopted effective December 2, 1982. See also R3-4-53, R3-4-53.01, R3-4-53.02 and R3-4-53.04 through R3-4-53.07 (Supp. 82-6). Section R3-1-53.03 renumbered to R3-4-207 (Supp. 91-4). Repealed effective May 7, 1993 (Supp. 93-2).

**R3-4-208. Repealed****Historical Note**

Adopted effective December 2, 1982. See also R3-4-53, R3-4-53.01 through R3-4-53.03 and R3-4-53.05 through R3-4-53.07 (Supp. 82-6). Section R3-1-53.04 renumbered to R3-4-208 (Supp. 91-4). Repealed effective May 7, 1993 (Supp. 93-2).

**R3-4-209. Repealed****Historical Note**

Adopted effective December 2, 1982. See also R3-4-53, R3-4-53.01 through R3-4-53.04, R3-4-53.06, and R3-4-53.07 (Supp. 82-6). Amended effective October 21, 1983 (Supp. 83-5). Amended effective July 24, 1985 (Supp. 85-4). Amended effective May 5, 1986 (Supp. 86-3). Amended effective May 10, 1988 (Supp. 88-2). Amended subsection (B) effective December 27, 1988 (Supp. 88-4). Amended effective December 22, 1989 (Supp. 89-4). Section R3-1-53.06 renumbered to R3-4-209 (Supp. 91-4). Repealed effective May 7, 1993 (Supp. 93-2).

**R3-4-210. Repealed****Historical Note**

Adopted effective December 2, 1982. See also R3-4-53, R3-4-53.01 through R3-4-53.05 and R3-4-53.07 (Supp. 82-6). Section R3-1-53.06 renumbered to R3-4-210 (Supp. 91-4). Repealed effective May 7, 1993 (Supp. 93-2).

**R3-4-211. Repealed****Historical Note**

Adopted effective December 2, 1982. See also R3-4-53, R3-4-53.01 through R3-4-53.06 (Supp. 82-6). Section R3-1-53.07 renumbered to R3-4-211 (Supp. 91-4). Repealed effective May 7, 1993 (Supp. 93-2).

**R3-4-212. Repealed****Historical Note**

Former Rule, Quarantine Regulation 6. Amended effective July 1, 1975 (Supp. 75-1). Amended effective April 26, 1976 (Supp. 76-2). Amended effective June 16, 1977 (Supp. 77-3). Repealed effective June 19, 1978 (Supp. 78-3). Adopted as an emergency effective October 21, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 19, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Emergency expired. Former Section R3-4-54 adopted as an emergency now adopted without change effective May 15, 1984. See also R3-4-54.01 thru R3-4-54.05 (Supp. 84-3). Section R3-1-54 renumbered to R3-4-212 (Supp. 91-4). Repealed effective April 3, 1997 (Supp. 97-2).

**R3-4-213. Repealed****Historical Note**

Adopted as an emergency effective October 21, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 19, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Emergency expired. Former Section R3-4-54.01 adopted as an emergency now adopted and amended effective May 15, 1984. See also R3-4-54, R3-4-54.02 thru R3-4-54.05 (Supp. 84-3). Section R3-1-54.01 renumbered to R3-4-213 (Supp. 91-4). Repealed effective April 3, 1997 (Supp. 97-2).

**R3-4-214. Repealed****Historical Note**

Adopted as an emergency effective October 21, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 19, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Emergency expired. Former Section R3-4-54.02 adopted as an emergency now adopted and amended effective May 15, 1984. See also R3-4-54, R3-4-54.01, R3-4-54.03 thru R3-4-54.05 (Supp. 84-3). Section R3-1-54.02 renumbered to R3-4-214 (Supp. 91-4). Repealed effective April 3, 1997 (Supp. 97-2).

**R3-4-215. Repealed****Historical Note**

Adopted as an emergency effective October 21, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 19, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Emergency expired. Former Section R3-4-54.03 adopted as an emergency now adopted and amended effective May 15, 1984. See also R3-4-54, R3-4-54.01, R3-4-54.02, R3-4-54.04 and R3-4-54.05 (Supp. 84-3). Section R3-1-54.03 renumbered to R3-4-215 (Supp. 91-4). Repealed effective April 3, 1997 (Supp. 97-2).

**R3-4-216. Repealed****Historical Note**

Adopted as an emergency effective October 21, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 19, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Emergency expired. Former Section R3-4-54.04 adopted as an emergency now adopted and amended effective May 15, 1984. See also R3-4-54, R3-4-54.01 thru R3-4-54.03, and R3-4-54.05 (Supp. 84-3). Sec-

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tion R3-1-54.04 renumbered to R3-4-216 (Supp. 91-4).  
Repealed effective April 3, 1997 (Supp. 97-2)

**R3-4-217. Repealed****Historical Note**

Adopted effective May 15, 1984. See also R3-4-54, R3-4-54.01 thru R3-4-54.04 (Supp. 84-3). Section R3-1-54.05 renumbered to R3-4-217 (Supp. 91-4). Repealed effective April 3, 1997 (Supp. 97-2).

**R3-4-218. Boll Weevil Pest: Exterior Quarantine**

**A.** Definitions. In addition to the definitions provided in A.R.S. § 3-201, R3-4-101 and R3-4-201, the following terms apply to this Section:

1. "Cotton appliance" means a container used in handling cotton, including sacks, bags, tarps, boxes, crates, and machinery used in planting, harvesting and transporting cotton.
2. "Cotton lint" means the remnant produced when cottonseed is processed in a gin.
3. "Cottonseed" means a seed derived from cotton plants which is destined for propagation or other use.
4. "Fumigation certificate" means a quarantine compliance certificate that specifies the fumigation chemical used, the treatment schedule, and the commodity treated.
5. "Hibiscus" means all parts of *Hibiscus* spp.
6. "Pest" means the following, notwithstanding the definition in A.R.S. § 3-201: Boll weevil, *Anthonomus grandis* (Bohemian).
7. "Spanish moss" means all parts of *Tillandsia usneoides*.

**B.** Area under quarantine. In the state of Texas, the following counties: Anderson, Angelina, Aransas, Atascosa, Austin, Bastrop, Bee, Bell, Bexar, Blanco, Bosque, Bowie, Brazoria, Brazos, Brooks, Burleson, Burnett, Caldwell, Calhoun, Cameron, Camp, Cass, Chambers, Cherokee, Collin, Colorado, Comal, Cooke, Coryell, Dallas, Delta, Denton, De Witt, Dimmit, Duval, Ellis, Falls, Fannin, Fayette, Fort Bend, Franklin, Freestone, Frio, Galveston, Gillespie, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hamilton, Hardin, Harris, Harrison, Hays, Henderson, Hidalgo, Hill, Hood, Hopkins, Houston, Hunt, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Karnes, Kaufman, Kendall, Kenedy, Kinney, Kleberg, Lamar, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Llano, Madison, Marion, Matagorda, Maverick, McLennan, McMullen, Medina, Milam, Mills, Montague, Montgomery, Morris, Nacogdoches, Navarro, Newton, Nueces, Orange, Panola, Parker, Polk, Rains, Red River, Refugio, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Shelby, Smith, Somervell, Starr, Tarrant, Titus, Travis, Trinity, Tyler, Upshur, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Willacy, Williamson, Wilson, Wise, Wood, Zapata, and Zavala.

**C.** Regulated commodities.

1. Gin trash,
2. Cotton lint,
3. Cottonseed,
4. Used cotton appliances or equipment that have any cotton plants attached or contained therein,
5. Cotton plants,
6. Spanish moss, and
7. Hibiscus plants.

**D.** Restrictions. A person shall not ship or transport into Arizona from an area under quarantine:

1. Gin trash, cotton lint, cottonseed, or used cotton appliances or equipment that have any cotton plants attached or contained therein unless the commodity or appliance is

accompanied by an original fumigation certificate attesting the commodity or appliance has been fumigated as prescribed in the Treatment Manual.

2. Cotton plants or hibiscus plants unless the commodity is accompanied by an original quarantine compliance certificate attesting the commodity was treated with a chemical to kill the pest and was visually inspected and found free of all live life stages of the pest within five days of shipment.
3. Spanish moss, unless the commodity is accompanied by an original quarantine compliance certificate attesting the commodity was treated by one of the following methods:
  - a. Commercial drying; or
  - b. Chemical treatment using a pesticide registered and labeled for use on the commodity to kill all live life stages of the pest.

**Historical Note**

Former Rule, Quarantine Regulation 7. Section R3-4-55 repealed, new Section adopted effective August 16, 1990 (Supp. 90-3). Section R3-1-55 renumbered to R3-4-218 (Supp. 91-4). Appendix to R3-4-218 removed; R3-4-218 amended by final rulemaking effective January 4, 2014 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**R3-4-219. Repealed****Historical Note**

Former Rule, Quarantine Regulation 8. Repealed effective December 19, 1980 (Supp. 80-6). Adopted as an emergency effective April 11, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-2). Emergency adoption expired. Permanent rule adopted effective November 15, 1984 (Supp. 84-6). Former Section R3-4-56 repealed, former Sections R3-4-56.01 through R3-4-56.04 renumbered and amended as Section R3-4-56 effective June 20, 1986 (Supp. 86-3). Repealed June 29, 1990 (Supp. 90-2). New Section adopted effective April 11, 1991 (Supp. 91-2). Section R3-1-56 renumbered to R3-4-219 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 3380, effective October 2, 2004 (Supp. 04-3). Repealed by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**R3-4-220. Citrus Nursery Stock Pests**

**A.** Definitions. In addition to the definitions provided in A.R.S. § 3-201, R3-4-101 and R3-4-201, the following terms apply to this Section:

1. "Diseases" means any of the following diseases, notwithstanding the definition in A.R.S. § 3-201:
  - a. Citrus Cachexia (CCaVd),
  - b. Citrus Exocortis Virus (CEVd),
  - c. Citrus Psorosis Virus (CPsV),
  - d. Citrus Tristeza Virus (CTV), or
  - e. Citrus greening disease (HLB), *Candidatus Liberibacter asiaticus*.
2. "Shoot-tip-grafting" means a treatment method that employs micro-grafting to eliminate the chances of transmitting a disease.
3. "Thermotherapy" means a treatment method for propagative material that employs high temperatures to eliminate the presence of a disease.

**B.** Area under quarantine. All states, territories, and districts of the United States, except the state of Arizona.

**C.** Regulated commodities. Citrus nursery stock. All plants or plant parts, except seed or attached green fruit, of all species,

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varieties, or hybrids of the genera *Citrus*, *Eremocitrus*, *Fortunella*, *Poncirus*, and *Microcitrus*.

**D. Restrictions.**

1. The commodity listed in subsection (C) is prohibited from entry into the state from the area under quarantine unless one of the following conditions are met prior to shipment:

- a. The regulated commodity is permitted under a USDA-APHIS approved program for the interstate movement of citrus nursery stock;
- b. A regulated commodity that is not subject to the restrictions for the interstate movement of citrus nursery stock may be certified under an origin state department of agriculture authorized program or National Clean Plant Network program that ensures the regulated commodity is foundation or source material, or has been propagated from a foundation or source tree that has been:
  - i. Tested and found free of the diseases listed in subsections (A)(1)(a),(b),(c), and (d) within the previous 36 months;
  - ii. Tested and found free of the disease listed in subsection (A)(1)(e) within the previous 12 months;
  - iii. Treated by thermotherapy or shoot-tip-grafting;
  - iv. Assigned and tagged with an index number; and
  - v. Released from the origin state or federal quarantine.
- c. The regulated commodity is safeguarded and certified by an alternative method approved by the Associate Director.

2. A person shipping a regulated commodity into Arizona shall attach a single tag or label to each plant or plant part, or to each individual container containing a plant or plant part, that is intended for resale by an Arizona receiver. The tag or label shall contain the following information separately provided for each scion variety grafted to a single rootstock:

- a. Name and address of the nursery that propagated the plant,
- b. Scion variety name,
- c. Scion variety registration number, and
- d. Rootstock variety name.

**E.** Disposition of regulated commodity not in compliance. A regulated commodity shipped into Arizona in violation of this Section shall be destroyed, treated, or transported out-of-state (A.R.S. § 3-210).

**Historical Note**

Former Rule, Quarantine Regulation 9. Amended effective July 1, 1975 (Supp. 75-1). Former Section R3-4-57 amended and renumbered as R3-4-57 through R3-4-57.05 effective February 16, 1982 (Supp. 82-1). Section repealed, new Section adopted effective June 14, 1990 (Supp. 90-2). Section R3-1-57 renumbered to R3-4-220 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 3380, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 12 A.A.R. 4065, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**R3-4-221. Repealed****Historical Note**

Former Section R3-4-57 amended and renumbered as R3-4-57 through R3-4-57.05 effective February 16, 1982

(Supp. 82-1). Repealed effective June 14, 1990 (Supp. 90-2). Section R3-1-57.01 renumbered to R3-4-221 (Supp. 91-4).

**R3-4-222. Repealed****Historical Note**

Former Section R3-4-57 amended and renumbered as R3-4-57 through R3-4-57.05 effective February 16, 1982 (Supp. 82-1). Repealed effective June 14, 1990 (Supp. 90-2). Section R3-1-57.02 renumbered to R3-4-222 (Supp. 91-4).

**R3-4-223. Repealed****Historical Note**

Former Section R3-4-57 amended and renumbered as R3-4-57 through R3-4-57.05 effective February 16, 1982 (Supp. 82-1). Repealed effective June 14, 1990 (Supp. 90-2). Section R3-1-57.03 renumbered to R3-4-223 (Supp. 91-4).

**R3-4-224. Repealed****Historical Note**

Former Section R3-4-57 amended and renumbered as R3-4-57 through R3-4-57.05 effective February 16, 1982 (Supp. 82-1). Repealed effective June 14, 1990 (Supp. 90-2). Section R3-1-57.04 renumbered to R3-4-224 (Supp. 91-4).

**R3-4-225. Repealed****Historical Note**

Former Section R3-4-57 amended and renumbered as R3-4-57 through R3-4-57.05 effective February 16, 1982 (Supp. 82-1). Repealed effective June 14, 1990 (Supp. 90-2). Section R3-1-57.05 renumbered to R3-4-225 (Supp. 91-4).

**R3-4-226. Repealed****Historical Note**

Former Rule, Quarantine Regulation 10; Amended effective August 31, 1981 (Supp. 81-4). Former Section R3-4-58 repealed, new Section R3-4-58 adopted effective July 13, 1989 (Supp. 89-3). Section R3-1-58 renumbered to R3-4-226 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 3380, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 12 A.A.R. 4065, effective December 4, 2006 (Supp. 06-4). Repealed by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**R3-4-227. Repealed****Historical Note**

Former Rule, Quarantine Regulation 11. Section R3-1-59 renumbered to R3-4-227 (Supp. 91-4). Repealed effective April 3, 1997 (Supp. 97-2).

**R3-4-228. Repealed****Historical Note**

Former Rule, Quarantine Regulation 12. Amended effective July 1, 1975 (Supp. 75-1). Amended effective June 19, 1978 (Supp. 78-3). Amended subsection (C) effective January 21, 1981 (Supp. 81-1). Amended effective August 11, 1987 (Supp. 87-3). Section R3-1-60 renumbered to R3-4-228 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 3374, effective October 2, 2004 (Supp. 04-3). Repealed by final rulemaking at 25 A.A.R.

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3357, effective January 4, 2020 (Supp. 19-4).

**R3-4-229. Nut Tree Pests**

**A.** Definitions. In addition to the definitions provided in A.R.S. § 3-201, R3-4-101 and R3-4-201, the following terms apply to this Section:

1. "Brooming" means a phytoplasma disease that drastically reduces nut production and sometimes causes death of the host tree.
2. "Pest" means any of the following, notwithstanding the definition in A.R.S. § 3-201:
  - a. Pecan leaf casebearer, *Acrobasis juglandis*;
  - b. Pecan nut casebearer, *Acrobasis nuxvorella*;
  - c. Pecan phyloxera, *Phylloxera notabilis*; and
  - d. The phytoplasma disease that causes brooming disease of walnut.

**B.** Area under quarantine: All states, districts, and territories of the United States except California.

**C.** Infested area.

1. For the pests in subsections (A)(2)(a) and (b): All states and districts east of and including the states of Montana, Wyoming, Colorado, and New Mexico.
2. For the pest in subsection (A)(2)(c): Alabama, Arkansas, Louisiana, Mississippi, Oklahoma, and Texas.
3. For the pest in subsection (A)(2)(d): All states and districts east of and including Montana, Wyoming, Colorado, and New Mexico.

**D.** Commodities covered:

1. All species and varieties of the following trees and all plant parts capable of propagation, except the nuts. Plant parts include buds, scions, and rootstocks:
  - a. Hickory and pecan (*Carya* spp.);
  - b. Walnut and butternut (*Juglans* spp.);
2. All by-products of pruning, harvesting and/or processing, including firewood of a commodity listed in subsection (D)(1).
3. Any used equipment used during the growing, harvesting, care, or maintenance of a commodity listed in subsection (D)(1);
4. Any used container, used in the handling, storage, or transport of a commodity listed in subsection (D)(1).

**E.** Restrictions:

1. The commodities listed in subsection (D)(1), that are potted in any growing media shall be prohibited from the area under quarantine, unless otherwise exempted by the Associate Director.
2. The commodities listed in subsection (D)(1), that are not potted in any growing media, shall be admitted into Arizona:
  - a. From the infested area prescribed in subsections (C)(1) and (C)(2) if treated at origin and each lot or shipment is accompanied by a certificate issued by a plant regulatory official affirming the commodity has been treated in accordance with a selected method prescribed in subsections (F)(1), (2), or (5);
  - b. From an area under quarantine outside the infested area, if each lot or shipment is accompanied by a certificate issued by a plant regulatory official affirming that the commodities originated in a county not known to be infested with the pests listed in subsections (A)(2)(a), (b), and (c).
3. The commodities listed in subsection (D)(1)(b) shall be:
  - a. Prohibited from entering Arizona from the infested area prescribed in subsection (C)(3);
  - b. Admitted into Arizona from an area under quarantine outside the infested area prescribed in subsection (C)(3), if each lot or shipment is accompanied

by a certificate issued by a plant regulatory official affirming the pest listed in subsection (A)(2)(d) is unknown in the origin county.

4. The commodities listed in subsection (D)(2) are prohibited from entering the state unless treated by a method prescribed in subsections (F)(1), (3), or (5).

5. The commodities listed in subsections (D)(3) and (4) are prohibited from entering the state unless treated by a method indicated in subsections (F)(1),(4) or (5).

**F.** Treatments:

1. Methyl bromide fumigation at manufacturers recommended rates.
2. A hot-water dip at 140° F or more for a minimum of 30 continuous seconds.
3. Heat treated to an internal temperature of 160° F at the center of the commodity for at least 75 minutes.
4. Used equipment and containers.
  - a. Steam-cleaned, inspected, and certified free from debris by the origin state, or
  - b. Cold treatment in a cold storage chamber at or below 0° F for at least seven consecutive days (168 hours).
5. Any other treatment approved by the Associate Director.

**Historical Note**

Former Rule, Quarantine Regulation 13. Amended subsections (C), (E) and (G) effective May 5, 1986 (Supp. 86-3). Section R3-1-61 renumbered to R3-4-229 (Supp. 91-4). Amended effective January 16, 1996 (Supp. 96-1). Amended by final rulemaking at 6 A.A.R. 41, effective December 8, 1999 (Supp. 99-4). Subsection citation in subsection (E)(1)(b) amended to correct manifest typographical error (Supp. 03-2). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**R3-4-230. Repealed****Historical Note**

Former Rule, Quarantine Regulation 14. Section R3-1-62 renumbered to R3-4-230 (Supp. 91-4). Section repealed by final rulemaking at 10 A.A.R. 3380, effective October 2, 2004 (Supp. 04-3).

**R3-4-231. Nut Pests**

**A.** Definitions. In addition to the definitions provided in A.R.S. § 3-201 and R3-4-101 and R3-4-201, the following terms apply to this Section:

"Pest" means any of the following, notwithstanding the definition in A.R.S. § 3-201:

1. Pecan weevil, *Curculio caryae*;
2. Butternut curculio, *Conotrachelus juglandis*;
3. Black walnut curculio, *Conotrachelus retentus*;
4. Hickory shuckworm, *Cydia caryana*.

"Sticktight" means the remnant husks and/or debris that remain on an in-shell nut after the cleaning process.

**B.** Area under quarantine:

1. For the pest under subsection (A)(1): The New Mexico counties of Chaves, Curry, Eddy, and Lea and all other states and districts of the United States except California.
2. For the pest under subsection (A)(2): The New Mexico counties of Lea, Eddy, and Dona Ana, and all other states and districts of the United States except California.
3. For the pests under subsections (A)(3) and (4): All states and districts of the United States except California.

**C.** Commodities covered:

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1. Nuts of all species and varieties of hickory, pecan (*Carya spp.*), walnut and butternut (*Juglans spp.*), except extracted nut meats.
  2. Any used equipment used during growing, harvesting, care, or maintenance of a commodity listed in subsection (C)(1).
  3. Any used container, used in the handling, storage, or transport of a commodity listed in subsection (C)(1).
- D. Restrictions:**
1. A commodity listed in subsection (C)(1), originating in or shipped from the area under quarantine, shall be admitted into Arizona if the commodity has been cleaned of husks, hulls, debris, and sticktights and each lot or shipment is accompanied by a certificate issued by a plant regulatory official affirming the commodity has been treated by a method prescribed in subsections (E)(1), (2), (3), or (5).
  2. A commodity listed in subsections (C)(2) and (3) shall be admitted into Arizona if the commodity has been treated by a method prescribed in subsections (E)(3), (4), or (5).
- E. Treatment:**
1. Cold treatment: The commodities shall be held in a cold storage chamber at or below 0° F for at least seven consecutive days (168 hours). The treatment shall not start until the entire content of the lot of nuts has reached 0° F.
  2. A hot-water bath treatment at 140° F for a minimum of five continuous minutes. Water temperature shall be maintained at or above 140° F during the entire treatment period.
  3. Methyl bromide fumigation at manufacturers recommended rates.
  4. Used equipment and containers.
    - a. Steam-cleaned, inspected, and certified free from debris by the origin state,
    - b. Cold treatment in a cold storage chamber at or below 0° F for at least seven consecutive days (168 hours).
  5. Any other treatment approved by the Associate Director.
- Historical Note**
- Former Rule, Quarantine Regulation 15. Amended effective July 13, 1989 (Supp. 89-3). Section R3-1-63 renumbered to R3-4-231 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 41, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).
- R3-4-232. Repealed**
- Historical Note**
- Former Rule, Quarantine Regulation 16. Repealed effective February 16, 1979 (Supp. 79-1). Section R3-1-64, "Repealed" renumbered to R3-4-232, "Repealed" (Supp. 91-4).
- R3-4-233. Lettuce Mosaic Virus**
- A. Definitions.** In addition to the definitions provided in R3-4-101, the following terms apply to this Section:
1. "Breeder seed" means unindexed lettuce seed that a lettuce breeder or researcher controls, and that is not available for commercial sale or propagation.
  2. "Breeder trial" means breeder seed grown to develop a new variety of lettuce.
  3. "Mosaic-indexed" means that a laboratory tested at least 30,000 lettuce seeds from a seed lot and found that all sampled seeds were determined to be free from lettuce mosaic virus.
  4. "Pest" means lettuce mosaic virus.
  5. "Unindexed lettuce seed" means lettuce seed that is not mosaic-indexed.
- B. Area Under Quarantine:** All states, districts, and territories of the United States.
- C. Regulated Commodities:** Plants and plant parts, including seeds, of all varieties of lettuce, *Lactuca sativa*.
- D. Restrictions.**
1. A person shall not import into, transport within, plant, or sell in Arizona unindexed lettuce seed unless the unindexed lettuce seed is exempted under subsection (E) or the person obtains a permit as prescribed in subsection (G).
  2. Each container or subcontainer of mosaic-indexed seed shall bear a label with the statement "Zero infected seeds per 30,000 tested (0 in 30,000)" as well as the name of the certified or accredited laboratory that tested the seed under subsection (D)(5).
  3. A person shall not import into, transport within, plant, or sell in Arizona lettuce transplants unless the transplants are exempted under subsection (E), or unless an original certificate, issued by the origin state, accompanies the shipment. The certificate shall declare:
    - a. The name of the exporter,
    - b. The variety name and lot number of the seed from which the transplants were grown, and
    - c. Verification that the seeds from which the transplants were grown were mosaic-indexed.
  4. A grower shall disk or otherwise destroy all lettuce fields within 10 days after the last day of commercial harvest or abandonment, unless prevented by documented weather conditions or circumstances beyond the control of the grower.
  5. Laboratories that index lettuce seed that is shipped to Arizona shall be certified by the agricultural department of the laboratory's state of origin or by the Arizona Department of Agriculture, in accordance with A.R.S. § 3-145, or shall be accredited by the National Seed Health System. Laboratories shall provide a copy of their certificate or accreditation letter to the Arizona Department of Agriculture by January 1 of the year that shipping will take place.
- E. Exemptions.** The requirements of subsection (D) do not apply to:
1. Lettuce seed sold in retail packages of 1 oz. or less to the homeowner for noncommercial planting,
  2. Shipments of lettuce transplants consisting of five flats or less per receiver for noncommercial planting,
  3. Breeder trials for a plot of 1/20 of an acre or less, or
  4. Breeder trials for a plot of greater than 1/20 of an acre but no more than 1.25 acres provided the breeder or researcher:
    - a. Places a flag, marked with a trial identification number, at each corner of a breeder trial plot;
    - b. Provides the following written information to the Department within 10 business days of planting breeder seed:
      - i. GPS coordinates for each breeder trial plot using NAD 83 decimal degrees;
      - ii. A detailed map showing the location of each breeder trial plot;
      - iii. An identification number for each breeder trial plot; and
      - iv. The name, address, telephone number, and e-mail address for the breeder or researcher;
    - c. Monitors the lettuce for pest symptoms, and notifies the Department, by telephone, by the end of the first business day following the detection of pest symptoms;

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- d. Removes and destroys all plants exhibiting pest symptoms from the breeder trial plot and places them in a sealed container for disposal in a landfill;
  - e. Labels bills of lading or invoices accompanying breeder seed into Arizona with the statement "LETTUCE SEED FOR BREEDER TRIALS ONLY"; and
  - f. Destroys lettuce plants remaining in a breeder trial plot within 10 days after the completion of breeding trials unless prevented by documented weather conditions or circumstances beyond the control of the researcher or breeder.
- F. A breeder or researcher may conduct multiple breeder trials in Arizona under the provisions of subsection (E)(3) and (4).
- G. Permits.
- 1. A person may apply for a permit to import unindexed lettuce seed for temporary storage in Arizona if the person:
    - a. Maintains the identity of the seed while in Arizona;
    - b. Does not sell or distribute the seed for use in the state;
    - c. Does not transfer the seed to any other facility in the state; and
    - d. Reships the seed from the state within seven days or the period of time specified on the permit, whichever is longer.
  - 2. A person may apply for a permit to transport unindexed lettuce seed into Arizona to be mosaic-indexed.
- H. Disposition of Violation.
- 1. Any infected shipment of lettuce seed or transplants arriving in or found within the state, in violation of this Section, shall be immediately destroyed. The owner or the owner's agent shall bear the cost of the destruction.
  - 2. Any shipment of unindexed lettuce seed or transplants arriving in or found within the state in violation of this Section shall be immediately sent out-of-state or destroyed at the option of the owner or the owner's agent. The owner or the owner's agent shall bear the cost of the destruction or of sending the lettuce seed or transplants out-of-state.
  - 3. Any Arizona lettuce fields in violation of this Section shall be abated as established in A.R.S. §§ 3-204 and 3-205. The owner or person in charge may be assessed a civil penalty established in A.R.S. § 3-215.01.
  - 4. Violation of any provision of a permit issued under subsection (G) may result in suspension or revocation of the permit.

**Historical Note**

Former Rule, Quarantine Regulation 17. Amended effective July 1, 1975 (Supp. 75-1). Section R3-1-65 renumbered to R3-4-233 (Supp. 91-4). Section repealed; new Section adopted effective December 2, 1998 (Supp. 98-4). Amended effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 14 A.A.R. 4091, effective December 6, 2008 (Supp. 08-4).

**R3-4-234. Repealed****Historical Note**

Former Rule, Quarantine Regulation 18. Amended effective April 26, 1976 (Supp. 76-2). Repealed effective December 19, 1980 (Supp. 80-6). Adopted effective August 1, 1985 (Supp. 85-2). Section R3-1-66 renumbered to R3-4-234 (Supp. 91-4). Section repealed; new Section made by final rulemaking at 7 A.A.R. 4434, effective September 24, 2001 (Supp. 01-3). Repealed by

final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**R3-4-235. Repealed****Historical Note**

Adopted effective August 1, 1985 (Supp. 85-2). Section R3-1-66.01 renumbered to R3-4-235 (Supp. 91-4). Section repealed by final rulemaking at 7 A.A.R. 4434, effective September 24, 2001 (Supp. 01-3).

**R3-4-236. Repealed****Historical Note**

Adopted effective August 1, 1985 (Supp. 85-2). Section R3-1-66.02 renumbered to R3-4-236 (Supp. 91-4). Section repealed by final rulemaking at 7 A.A.R. 4434, effective September 24, 2001 (Supp. 01-3).

**R3-4-237. Repealed****Historical Note**

Adopted effective August 1, 1985 (Supp. 85-2). Section R3-1-66.03 renumbered to R3-4-237 (Supp. 91-4). Section repealed by final rulemaking at 7 A.A.R. 4434, effective September 24, 2001 (Supp. 01-3).

**R3-4-238. Repealed****Historical Note**

Former Rule, Quarantine Regulation 19. Amended effective April 26, 1976 (Supp. 76-2). Amended effective August 15, 1989 (Supp. 89-3). Section R3-1-67 renumbered to R3-4-238 (Supp. 91-4). Amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Amended by final rulemaking at 12 A.A.R. 4065, effective December 4, 2006 (Supp. 06-4). Repealed by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**R3-4-239. Imported Fire Ants**

- A. Definitions. "Pest" means any species of imported fire ants, including *Solenopsis invicta* and *Solenopsis richteri*, notwithstanding the definition in A.R.S. § 3-201.
- B. Area under quarantine. A state or portion of a state listed in 7 CFR 301.81-3, 57 FR 57327, December 4, 1992, Federal Domestic Order DA-2018-11, April 17, 2018, and any area a state declares infested. This material is incorporated by reference, on file with the Department and the Office of the Secretary State, and does not include any later amendments or editions.
- C. Regulated commodities.
  - 1. Soil, separately or with other articles, except potting soil shipped in an original container in which the potting soil is packaged after commercial preparation; and
  - 2. All plants associated with soil, except:
    - a. Plants that are maintained indoors year-round, and are not for sale; and
    - b. Plants shipped bare-root and free of soil.
- D. Restrictions.
  - 1. An Arizona receiver of a regulated commodity shall establish a Department-approved quarantine holding area that meets the following specifications:
    - a. The floor is of a permeable surface, such as sand or soil, and free from debris, grass, or weeds;
    - b. The area is isolated from public access, surrounded by a fence or other barrier;
    - c. The integrity and security of the area is maintained at all times; and

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- d. If outdoors, the area is at least 15 feet from any masonry wall, property boundary, or non-quarantine plant.
2. A shipper or receiver shall unload a regulated commodity at destination into an approved quarantine holding area as prescribed in subsection (D)(1). The Department may inspect the regulated commodity as follows:
- A regulated commodity from an area under quarantine in subsection (B) shall be held at least three consecutive days, unless otherwise released by an inspector.
  - A regulated commodity may be inspected to determine compliance with this Section.
  - A disposition shall be provided by an inspector upon completion of an inspection.
  - If an inspection to determine compliance with this Section is not conducted, an inspector shall release the regulated commodity.
3. A receiver shall only apply a pesticide or other chemical to a regulated commodity located in a quarantine holding area as authorized by the Associate Director.
- E.** Exemptions. Soil samples of no more than 15 pounds that comply with the interstate movement requirements of 7 CFR §§ 301.81 et seq., 75 FR 4240, January 26, 2010, Federal Domestic Order DA-2018-11, April 17, 2018, are exempt from the requirements of this Section.
- F.** Disposition of commodity not in compliance. A regulated commodity shipped into Arizona in violation of this Section may be treated, destroyed, or transported out-of-state by the owner and at the owner's expense as authorized by the Associate Director.

**Historical Note**

Former Rule, Quarantine Regulation 20. Amended effective July 1, 1975 (Supp. 75-1). Amended effective April 26, 1976 (Supp. 76-2). Correction amendment effective April 26, 1976 included deletion of Arkansas (see subsection (C)) (Supp. 77-1). Amended effective June 16, 1977 (Supp. 77-3). Repealed effective June 19, 1978 (Supp. 78-3). New Section adopted effective December 22, 1989 (Supp. 89-4). Section R3-1-68 renumbered to R3-4-239 (Supp. 91-4). Amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Amended by final rulemaking at 9 A.A.R. 2095, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**R3-4-240. Repealed****Historical Note**

Former Rule, Quarantine Regulation 21. Amended effective December 5, 1974 (Supp. 75-1). Amended effective June 16, 1977 (Supp. 77-3). Section repealed, new Section adopted effective June 14, 1990 (Supp. 90-2). Section R3-1-69 renumbered to R3-4-240 (Supp. 91-4). Amended by final rulemaking at 9 A.A.R. 1046, effective May 5, 2003 (Supp. 03-1). Repealed by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**R3-4-241. Palm Pests**

- A.** Definitions. In addition to the definitions provided in A.R.S. § 3-201, R3-4-101 and R3-4-01, the following term applies to this Section:
- "Pest" means, notwithstanding the definition in A.R.S. § 3-201:
- Candidatus* Phytoplasma palmae subgroup 16SrIV, strain A (Lethal yellowing);

- Candidatus* Phytoplasma 16SrIV-D (Texas Phoenix palm decline);
  - Fusarium oxysporum* f. sp. *palmarum* (Fusarium wilt of queen and Mexican fan palm); or
  - Myndus crudus*, a planthopper that vectors the pest defined in subsections (A)(1) and (2).
- B.** Area under quarantine. For the pest in subsection (A)(1):
- In the state of Florida, the following counties: Broward, Collier, Hendry, Lee, Martin, Miami-Dade, Monroe, and Palm Beach.
  - In the state of Texas, the following counties: Cameron, Hidalgo, and Willacy.
  - For the pest in subsection (A)(2):
    - In the state of Florida, the following counties: Alachua, Desoto, Duval, Hardee, Highlands, Hillsborough, Indian River, Lake, Manatee, Miami-Dade, Orange, Polk, Sarasota, and Volusia.
    - In the state of Louisiana, the following parish: Orleans.
    - In the state of Texas, the following counties: Bexar, Cameron, Hidalgo, Kleberg, Nueces, Tarrant, and Willacy.
  - For the pest in subsection (A)(3):
    - The state of Florida.
    - In Texas, the following county: Houston.
  - For the pest in subsection (A)(4):
    - The state of Florida.
    - In Texas, the following counties: Houston.
- C.** Regulated commodities. All propagative parts of the following plants, except seed:
- Aiphanes lindeniana*,
  - Allagoptera arendria*,
  - Andropogon virginicus* (Broomsedge),
  - Arenga engleri*,
  - Borassus flabellifer* (Palmyra Palm),
  - Caryota mitis* (Cluster Fishtail Palm),
  - Caryota rumphiana* (Giant Fishtail Palm),
  - Chelyocarpus chuco*,
  - Chrysalidocarpus cabadae*, syn. *Dypsis cabadae* (Cabada Palm),
  - Cocos nucifera* (Coconut Palm),
  - Corypha elata* (Buri Palm),
  - Cynodon dactylon* (Bermuda Grass),
  - Cyperus* spp. (Sedges),
  - Dictyosperma album* (Princess Palm),
  - Eremochloa ophiuroides* (Centipede Grass),
  - Gaussia attenuata* (Puerto Rican Palm),
  - Howea belmoreana* (Belmore Sentry Palm),
  - Latania* spp. (Latan Palm),
  - Livistona chinensis* (Chinese Fan Palm),
  - Livistona rotundifolia* (Javanese Fan Palm),
  - Mascarena verschaffeltii* (Spindle Palm),
  - Nannorrhops ritchiana* (Mazari Palm),
  - Neodypsis decaryi*, syn. *Dypsis decaryi* (Triangle Palm),
  - Pandanus utilis* (Screw Pine),
  - Panicum purpurascens* (Para Grass),
  - Panicum bartowense*,
  - Paspalum notatum* (Bahia Grass),
  - Phoenix canariensis* (Canary Island Date Palm),
  - Phoenix dactylifera* (Date Palm),
  - Phoenix reclinata* (Sengal Date Palm),
  - Phoenix roebelenii* (Pigmy Date Palm),
  - Phoenix rupicola* (Cliff Date Palm),
  - Phoenix sylvestris* (Wild Date Palm),
  - Phoenix zeylanica* (Ceylon Date Palm),
  - Polyandrococos caudescens*,

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36. *Pritchardia* spp.,
37. *Pseudopheoenix sargentii* (Florida Cherry Palm),
38. *Ravenea hildebrandtii*,
39. *Sabal mexicana* (Rio Grande Palmetto),
40. *Sabal palmetto* (Cabbage Palmetto),
41. *Stenotaphrum secundatum* (St. Augustine Grass),
42. *Sygarus romanzoffiana* (Queen palm),
43. *Syagrus schizophylla*
44. *Thrinax radiata* (Florida Thatch Palm),
45. *Trachycarpus fortunei* (Windmill Palm),
46. *Veitchia* spp.,
47. *Washingtonia robusta* (Mexican Fan Palm), and
48. *Zoysia* spp. (*Zoysia* Grass).

- D.** Restrictions. The commodities in subsection (C) are prohibited from the area under quarantine unless the following conditions are met prior to shipment:
1. The plant regulatory official issues a certificate or certifies an ongoing Pest Management Program attesting that the conditions in subsections (D)(2), (3), (4), and (5) were met prior to shipment;
  2. No field grown plants are included in the shipment;
  3. The commodity was inspected prior to shipment and no symptoms of any pest in subsections (A)(1), (2), or (3) were observed;
  4. The commodity was treated with a labeled product to eliminate all live life stages of the pest (A)(4); and
  5. The commodity originates from an outdoor facility no closer than one-half mile from a known infested area of a pest indicated in subsections (A)(1), (2), or (3).
- E.** Disposition of commodity not in compliance. A regulated commodity shipped into Arizona in violation of this Section shall be destroyed or transported out-of-state by the owner and at the owner's expense.

**Historical Note**

Former Rule, Quarantine Regulation 22. Repealed effective April 25, 1977 (Supp. 77-2). New Section adopted effective December 22, 1989 (Supp. 89-4). Section R3-1-70 renumbered to R3-4-241 (Supp. 91-4). Amended by final rulemaking at 9 A.A.R. 1046, effective May 5, 2003 (Supp. 03-1). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**R3-4-242. Repealed****Historical Note**

Former Rule, Quarantine Regulation 23. Amended effective July 1, 1975 (Supp. 75-1). Correction (Supp. 76-5). Repealed effective April 25, 1977 (Supp. 77-2). Section R3-1-71 renumbered to R3-4-242 (Supp. 91-4). New Section adopted by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Repealed by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**R3-4-243. Repealed****Historical Note**

Former Rule, Quarantine Regulation 24. Repealed effective April 25, 1977 (Supp. 77-2). Section R3-1-72 renumbered to R3-4-243 (Supp. 91-4).

**R3-4-244. Repealed****Historical Note**

Former Rule, Quarantine Regulation 25. Repealed effective June 19, 1978 (Supp. 78-3). Section R3-1-73 renumbered to R3-4-244 (Supp. 91-4). New Section adopted effective July 10, 1995 (Supp. 95-3). Amended effective

June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 2082, effective May 15, 2000 (Supp. 00-2). Amended by final rulemaking at 11 A.A.R. 5315, effective February 4, 2006 (Supp. 05-4). Repealed by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**R3-4-245. Noxious Weeds**

- A.** Definitions. In addition to the definitions provided in A.R.S. § 3-201, R3-4-101 and R3-4-201, the following apply to this Section:
1. "Class A Noxious Weed" is categorized as a species of plant that is not known to exist or of limited distribution in the state and is a high priority pest for quarantine, control, or mitigation, Class A noxious weeds are listed in Table 4, Class A Noxious Weeds.
  2. "Class B Noxious Weed" is categorized as a species of plant that is known to occur, but of limited distribution in the state and may be a high priority pest for quarantine, control or mitigation if a significant threat to a crop, commodity, or habitat is known to exist. Class B noxious weeds are listed in Table 5, Class B Noxious Weeds.
  3. "Class C Noxious Weed" is categorized as a species of plant that is widespread but may be recommended for active control based on risk assessment. Class C noxious weeds are listed in Table 6, Class C Noxious Weeds.
- B.** Restrictions:
1. No Class A, B, or C Noxious Weed, or commodity infested or contaminated with a Class A, B, or C Noxious Weed, shall be admitted into the state unless otherwise authorized by the Associate Director.
  2. The Department may quarantine and abate an area infested or contaminated with a Class A or Class B Noxious Weed if it has been determined by the Associate Director that an imminent threat to agriculture or horticulture exists.

**Historical Note**

Former Rule, Quarantine Regulation 26. Amended effective June 19, 1978 (Supp. 78-3). Amended subsection (B) effective May 2, 1986 (Supp. 86-3). Section R3-1-74 renumbered to R3-4-245 (Supp. 91-4). Section repealed, new Section adopted effective July 10, 1995 (Supp. 95-3). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 6 A.A.R. 2082, effective May 15, 2000 (Supp. 00-2). Amended by final rulemaking at 11 A.A.R. 5315, effective February 4, 2006 (Supp. 05-4). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**R3-4-246. Repealed****Historical Note**

Adopted effective July 1, 1975 (Supp. 75-1). Correction (Supp. 76-1). Amended effective May 10, 1988 (Supp. 88-2). Section R3-1-75 renumbered to R3-4-246 (Supp. 91-4). Amended by final rulemaking at 9 A.A.R. 2098, effective August 2, 2003 (Supp. 03-2). Repealed by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**R3-4-247. Repealed****Historical Note**

Amended effective April 26, 1976 (Supp. 76-2). Amended effective June 16, 1977 (Supp. 77-3). Repealed

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effective June 19, 1978 (Supp. 78-3). Section R3-1-76 renumbered to R3-4-247 (Supp. 91-4).

**R3-4-248. Japanese beetle**

- A. Definitions. In addition to the definitions provided in A.R.S. § 3-201, R3-4-101 and R3-4-201, the following apply to this Section:
  - 1. "Host commodities" means the commodities listed in the JBHP, Appendix 6.
  - 2. "JBHP" means the U.S. Domestic Japanese Beetle Harmonization Plan, adopted by the National Plant Board on August 19, 1998, and revised June 20, 2016.
  - 3. "Pest" means the Japanese beetle, *Popillia japonica*, notwithstanding the definition in A.R.S. § 3-201.
- B. Area under quarantine: All Category 2 and 3 areas listed in the JBHP, which is incorporated by reference, does not include any later amendments or editions, and is on file with the Department, the Office of the Secretary of State, and the National Plant Board at <http://nationalplantboard.org/japanese-beetle-harmonization-plan/>.
- C. Host commodities covered. All commodities, except grass sod, listed in the JBHP, Appendix 12.
- D. An out-of-state grower who imports a host commodity into Arizona shall comply with the JBHP, except as provided under subsection (E).
- E. Restrictions on importation.
  - 1. An out-of-state grower shall not import into Arizona a host commodity under subsection (C) from an area under quarantine unless the commodity is accompanied by a certificate issued by a plant regulatory official of the origin state ensuring compliance with the requirements of the JBHP, Appendix 1.
  - 2. Notwithstanding the requirements of the JBHP, Appendix 1, the Associate Director may admit grass sod from an out-of-state grower for shipment to Arizona if:
    - a. The out-of-state grower requests an exception agreement from the Department;
    - b. The out-of-state grower, the State Plant Regulatory Official of the origin state, and the Associate Director sign an agreement that includes the following terms:
      - i. The out-of-state grower shall ship sod grown only in a Japanese beetle-free county;
      - ii. The State Plant Regulatory Official or designee shall place and monitor Japanese beetle traps on the grass sod farm during the agreement period. At least one trap shall be placed on each 10 acres of land. A buffer zone of a one-mile radius shall be established around the grass sod farm, and two traps per square mile shall be placed in the buffer zone. The Department shall revoke the agreement if the origin state documents that one or more Japanese beetles are detected in any trap;
      - iii. The State Plant Regulatory Official or designee shall inspect sod before shipment to ensure it is free of the pest; and
      - iv. The out-of-state grower shall notify the Associate Director or their designee of sod shipments destined to Arizona prior to shipment.
    - c. Both the out-of-state grower and the State Plant Regulatory Official shall perform any other requirement established by the Associate Director to ensure the grass sod is free from all life stages of Japanese beetle.
  - 3. An out-of-state grower shall not import into Arizona a host commodity from a Category 4 state unless certified

by the State Plant Regulatory Official or designee attesting that the host commodity is apparently free of Japanese beetle and has been treated by an approved method to eliminate all live life stages of the pest.

- 4. Exemptions from importation ban:
  - a. Privately-owned houseplants grown indoors; and
  - b. Commodities that have been treated by an alternate method approved by the Associate Director and certified by a plant regulatory official of the state of origin.

**Historical Note**

Adopted effective June 16, 1977 (Supp. 77-3). Section R3-1-77 renumbered to R3-4-248 (Supp. 91-4). Amended by final rulemaking at 7 A.A.R. 5345, effective November 8, 2001 (Supp. 01-4). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**Table 2. Actionable Arthropod Pests**

Common Name	Scientific Name
Alfalfa plant bug	<i>Adelphocoris lineolatus</i>
Allium (Onion) Leafminer	<i>Phytomyza gymnostoma</i>
American palm cixid	<i>Myndus crudus</i>
Apple maggot	<i>Rhagoletis pomonella</i>
Apple mealybug	<i>Phenacoccus aceris</i>
Apple skinworm	<i>Tortrix franciscana</i>
Asian Longhorned beetle	<i>Anoplophora glabripennis</i>
Asiatic garden beetle	<i>Maladera castanea</i>
Asparagus beetle	<i>Crioceris asparagi</i>
Avocado whitefly	<i>Trialetrodes floridensis</i>
Bagworm	<i>Thyridopteryx ephemeraeformis</i>
Bean leaf beetle	<i>Cerotoma trifurcata</i>
Bifasciculate scale	<i>Chrysomphalus bifasciculatus</i>
Black cherry fruit fly	<i>Rhagoletis fausta</i>
Black orangeworm	<i>Holcocera iceryaeella</i>
Black thread scale	<i>Ischnaspis longirostris</i>
Black walnut curculio	<i>Conotrachelus retentus</i>
Blueberry maggot	<i>Rhagoletis mendax</i>
Boxwood leafminer	<i>Monarthropalpus buxi</i>
Brown citrus aphid	<i>Toxoptera citricida</i>
Brown Marmorated Stink Bug	<i>Halyomorpha halys</i>
Browntail moth	<i>Nygmia phaeorrhoea</i>
Butternut curculio	<i>Conotrachelus juglandis</i>
Cactus moth	<i>Cactoblastis cactorum</i>
Cactus weevil	<i>Gerstaeckeria nobilis</i>
California red scale	<i>Aonidiella aurantii</i>
Camphor scale	<i>Pseudaonidia duplex</i>
Caribbean fruit fly	<i>Anastrepha suspensa</i>
Carob moth	<i>Ectomyelois ceratoniae</i>
Cereal leaf beetle	<i>Oulema melanopus</i>
Chaff scale	<i>Parlatoria pergandii</i>
Chestnut moth	<i>Cydia splendana</i>
Chilli thrips	<i>Scirtothrips dorsalis</i>
Chinch bug	<i>Blissus leucopterus</i>
Citrus blackfly	<i>Aleurocanthus woglumi</i>

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Citrus snow scale	<i>Unaspis citri</i>
Citrus whitefly	<i>Dialeurodes citri</i>
Cloudy-winged whitefly	<i>Singhiella citrifolii</i>
Clover root borer	<i>Hylastinus obscurus</i>
Coconut scale	<i>Aspidiotus destructor</i>
Coffee bean weevil	<i>Araecerus fasciculatus</i>
Comstock mealybug	<i>Pseudococcus comstocki</i>
Conifer Auger Beetle	<i>Sinoxylon unidentatum</i>
Corn stem weevil	<i>Hyperodes humilis</i>
Cottony grape scale	<i>Pulvinaria vitis</i>
Cowpea curculio	<i>Chalcodermus aeneus</i>
Croton soft scale	<i>Phalacrocooccus howertoni</i>
Cycad aulacaspis scale	<i>Aulacaspis yasumatsui</i>
Date palm mite	<i>Oligonychus afrasiaticus</i>
Dogwood borer	<i>Synanthedon scitula</i>
Eggplant pinworm	<i>Keiferia penicula</i>
Emerald ash borer	<i>Agilus plannipennis</i>
Euonymus scale	<i>Unaspis euonymi</i>
European chafer	<i>Amphimallon majalis</i>
European corn borer	<i>Ostrinia nubilalis</i>
European crane fly	<i>Tipula paludosa</i>
European peach scale	<i>Parthenolecanium persicae</i>
European pine shoot moth	<i>Rhyacionia bouliana</i>
Eyespotted bud moth	<i>Spilonota ocellana</i>
False parlatoria scale	<i>Pseudoparlatoria parlatoroides</i>
Florida carpenter ant	<i>Camponotus floridanus</i>
Florida red scale	<i>Chrysomphalus aonidum</i>
Florida wax scale	<i>Ceroplastes floridensis</i>
Glacial whitefly	<i>Trialeurodes glacialis</i>
Glover scale	<i>Lepidosaphes gloverii</i>
Grape thrips	<i>Drepanothrips reuteri</i>
Gray sugarcane mealybug	<i>Dysmicoccus boninsis</i>
Green cloverworm	<i>Plathypena scabra</i>
Ground mealybug	<i>Ripersiella hibisci</i>
Hessian fly	<i>Mayetiola destructor</i>
Holly leafminer	<i>Phytomyza ilicis</i>
Indian wax scale	<i>Ceroplastes ceriferus</i>
Jack Beardsley mealybug	<i>Pseudococcus jackbeardsleyi</i>
Juniper scale	<i>Carulaspis juniperi</i>
Kirkaldy whitefly	<i>Dialeurodes kirkaldyi</i>
Kondo ground mealybug	<i>Ripersiella kondonis</i>
Lantana mealybug	<i>Phenacoccus parvus</i>
Lesser clover leaf weevil	<i>Hypera nigrirostris</i>
Lesser snow scale	<i>Pinnaspis strachani</i>
Light brown apple moth	<i>Epiphyas postvittana</i>
Little fire ant	<i>Wasmannia auropunctata</i>
Lobate lac scale	<i>Paratachardina pseudolobata</i>
Maskell scale	<i>Lepidosaphes pallida</i>
Mealybug	<i>Delottococcus confusus</i>
Mealybug	<i>Hypogeococcus pungens</i>
Melon worm	<i>Diaphania hyalinata</i>

Mimosa webworm	<i>Homadaula anisocentra</i>
Mining scale	<i>Howardia biclavis</i>
Minute cypress scale	<i>Carulaspis minima</i>
Myrmicine ant	<i>Monomorium destructor</i>
Myrmicine ant	<i>Monomorium floricola</i>
Northern citrus root weevil	<i>Pachnaeus opalus</i>
Obscure scale	<i>Melanaspis obscura</i>
Old house borer	<i>Hylotrupes bajulus</i>
Oleander pit scale	<i>Russellaspis pustulans</i>
Oriental fruit moth	<i>Grapholita molesta</i>
Oriental scale	<i>Aonidiella orientalis</i>
Palm fiorinia scale	<i>Fiorinia fioriniae</i>
Palm thrips	<i>Thrips palmi</i>
Papaya fruit fly	<i>Toxotrypana curvicauda</i>
Pepper flower bud moth	<i>Gnorimoschema gudmannella</i>
Pepper maggot	<i>Zonosemata electa</i>
Pepper tree psyllid	<i>Calophya schini</i>
Persimmon borer	<i>Sannina uroceriformis</i>
Pickleworm	<i>Diaphania nitidalis</i>
Pink hibiscus mealybug	<i>Maconellicoccus hirsutus</i>
Pitmaking pittosporum scale	<i>Planchonia arabis</i>
Plum curculio	<i>Conotrachelus nenuphar</i>
Plum fruit moth	<i>Cydia funebrana</i>
Plumeria whitefly	<i>Paraleyrodes perseae</i>
Potato stalk borer	<i>Trichobaris trinotata</i>
Proteus scale	<i>Parlatoria proteus</i>
Purple scale	<i>Lepidosaphes beckii</i>
Pyriform scale	<i>Protopulvinaria pyriformis</i>
Red palm mite	<i>Raoiella indica</i>
Red-banded thrips	<i>Selenothrips rubrocinctus</i>
Rednecked cane borer	<i>Agilus ruficollis</i>
Rose chafer	<i>Macroductylus subspinosus</i>
Royal palm bug	<i>Xylastodoris luteolus</i>
Rufous scale	<i>Selenaspis articulatus</i>
Saddleback caterpillar	<i>Acharia stimulea</i>
Satin moth	<i>Leucoma salicis</i>
Sirex woodboring wasp	<i>Sirex noctilo</i>
South African pit scale	<i>Planchonia stentae</i>
South American fruit fly	<i>Anastrepha fraterculus</i>
South American palm weevil	<i>Rhynchophorus palmarum</i>
Southeastern Boll Weevil Biotype	<i>Anthonomus grandis</i>
Southern chinch bug	<i>Blissus insularis</i>
Southern citrus root weevil	<i>Pachnaeus litus</i>
Southern green stink bug	<i>Nezara viridula</i>
Spotted Lanternfly	<i>Lycorma delicatula</i>
Stalk borer	<i>Papaipema nebris</i>
Strawberry root weevil	<i>Otiiorhynchus ovatus</i>
Subtropical pine tip moth	<i>Rhyacionia subtropica</i>
Sugarcane root borer	<i>Diaprepes abbreviatus</i>
Sweetpotato weevil	<i>Cylas formicarius</i>

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Tawny mole cricket	<i>Neoscapteriscus vicinus</i>
Tea parlatoria scale	<i>Parlatoria theae</i>
Tea scale	<i>Fiorinia theae</i>
Tropical fire ant	<i>Solenopsis geminata</i>
Tropical palm scale	<i>Hemiberlesia palmae</i>
Weevil	<i>Artipus floridanus</i>
West Indian Sweet potato weevil	<i>Euscepes postfaciatus</i>
Wheat strawworm	<i>Harmolita grandis</i>
White peach scale	<i>Pseudaulacaspis pentagona</i>
White waxy scale	<i>Ceroplastes destructor</i>
White-footed ant	<i>Technomyrmex difficilis</i>
Yellow scale	<i>Aonidiella citrina</i>
Yellow margined leaf beetle	<i>Microtheca ochroloma</i>

**Historical Note**

New Table 2, Actionable Arthropod Pests made by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**Table 3. Actionable Nematode Pests**

Common Name	Scientific Name
Burrowing nematode	<i>Radopholus similis</i>
Golden nematode	<i>Globodera rostochiensis</i>
Oat cyst nematode	<i>Heterodera avenae</i>
Reniform nematode	<i>Rotylenchulus reniformis</i>
Sheath nematode	<i>Hemicycliophora arenaria</i>
Soybean cyst nematode	<i>Heterodera glycines</i>
Sting nematode	<i>Belonolaimus longicaudatus</i>
White cyst potato nematode	<i>Globodera pallida</i>

**Historical Note**

New Table 3, Actionable Nematode Pests made by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**Table 4. Class A Noxious Weeds**

Common name	Scientific name
African rue	<i>Peganum harmala</i>
Canada thistle	<i>Cirsium arvense</i>
Dudaim melon	<i>Cucumis melo v. Dudaim Naudin</i>
Dyer's woad	<i>Isatis tinctoria</i>
Floating water hyacinth	<i>Eichhornia crassipes</i>
Giant salvinia	<i>Salvinia molesta</i>
Globe-podded hoary cress	<i>Cardaria draba</i>
Hydrilla	<i>Hydrilla verticillata</i>
Leafy spurge	<i>Euphorbia esula</i>
Plumeless thistle	<i>Carduus acanthoides</i>
Purple loosestrife	<i>Lythrum salicaria</i>
Purple starthistle	<i>Centaurea calcitrapa</i>
Quackgrass	<i>Elymus repens (Elytrigia repens)</i>
Rush skeletonweed	<i>Chondrilla juncea</i>
Southern sandbur	<i>Cenchrus echinatus</i>
Spotted knapweed	<i>Centaurea stoebe ssp. micranthos</i>
Sweet resinbush	<i>Euryops subcarnosus</i>
Ward's weed	<i>Carrichtera annua</i>

Wild mustard	<i>Sinapis arvensis</i>
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**Historical Note**

New Table 4, Class A Noxious Weeds made by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**Table 5. Class B Noxious Weeds**

Common name	Scientific name
Black mustard	<i>Brassica nigra</i>
Branched broomrape	<i>Orobanche ramosa</i>
Bull thistle	<i>Cirsium vulgare</i>
Camelthorn	<i>Alhagi maurorum (A. pseudalhagi)</i>
Dalmatian toadflax	<i>Linaria dalmatica (L. genistifolia v. dalmatica)</i>
Diffuse knapweed	<i>Centaurea diffusa</i>
Field sandbur	<i>Cenchrus spinifex (synonym: C. incertus)</i>
Giant reed	<i>Arundo donax</i>
Halogeton	<i>Halogeton glomeratus</i>
Jointed goatgrass	<i>Aegilops cylindrica</i>
Malta starthistle	<i>Centaurea melitensis</i>
Musk thistle	<i>Carduus nutans</i>
Natal grass	<i>Melinis repens</i>
Onionweed	<i>Asphodelus fistulosus</i>
Russian knapweed	<i>Acroptilon repens</i>
Russian olive	<i>Elaeagnus angustifolia</i>
Saharan mustard	<i>Brassica tournefortii</i>
Stinknet (Globe chamomile)	<i>Oncosiphon piluliferum</i>
Scotch thistle	<i>Onopordum acanthium</i>
Yellow bluestem	<i>Bothriochloa ischaemum</i>
Yellow starthistle	<i>Centaurea solstitialis</i>

**Historical Note**

New Table 5, Class B Noxious Weeds made by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**Table 6. Class C Noxious Weeds**

Common name	Scientific name
Buffelgrass	<i>Cenchrus ciliaris (Pennisetum ciliare)</i>
Field bindweed	<i>Convolvulus arvensis</i>
Fountain grass	<i>Pennisetum setaceum</i>
Garden or common morning glory	<i>Ipomoea purpurea</i>
Grannyvine	<i>Ipomoea tricolor</i>
Ivy-leaf morning glory	<i>Ipomoea hederacea</i>
Johnsongrass	<i>Sorghum halepense</i>
Kochia	<i>Kochia scoparia</i>
Morning glory	<i>Ipomoea triloba</i>
Morning glory	<i>Ipomoea x leucantha</i>
Puncturevine	<i>Tribulus terrestris</i>
Salt cedar	<i>Tamarix ramosissima</i>
Tree of heaven	<i>Ailanthus altissima</i>

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**Historical Note**

New Table 6, Class C Noxious Weeds made by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**ARTICLE 3. NURSERY CERTIFICATION PROGRAM****R3-4-301. Nursery Certification**

**A.** Definitions. The following terms apply to this Section. “Associate Director” means the Associate Director of the Arizona Department of Agriculture’s Plant Services Division.

“Certificate” means a document issued by the Director, Associate Director or by a Department inspector stating that the nursery stock has been inspected and complies with the criteria set forth by an agricultural agency of any state, county, or commonwealth.

“Certificate holder” means a person who holds a certificate issued in accordance with this Section.

“Collected nursery stock” means nursery stock that has been dug or gathered from any site other than a nursery location.

“Commercially clean” means nursery stock offered for sale is in a healthy condition and, though common pests may be present, they exist at levels that pose little or no risk.

“Common pest” means a pest, weed, or disease that is not under a state or federal quarantine or eradication program and is of general distribution within the state.

“Director” means the Director of the Arizona Department of Agriculture.

“General nursery stock inspection certification” means an inspection carried out at the request of a person for the purpose of meeting the general nursery inspection requirements of another state.

“Nursery location” means real property with one physical address, upon which nursery stock is propagated, grown, sold, distributed, or offered for sale.

“Quarantine pest” means an economically important pest that does not occur in the state or that occurs in the state but is not widely distributed or is being officially eradicated.

“Single shipment nursery stock inspection certification” means a visit to a single location by a Department inspector to certify one or more shipments of nursery stock for compliance with the quarantine requirements of the receiving state, county, or commonwealth.

**B.** General nursery stock inspection certification. A person may apply for general nursery stock inspection certification by submitting to the Department the application described in subsection (E) for each nursery location. The applicant shall submit a \$50 inspection fee to the Department at the time of inspection for each nursery location. Each nursery location shall be inspected and certified separately. An application for initial certification may be submitted at any time. A certificate will be valid for one year, and may be renewed. A renewal application shall be submitted each year by February 15.

1. The Department shall issue a general nursery stock inspection certificate to the applicant if, following a Department inspection, the nursery stock is found free of quarantine pests, and commercially clean of common pests that are adversely affecting the nursery stock.

a. The Department shall only certify nursery stock that is found free of quarantine pests. The applicant shall not remove from the nursery any nursery stock that is found infested with a quarantine pest until a

Department inspector determines that the pest has been eliminated.

b. The Department shall restrict the movement of any nursery stock found infested with a common pest that a Department inspector determines is adversely affecting the nursery stock. The applicant shall establish a treatment program to control the pest and shall not remove the infested nursery stock from the nursery until a Department inspector determines that the pest has been controlled.

2. A certificate holder shall ensure that a nursery with a general nursery stock inspection certificate remains free of quarantine pests and commercially clean of common pests that are adversely affecting the nursery stock throughout the period that the certificate is valid.

3. A certificate holder shall not distribute, transport, or sell nursery stock interstate if it is infested with a quarantine pest or a common pest that is adversely affecting the nursery stock.

4. A certificate holder may reproduce a general nursery stock inspection certificate without the Department’s permission for nursery use.

5. A certificate holder shall ensure that the nursery’s general nursery stock inspection certificate accompanies each shipment of nursery stock that is moved out of the state.

6. A certificate holder shall maintain all invoices or other shipping documents for shipments received by and shipped from the nursery for up to one year. The certificate holder shall make the documents available to the Department upon request, as authorized by A.R.S. § 3-201.01(A)(6).

7. The Department shall inspect a nursery with a general nursery stock inspection certificate at any time during the certificate period to verify compliance with this Section.

8. A general nursery stock inspection certificate expires on December 31 of each year unless renewed, suspended, or revoked as provided in this Section.

9. A person with a general nursery stock inspection certificate may also need to obtain a special nursery stock inspection certificate to meet a specific quarantine entry requirement of another state, as prescribed in subsection (C).

**C.** Special nursery stock inspection certification. A person may apply for special nursery stock inspection certification to meet specific quarantine entry requirements of another state that are not addressed by the general nursery stock inspection certificate described in subsection (B). The applicant shall submit to the Department the application described in subsection (E) and a \$50 inspection fee for each nursery location.

1. An applicant shall ensure that the applicant’s nursery stock is free of quarantine pests as required by the receiving state and commercially clean of common pests that are adversely affecting the nursery stock. The Department shall not certify nursery stock that is infested with a quarantine pest until a Department inspector determines that the pest has been eliminated. The Department shall not certify nursery stock that is infested with a common pest that a Department inspector determines is adversely affecting the nursery stock.

2. A certificate holder shall not reproduce or duplicate a special nursery stock inspection certificate without written permission from the Department.

3. A special nursery stock inspection certificate is valid for one year from the issue date unless the receiving state requires a shorter certification period.

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- D.** Single shipment nursery stock inspection certification. A person may apply for a single shipment nursery stock inspection certification to meet the entry requirements of another state by submitting to the Department the application described in subsection (E) with a \$50 inspection fee.
1. An applicant for a single shipment nursery stock inspection certificate shall ensure that the nursery stock in each shipment is free from quarantine pests, as required by the receiving state, and commercially clean of common pests that are adversely affecting the nursery stock. The Department shall not certify nursery stock that is infested with a quarantine pest until a Department inspector determines that the pest has been eliminated. The Department shall not certify nursery stock that is infested with a common pest that a Department inspector determines is adversely affecting the nursery stock until the pest has been controlled.
  2. A single shipment nursery stock inspection certificate is valid for seven calendar days following the inspection date. A certificate holder may apply for a new certificate if the original certificate expires before the shipment leaves Arizona.
  3. A certificate holder shall not reproduce or duplicate a single shipment nursery stock inspection certificate.
  4. A person who has obtained a single shipment nursery stock inspection certificate for collected nursery stock shall retain a record, for at least one year from the shipment date, of the street address from which each plant in a shipment was collected. The person shall provide the collected nursery stock record to the Department upon request.
- E.** Application. A person applying for a certificate under this Section shall provide the following information on a form obtained from the Department:
1. Applicant's name, nursery name, mailing address, telephone and fax numbers, and e-mail address, as applicable;
  2. Location at which inspection is to be made, by legal description or physical address;
  3. Number of acres, structures, or vehicles to be inspected, as applicable;
  4. For shipping, the state, county, or commonwealth of planned destination, the category of inspection, and the nursery stock to be certified;
  5. Applicant's Social Security number or tax identification number; and
  6. Applicant's signature and date of signature.
- F.** Based upon the circumstances of each case, the Associate Director may:
1. Refuse to issue a certificate if, after inspection, the Associate Director determines that an applicant has not met a requirement for certification.
  2. Revoke a certificate for a violation of a condition of the certificate.
  3. Suspend, for a period of up to 90 days, a certificate for misuse or misrepresentation related to the certificate.
  4. Refuse to issue or suspend a certificate issued under this Section if the applicant or certificate holder refuses to provide the Department with documents that demonstrate the ownership, origin, or destination of nursery stock presented for certification.
- G.** Notwithstanding subsections (B) through (D), during fiscal year 2021, an applicant for nursery stock inspection certification shall pay the following fee:
1. For general certification, \$250.
  2. For single shipment certification, \$50 for the first lot plus \$10 for each additional lot per Department site trip.
- Historical Note**  
Adopted effective January 17, 1989 (Supp. 89-1). Section R3-4-301 renumbered from R3-1-301 (Supp. 91-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 1378, effective June 4, 2006 (Supp. 06-2).  
Amended by exempt rulemaking at 16 A.A.R. 1336, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1761, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2063, effective August 2, 2012 (Supp. 12-3).  
Amended by exempt rulemaking at 19 A.A.R. 3143, effective September 14, 2013 (Supp. 13-3). Amended by exempt rulemaking at 20 A.A.R. 2454, effective July 24, 2014 (Supp. 14-3). Amended by exempt rulemaking at 21 A.A.R. 2410, effective July 3, 2015 (Supp. 15-3).  
Amended by final exempt rulemaking at 23 A.A.R. 1941, effective August 8, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 24 A.A.R. 2223, effective August 3, 2018 (Supp. 18-2). Amended by final exempt rulemaking at 25 A.A.R. 2085, effective August 27, 2019 (Supp. 19-3). Amended by final exempt rulemaking at 26 A.A.R. 1473, effective August 25, 2020 (Supp. 20-3).
- R3-4-302. Repealed**
- Historical Note**  
Adopted effective January 17, 1989 (Supp. 89-1). Section R3-4-302 renumbered from R3-1-301 (Supp. 91-4). Section repealed by final rulemaking at 12 A.A.R. 1378, effective June 4, 2006 (Supp. 06-2).
- R3-4-303. Repealed**
- Historical Note**  
Adopted effective January 17, 1989 (Supp. 89-1). Section R3-4-303 renumbered from R3-1-303 (Supp. 91-4). Section repealed by final rulemaking at 12 A.A.R. 1378, effective June 4, 2006 (Supp. 06-2).
- R3-4-304. Repealed**
- Historical Note**  
Adopted effective January 17, 1989 (Supp. 89-1). Section R3-4-304 renumbered from R3-1-304 (Supp. 91-4). Section repealed by final rulemaking at 12 A.A.R. 1378, effective June 4, 2006 (Supp. 06-2).
- R3-4-305. Repealed**
- Historical Note**  
Adopted effective January 17, 1989 (Supp. 89-1). Section R3-4-305 renumbered from R3-1-305 (Supp. 91-4). Section repealed by final rulemaking at 12 A.A.R. 1378, effective June 4, 2006 (Supp. 06-2).
- R3-4-306. Repealed**
- Historical Note**  
Adopted effective January 17, 1989 (Supp. 89-1). Section R3-4-306 renumbered from R3-1-306 (Supp. 91-4). Section repealed by final rulemaking at 12 A.A.R. 1378, effective June 4, 2006 (Supp. 06-2).
- R3-4-307. Repealed**
- Historical Note**  
Adopted effective January 17, 1989 (Supp. 89-1). Section R3-4-307 renumbered from R3-1-307 (Supp. 91-4).  
Repealed effective April 11, 1994 (Supp. 94-2).

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## ARTICLE 4. SEEDS

**R3-4-401. Definitions**

In addition to the definitions provided in A.R.S. § 3-231, the following shall apply to this Article:

1. "Blend" means seed consisting of more than one variety of a kind, with each variety in excess of five percent by weight of the whole.
2. "Brand" means a word, name, symbol, number, or design used to identify seed of one person to distinguish it from seed of another person.
3. "Certifying agency" means:
  - a. An agency authorized under the laws of this state to officially certify seed and that has standards and procedures approved by the U.S. Secretary of Agriculture to assure the varietal purity and identity of the seed certified, or
  - b. An agency of a foreign country determined by the U.S. Secretary of Agriculture to adhere to procedures and standards for seed certification comparable to the procedures and standards adhered to generally by seed-certifying agencies under subsection (a) of this definition.
4. "Coated seed" means seed that has been covered with a substance that changes the size, shape, or weight of the original seed. Seed coated with ingredients such as rhizobia, dyes, and pesticides is not coated seed.
5. "Conditioning" or "conditioned" means drying, cleaning, scarifying, and other operations that could change the purity or germination of the seed and require the seed lot to be retested to determine the label information.
6. "Dormant" means viable seed, excluding hard seed, that fails to germinate when provided the specified germination conditions for that kind of seed.
7. "Federal Seed Act" means the federal law at 7 U.S.C. 1551-1611 and regulations promulgated under the Act: 20 CFR part 201.
8. "Flower seeds" means seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts, and commonly known and sold under the name of flower or wildflower seeds in this state.
9. "Germination" means the emergence and development from the seed embryo of those essential structures that, for the kind of seed in question, are indicative of the ability to produce a normal plant under favorable conditions.
10. "Hard seeds" means seeds that remain hard at the end of the prescribed germination test period because they have not absorbed water due to an impermeable seed coat.
11. "Inert matter" means all matter that is not seed, including broken seeds, sterile florets, chaff, fungus bodies, and stones.
12. "Mixture", "mix", or "mixed" means seed consisting of more than one kind, each in excess of five percent by weight of the whole.
13. "Mulch" means a protective covering of any suitable substance placed with seed that acts to retain sufficient moisture to support seed germination, sustain early seedling growth and aid in preventing soil moisture evaporation, control of weeds, and erosion prevention.
14. "Origin" means the state where the seed was grown, or if not grown in the United States, the country where the seed was grown.
15. "Other crop seed" means seeds of plants grown as crops other than the kind or variety included in the pure seed, as determined by methods defined in this Article.
16. "Pure live seed" means the product of the percent of germination plus hard or dormant seed multiplied by the per-

cent of pure seed divided by 100. The result is expressed as a whole number.

17. "Pure seed" means a kind of seed excluding inert matter and all other seed not of the kind being considered.
18. "Replacement date sticker" means a sticker on a label that displays a new test date.
19. "Retail" means sales that are not intended for agricultural use and are prepared for use by a consumer in home gardens or household plantings only.
20. "Seed count" means the number of seeds per unit weight in a container.
21. "Seizure" means taking possession of seed pursuant to a court order.
22. "Wholesale" means sales of seeds that are intended for agricultural use normally in quantities for resale, as by an agricultural retail merchant and are not prepared for use in home gardening or household plantings.
23. "Working sample" means the number of seeds required under §§ 402 and 403 of the Federal Seed Act.

**Historical Note**

Former Rule, Arizona Seed Regulation 1. Amended effective August 31, 1981 (Supp. 81-4). Former Section R3-4-110 renumbered without change as Section R3-4-401 (Supp. 89-1). Section R3-4-401 renumbered from R3-1-401 (Supp. 91-4). Section repealed, new Section adopted effective July 10, 1995 (Supp. 95-3). Amended by final rulemaking at 13 A.A.R. 1464, effective June 2, 2007 (Supp. 07-2).

**R3-4-402. Labeling****A. General requirements:**

1. Blank spaces or the words "free or none" mean "0" and "0.00%" for the purpose of applying the tolerances prescribed in this Article.
2. Labeling for purity and germination shall not show higher results than actually found by test.
3. The terms "foundation seed," "registered seed," and "certified seed" are authorized for use on seed certified by a seed certifying agency under the laws of Arizona as delineated in R3-4-405.
4. Relabeling. Any person relabeling seed in its original container shall include the following information on a label or a replacement date sticker:
  - a. The calendar month and year the germination test was completed to determine the germination percentage and the sell-by date as required by subsection (C)(3)(i)(iv) or (C)(5)(c)(i),
  - b. The same lot designation as on the original labels, and
  - c. The identity of the person relabeling the seed if different from the original labeler.
5. Labeling of seed distributed to wholesalers. After seed has been conditioned, a labeler shall ensure the seed is labeled as follows:
  - a. When supplied to a retailer or consumer, each bag or bulk lot must be completely labeled.
  - b. When supplied to a wholesaler, if each bag or other container is clearly identified by a lot number permanently displayed on the container or if the seed is in bulk, the labeling of seed may be by invoice.
  - c. When supplied to a wholesaler, if each bag or container is not identified by a lot number, it must carry complete labeling.
6. Seeds for sprouting. All labels of seeds sold for sprouting for salad or culinary purposes shall indicate the following information:

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- a. Commonly accepted name of kind or kinds;
  - b. Lot number;
  - c. Percentage by weight of each pure seed component in excess of 5 percent of the whole, other crop seeds, inert matter, and weed seeds, if occurring;
  - d. Percentage of germination of each pure seed component;
  - e. Percentage of hard seed, if present; and
  - f. The calendar month and year the germination test was completed to determine the percentages in subsections (c), (d) and (e).
- B. Kind, variety, or type.**
1. All agricultural seeds sold in this state, except as stated in subsection (B)(2), shall be labeled to include the recognized variety name or type or the words "Variety not stated." A brand is not a kind and variety designation and shall not be used instead of a variety name.
  2. All cotton planting seed sold, offered for sale, exposed for sale, or transported for planting purposes in this state, shall have a label that includes both kind and variety.
- C. Agricultural, vegetable, or flower seeds that is sold, offered for sale, or exposed for sale within this state shall bear on each container a plainly written or printed label or tag in English. No modifications or disclaimers shall be made to the required label information in the labeling or on another label attached to the container. No misleading information shall appear on the label. The label shall include the following information:**
1. For agricultural, vegetable, and flower seeds that have been treated, the following is required and may appear on a separate label:
    - a. Language indicating that the seed has been treated;
    - b. The commonly-accepted chemical name of the applied substance or a description of the process used;
    - c. If a substance that is harmful to human or animals is present with the seed, a caution statement such as "Do not use for food, feed, or oil purposes." The caution for highly toxic substances shall be a poison statement and symbol; and
    - d. If the seed is treated with an inoculant, the date of expiration, which is the date beyond which the inoculant is not to be considered effective.
  2. For agricultural seeds, except for lawn and turf grass seed and mixtures of lawn and turf grass seed as provided in subsection (C)(3); for seed sold on a pure live seed basis as provided in subsection (C)(7); and for hybrids that contain less than 95 percent hybrid seed as provided in subsection (C)(8):
    - a. The name of the kind and variety for each agricultural seed component in excess of five percent of the whole and the percentage by weight of each. If the variety of the kinds generally labeled as a variety designated in this Article is not stated, the label shall show the name of the kind and the words, "variety not stated." Hybrid seed shall be labeled as hybrid;
    - b. Lot number or other lot identification;
    - c. Origin of alfalfa, red clover, and field corn (except hybrid corn) or if the origin is unknown, a statement that the origin is unknown;
    - d. Percentage by weight of all weed seeds;
    - e. The name and rate of occurrence per pound of each kind of restricted noxious weed seed present;
    - f. Percentage by weight of agricultural seeds other than those required to be named on the label. Agricultural seeds may be designated as "crop seeds;"
    - g. Percentage by weight of inert matter;
    - h. The sum total of weight identified in subsections (a), (d), (f), and (g) shall equal 100 percent;
    - i. For each named agricultural seed:
      - i. Percentage germination, excluding hard seed;
      - ii. Percentage of hard seeds, if present; and
      - iii. The calendar month and year the test was completed to determine the percentages. The statement "total germination and hard seed" may be included following the percentages required under subsections (i) and (ii).
    - j. Net weight of seed in the container or seed count per unit weight; and
    - k. Name and address of the labeler, or the person who sells, offers, or exposes the seed for sale within this state.
  3. For lawn and turf grass seed and lawn and turf grass seed mixtures:
    - a. For single kinds, the name of the kind or kind and variety and the percentage by weight.
    - b. For mixtures, the word "mix," "mixed", or "mixture" or "blend" shall be stated with the name of the mixture, along with the commonly accepted name of each kind or kind and variety of each agricultural seed component in excess of five percent of the whole and the percentages by weight.
    - c. The percentage by weight of each kind of pure seed shall be listed in order of its predominance and in columnar form. The heading "pure seed" and "germination" or "germ" shall be placed consistent with generally accepted industry practices.
    - d. Percentage by weight of agricultural seed other than those required to be named on the label which shall be designated as "crop seed."
    - e. The percentage by weight of inert matter for lawn and turf grass shall not exceed ten percent, except that 15 percent inert matter is permitted in Kentucky bluegrass labeled without a variety name. Foreign material that is not common to grass seed shall not be added, other than material used for coating, as in subsection (C)(4), or combination products, as in subsection (C)(9).
    - f. Percentage by weight of all weed seeds. Weed seed content shall not exceed one-half of one percent by weight.
    - g. The sum total for subsections (a), (b), (c), (d), (e) and (f) shall equal 100 percent.
    - h. Noxious weeds that are required by this Article to be labeled shall be listed under the heading "noxious weed seeds."
    - i. For each lawn and turf seed named under subsection (a) or (b):
      - i. Percentage of germination, excluding hard seed;
      - ii. Percentage of hard seed, if present;
      - iii. Calendar month and year the germination test was completed to determine percentages in subsections (i) and (ii); and
      - iv. For seed sold for retail non-farm usage the statement "sell by (month/year)" which shall be no more than 15 months from the date of the germination test excluding the month of the test.
    - j. Name and address of the labeler, or the person who sells, offers or exposes the seed for sale within this state.

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4. For coated agricultural, vegetable, flower, or lawn and turf seeds that are sold by weight:
    - a. Percentage by weight of pure seeds with coating material removed;
    - b. Percentage by weight of coating material;
    - c. Percentage by weight of inert material not including coating material;
    - d. Percentage of germination determined on 400 pellets with or without seeds;
    - e. All other applicable requirements in subsections (C)(1), (2), and (3).
  5. For vegetable seeds in packets as prepared for use in home gardens or household plantings or vegetable seeds in pre-planted containers, mats, tapes, or other planting devices:
    - a. Name of kind and variety of seed;
    - b. Lot identification, such as by lot number or other means;
    - c. One of the following:
      - i. The calendar month and year the germination test was completed and the statement "Sell by (month/year)." The date indicated shall be no more than 12 months from the date of the test, excluding the month of the test;
      - ii. The calendar year for which the seed was packaged for sale as "packed for (year)" and the statement "sell by (year)"; or
      - iii. The percentage germination and the calendar month and year the test was completed to determine the percentage if the germination test was completed within 12 months, excluding the month of the test;
    - d. Name and address of the labeler, or the person who sells, offers, or exposes the seed for sale within this state;
    - e. For seeds that germinate less than the standard established under R3-4-404(A), (B) and (C)(i): percentage of germination, excluding hard seed; percentage of hard seed, if present; and the words "Below Standard" in not less than 8-point type;
    - f. For seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds from the medium, mat, tape or device, a statement to indicate the minimum number of seeds in the container.
  6. For vegetable seeds in containers other than packets prepared for use in home gardens, household plantings, pre-planted containers, mats, tapes, or other planting devices:
    - a. The name of each kind and variety present in excess of five percent and the percentage by weight of each in order of its predominance;
    - b. Lot number or other lot identification;
    - c. For each named vegetable seed:
      - i. Percentage germination, excluding hard seed;
      - ii. Percentage of hard seed, if present; and
      - iii. The calendar month and year the test was completed to determine the percentages; The statement "Total germination and hard seed" may be included following the percentages required under subsections (C)(6)(c)(i) and (C)(6)(c)(ii);
    - d. Name and address of the labeler, or the person who sells, offers or exposes the seed for sale within this state; and
    - e. The labeling requirements for vegetable seeds in containers of more than one pound are met if the seed is weighed from a properly labeled container in the presence of the purchaser.
  7. For agricultural seeds sold on a pure live seed basis, each container shall bear a label containing the information required by subsection (C)(2), except:
    - a. The label need not show:
      - i. The percentage by weight of each agricultural seed component as required by subsection (C)(2)(a); or
      - ii. The percentage by weight of inert matter as required by subsection (C)(2)(g); and
    - b. For each named agricultural seed, the label must show instead of the information required by subsection (C)(2)(h):
      - i. The percentage of pure live seed; and
      - ii. The calendar month and year in which the test determining the percentage of live seed was completed.
  8. For agricultural and vegetable hybrid seeds that contain less than 95 percent hybrid seed:
    - a. Kind or variety shall be labeled as "hybrid,"
    - b. The percentage that is hybrid shall be labeled parenthetically in direct association following the named variety; for example – comet (85% hybrid), and
    - c. Varieties in which the pure seed contains less than 75 percent hybrid seed shall not be labeled hybrids.
  9. For combination mulch, seed, and fertilizer products:
    - a. The word "combination" followed by the words "mulch – seed – fertilizer", as appropriate, shall appear on the upper 30 percent of the principal display panel. The word "combination" shall be the largest and most conspicuous type on the container, equal to or larger than the product name. The words "mulch – seed – fertilizer", as appropriate, shall be no smaller than one-half the size of the word "combination" and in close proximity to the word "combination."
    - b. The products shall not contain less than 70 percent mulch.
    - c. Agricultural, flower, vegetable, lawn, and turf seeds placed in a germination medium, mat, tape, or other device or mixed with mulch shall be labeled as follows:
      - i. Product name;
      - ii. Lot number;
      - iii. Percentage by weight of pure seed of each kind and variety named. The kind and variety named may be less than 5 percent of the whole;
      - iv. Percentage by weight of other crop seeds;
      - v. Percentage by weight of inert matter, which shall not be less than 70 percent;
      - vi. Percentage by weight of weed seeds;
      - vii. The total of subsections (iii), (iv), (v), and (vi) shall equal 100 percent;
      - viii. Name and number of noxious weed seeds per pound, if present;
      - ix. Hard seed percentage, if present, and percentage of germination of each kind or kind and variety named and the month and year the test was completed; and
      - x. Name and address of the labeler or the person who sells, offers or exposes the product for sale within this state.
- D. Labeling requirements: flowers.**

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1. For flower seeds in packets prepared for use in home gardens or household plantings or flower seeds in pre-planted containers, mats, tapes, or other planting devices:
  - a. For all kinds of flower seeds:
    - i. The name of the kind and variety or a statement of type and performance characteristics as prescribed in subsection (D)(3); and
    - ii. Name and address of the labeler, or the person who sells, offers, or exposes the seed for sale within this state, and one of the following subsections (D)(1)(a)(iii) through (v);
    - iii. The calendar month and year the germination test was completed and the statement "Sell by (month/year)." The date indicated shall be no more than 12 months from the date of the test excluding the month of the test; or
    - iv. The calendar year for which the seed was packaged for sale as "packed for (year)" and the statement "sell by (year)"; or
    - v. The percentage germination and the calendar month and year the test was completed to determine the percentage if the germination test was completed within 12 months, excluding the month of the test.
  - b. For kinds of flower seeds for which standard testing procedures are prescribed by the Association of Official Seed Analysts and that germinate less than the germination standards prescribed under the provisions of R3-4-404(B):
    - i. Percentage of germination, excluding hard seeds;
    - ii. Percentage hard seed, if present; and
    - iii. The words "Below Standard" in not less than eight-point type.
  - c. For flower seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds from the medium, mat, tape, or device, a statement to indicate the minimum number of seeds in the container.
2. For flower seeds in containers other than packets and other than pre-planted containers, mats, tapes, or other planting devices and not prepared for use in home flower gardens or household plantings:
  - a. The name of the kind and variety or a statement of type and performance characteristics as prescribed in subsection (D)(3), and for wildflowers, the genus and species and subspecies, if appropriate;
  - b. The lot number or other lot identification;
  - c. For wildflower seed with a pure seed percentage of less than 90 percent:
    - i. The percentage, by weight, of each component listed in order of the component's predominance;
    - ii. The percentage by weight of weed seed, if present; and
    - iii. The percentage by weight of inert matter;
  - d. For kinds of seed for which standard testing procedures are prescribed by the Association of Official Seed Analysts:
    - i. Percentage of germination, excluding hard or dormant seed;
    - ii. Percentage of hard or dormant seed, if present; and
    - iii. The calendar month and year that the test was completed to determine the percentages in subsections (D)(2)(d)(i) and (ii);
3. Requirements to label flower seeds with kind and variety, or type and performance characteristics as prescribed in subsection (D)(1)(a)(i) and (D)(2)(a) shall be met as follows:
  - a. For seeds of plants grown primarily for their blooms:
    - i. If the seeds are of a single named variety, the kind and variety shall be stated, for example, "Marigold, Butterball";
    - ii. If the seeds are of a single type and color for which there is no specific variety name, the type of plant, if significant, and the type and color of bloom shall be indicated, for example, "Scabiosa, Tall, Large Flowered, Double, Pink";
    - iii. If the seeds consist of an assortment or mixture of colors or varieties of a single kind, the kind name, the type of plant, if significant, and the type or types of bloom shall be indicated. It shall be clearly indicated that the seed is mixed or assorted. An example of labeling such a mixture or assortment is "Marigold, Dwarf Double French, Mixed Colors";
    - iv. If the seeds consist of an assortment or mixture of kinds or kinds and varieties, it shall clearly indicate that the seed is assorted or mixed and the specific use of the assortment or mixture shall be indicated, for example, "Cut Flower Mixture", or "Rock Garden Mixture". Statements such as "General Purpose Mixture", "Wonder Mixture", or any other statement that fails to indicate the specific use of the seed shall not be considered as meeting the requirements of this subsection unless the specific use of the mixture is also stated. Containers with over three grams of seed shall list the kind or kind and variety names of each component present in excess of five percent of the whole in the order of their predominance, giving the percentage by weight of each. Components equal to or less than five percent shall be listed, but need not be listed in order of predominance. A single percentage by weight shall be given for these components that are less than five percent of the whole. If no component of a mixture exceeds five percent of the whole, the statement, "No component in excess of 5%" may be used. Containers with three grams of seed or less shall list the components without giving percentage by weight and need not be in order of predominance.
  - b. For seeds of plants grown for ornamental purposes other than their blooms, the kind and variety shall be stated, or the kind shall be stated together with a descriptive statement concerning the ornamental

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part of the plant, for example, "Ornamental Gourds, Small Fruited, Mixed."

- E. Label requirement for tree and shrub seeds. Tree or shrub seeds that is sold, offered for sale, or exposed for sale within this state shall bear on each container a plainly written or printed label or tag in English. No modifications or disclaimers shall be made to the required label information in the labeling or on another label attached to the container. Labeling of seed supplied under a contractual agreement meets this requirement if the shipment is accompanied by an invoice or by an analysis tag attached to the invoice if each bag or other container is clearly identified by a lot number permanently displayed on the container or if the seed is in bulk. Each bag or container not clearly identified by a lot number must carry complete labeling. The label shall include the following information:
1. For tree and shrub seeds that have been treated, the following may appear on a separate label:
    - a. Language indicating that the seed has been treated;
    - b. The commonly accepted chemical name of the applied substance or description of the process used;
    - c. If the substance is harmful to human or animals, a caution statement such as "do not use for food or feed or oil purposes". The caution for highly toxic substances shall be a poison statement and symbol; and
    - d. If the seed has been treated with an inoculant, the date of expiration, which is the date the inoculant is no longer considered effective;
  2. For all tree and shrub seeds subject to this Article:
    - a. Common name of the species of seed and if appropriate, the subspecies;
    - b. The scientific name of the genus and species and if appropriate, the subspecies;
    - c. Lot number or other lot identification;
    - d. Origin.
      - i. For seed collected from a predominantly indigenous stand, the area of collection given by latitude and longitude, a geographic description, or identification of a political subdivision, such as a state or county; or
      - ii. For seed collected from other than a predominantly indigenous stand, identification of the area of collection and the origin of the stand, or the statement "origin not indigenous";
    - e. The elevation or the upper and lower limits of elevations within which the seed was collected;
    - f. Purity as a percentage of pure seed by weight;
    - g. For those species listed under R3-4-404(C), the following apply except as provided in subsection (E)(2)(h):
      - i. Percentage germination excluding hard seed;
      - ii. Percentage of hard seed, if present;
      - iii. The calendar month and year the test was completed to determine the percentages in subsection (a) and (b);
    - h. Instead of complying with subsections (E)(2)(g)(i), (ii), and (iii), the seed may be labeled, "Test is in process, results will be supplied upon request";
    - i. For those species for which standard germination testing procedures have not been prescribed, the calendar year in which the seed was collected; and
    - j. Name and address of the labeler, or the person who sells, offers, or exposes the seed for sale within this state.
  - F. Hermetically sealed seed shall meet the following requirements
    1. The seed shall have been packaged within nine months of harvest;
    2. The container used shall not allow water vapor penetration through any wall, including the seals, greater than 0.05 grams of water per 24 hours per 100 square inches of surface at 100°F with a relative humidity on one side of 90 percent and on the other side 0 percent. Water vapor penetration (WVP) is measured in accordance with the U.S. Bureau of Standards as: gm H<sub>2</sub>O/24 hr/100 sq in/100°F /90% RHV 0% RH;
    3. The seed in the container shall not exceed the percentage of moisture, on a wet weight basis, as listed below:
      - a. Agricultural Seeds,
        - i. Beet, Field: 7.5;
        - ii. Beet, Sugar: 7.5;
        - iii. Bluegrass, Kentucky: 6.0;
        - iv. Clover, Crimson: 8.0;
        - v. Fescue, Red: 8.0;
        - vi. Ryegrass, Annual: 8.0;
        - vii. Ryegrass, Perennial: 8.0;
        - viii. All Others: 6.0; and
        - ix. Mixture of Above: 8.0;
      - b. Vegetable Seeds,
        - i. Bean, Garden: 7.0;
        - ii. Bean, Lima: 7.0;
        - iii. Beet: 7.5;
        - iv. Broccoli: 5.0;
        - v. Brussels Sprouts: 5.0;
        - vi. Cabbage: 5.0;
        - vii. Carrot: 7.0;
        - viii. Cauliflower: 5.0;
        - ix. Celeriac: 7.0;
        - x. Celery: 7.0;
        - xi. Chard, Swiss: 7.5;
        - xii. Chinese Cabbage: 5.0;
        - xiii. Chives: 6.5;
        - xiv. Collards: 5.0;
        - xv. Corn, Sweet: 8.0;
        - xvi. Cucumber: 6.0;
        - xvii. Eggplant: 6.0;
        - xviii. Kale: 5.0;
        - xix. Kohlrabi: 5.0;
        - xx. Leek: 6.5;
        - xxi. Lettuce: 5.5;
        - xxii. Muskmelon: 6.0;
        - xxiii. Mustard, India: 5.0;
        - xxiv. Onion: 6.5;
        - xxv. Onion, Welsh: 6.5;
        - xxvi. Parsley: 6.5;
        - xxvii. Parsnip: 6.0;
        - xxviii. Pea: 7.0;
        - xxix. Pepper: 4.5;
        - xxx. Pumpkin: 6.0;
        - xxxi. Radish: 5.0;
        - xxxii. Rutabaga: 5.0;
        - xxxiii. Spinach: 8.0;
        - xxxiv. Squash: 6.0;
        - xxxv. Tomato: 5.5;
        - xxxvi. Turnip: 5.0;
        - xxxvii. Watermelon: 6.5; and
        - xxxviii. All others: 6.0.
    4. The container shall be conspicuously labeled in not less than 8-point type to indicate:
      - a. That the container is hermetically sealed,

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- b. That the seed has been preconditioned as to moisture content, and
  - c. The calendar month and year in which the germination test was completed; and
5. The germination percentage of the seed at the time of packaging shall have been equal to or higher than the standards specified elsewhere in subsection R3-4-404.

**Historical Note**

Adopted effective December 21, 1981 (Supp. 81-6). Former Section R3-4-111 renumbered without change as Section R3-4-402 (Supp. 89-1). Section R3-4-402 renumbered from R3-1-402 (Supp. 91-4). Amended effective July 10, 1995 (Supp. 95-3). Amended by final rulemaking at 13 A.A.R. 1464, effective June 2, 2007 (Supp. 07-2).

**R3-4-403. Noxious Weed Seeds**

- A. A person shall not allow the following prohibited noxious weed seeds in seed regulated under this Article:
1. *Acrotilon repens* (L.) DC. – Russian knapweed;
  2. *Aegilops cylindrica* Host. – Jointed goatgrass;
  3. *Alhagi maurorum* – Camelthorn;
  4. *Alternanthera philoxeroides* (Mart.) Griseb. – Alligator weed;
  5. *Cardaria pubescens* (C.A. Mey) Jarmolenko – Hairy whitetop;
  6. *Cardaria chalepensis* (L.) Hand-Maz – Lens podded hoary cress;
  7. *Cardaria draba* (L.) Desv. – Globed-podded hoary cress (Whitetop);
  8. *Carduus acanthoides* L. – Plumeless thistle;
  9. *Cenchrus echinatus* L. – Southern sandbur;
  10. *Cenchrus incertus* M.A. Curtis – Field sandbur;
  11. *Centaurea calcitrapa* L. – Purple starthistle;
  12. *Centaurea iberica* Trev. ex Spreng. – Iberian starthistle;
  13. *Centaurea squarrosa* Willd. – Squarrose knapweed;
  14. *Centaurea sulphurea* L. – Sicilian starthistle;
  15. *Centaurea solstitialis* L. – Yellow starthistle (St. Barnaby's thistle);
  16. *Centaurea diffusa* L. – Diffuse knapweed;
  17. *Centaurea maculosa* L. – Spotted knapweed;
  18. *Chondrilla juncea* L. – Rush skeletonweed;
  19. *Cirsium arvense* L. Scop. – Canada thistle;
  20. *Convolvulus arvensis* L. – Field bindweed;
  21. *Coronopus squamatus* (Forsk.) Ascherson – Creeping wartress (Coronopus);
  22. *Cucumis melo* L. var. *Dudaim* Naudin – Dudaim melon (Queen Anne's melon);
  23. *Cuscuta* spp. – Dodder;
  24. *Cyperus rotundus* – Purple Nutgrass or Nutsedge;
  25. *Cyperus esculentus* – Yellow Nutgrass or Nutsedge;
  26. *Drymaria arenarioides* H.B.K. – Alfombrilla (Lightningweed);
  27. *Eichhornia azurea* (SW) Kunth. – Anchored Waterhyacinth;
  28. *Elymus repens* – Quackgrass;
  29. *Euphorbia esula* L. – Leafy spurge;
  30. *Halogeton glomeratus* (M. Bieb.) C.A. Mey – Halogeton;
  31. *Helianthus ciliaris* DC. – Texas Blueweed;
  32. *Hydrilla verticillata* (L.f.) Royle – Hydrilla (Florida-clo-dea);
  33. *Ipomoea* spp. – Morning glory. All species except *Ipomoea carnea*, Mexican bush morning glory; *Ipomoea triloba*, three-lobed morning glory (which is considered a restricted pest); *Ipomoea aborescens*, morning glory tree; *Ipomea batatas* – sweetpotato; *Ipomoea quamoclit*,

- Cypress Vine; *Ipomoea noctiflora*, Moonflower – Morning Glories, Cardinal Climber, Hearts and Honey Vine;
34. *Isatis tinctoria* L. – Dyers woad;
  35. *Linaria genistifolia* var. *dalmatica* – Dalmation toadflax;
  36. *Lythrum salicaria* L. – Purple loosestrife;
  37. *Medicago polymorpha* L. – Burclover;
  38. *Nassella trichotoma* (Nees.) Hack. – Serrated tussock;
  39. *Onopordum acanthium* L. – Scotch thistle;
  40. *Orobanche ramosa* L. – Branched broomrape;
  41. *Panicum repens* L. – Torpedo grass;
  42. *Peganum harmala* L. – African rue (Syrian rue);
  43. *Portulaca oleracea* L. – Common purslane;
  44. *Rorippa austriaca* (Crantz.) Bess. – Austrian fieldcress;
  45. *Salvinia molesta* – Giant Salvinia;
  46. *Senecio jacobaea* L. – Tansy ragwort;
  47. *Solanum carolinense* – Carolina horsenettle;
  48. *Solanum elaeagnifolium* – Silverleaf Nightshade;
  49. *Sonchus arvensis* L. – Perennial sowthistle;
  50. *Solanum viarum* Dunal – Tropical Soda Apple;
  51. Sorghum species, perennial (*Sorghum halepense*, *Johnson grass*, *Sorghum almum*, and perennial sweet sudan-grass);
  52. *Stipa brachychaeta* Godr. – Puna grass;
  53. *Striga* spp. – Witchweed;
  54. *Trapa natans* L. – Water-chestnut;
  55. *Tribulus terrestris* L. – Puncturevine.
- B. A person shall not allow more than the number shown of the following restricted noxious weed seeds in a working sample of seed regulated by this Article; or, any more than 50 of any combination of the following restricted noxious weed seeds per working sample.
1. *Avena fatua* – Wild oat: 5;
  2. *Brassica campestris* – Bird rape: 30;
  3. *Brassica juncea* – Indian mustard: 30;
  4. *Brassica niger* – Black mustard: 30;
  5. *Brassica rapa* – Field mustard: 30;
  6. *Cenchrus pauciflorus* – Sandbur: 10;
  7. *Eichhornia crassipes* (Mart.) Solms – Floating waterhyacinth: 10;
  8. *Euryops sunbcarnosus* subsp. *vulgaris* – Sweet resinbush: 10;
  9. *Ipomoea triloba* L. – Three-lobed morning glory: 10;
  10. *Rumex crispus* – Curly dock: 30;
  11. *Salsola kali* var. *tenuifolia* – Russian thistle: 30;
  12. *Sinapis arvensis* – Charlock or Wild mustard: 30; and
  13. *Sida hederacea* – Alkali mallow: 30.

**Historical Note**

Adopted effective December 21, 1981 (Supp. 81-6). Former Section R3-4-112 renumbered without change as Section R3-4-403 (Supp. 89-1). Section R3-4-403 renumbered from R3-1-403 (Supp. 91-4). Section R3-4-403 repealed, new Section R3-4-403 renumbered from R3-4-405 and amended effective July 10, 1995 (Supp. 95-3). Amended by final rulemaking at 13 A.A.R. 1464, effective June 2, 2007 (Supp. 07-2).

**R3-4-404. Germination Standards**

- A. Vegetable seed shall have the following minimum percent germination or the minimum percent germination as found in the Federal Seed Act, 20 CFR 201.31 (as amended January 1, 2002), which is incorporated by reference, not including future editions or amendments. The material is on file with the Department and available for purchase from the U. S. Government Bookstore (<http://bookstore.gpo.gov/>) or at the U.S. Government Printing Office, 732 N. Capitol St., NW, Washington, DC 20401 or it can be found online at <http://ecfr.gpo->

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1. Artichoke: 60;
  2. Asparagus: 70;
  3. Asparagusbean: 75;
  4. Bean, garden: 70;
  5. Bean, Lima: 70;
  6. Bean, runner: 75;
  7. Beet: 65;
  8. Broadbean: 75;
  9. Broccoli: 75;
  10. Brussels sprouts: 70;
  11. Burdock, great: 60;
  12. Cabbage: 75;
  13. Cabbage, tronchuda: 70;
  14. Cardoon: 60;
  15. Carrot: 55;
  16. Cauliflower: 75;
  17. Celeriac: 55;
  18. Celery: 55;
  19. Chard, Swiss: 65;
  20. Chicory: 65;
  21. Chinese cabbage: 75;
  22. Chives: 50;
  23. Citron: 65;
  24. Collards: 80;
  25. Corn, sweet: 75;
  26. Cornsalad: 70;
  27. Cowpea: 75;
  28. Cress, garden: 75;
  29. Cress, upland: 60;
  30. Cress, water: 40;
  31. Cucumber: 80;
  32. Dandelion: 60;
  33. Dill: 60;
  34. Eggplant: 60;
  35. Endive: 70;
  36. Kale: 75;
  37. Kale, Chinese: 75;
  38. Kale, Siberian: 75;
  39. Kohlrabi: 75;
  40. Leek: 60;
  41. Lettuce: 80;
  42. Melon: 75;
  43. Mustard, India: 75;
  44. Mustard, spinach: 75;
  45. Okra: 50;
  46. Onion: 70;
  47. Onion, Welsh: 70;
  48. Pak-choi: 75;
  49. Parsley: 60;
  50. Parsnip: 60;
  51. Pea: 80;
  52. Pepper: 55;
  53. Pumpkin: 75;
  54. Radish: 75;
  55. Rhubarb: 60;
  56. Rutabaga: 75;
  57. Sage: 60;
  58. Salsify: 75;
  59. Savory, summer: 55;
  60. Sorrel: 65;
  61. Soybean: 75;
  62. Spinach: 60;
  63. Spinach, New Zealand: 40;
  64. Squash: 75;
  65. Tomato: 75;
  66. Tomato, husk: 50;
  67. Turnip: 80;
  68. Watermelon: 70; and
  69. All Others: The germination standard for all other vegetable and herb seed for which a standard has not been established shall be 50 percent.
- B.** Flower seed shall meet the following minimum percent germination standards. For the kinds marked with an asterisk, the percentage listed is the sum total of the percentage germination and percentage of hard seed. A mixture of kinds does not meet the germination standard if the germination of any kind or combination of kinds constituting 25 percent or more of the mixture by number of seed is below the germination standard for the kind or kinds involved.
1. Archillea (The Pearl) – *Achillea ptarmica*: 50;
  2. African Daisy – *Dimorphotheca aurantiaca*: 55;
  3. African Violet – *Saintpaulia* spp: 30;
  4. Ageratum – *Ageratum mexicanum*: 60;
  5. Agrostemma (rose campion) – *Agrostemma coronaria*: 65;
  6. Alyssum – *Alyssum compactum*, *A. maritimum*, *A. procumbens*, *A. saxatile*: 60;
  7. Amaranthus – *Amaranthus* spp: 65;
  8. Anagalis (primpernel) – *Anagalis arvensis*, *Anagalis coerulea*, *Anagalis grandiflora*: 60;
  9. Anemone – *Anemone coronaria*, *A. pulsatilla*: 55;
  10. Angel's Trumpet – *Datura arborea*: 60;
  11. Arabis – *Arabis alpine*: 60;
  12. Arctotis (African lilac daisy) – *Arctotis grandis*: 45;
  13. Armeria – *Armeria formosa*: 55;
  14. Asparagus, fern – *Asparagus plumosus*: 50;
  15. Asparagus, sprenger, *Asparagus sprenger*: 55;
  16. Aster, China – *Callistephus chinensis*; except Pompon, Powderpuff, and Princess types: 55;
  17. Aster, China – *Callistephus chinensis*; Pompon, Powderpuff, and Princess types: 50;
  18. Aubretia – *Aubretia deltoids*: 45;
  19. Baby Smilax – *Aparagus asparagoides*: 25;
  20. Balsam – *Impatiens balsamina*: 70;
  21. Begonia – (*Begonia fibrous rooted*): 60;
  22. Begonia – (*Begonia tuberous rooted*): 50;
  23. Bells of Ireland – *Molucella laevis*: 60;
  24. Brachycome (swan river daisy) – *Brachycome iberidifolia*: 60;
  25. Browallia – *Browallia elata* and *B. speciosa*: 65;
  26. Bupthalam (sunwheel) – *Bupthalam salicifolium*: 60;
  27. Calceolaria – *Calceolaria* spp: 60;
  28. Calendula – *Calendula officinalis*: 65;
  29. California Poppy – *Eschscholtzia californica*: 60;
  30. Calliopsis – *Coreopsis bicolor*, *C. drummondii*, *C. elegans*: 65;
  31. Campanula:
    - a. Canterbury Bells – *Campanula medium*: 60;
    - b. Cup and Saucer Bellflower – *Campanula medium calycanthema*: 60;
    - c. Carpathian Bellflower – *Campanula carpatica*: 50;
    - d. Peach Bellflower – *Campanula persicifolia*: 50;
  32. Candytuft, Annual – *Iberis amara*, *I. umbellate*: 65;
  33. Candytuft, Perennial – *Iberis gibraltarica*, *I. sempervirens*: 55;
  34. Castor Bean – *Ricinus communis*: 60;
  35. Cathedral Bells – *Cobaea scandens*: 65;
  36. *Celosia argentea*: 65;

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37. Centaurea: Basket Flower – *Centaurea americana*, Cornflower – *C. cyanus*, Dusty Miller – *C. candidissima*, Royal Centaurea – *C. imperialis*, Sweet Sultan – *C. moschata*, Velvet Centaurea – *C. gymnocarpa*: 60;
38. Snow-in-Summer *Cerastium biebersteini* and *C. tomentosum*: 65;
39. Chinese Forget-me-not – *Cynoglossum amabile*: 55;
40. Chrysanthemum, Annual – *Chrysanthemum carinatum*, *C. coronarium*, *C. Cineraria* – *Senecio cruentus*: 60;
41. Clarkia – *Clarkia elegans*: 65;
42. Cleome – *Cleome gigantea*: 65;
43. Coleus – *Coleus blumei*: 65;
44. Columbine – *Aquilegia* spp.: 50;
45. Coral Bells – *Heuchera sanguinea*: 55;
46. Coreopsis, Perennial – *Coreopsis lanceolata*: 40;
47. Corn, ornamental – *Zea mays*: 75;
48. Cosmos: Sensation, Mammoth and Crested types – *Cosmos bipinnatus*; Klondyke type – *C. sulphureus*: 65;
49. Crossandra – (*Crossandra infundibuliformis*): 50;
50. Dahlia – *Dahlia* spp: 55;
51. Daylily – *Heemerocallis* spp: 45;
52. Delphinium, Perennial – *Belladonna* and *Bellamosum* types; Cardinal Larkspur – *Delphinium cardinale*; *Chinensis* types; Pacific Giant, Gold Medal and other hybrids of *D. elatum*: 55;
53. Dianthus:
  - a. Carnation – *Dianthus caryophyllus*: 60;
  - b. China Pinks – *Dianthus chinensis*, *heddewigi*, *heddensis*: 70;
  - c. Grass Pinks – *Dianthus plumarius*: 60;
  - d. Maiden Pinks – *Dianthus deltoids*: 60;
  - e. Sweet William – *Dianthus barbatus*: 70;
  - f. Sweet Wivelsfield – *Dianthus allwoodi*: 60;
54. Didiscus – (blue lace flower) – *Didiscus coerulea*: 65;
55. Doronicum (leopard's bane) – *Doronicum caucasicum*: 60;
56. Dracaena – *Dracaena indivisa*: 55;
57. Dragon Tree – *Dracaena draco*: 40;
58. English Daisy – *Bellis perennis*: 55;
59. Flax – Golden flax (*Linum flavum*); Flowering flax *L. randiflorum*; Perennial flax, *L. perenne*: 60;
60. Flowering Maple – *Abutilon* spp: 35;
61. Foxglove – *Digitalis* spp: 60;
62. Gaillardia, Annual – *Gaillardia pulchella*; *G. picta*; Perennial – *G. grandiflora*: 45;
63. Gerbera (transvaal daisy) – *Gerbera jamesoni*: 60;
64. Geum – *Geum* spp: 55;
65. Gilia – *Gilia* spp: 65;
66. Glosiosa daisy (*rudbeckia*) – *Echinacea purpurea* and *Rudbeckia Hirta*: 60;
67. Gloxinia – (*Sinningia speciosa*): 40;
68. Godetia – *Godetia amoena*, *G. grandiflora*: 65;
69. Gourds: Yellow Flowered – *Cucurbita pepo*; White Flowered – *Lagenaria sisceraria*; Dishcloth – *Luffa cylindrica*: 70;
70. Gypsophila: Annual Baby's Breath – *Gypsophila elegans*; Perennial Baby's Breath – *G. paniculata*, *G. pacifica* *G. repens*: 70;
71. Helenium – *Helenium autumnale*: 40;
72. Helichrysum – *Helichrysum monstrosum*: 60;
73. Heliopsis – *Heliopsis scabra*: 55;
74. Heliotrope – *Heliotropium* spp: 35;
75. Helipterum (Acroclinium) – *Helipterum roseum*: 60;
76. Hesperis (sweet rocket) – *Hesperis matronalis*: 65;
77. \*Hollyhock – *Althea rosea*: 65;
78. Hunnemanian (mexican tulip poppy) – *Hunnemanian fumariaefolia*: 60;
79. Hyacinth bean – *Dolichos lablab*: 70;
80. Impatiens – *Impatiens hostii*, *I. sultani*: 55;
81. \**Ipomoea* – Cypress Vine – *Ipomoea quamoclit*; Moonflower – *I. noctiflora*; Morning Glories, Cardinal Climber, Hearts and Honey Vine – *Ipomoea* spp: 75;
82. Jerusalem cross (maltese cross) – *Lychnis chalconica*: 70;
83. Job's Tears – *Coix lacrymajobi*: 70;
84. Kochia – *Kochia childsii*: 55;
85. Larkspur, Annual – *Delphinium ajacis*: 60;
86. Lantana – *Lantana camara*, *L. hybrida*: 35;
87. Lilium (regal lily) – *Lilium regale*: 50;
88. Linaria – *Linaria* spp: 65, exception: *Linaria genistifolia* var. *dalmatica* – Dalmation toadflax which is a prohibited noxious weed;
89. Lobelia, Annual – *Lobelia erinus*: 65;
90. Lunaria, Annual – *Lunaria annua*: 65;
91. \*Lupine – *Lupinus* spp: 65;
92. Marigold – *Tagetes* spp: 65;
93. Marvel of Peru – *Mirabilis jalapa*: 60;
94. Matricaria (feverfew) – *Matricaria* spp: 60;
95. Mignonette – *Reseda odorata*: 55;
96. Myosotis – *Myosotis alpestris*, *M. oblongata*, *M. palustris*: 50;
97. Nasturtium – *Tropaeolum* spp: 60;
98. Nemesis – *Nemesis* spp: 65;
99. Nemophila – *Nemophila insignis*: 70;
100. Nemophila, spotted – *Nemophila maculate*: 60;
101. Nicotiana – *Nicotiana affinis*, *N. sanderae*, *N. sylvestris*: 65;
102. Nierembergia – *Nierembergia* spp: 55;
103. Nigella – *Nigella damascena*: 55;
104. Pansy – *Viola tricolor*: 60;
105. Penstemon – *Penstemon barbatus*, *P. grandiflorus*, *P. laevigatus*, *P. pubescens*: 60;
106. Petunia – *Petunia* spp: 45;
107. Phacelia – *Phacelia campanularia*, *P. minor*, *P. tanacetifolia*: 65;
108. Phlox, Annual – *Phlox drummondii* all types and varieties: 55;
109. Physalis – *Physalis* spp: 60;
110. Platycodon (balloon flower) – *Platycodon grandiflorum*: 60;
111. Plumbago, cape – *Plumbago capensis*: 50;
112. Ponytail – *Beaucarnea recurvata*: 40;
113. Poppy: Shirley Poppy – *Papaver rhoeas*; Iceland Poppy – *P. nudicaule*; Oriental Poppy – *P. orientale*; Tulip Poppy – *P. glaucum*: 60;
114. Portulaca – *Portulaca grandiflora*: 55;
115. Primula (primrose) – *Primula* spp: 50;
116. Pyrethrum (painted daisy) – *Pyrethrum coccineum*: 60;
117. Salpiglossis – *Salpiglossis gloxinaeflora*, *S. sinuata*: 60;
118. Salvia – Scarlet Sage – *Salvia splendens*; Mealycup Sage (Blue bedder) – *Salvia farinacea*: 50;
119. Saponaria – *Saponaria ocyroides*, *S. vaccaria*: 60;
120. Scabiosa, Annual – *Scabiosa atropurpurea*: 50;
121. Scabiosa, Perennial – *Scabiosa caucasica*: 40;
122. Schizanthus – *Schizanthus* spp: 60;
123. \*Sensitive plant (mimosa) – *Mimosa pudica*: 65;
124. Shasta Daisy – *Chrysanthemum maximum* *C. leucanthemum*: 65;
125. Silk Oak – *Grevillea robusta*: 25;
126. Snapdragon – *Antirrhinum* spp: 55;

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127. *Solanum* – *Solanum* spp: 60, exceptions; *Solanum carolinense* – Carolina horsenettle and *Solanum elaeagnifolium* – Silverleaf Nightshade which are prohibited noxious weeds;
128. *Statice* – *Statice sinuata*, *S. suworonii* (flower heads): 50;
129. Stocks: Common – *Mathiola incana*; Evening Scented – *Mathiola bicornis*: 65;
130. Sunflower – *Helianthus* spp: 70, exception; *Helianthus ciliaris* DC. – Texas blueweed which is a prohibited noxious weed;
131. Sunrose – *Helianthemum* spp: 30;
132. \*Sweet Pea, Annual and Perennial other than dwarf bush – *Lathyrus odoratus*, *L. latifolius*: 75;
133. \*Sweet Pea, Dwarf Bush – *Lathyrus odoratus*: 65;
134. Tahoka Daisy – *Machaeanthera tanacetifolia*: 60;
135. *Thunbergia* – *Thunbergia alata*: 60;
136. Torenia Flower – *Tithonia speciosa*: 70;
137. Torenia (Wishbone Flower) – *Torenia fournieri*: 70;
138. *Tritoma kniphofia* Spp: 65;
139. Verbena, Annual – *Verbena hybrida*: 35;
140. Vinca – *Vinca rosea*: 60;
141. Viola – *Viola cornuta*: 55;
142. Virginian Stocks – *Malcolmia maritima*: 65;
143. Wallflower – *Cheiranthus allioni*: 65;
144. Yucca (Adam’s Needle) – *Yucca filamentosa*: 50;
145. Zinnia (Except Linearis and Creeping) – *Zinnia angustifolia*, *Z. elegans*, *Z. grandiflora*, *Z. gracillima*, *Z. haegeana*, *Z. multiflora*, *Z. pumila*: 65;
146. Zinnia, Linearis and Creeping – *Zinnia linearis*, *Sanvitalia procumbens*: 50;
147. All Other Kinds: 50.
- C. The germination labeling provisions of R3-4-402(E) apply to the following tree and shrub species:
1. *Abies amabilis* (Dougl.) Forbes – Pacific Silver Fir;
  2. *Abies balsamea* (L.) Mill. – Balsam Fir;
  3. *Abies concolor* (Gord. Glend.) Lindl. – White Fir;
  4. *Abies fraseri* (Pursh.) Poir – Fraser Fir;
  5. *Abies grandis* (Dougl.) Lindl. – Grand Fir;
  6. *Abies homolepis* Sieb Zucc. – Nikko Fir;
  7. *Abies lasiocarpa* (Hook) Nutt. – Subalpine Fir;
  8. *Abies magnifica* A. Murr. – California Red Fir;
  9. *Abies magnifica* var. *shastensis* Lemm. – Shasta Red Fir;
  10. *Abies procera* Rehd. – Nobel Fir;
  11. *Abies veitchii* (Lindl.) – Veitch Fir;
  12. *Acer ginnala* Maxim. – Amur Maple;
  13. *Acer macrophyllum* Pursh. – Bigleaf Maple;
  14. *Acer negundo* L. – Boxelder;
  15. *Acer pensylvanicum* L. – Striped Maple;
  16. *Acer platanoides* L. – Norway Maple;
  17. *Acer pseudoplatanus* L. – Sycamore Maple;
  18. *Acer rubrum* L. – Red Maple;
  19. *Acer saccharinum* L. – Silver Maple;
  20. *Acer saccharum* Marsh. – Sugar Maple;
  21. *Acer spicatum* Lam. – Mountain Maple;
  22. *Aesculus pavia* L. – Red Buckeye;
  23. *Ailanthus altissima* (Mill.) Swingle – Tree of Heaven, *Ailanthus*;
  24. *Berberis thunbergii* DC. – Japanese Barberry;
  25. *Berberis vulgaris* L. European Barberry;
  26. *Betula lenta* L. – Sweet Birch;
  27. *Betula alleghaniensis* Britton – Yellow Birch;
  28. *Betula nigra* L. – River Birch;
  29. *Betula papyrifera* Marsh. – Paper Birch;
  30. *Betula pendula* Roth. – European White Birch;
  31. *Betula populifolia* Marsh. – Gray Birch;
  32. *Carya illinoensis* (Wang.) K. Koch – Pecan;
  33. *Carya ovata* (Mill) K. Koch – Shagbark Hickory;
  34. *Casuarina* spp. – Beefwood;
  35. *Catalpa bignonioides* Walt. – Southern Catalpa;
  36. *Catalpa speciosa* Warder. – Northern Catalpa;
  37. *Cedrus atlantica* Manetti – Atlas Cedar;
  38. *Cedrus deodara* (Roxb.) Loud. – Deodar Cedar;
  39. *Cedrus libani* (Loud.) – Cedar of Lebanon;
  40. *Clastrus scandens* L. – American Bittersweet;
  41. *Celastrus orbiculata* Thunb. – Oriental Bittersweet;
  42. *Chamaecyparis lawsoniana* (A. Murr.) Parl – Port Oxford Cedar;
  43. *Chamaecyparis nootkatensis* (D. Don.) Spach. – Alaska Cedar;
  44. *Cornus florida* L. – Flowering Dogwood;
  45. *Cornus stolonifera* Michx. – Red-osier Dogwood;
  46. *Crataegus mollis* – Downy Hawthorn;
  47. *Cupressus arizonica* Greene – Arizona Cypress;
  48. *Eucalyptus deglupta*;
  49. *Eucalyptus gradis*;
  50. *Fraxinus americana* L. – White Ash;
  51. *Fraxinus excelsior* L. – European Ash;
  52. *Fraxinus latifolia* Benth. – Oregon Ash;
  53. *Fraxinus nigra* Marsh. – Black Ash;
  54. *Fraxinus pensylvanica* Marsh. – Green Ash;
  55. *Fraxinus pensylvanica* var. *lanceolata* (Borkh.) Sarg. – Green Ash;
  56. *Gleditsia triacanthos* L. – Honey Locust;
  57. *Grevillea robusta* – Silk-oak;
  58. *Larix decidua* Mill. – European Larch;
  59. *Larix eurolepis* Henry – Dunkfeld Larch;
  60. *Larix leptolepis* (Sieb. Zucc.) Gord. – Japanese Larch;
  61. *Larix occidentalis* Nutt. – Western Larch;
  62. *Larix sibirica* Ledeb. – Siberian Larch;
  63. *Libocedrus decurrens* – Incense-Cedar;
  64. *Liquidambar styraciflua* L. – Sweetgum;
  65. *Liriodendron tulipifera* L. – Yellow-Poplar;
  66. *Magnolia grandiflora* – Southern Magnolia;
  67. *Malus* spp. – Apple;
  68. *Malus* spp. – Crabapple;
  69. *Nyssa aquatica* L. – Water Tupelo;
  70. *Nyssa sylvatica* var. *sylvatica* – Black Tupelo;
  71. *Picea abies* (L.) Karst. – Norway Spruce;
  72. *Picea engelmanni* Parry – Engelmann Spruce;
  73. *Picea glauca* (Moench.) Voss – White Spruce;
  74. *Picea glauca* var. *albertiana* (S. Brown) Sarg. – Western White Spruce, Alberta White Spruce;
  75. *Picea glehnii* (Fr. Schmidt) Mast. – Sakhalin Spruce;
  76. *Picea jezoensis* (Sieb. Zucc.) Carr – Yeddo Spruce;
  77. *Picea koyamai* Shiras. – Koyama Spruce;
  78. *Picea mariana* (Mill.) B.S.P. – Black Spruce;
  79. *Picea omorika* (Pancic.) Purkyne – Serbian Spruce;
  80. *Picea orientalis* (L.) Link. – Oriental Spruce;
  81. *Picea polita* (Sieb. Zucc.) Carr – Tigertail Spruce;
  82. *Picea pungens* Engelm. – Blue Spruce, Colorado Spruce;
  83. *Picea pungens* var. *glauca* Reg. – Colorado Blue Spruce;
  84. *Picea rubens* Sarg. – Red Spruce;
  85. *Picea sitchensis* (Bong.) Carr – Sitka Spruce;
  86. *Pinus albicaulis* Engelm. – Whitebark Pine;
  87. *Pinus aristata* Engelm. – Bristlecone Pine;
  88. *Pinus banksiana* Lamb. – Jack Pine;
  89. *Pinus canariensis* C. Smith – Canary Pine;
  90. *Pinus caribaea* – Caribbean Pine;
  91. *Pinus cembroides* Zucc. – Mexican Pinyon Pine;
  92. *Pinus clausa* – Sand Pine;
  93. *Pinus conorta* Dougl. – Lodgepole Pine;
  94. *Pinus contorta* var. *latifolia* Engelm. – Lodgepole Pine;

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95. *Pinus coulteri* D. Don. – Coulter Pine, Bigcone Pine;  
 96. *Pinus densiflora* Sieb. Zucc. – Japanese Red Pine;  
 97. *Pinus echinata* Mill. – Shortleaf Pine;  
 98. *Pinus elliottii* Engelm. – Slash Pine;  
 99. *Pinus flexilis* James – Limber Pine;  
 100. *Pinus glabra* Walt. – Spruce Pine;  
 101. *Pinus griffithii* McClelland – Himalayan Pine;  
 102. *Pinus halepensis* Mill. – Aleppo Pine;  
 103. *Pinus jeffreyi* Grev. Balf. – Jeffrey Pine;  
 104. *Pinus khasya* Royle – Khasia Pine;  
 105. *Pinus lambertiana* Dougl. – Sugar Pine;  
 106. *Pinus heldreichii* var. *leucodermis* (Ant.) Markgraf ex Fitschen – Balkan Pine, Bosnian Pine;  
 107. *Pinus markusii* DeVriese – Markus Pine;  
 108. *Pinus monticola* Dougl. – Western White Pine;  
 109. *Pinus mugo* Turra. – Mountain Pine;  
 110. *Pinus mugo* var. *mughus* (Scop.) Zenari – Mugo Swiss Mountain Pine;  
 111. *Pinus muricata* D. Don. – Bishop pine;  
 112. *Pinus nigra* Arnold – Austrian Pine;  
 113. *Pinus nigra* poiretiana (Ant.) Aschers Graebn. – Corsican Pine;  
 114. *Pinus palustris* Mill. – Longleaf Pine;  
 115. *Pinus parviflora* Sieb. Zucc. – Japanese White Pine;  
 116. *Pinus patula* Schl. Cham. – Jelecote Pine;  
 117. *Pinus pinaster* Sol. – Cluster Pine;  
 118. *Pinus pinea* L. – Italian Stone Pine;  
 119. *Pinus ponderosa* Laws. – Ponderosa Pine, Western Yellow Pine;  
 120. *Pinus radiata* D. Don. – Monterey Pine;  
 121. *Pinus resinosa* Ait. – Red Pine, Norway Pine;  
 122. *Pinus rigida* Mill. – Pitch Pine;  
 123. *Pinus serotina* Michx. – Pond Pine;  
 124. *Pinus strobus* L. – Eastern White Pine;  
 125. *Pinus sylvestris* L. – Scots Pine;  
 126. *Pinus taeda* L. – Loblolly Pine;  
 127. *Pinus taiwanensis* Hayata – Formosa Pine;  
 128. *Pinus thunbergii* Parl. – Japanese Black Pine;  
 129. *Pinus virginiana* Mill. – Virginia Pine, Scrub Pine;  
 130. *Platanus occidentalis* L. – American Sycamore;  
 131. *Populus* spp. – Poplars;  
 132. *Prunus armeriaca* L. – Apricot;  
 133. *Prunus avium* L. – Cherry;  
 134. *Prunus domestica* L. – Plum, Prune;  
 135. *Prunus persica* Batsch. – Peach;  
 136. *Pseudotsuga menziesii* var. *glauca* (Beissn.) Franco – Blue Douglas Fir;  
 137. *Pseudotsuga menziesii* var. *caesia* (Beissn.) Franco – Gray Douglas Fir;  
 138. *Pseudotsuga menziesii* var. *viridis* – Green Douglas Fir;  
 139. *Pyrus communis* L. – Pear;  
 140. *Quercus* spp. – (Red or Black Oak group);  
 141. *Quercus alba* L. – White Oak;  
 142. *Quercus muehlenbergii* Engelm. – Chinkapin Oak;  
 143. *Quercus virginiana* Mill. – Live Oak;  
 144. *Rhododendron* spp. – Rhododendron;  
 145. *Robinia pseudoacacia* L. – Black Locust;  
 146. *Rosa multiflora* Thunb. – Japanese Rose;  
 147. *Sequoia gigantea* (Lindl.) Decne. – Giant Sequoia;  
 148. *Sequoia sempervirens* (D. Don.) Engl. – Redwood;  
 149. *Syringa vulgaris* L. – Common Lilac;  
 150. *Thuja occidentalis* L. – Northern White Cedar, Eastern Arborvitae;  
 151. *Thuja orientalis* L. – Oriental Arborvitae, Chinese Arborvitae;  
 152. *Thuja plicata* Donn. – Western Red Cedar – Giant Arborvitae;  
 153. *Tsuga canadensis* (L.) Carr. – Eastern Hemlock, Canada Hemlock;  
 154. *Tsuga heterophylla* (Raf.) Sarg. – Western Hemlock, Pacific Hemlock;  
 155. *Ulmus americana* L. – American Elm;  
 156. *Ulmus parvifolia* Jacq. – Chinese Elm;  
 157. *Ulmus pumila* L. – Siberian Elm; and  
 158. *Vitis vulpina* L. – Riverbank Grape.
- D.** A person shall not indicate a quality of seed higher than the actual quality as found through germination test.
- E.** The labeler or the person who sells, offers, or exposes for sale within this state seeds in hermetically-sealed containers more than 36 months after the last day of the month in which the seeds were tested prior to packaging, shall retest the seeds within nine months, excluding of the calendar month in which the retest was completed, immediately prior to sale, exposure for sale, or offering for sale or transportation.
- Historical Note**  
 Adopted effective December 21, 1981 (Supp. 81-6). Former Section R3-4-113 renumbered without change as Section R3-4-404 (Supp. 89-1). Section R3-4-404 renumbered from R3-1-404 (Supp. 91-4). Section repealed, new Section R3-4-404 renumbered from R3-4-406 and amended effective July 10, 1995 (Supp. 95-3). Amended by final rulemaking at 13 A.A.R. 1464, effective June 2, 2007 (Supp. 07-2).
- R3-4-405. Seed-certifying Agencies**
- A.** Any agency seeking to obtain designation as a seed-certifying agency in Arizona shall meet the following requirements.
1. The agency shall be qualified by USDA to certify agricultural or vegetable planting seed as to variety, strain, and genetic purity.
  2. The agency shall have a written seed certification protocol which includes standards, rules, and procedures for the certification of planting seed.
  3. The agency shall have procedures for accepting crops and varieties into a certification program.
  4. The agency shall be a member in good standing of a USDA-recognized association of official seed-certifying agencies such as the Association of Official Seed Certifying Agencies.
- B.** The Director or the Director's designee shall meet each calendar year with the director of the seed-certifying agency to review the agency's standards, rules, and procedures.
- C.** The Director may, after consulting with the Director of the Arizona Agricultural Experiment Station, revoke the agency's designation as the state seed-certifying agency after written 30 days' notice if the organization:
1. Fails to maintain qualifications, protocols, procedures, and membership as set forth in subsection (A); or
  2. Fails to follow federal and state standards, rules, and procedures.
- Historical Note**  
 Adopted effective December 21, 1981 (Supp. 81-6). Former Section R3-4-114 renumbered without change as Section R3-4-405 (Supp. 89-1). Section R3-4-405 renumbered from R3-1-405 (Supp. 91-4). Section R3-4-405 renumbered to R3-4-403, new Section R3-4-405 renumbered from R3-4-407 and amended effective July 10, 1995 (Supp. 95-3).
- R3-4-406. Sampling and Analyzing Seed**

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- A. A person shall follow the methods of taking, handling, analyzing, and testing samples of seed and the tolerances and methods of determination as prescribed in the Federal Seed Act Regulations, 7 CFR 201.39 through 201.65, amended January 1, 2002, and in the Rules for Testing Seeds, 2006, published by the Association of Official Seed Analysts. This material is incorporated by reference and is on file with the Department. The materials incorporated by reference do not include any later amendments or editions. The Rules for Testing Seeds are also available through the web site: <http://www.aosaseed.com>. The CFR may be ordered from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA, 15250-7954 and the Rules for Testing Seeds may be ordered from the AOSA Management Office, Mail Boxes Etc. #285, 601 S. Washington, Stillwater, OK 74074-4539. If there is a conflict between the two documents, the requirements in CFR will prevail.
- B. A labeler offering a seed for sale shall pay the cost of original germination and purity tests on each lot of seed offered for sale, and a dealer or labeler shall pay the cost of any subsequent germination test required by A.R.S. § 3-237. The Department shall pay the cost of testing seed samples drawn by a seed inspector from lots bearing valid labels. The dealer or labeler shall reimburse the Department for the cost of the test if the dealer or labeler chooses to use the Department's germination and purity results in subsequent re-labeling.

**Historical Note**

Adopted effective December 21, 1981 (Supp. 81-6). Former Section R3-4-115 renumbered without change as Section R3-4-406 (Supp. 89-1). Section R3-4-406 renumbered from R3-1-406 (Supp. 91-4). Section R3-4-406 renumbered to R3-4-404, new Section R3-4-406 renumbered from R3-4-408 and amended effective July 10, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 1286, effective May 31, 2003 (Supp. 03-2). Amended by final rulemaking at 13 A.A.R. 1464, effective June 2, 2007 (Supp. 07-2).

**R3-4-407. Phytosanitary Field Inspection; Fee**

- A. Applicants seeking phytosanitary certification for interstate and international exportation of agriculture, vegetable, and ornamental planting seed shall submit a \$20.00 inspection fee and provide the following information on a form furnished by the Department:
1. The company name and address of the applicant;
  2. The kind, variety, and lot number of the seed;
  3. The number of acres on which the seed will be grown;
  4. The name of the grower;
  5. The county and field location;
  6. The date of the application;
  7. The countries of export;
  8. The seed treatment, if applicable;
  9. The amount of treatment, if applicable;
  10. The approximate planting date;
  11. The approximate harvest date; and
  12. The export requirements.
- B. The Department may contract with the state-certifying agency for field inspection at 20¢ per acre for any first or single required inspection and 10¢ per acre for each subsequent required inspection which shall be performed in conjunction with the seed certification program.
- C. Field inspections conducted by the Department shall be based upon the following fee schedule and shall not exceed the maximum fee prescribed by A.R.S. § 3-233(A)(7):
1. Cotton: 80¢ per acre;
  2. Small grain: 20¢ per acre for the first inspection and 80¢ for the second inspection;

3. Vegetable and all other crops: 20¢ for the first inspection and 80¢ for the second inspection.
- D. If both the field inspection fee and the application fee exceeds the maximum fee per acre prescribed by A.R.S. § 3-233(A)(7), the application fee shall be voided and the maximum cost per acre shall be assessed.

**Historical Note**

Adopted effective December 21, 1981 (Supp. 81-6). Former Section R3-4-116 renumbered without change as Section R3-4-407 (Supp. 89-1). Section R3-4-407 renumbered from R3-1-407 (Supp. 91-4). Section R3-4-407 renumbered to R3-4-405, new Section adopted effective July 10, 1995 (Supp. 95-3).

**R3-4-408. Licenses: Seed Dealer and Seed Labeler; Fees**

- A. An applicant for a seed dealer or seed labeler license shall provide the following to the Department:
1. The year for which the applicant wishes to be licensed;
  2. The applicant's name, company name, telephone number, fax number and e-mail address, as applicable;
  3. Verification of previous seed dealer or labeler license, if applicable;
  4. The mailing and physical address of each business location being licensed;
  5. Company Tax ID number or if not a legally-recognized business entity, the applicant's Social Security number;
  6. The date of the application; and
  7. The signature of the applicant.
- B. Seed dealer and seed labeler licenses are not transferable, expire on June 30, and are valid for no more than one year, or period thereof, unless otherwise revoked, suspended, denied or otherwise acted upon by the Department as provided in A.R.S. § 3-233(A)(6).
- C. An applicant shall submit a completed application to the Department accompanied by the following fee, which is non-refundable unless A.R.S. § 41-1077 applies.
1. Seed dealers, \$50.00 per location; and
  2. Seed labelers, \$100.00.
- D. During fiscal year 2011 and fiscal year 2012, notwithstanding subsection (C), there is no fee to obtain a seed dealer or seed labeler license.

**Historical Note**

Adopted effective December 21, 1981 (Supp. 81-6). Former Section R3-4-117 renumbered without change as Section R3-4-408 (Supp. 89-1). Section R3-4-408 renumbered from R3-1-408 (Supp. 91-4). Section R3-4-408 renumbered to R3-4-406, new Section adopted effective July 10, 1995 (Supp. 95-3). Amended by final rulemaking at 13 A.A.R. 1464, effective June 2, 2007 (Supp. 07-2). Amended by exempt rulemaking at 16 A.A.R. 2029, effective September 21, 2010 (Supp. 10-3). Amended by exempt rulemaking at 17 A.A.R. 1763, effective July 20, 2011 (Supp. 11-3).

**R3-4-409. Violations and Penalties**

- A. The Department may assess the following penalties against a dealer or labeler for each customer affected by a violation listed below: \$50 for the first offense, \$150 for the second offense, and \$300 for each subsequent offense within a three-year period:
1. Failure to complete the germination requirements on agricultural, vegetable, or flower seed intended for wholesale or commercial use within nine months prior to sale, exposing for sale, or offering for sale within the state, excluding the month in which the test was completed.

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This penalty does not apply to a violation under subsections (A)(2), or (3);

2. Failure to complete the germination requirements for agricultural, ornamental, or vegetable seed intended for retail purchase within the 15 months prior to the sale, exposing for sale, or offering for sale within the state, excluding the month in which the test was completed; and
  3. Failure to obtain any license required by this Article;
- B.** The Department may assess the following penalties against any person committing the following acts: up to \$500 for the first offense, up to \$1250 for the second offense, and up to \$2500 for each subsequent offense within a three-year period.
1. To label, advertise, or represent seed subject to this Article to be certified seed or any class of certified seed unless:
    - a. It has been determined by a certifying agency that the seed conforms to standards of purity and identification as to kind, species and subspecies, if appropriate, or variety; and
    - b. The seed bears an official label issued for the seed by a certifying agency certifying that the seed is of a specified class and a specified kind, species and subspecies, if appropriate, and variety;
  2. To disseminate in any manner or by any means, any false or misleading advertisements concerning seeds subject to this Article;
  3. To hinder or obstruct in any way, any authorized agent of the Department in the performance of the person's duties under this Article;
  4. To fail to comply with a cease and desist order or to move or otherwise handle or dispose of any lot of seed held under a cease and desist order or tags attached to the order, except with express permission of the enforcing officer, and for a purpose specified by the officer;
  5. To label or sell seed that has been treated without proper labeling;
  6. To provide false information to any authorized person in the performance of the person's duties under this Article; or
  7. To label or sell seed that has false or misleading labeling, including:
    - a. Labeling or selling seed with a label containing the word "trace" or the phrase "contains 01%" as a substitute for any statement that is required by this Article;
    - b. Altering or falsifying any seed label, seed test, laboratory report, record, or other document to create a misleading impression as to kind, variety, history, quality or origin of seed;
    - c. Labeling as hermetically sealed containers of agricultural or vegetable seeds that have not had completed the germination requirements with 36 months prior to sale, excluding the month in which the test was completed;
    - d. Failure to label in accordance with the provisions of this Article;
    - e. If applicable, failing to label as containing prohibited noxious weed seeds, subject to recognized tolerances;
    - f. If applicable, failing to label as containing restricted noxious weed seeds in excess of the number prescribed in R3-4-403 on the label attached to the container of the seed or associated with seed;
    - g. If applicable, failing to label as containing more than two and one-half percent by weight of all weed seeds;

- h. Detaching, altering, defacing, or destroying any label provided for in this Article, or altering or substituting seed in a manner that may defeat the purpose of this Article;
- i. Using relabeling stickers without having both the calendar month and year the germination test was completed, the sell by date if appropriate, and the lot number that matches the existing, original lot number; and
- j. Selling, exposing for sale, or offering for sale within the state vegetable seed intended for retail purchase that has labeling containing germination information that has not been completed within the 12 months prior to selling, exposing for sale, or offering for sale.

**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 1464, effective June 2, 2007 (Supp. 07-2).

**ARTICLE 5. COLORED COTTON****R3-4-501. Colored Cotton Production and Processing**

- A.** Definitions. In addition to the definitions provided in A.R.S. § 3-101 and R3-4-101 and R3-4-201, the following terms apply to this Section:
1. "Certified" means having been inspected with a written certificate of inspection issued by an inspector of the Department.
  2. "Colored cotton" means any variety of cotton plants of the Genus *Gossypium* that produces fiber that is naturally any color other than white.
  3. "Cottonseed" means processed seed cotton used for propagation, animal feed, crushed or composted fertilizer, or oil.
  4. "Composting" means a process that creates conditions that facilitate the controlled decomposition of organic matter into a more stable and easily handled soil amendment or fertilizer, usually by piling, aerating and moistening; or the product of such a process.
  5. "Delinting" means the process of using acid, flame, or mechanical means to remove fiber that remains on cottonseed after ginning.
  6. "Planting seed" means seed of a known variety produced for planting subsequent generations.
  7. "Seed cotton" means raw cotton containing seed and lint that has been harvested from a field, but has not been ginned.
  8. "White cotton" means any variety of the Genus *Gossypium* that produces white fiber as established in 7 C.F.R. §§ 28.401 through 28.407; and the U.S. Department of Agriculture, Agriculture Marketing Service: Cotton Classification, revised April, 2005. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.
- B.** Production requirements.
1. A producer who intends to grow colored cotton shall register in writing with the Department. The registration form shall be received at least 30 days before the cotton planting date for the applicable cultural cotton zone established in R3-4-204(E). Any colored cotton not registered with the Department shall be abated as established in A.R.S. §§ 3-204 and 3-205, and the producer may be assessed a civil penalty as established in A.R.S. § 3-205.02. The registration shall include:
    - a. The name, address, telephone number, and signature of the producer;

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- b. The name, address, telephone number, and signature of the property owner;
  - c. The name, address, and telephone number of the organization or company contracting for the production of colored cotton or to whom the colored cotton will be sold, if known;
  - d. The total number of acres to be planted;
  - e. The geographical location of the proposed fields by county, section, township and range; and
  - f. The name of the property owners, if known, adjacent to the field where colored cotton will be grown.
2. Separation of white and colored cotton.
    - a. A colored cotton producer shall ensure that all colored cotton is planted no less than 500 feet from any white cotton field.
    - b. All producers of white cotton saved for planting seed shall comply with the Field Standards in the Arizona Crop Improvement Association's Cotton Seed Certification Standards, revised July 1995. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.
  3. A producer shall not plant white cotton on land on which colored cotton has been grown until one or more irrigated non-cotton crops have been produced on that land. If the non-cotton crop is not grown during a traditional cotton growing season, as established by R3-4-204(E), the field shall be irrigated before planting a white cotton crop.
  4. The Department shall notify all cotton producers of the colored cotton plant-back restrictions and of the availability of location and acreage records of colored cotton crops.
  5. The Department shall notify the Arizona Crop Improvement Association of the colored cotton geographical locations at least 25 days before the cotton planting date for each cultural cotton zone established in R3-4-204(E).
- C. Cotton appliances.**
1. No cotton producer, contractor, or ginner shall use a cotton appliance or gin to produce, transport, or handle white cotton after the gin or appliance has been used in the production, transportation, or handling of colored cotton until the Department inspects the cotton appliance or gin and finds it free of colored cottonseed, seed cotton, fiber, and gin trash. A cotton producer, contractor, or ginner shall notify the Department at least 48 hours, excluding Sundays and legal holidays, before an inspection is needed.
  2. Colored seed cotton, cottonseed, fiber, and gin trash cleaned from cotton equipment, shall be composted or disposed of by the producer or ginner:
    - a. On land where gin trash has previously been disposed and the land is managed as specified in subsection (B)(3); or
    - b. In a landfill approved by the Department.
  3. The Department shall legibly mark cotton appliances designated for exclusive use on colored cotton crops.
- D. Transportation.** Except in gin yards, colored cottonseed or colored seed cotton transported over public roads shall be totally enclosed or covered.
- E. Gin requirements.**
1. A gin owner or manager planning to process colored cotton shall notify the Department, in writing, no less than 30 days before processing the colored cotton.
  2. The Department shall notify the Arizona Crop Improvement Association of a gin owner's or manager's intention to process colored cotton within 10 days from the receipt of the notification from the gin.
3. A gin owner or manager processing colored cotton shall not process white cotton until the gin has been cleaned, and inspected by the Department. The gin shall be free of cottonseed, seed cotton, and loose lint as established in subsection (C)(1).
  4. If a gin processes colored seed cotton and white seed cotton during the same season, and the white cottonseed is not retained by the plant breeder for research purposes, the producer shall market the white cottonseed as:
    - a. Animal feed,
    - b. Crushed or composted fertilizer, or
    - c. Oil.
  5. The ginner shall legibly mark colored seed cotton kept in the gin yard or gin buildings and shall:
    - a. Isolate the seed cotton at least 500 feet from white seed cotton, or
    - b. Enclose it with two foot high chicken wire or chain link fencing.
  6. Gin trash not disposed as established in subsection (C)(2) shall be shipped out-of-state, subject to the requirements of the receiving state and 7 CFR §§ 301.52 et. seq., amended June 7, 2005. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.
  7. The ginner shall bale or bag colored cotton fiber and mark the bale or bag as colored cotton.
- F. Seed Requirements.**
1. A producer or contracting organization, set forth in subsection (B)(1), saving colored cottonseed for propagative purposes shall legibly label the colored planting seed container and notify the Department of:
    - a. The quantity,
    - b. The variety or color,
    - c. The location where the colored planting seed is held or stored, and
    - d. Whether any seed will be shipped out-of-state.
  2. If the cotton seed is being delinted in Arizona, the delinting facility shall follow the requirements in Harvesting, Handling and Tagging that are included in the Cotton Seed Certification Standards and have been incorporated by reference in subsection (B)(2)(b).
  3. The producer shall render non-viable non-delinted (fuzzy) colored cottonseed not used for propagative purposes by crushing or composting. Whole or cracked colored cottonseed shall not be used as animal feed in Arizona but may be shipped out-of-state, subject to the requirements of the receiving state and 7 CFR §§ 301.52 et. seq., amended June 7, 2005.
  4. Cotton producers shall not transport unbagged white cotton planting seed using vehicles or other equipment previously used to transport whole or cracked colored cottonseed until the Department has certified that these vehicles and equipment are free of colored cottonseed.
- G. Advisory committee.** The Director, as necessary, shall appoint an advisory committee composed of the nominated representatives of the Arizona Cotton Growers Association and the Arizona Cotton Research and Protection Council and such other individuals as may be necessary to make recommendations to the Department on amendments to this Section.

**Historical Note**

Former Rule, Apiary Regulation 1. Amended effective June 19, 1978 (Supp. 78-3). Former Section R3-4-120 renumbered without change as Section R3-4-501 (Supp.)

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89-1). Former Section repealed, new Section adopted effective December 22, 1989 (Supp. 89-4). Section R3-4-501 renumbered from R3-1-501 (Supp. 91-4). Former Section R3-4-501 repealed, new Section R3-4-501 adopted effective October 15, 1993 (Supp. 93-4). R3-4-501 repealed by summary action with an interim effective date of February 10, 1995; filed in the Office of the Secretary of State January 20, 1995. Adopted summary rules filed in the Office of the Secretary of State May 17, 1995; interim effective date of February 10, 1995 now the permanent effective date (Supp. 96-3). New Section R3-4-501 renumbered from R3-4-205 and amended April 9, 1998 (Supp. 98-2). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**R3-4-502. Repealed****Historical Note**

Adopted effective December 22, 1989 (Supp. 89-4) Section R3-4-502 renumbered from R3-1-502 (Supp. 91-4). Former Section R3-4-502 repealed, new Section R3-4-502 adopted effective October 15, 1993 (Supp. 93-4). R3-4-502 repealed by summary action with an interim effective date of February 10, 1995; filed in the Office of the Secretary of State January 20, 1995. Adopted summary rules filed in the Office of the Secretary of State May 17, 1995; interim effective date of February 10, 1995, now the permanent effective date (Supp. 96-3).

**R3-4-503. Repealed****Historical Note**

Adopted as an emergency effective December 31, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Adopted as a permanent rule effective April 4, 1985 (Supp. 85-2). Former Sections R3-4-121.01, R3-4-121.02, R3-4-121.03, and R3-4-121.04 added to Section R3-4-121 and amended effective October 8, 1987 (Supp. 87-4). Former Section R3-4-121 renumbered without change as Section R3-4-502 (Supp. 89-1). Former Section R3-4-502 renumbered without change as Section R3-4-503 (Supp. 89-4). Repealed effective August 16, 1990 (Supp. 90-3). Section R3-4-503 renumbered from R3-1-503 (Supp. 91-4). New Section R3-4-503 adopted effective October 15, 1993 (Supp. 93-4). R3-4-503 repealed by summary action with an interim effective date of February 10, 1995; filed in the Office of the Secretary of State January 20, 1995. Adopted summary rules filed in the Office of the Secretary of State May 17, 1995; interim effective date of February 10, 1995, now the permanent effective date (Supp. 96-3).

**R3-4-504. Repealed****Historical Note**

Adopted as an emergency effective September 27, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-5). Emergency expired. Former Sections R3-4-122.01 through R3-4-122.03, emergency expired. New Section R3-4-122 adopted effective March 6, 1987 (Supp. 87-1). Former Section R3-4-122 renumbered without change as Section R3-4-503 (Supp. 89-1). Former Section R3-4-503 renumbered without change as Section R3-4-504 (Supp. 89-4). Section R3-4-504 renumbered from R3-1-504 (Supp. 91-4). Former Section R3-4-504 repealed, new Section R3-4-504 adopted effective October 15, 1993 (Supp. 93-4). R3-4-504 repealed by summary action with an interim effective date of February 10, 1995; filed in the Office of the Secretary of State

January 20, 1995. Adopted summary rules filed in the Office of the Secretary of State May 17, 1995; interim effective date of February 10, 1995, now the permanent effective date (Supp. 96-3).

**R3-4-505. Repealed****Historical Note**

Adopted effective October 15, 1993 (Supp. 93-4). R3-4-505 repealed by summary action with an interim effective date of February 10, 1995; filed in the Office of the Secretary of State January 20, 1995. Adopted summary rules filed in the Office of the Secretary of State May 17, 1995; interim effective date of February 10, 1995, now the permanent effective date (Supp. 96-3).

**R3-4-506. Repealed****Historical Note**

Adopted effective October 15, 1993 (Supp. 93-4). R3-4-501 repealed by summary action with an interim effective date of February 10, 1995; filed in the Office of the Secretary of State January 20, 1995. Adopted summary rules filed in the Office of the Secretary of State May 17, 1995; interim effective date of February 10, 1995, now the permanent effective date (Supp. 96-3).

**ARTICLE 6. RECODIFIED**

*Article 6, consisting of Sections R3-4-601 through R3-4-611 and Appendix A, recodified to 3 A.A.C. 3, Article 11 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).*

**R3-4-601. Recodified****Historical Note**

Former Rule, Native Plant Regulation 1. Amended effective June 19, 1978 (Supp. 78-3). Amended by adding subsection (E) effective January 21, 1981 (Supp. 81-1). Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Former Section R3-4-130 renumbered without change as Section R3-4-601 (Supp. 89-1). Amended effective December 28, 1990 (Supp. 90-4). Section R3-4-601 renumbered from R3-1-601 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1101 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

**R3-4-602. Recodified****Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Former Section R3-4-131 renumbered without change as Section R3-4-602 (Supp. 89-1). Amended effective December 28, 1990 (Supp. 90-4). Section R3-4-602 renumbered from R3-1-602 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1102 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

**R3-4-603. Recodified****Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982

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(Supp. 82-2). Amended effective May 15, 1984 (Supp. 84-3). Correction, amendment effective May 15, 1984 deleted samples of forms (Supp. 86-1). Former Section R3-4-132 renumbered without change as Section R3-4-603 (Supp. 89-1). Amended effective December 28, 1990 (Supp. 90-4). Section R3-4-603 renumbered from R3-1-603 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Section repealed; new Section R3-4-603 renumbered from R3-4-605 and amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1103 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

**R3-4-604. Recodified****Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Amended effective May 15, 1984 (Supp. 84-3). Former Section R3-4-133 renumbered without change as Section R3-4-604 (Supp. 89-1). Amended effective December 28, 1990 (Supp. 90-4). Section R3-4-604 renumbered from R3-1-604 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1104 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

**R3-4-605. Recodified****Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Former Section R3-4-134 renumbered without change as Section R3-4-605 (Supp. 89-1). Amended effective December 28, 1990 (Supp. 90-4). Section R3-4-605 renumbered from R3-1-605 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Former Section R3-4-605 renumbered to R3-4-603; new Section R3-4-605 adopted by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1105 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

**R3-4-606. Recodified****Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Former Section R3-4-135 renumbered without change as Section R3-4-606 (Supp. 89-1). Repealed effective December 28, 1990 (Supp. 90-4). Section R3-4-606 renumbered from R3-1-606 (Supp. 91-4). New Section adopted effective July 6, 1993 (Supp. 93-3). Amended effective December 20, 1994 (Supp. 94-4). Amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1106 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

**R3-4-607. Recodified****Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Former Section R3-4-137 renumbered without change as Section R3-4-608 (Supp. 89-1). Former Section R3-4-607 repealed, new Section R3-4-607

renumbered from R3-4-608 and amended effective December 28, 1990 (Supp. 90-4). Section R3-4-607 renumbered from R3-1-607 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Former Section R3-4-607 repealed; new Section R3-4-607 renumbered from R3-4-616 and amended at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1107 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

**R3-4-608. Recodified****Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Former Section R3-4-138 renumbered without change as Section R3-4-609 (Supp. 89-1). Former Section R3-4-608 renumbered to R3-4-607, new Section R3-4-608 adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-608 renumbered from R3-1-608 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Section repealed; new Section adopted at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1108 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

**R3-4-609. Recodified****Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Former Section R3-4-139 renumbered without change as Section R3-4-610 (Supp. 89-1). Former Section R3-4-609 repealed, new Section R3-4-609 renumbered from R3-4-610 and amended effective December 28, 1990 (Supp. 90-4). Section R3-4-609 renumbered from R3-1-609 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1109 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

**R3-4-610. Recodified****Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Former Section R3-4-140 renumbered without change as Section R3-4-611 (Supp. 89-1). Former Section R3-4-610 renumbered to R3-4-609, new Section R3-4-610 renumbered from R3-4-611 and amended effective December 28, 1990 (Supp. 90-4). Section R3-4-610 renumbered from R3-1-610 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Amended effective December 20, 1994 (Supp. 94-4). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1110 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

**R3-4-611. Recodified****Historical Note**

Renumbered to R3-4-610 effective December 28, 1990 (Supp. 90-4). Section R3-4-611 renumbered from R3-1-611 (Supp. 91-4). New Section adopted effective July 6, 1993 (Supp. 93-3). Former Section R3-4-611 repealed; new Section R3-4-611 renumbered from R3-4-618 and

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amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1111 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

**R3-4-612. Repealed****Historical Note**

Adopted effective April 30, 1982 (Supp. 82-2). Former Section R3-4-141 renumbered without change as Section R3-4-612 (Supp. 89-1). Repealed effective December 28, 1990 (Supp. 90-4). Section R3-4-612 renumbered from R3-1-612 (Supp. 91-4). New Section adopted effective July 6, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3).

**R3-4-613. Repealed****Historical Note**

Adopted effective February 5, 1986 (Supp. 86-1). Former Section R3-4-144 repealed, new Section R3-4-615 adopted effective January 17, 1989 (see also R3-4-616) (Supp. 89-1). Repealed effective December 28, 1990 (Supp. 90-4). Section R3-4-615 renumbered from R3-1-615 (Supp. 91-4). New Section adopted effective July 6, 1993 (Supp. 93-3). Amended effective September 11, 1997 (Supp. 97-3). Section repealed by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3).

**R3-4-614. Repealed****Historical Note**

Adopted effective February 5, 1986 (Supp. 86-1). Former Section R3-4-144 repealed, new Section R3-4-615 adopted effective January 17, 1989 (see also R3-4-616) (Supp. 89-1). Repealed effective December 28, 1990 (Supp. 90-4). Section R3-4-615 renumbered from R3-1-615 (Supp. 91-4). New Section adopted effective July 6, 1993 (Supp. 93-3). Amended effective September 11, 1997 (Supp. 97-3). Section repealed by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3).

**R3-4-615. Repealed****Historical Note**

Adopted effective February 5, 1986 (Supp. 86-1). Former Section R3-4-144 repealed, new Section R3-4-615 adopted effective January 17, 1989 (see also R3-4-616) (Supp. 89-1). Repealed effective December 28, 1990 (Supp. 90-4). Section R3-4-615 renumbered from R3-1-615 (Supp. 91-4). New Section adopted effective July 6, 1993 (Supp. 93-3). Amended effective December 20, 1994 (Supp. 94-4). Section repealed by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3).

**R3-4-616. Renumbered****Historical Note**

Adopted effective February 5, 1986 (Supp. 86-1). Former Section R3-4-144 repealed, new Section R3-4-616 adopted effective January 17, 1989 (see also R3-4-615) (Supp. 89-1). Repealed effective December 28, 1990 (Supp. 90-4). Section R3-4-616 renumbered from R3-1-616 (Supp. 91-4). New Section adopted effective July 6, 1993 (Supp. 93-3). Amended effective December 20, 1994 (Supp. 94-4). Amended effective September 11, 1997 (Supp. 97-3). Section R3-4-616 renumbered to R3-

4-607 by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3).

**R3-4-617. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-617 renumbered from R3-1-617 (Supp. 91-4). Section R3-4-617 renumbered from R3-1-617 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3).

**R3-4-618. Renumbered****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-618 renumbered from R3-1-618 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Section R3-4-618 renumbered to R3-4-611 by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3).

**R3-4-619. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-619 renumbered from R3-1-619 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-620. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-620 renumbered from R3-1-620 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-621. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-621 renumbered from R3-1-621 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-622. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-622 renumbered from R3-1-622 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-623. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-623 renumbered from R3-1-623 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-624. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-624 renumbered from R3-1-624 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-625. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-625 renumbered from R3-1-625 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-626. Repealed**

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**Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-626 renumbered from R3-1-626 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-627. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-627 renumbered from R3-1-627 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-628. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-628 renumbered from R3-1-628 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-629. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-629 renumbered from R3-1-629 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-630. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-630 renumbered from R3-1-630 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-631. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-631 renumbered from R3-1-631 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-632. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-632 renumbered from R3-1-632 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**R3-4-633. Repealed****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-633 renumbered from R3-1-633 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

**Appendix A. Recodified****Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-633, Appendix A renumbered from R3-1-633, Appendix A (Supp. 91-4). Appendix A repealed, New Appendix A adopted effective July 6, 1993 (Supp. 93-3). Amended effective December 20, 1994 (Supp. 94-4). Amended effective September 11, 1997 (Supp. 97-3). Appendix recodified to 3 A.A.C. 3, Article 11 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

**ARTICLE 7. FRUIT AND VEGETABLE STANDARDIZATION****R3-4-701. Expired****Historical Note**

Section R3-4-701 renumbered from R3-7-101 (Supp. 91-4). Section repealed, new Section adopted effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 9 A.A.R. 4628, effective December 6, 2003 (Supp. 03-4).

Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-702. Expired****Historical Note**

Former Rule 100. Section R3-4-702 renumbered from R3-7-102 (Supp. 91-4). Section repealed, new Section adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-703. Expired****Historical Note**

Former Rule 101. Section R3-4-703 renumbered from R3-7-103 (Supp. 91-4). Section repealed, new Section adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-703. Expired****Historical Note**

Former Rule 102; Amended paragraph (7) effective June 11, 1986 (Supp. 86-3). Section R3-4-704 renumbered from R3-7-104 (Supp. 91-4). Section repealed, new Section adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-705. Expired****Historical Note**

Former Rule 103. Section R3-4-705 renumbered from R3-7-105 (Supp. 91-4). Former Section R3-4-705 renumbered to R3-4-736, new Section R3-4-705 adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-706. Expired****Historical Note**

Former Rule 104. Section R3-4-706 renumbered from R3-7-106 (Supp. 91-4). Former Section R3-4-706 renumbered to R3-4-737, new Section R3-4-706 adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-707. Expired****Historical Note**

Former Rule 105; Amended effective March 5, 1982 (Supp. 82-2). Section R3-4-707 renumbered from R3-7-107 (Supp. 91-4). Former Section R3-4-707 repealed, new Section R3-4-707 adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-708. Expired****Historical Note**

Former Section R3-4-708 renumbered to R3-4-740, new Section R3-4-708 adopted effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 5 A.A.R. 569, effective February 3, 1999 (Supp. 99-1). Amended by final rulemaking at 8 A.A.R. 4454, effective October 2, 2002 (Supp. 02-4). Amended by final rulemaking at 10 A.A.R. 677, effective February 3, 2004 (Supp. 04-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R.

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2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-709. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-710. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-711. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-712. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-713. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-714. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-715. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-716. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 6 A.A.R. 4582, effective November 13, 2000 (Supp. 00-4). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-717. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 5 A.A.R. 569, effective February 3, 1999 (Supp. 99-1). Amended by final rulemaking at 10 A.A.R. 677, effective February 3, 2004 (Supp. 04-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-718. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 10 A.A.R. 677, effective

February 3, 2004 (Supp. 04-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-719. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 10 A.A.R. 677, effective February 3, 2004 (Supp. 04-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-720. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-721. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-722. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-723. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-724. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-725. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-726. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-727. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-728. Expired**

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**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-729. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-730. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-731. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-732. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-733. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-734. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-735. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-736. Expired****Historical Note**

Section R3-4-736 renumbered from R3-7-705 and amended effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-737. Expired****Historical Note**

Section R3-4-737 renumbered from R3-7-706 and amended effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 5 A.A.R. 569, effective February 3, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 143, effective December 8, 1999 (Supp. 99-4). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-738. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-739. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-740. Expired****Historical Note**

Section R3-4-740 renumbered from R3-4-708 and amended effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 8 A.A.R. 4454, effective October 2, 2002 (Supp. 02-4). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-741. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-742. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-743. Recordkeeping and Reporting Requirements for Fruit and Vegetable Shippers**

- A. Every shipper shall keep a correct record of each shipment of each assessed commodity shipped, showing:
1. The name and address of each producer;
  2. The shipment totals, by producer.
- B. The shipper shall retain the original or a copy of records covering each shipment or transaction with respect to each assessed commodity shipped for a period of two years from the date thereof, which shall at all times be open to the confidential inspection of the supervisor or the authorized representative. The burden of proof shall be upon the shipper to prove the correctness of the shipper's accounting of any transaction which may be questioned.

**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1).

**ARTICLE 8. CITRUS FRUIT STANDARDIZATION****R3-4-801. Expired****Historical Note**

Section R3-4-801 renumbered from R3-7-201 (Supp. 91-4). Section repealed, new Section adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-802. Expired****Historical Note**

Former Rule 1. Section R3-4-802 renumbered from R3-7-202 (Supp. 91-4). Section R3-4-802 repealed, new Section R3-4-802 renumbered from R3-4-806 and heading amended effective January 6, 1994 (Supp. 94-1). Section

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expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-803. Expired****Historical Note**

Former Rule 2. Amended effective January 10, 1977 (Supp. 77-1). Amended effective November 3, 1983 (Supp. 83-6). Section R3-4-803 renumbered from R3-7-203 (Supp. 91-4). Former Section R3-4-803 renumbered to R3-4-809, new Section R3-4-803 adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-804. Expired****Historical Note**

Former Rule 3. Section R3-4-804 renumbered from R3-7-204 (Supp. 91-4). Former Section R3-4-804 renumbered to R3-4-807, new Section R3-4-804 adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-805. Expired****Historical Note**

Former Rule 4. Section R3-4-805 renumbered from R3-7-205 (Supp. 91-4). Section repealed, new Section adopted effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 7 A.A.R. 5342, effective November 8, 2001 (Supp. 01-4). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-806. Expired****Historical Note**

Former Rule 5. Section R3-4-806 renumbered from R3-7-206 (Supp. 91-4). Former Section R3-4-806 renumbered to R3-4-802, new Section R3-4-806 adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-806. Expired****Historical Note**

Former Rule 6. Section R3-4-807 renumbered from R3-7-207 (Supp. 91-4). Section repealed, new Section R3-4-807 renumbered from R3-4-804 and amended effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-808. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-809. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 8 A.A.R. 3633, effective August 7, 2002 (Supp. 02-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-810. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 8 A.A.R. 3633, effective August 7, 2002 (Supp. 02-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-811. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 6 A.A.R. 143, effective December 8, 1999 (Supp. 99-4). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-812. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-813. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-814. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 8 A.A.R. 3633, effective August 7, 2002 (Supp. 02-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-815. Expired****Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

**R3-4-816. Recordkeeping and Reporting Requirements for Citrus Fruit Shippers**

- A.** Every shipper shall keep a correct record of each shipment of each assessed citrus commodity shipped, showing:
1. The name and address of the producer;
  2. The shipment totals, by producer.
- B.** The shipper shall retain the original or a copy of records covering each shipment or transaction with respect to each assessed citrus commodity shipped for a period of two years from the date thereof, which shall at all times be open to the confidential inspection of the supervisor or the authorized representative. The burden of proof shall be upon the shipper to prove the correctness of the shipper's accounting of any transaction which may be questioned.

**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1).

**ARTICLE 9. BIOTECHNOLOGY****R3-4-901. Genetically Engineered Organisms and Products**

- A.** Definitions. In addition to the definitions provided in A.R.S. § 3-101, the following shall apply:
1. "Associate Director" means the Associate Director of the Plant Services Division of the Arizona Department of Agriculture.

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2. "Genetically engineered" means the genetic modification of organisms by recombinant DNA techniques, including genetic combinations resulting in novel organisms or genetic combinations that would not naturally occur.
  3. "Organisms" means any active, infective, or dormant stage or life form of any entity characterized as living, including vertebrate and invertebrate animals, plants, bacteria, fungi, mycoplasmas, mycoplasma-like organisms, as well as entities such as viroid, viruses, or any entity characterized as living related to the foregoing.
  4. "Permit" means an application which has been approved by USDA and the Department.
  5. "Permit application" means an application filed with USDA, which may be supplemented with requirements from the Department, for the introduction of genetically engineered organisms and products, as provided by 7 CFR 340, revised June 16, 1987. The material incorporated herein by reference is on file with the Office of the Secretary of State and does not include any later amendments or editions of the incorporated matter.
  6. "Product" means plant reproductive parts including pollen, seeds, and fruit, spores, or eggs.
  7. "USDA" means the United States Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine (USDA, APHIS, PPQ).
- B. Permit applications.** A genetically engineered organism or product shall not be introduced into Arizona, sold, offered for sale, or distributed for release into Arizona's environment unless a permit issued pursuant to the application has been issued by USDA, or the Department has been notified by the USDA that the genetically engineered organisms or product is eligible under the notification procedure, as prescribed by 7 CFR § 340.3, revised August 6, 2007, or it has been determined by the USDA to be of nonregulated status, as prescribed by 7 CFR 340.6, revised May 1997. The material incorporated herein by reference is on file with the Office of the Secretary of State and does not include any later amendments or editions of the incorporated matter.
1. Applicants for the release or use of genetically engineered organisms or products shall follow all permit application procedures required by USDA.
  2. In addition to USDA's requirements, permit applications shall demonstrate to the Department that:
    - a. Genetically engineered organisms or products shall be handled in such a manner so that no genetically engineered organism or product accidentally escapes into Arizona's environment.
    - b. All permit applicants shall comply with Arizona quarantine rules regulating the plants, pests, or organisms being introduced into Arizona.
  3. The Department may, if it deems necessary to protect agriculture, public health, or the environment from potential adverse effects from the introduction of a specific genetically engineered organism or product:
    - a. Place restrictions on the number and location of organisms or products released, method of release, training of persons involved with the release of organisms or products, disposal of organisms or products, and other conditions of use;
    - b. Require measures to limit dispersal of released organisms or spread of inserted genes or gene products;
    - c. Require monitoring of the abundance and dispersal of the released organism or inserted genes or gene products;
  - d. Request the USDA to deny, suspend, modify, or revoke the permit for failure to comply with this rule.
  - e. Request the USDA to suspend the permit if it is determined that an adverse effect is occurring or is likely to occur because of a release authorized by such permit.
4. To the extent possible, the Department shall accept for review and base its decision on the data submitted with the federal application. However, the Department may request additional information from the applicant to assess the risks to animals and plants, including risks of vector transmissions of genetically engineered organisms or products.
  5. The Associate Director shall review the application recommendations with the Director who shall, within the time period prescribed on each USDA application, approve, conditionally approve, or deny the permit.
  6. The Director shall return the completed application with the resolution to USDA for final action.

**Historical Note**

Adopted effective November 22, 1993 (Supp. 93-4).  
Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

**ARTICLE 10. INDUSTRIAL HEMP****R3-4-1001. Definitions**

In addition to the definitions provided in A.R.S. §§ 3-201, 3-311, and R3-4-101, the following terms apply to this Article.

"0.300%" shall have the same meaning as three-tenths percent.

"Associate Director" means the Associate Director of the Plant Services Division.

"Certified laboratory" means the State Agriculture Laboratory or any laboratory certified by the State Agriculture Laboratory to perform compliance analysis of industrial hemp.

"Hemp" has the same meaning as industrial hemp.

"Intentionally" means the state of mind defined in A.R.S. § 13-105(10)(a) or any successor statute.

"Knowingly" means the state of mind defined in A.R.S. § 13-105(10)(a) or any successor statute.

"Licensing Agreement" means a contract between the Department and an applicant that indicates the terms and conditions required for a license issued pursuant to this Article.

"Manmade causes" means the influence to an industrial hemp crop created by a person, including but not limited to, irrigation, fertilization, chemical application, or physical interference.

"Natural causes" means the influence to an industrial hemp crop created by elements of nature including, but not limited to, temperature, wind, rain, hail, or flood.

"Program" means the Industrial Hemp Program.

"Propagative material" means any industrial hemp seedlings, explants, transplants, propagules, or other rooted material that is grown in a soilless media.

"Responsible party" means an individual that has signing authority of a partnership, limited liability company, association, company or corporation.

"THC" means Tetrahydrocannabinol.

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“Total Delta-9 THC concentration” means the total calculable amount of the chemical compound, Delta-9 THC.

**Historical Note**

New Section made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2).

**R3-4-1002. Program Eligibility**

- A.** Eligibility requirements. Unless otherwise determined to be ineligible under this Article and not withstanding any other law, a person or responsible party that applies for a program license or registration shall:
1. Possess a valid fingerprint clearance card issued by the Arizona Department of Public Safety pursuant to A.R.S. § 41-1758.07.
  2. Be a citizen of the United States or a legal resident alien, an individual who applies for a program license, is enrolled in an academic program at an accredited college or university, and does not meet the criteria in this Section may be sponsored by an academic member of that college or university who meets the eligibility criteria in this Section and provides proof of eligibility as required in subsection (B)(2).
  3. Be eighteen (18) years of age or older at the time of application.
- B.** Proof of eligibility.
1. The Department shall accept a legible photo copy, paper or electronic, of the applicants fingerprint clearance card described in subsection (A)(1).
  2. The Department shall accept the documents listed in A.R.S. § 41-1080(A) as evidence of age and United States Citizenship or legal residency.

**Historical Note**

New Section made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2).

**R3-4-1003. Licenses; Applications; Renewals; Withdrawal**

- A.** Any person that grows, harvests, transports, or processes industrial hemp in any of the following categories shall obtain the appropriate license from the Department and shall abide by the terms and conditions set forth in the licensing agreement with the Department. Types of licenses include:
1. Grower - An authorized Grower license shall allow the licensee to obtain seed or propagative materials pursuant to this Article for planting, possess authorized seed and/or propagative materials for planting, cultivate the crop, harvest plant parts, possess and store harvested plant parts, and transport plant parts for processing.
  2. Nursery - An authorized Nursery license shall allow the licensee to propagate eligible seed and propagative materials for planting for a licensed grower. A licensed Nursery shall not grow industrial hemp for harvesting purposes, unless also licensed with the Department as a Grower.
  3. Harvester - An authorized Harvester license shall allow the licensee to engage in the activity of harvesting an eligible industrial hemp crop for a licensed grower.
  4. Transporter - An authorized Transporter license shall allow the licensee to engage in the transport of a harvested industrial hemp crop for a licensed grower.
  5. Processor - An authorized Processor license shall allow the licensee to engage in the processing, handling, and storage of industrial hemp or hemp seed at one or more authorized locations in the state. The licensee may sell, distribute, transfer, or gift any products processed from harvested hemp that is not restricted in R3-4-1012.
- B.** At a minimum, applications for a license shall contain the information required in subsections R3-4-1003(B)(1) through (6), plus any additional information that may be required by the Department. Location information shall be retained by the Department for not less than three years. Licensing fees are due at the time of application (R3-4-1005).
1. All licenses.
    - a. Full name, mailing address, telephone number and email address;
    - b. Fingerprint clearance card identification number of the person or responsible party applying;
    - c. If the applicant represents a business entity, the full name of the business, the principal Arizona business location address, the full name, title, and email address of the of the responsible party;
    - d. Tax ID or Social Security Number; and
    - e. Disclosure and explanation of any instance in which the applicant has been denied, debarred, suspended, revoked, or otherwise prohibited from participating in any public procurement or licensing activity.
  2. Grower’s license.
    - a. Registered planting site or sites: street address or major crossroads, legal description, and GPS coordinates for each field, greenhouse, building or site where industrial hemp will be grown, updated annually, or within 30 days following a change;
    - b. Estimated acreage for each outdoor location and/or square footage for indoor or each greenhouse locations intended for planting;
    - c. Maps or aerial photos depicting each site where industrial hemp will be grown, handled, and/or stored, with appropriate designations for entrances, field boundaries, and specific locations corresponding to the GPS coordinates;
    - d. Storage location or locations (expressed in GPS coordinates) for seed or propagative materials, and harvested plants and plant parts; and
    - e. Maps or aerial photos depicting each site where industrial hemp seed and/or propagative materials will be stored and labeled with the corresponding GPS coordinates;
  3. Nursery License.
    - a. Storage location or locations (expressed in GPS coordinates) for seed or propagative materials;
    - b. Locations (expressed in GPS coordinates) of all propagation areas; and
    - c. Labeled maps or aerial photos depicting storage and propagation areas.
  4. Harvester License. Maps and the street address, legal description, and GPS coordinates for each location the harvesting equipment will be primarily based.
  5. Transporter License. Maps and the street address, legal description, and GPS coordinates for each location the transporting vehicles and equipment will be primarily based.
  6. Processor License.
    - a. Identification of the part of a harvested hemp crop or plant to be received for processing, in the following categories:
      - i. Floral and leaf material;
      - ii. Seed for oil or grain;
      - iii. Stalks for fiber or hurds;
      - iv. Seed or propagative materials for planting;
    - b. Registered processing site or sites: Street address or major crossroads, legal description, and GPS coordinates for each building or site where hemp will be

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- processed or stored; or where mobile processing equipment will be primarily based; and
- c. Labeled maps or aerial photos depicting the information in subsection (b).
- C. Application submission dates. Applications may be submitted at any time during the year, but the expiration date of the license shall be on December 31st annually, or biennially for a two-year renewal as authorized in subsection (D). Renewal applications will be due no later than December 15th.
- D. Application for one or two-year renewals. At a licensee's discretion, a person that has been licensed by the Department under the industrial hemp program may apply for a one or two year renewal provided:
1. The person was licensed in the industrial hemp program within the previous calendar year;
  2. The license of the person was in good standing at the time of renewal;
  3. There is no change in the person or responsible party licensed;
  4. There is no change in the physical location of the industrial hemp site;
  5. The licensee does not owe any civil penalties, fees, or late charges to the Department; and
  6. The person submits the associated fee for a one or two-year renewal.
- E. Licensing agreements. All approved applicants for a license shall complete a licensing agreement issued by the Department prior to receiving a license. The licensing agreement may include additional terms and conditions as needed to ensure compliance with this Article, applicable state and federal laws, and rules and orders of the Director, but, at a minimum the applicant will agree to:
1. Provide access, for authorized Department inspectors, at any time, to all hemp and hemp seed, planted or stored, and all records to determine compliance with this Article and any state or federal law, rule or order regulating *Cannabis* as an agricultural crop;
  2. Maintain all records, as stated in R3-4-1008 of this Article;
  3. Pay all fees required indicated in Table 1 of this Article;
  4. Comply with all pesticide use restrictions;
  5. Comply with all seed laws of the state;
  6. Defend, indemnify, and hold harmless the Department from liability for the destruction of any crop or harvested plant in violation of this Article;
  7. Be solely responsible for all financial or other losses;
  8. Be solely responsible for all land use restrictions, applicable city and county zoning, building, and fire codes and ordinances; and
  9. Follow all regulatory, notification and reporting requirements.
- F. Program withdrawal. A licensee that intends to voluntarily withdraw from the program shall submit to the Department a withdrawal notice as prescribed by the Department and comply with the following conditions.
1. Unless otherwise authorized by the Associate Director, the licensee shall complete a withdrawal notice at least two weeks prior to withdrawal of the program;
  2. Any industrial hemp or hemp seed, planted, harvested, or stored must be inspected by the Department prior to transport off of the property, destruction or transfer to a new or existing licensee;
  3. Any licensing and inspection fees paid or invoiced prior to any notice of withdrawal are not eligible for refund; and
4. Withdrawal after submittal of an application but prior to issuance of a license will be prohibited unless the Department determines, in its sole discretion, that such withdrawal is appropriate.
- G. Site modification. Anytime a licensed grower, processor or nursery modifies the registered site during the licensing period by changing the location of an existing site or by adding additional sites under the license, the licensee shall submit a site modification application and associated site modification fee listed in Table 1 of this Article.
- H. License transfer. The transfer of an Industrial hemp license is authorized only if the licensee and eligible program applicant completes a Department issued transfer application and submits any applicable transfer fees listed in Table 1 of this Article. The receiver of a transferred license shall complete a licensing application, and execute a licensing agreement as required by this Article, and all duties and responsibilities of the licensee shall be transferred to and acknowledged by the receiver in a written agreement between the licensee and receiver. Any license or other fees paid by the licensee shall be credited to the benefit of the receiver.

**Historical Note**

New Section made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2).

**R3-4-1004. Industrial Hemp Research**

- A. A person, company, college or university that conducts research into the growth, harvesting techniques, transportation methods, or processing of industrial hemp is required to obtain a license pursuant to this Article.
- B. A person, company, college or university conducting not-for-profit research may be exempted from the licensing fee or licensing fees provided:
1. The applicant submits to the Department a request for an exemption of the licensing fee;
  2. The applicant provides a summary of the research to be conducted;
  3. The applicant provides a summary of the benefit to the agricultural community that will be gained;
  4. The applicant signs into an agreement with the Department that as a result of the research conducted the applicant will not gain any monetary profit;
  5. The research will be conducted in compliance with this Article or any other law, rule, or order governing the production of industrial hemp; and
  6. The results or summary of the research will be published or made publicly available.
- C. Intellectual property. The Department holds no rights to any intellectual property of the licensee.
- D. Restrictions. A licensee shall not change not-for-profit research to for-profit research without notifying the Department and paying the required licensing fee.

**Historical Note**

New Section made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2).

**R3-4-1005. Fees**

- A. All licensing and/or registration fees are due at the time of application.
- B. A Grower applicant or licensee is not required to pay separate harvester and/or transporter licensing fees, unless providing harvesting and/or transport services for other licensed growers.
- C. Inspection and assessment fees are invoiced by the Department and are due within 30 days of the invoice date.

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- D. Site modification fees. The appropriate fee shall be submitted at the time an applicant submits a site modification application as provided in R3-4-1003(G).
- E. Processor Assessment fees are based on tonnage reports, shipping manifests or scale receipts of unprocessed hemp plants or plant parts received.
- F. All outstanding Inspection and Assessment fees invoiced prior to November 15th, shall be paid in full prior to the Department's processing of a licensee's renewal application.
- G. THC sample analysis fees. A licensee will be invoiced for any analytical fees beyond the samples selected to determine regulatory compliance. These include:
  - 1. Any pre-harvest re-samples for crops that indicated a result above the threshold for compliance;
  - 2. Post-harvest samples that have been determined to be a regulatory concern by the Department; or
  - 3. By request from the grower that requires official analysis for commerce.

**Historical Note**

New Section made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2).

**Table 1. Fee Schedule**

License	Licensing Fee	Inspection/Assessment Fee
Grower	\$1,500 per license	\$25 per outdoor acre up to 100 acres \$5 acre for each additional acre \$75 per indoor facility up to 3 acres; \$25 per acre for facilities over 3 acres \$150 per THC sample analysis (G) \$150 per THC sample analysis (G)
Nursery	\$1,000 per license	NA
Harvester	\$150 per license	N/A
Transporter	\$150 per license	N/A
Processor	\$3,000 per license	\$0.5 ton Fiber \$5 ton Oil Seed/Grain \$100 ton floral material \$150 per THC sample analysis (G)
All	Site modification fee: \$300	N/A

**Historical Note**

New Table made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2).

**R3-4-1006. Authorized Seed and Propagative Material**

- A. Authorized seeds and propagative material. Seeds and propagative materials authorized for use by a licensee is not a guarantee a crop will produce a Total Delta-9 THC concentration of not greater than 0.300%. Seeds and propagative material that are used to produce an industrial hemp crop or plant shall:
  - 1. Be produced from an industrial hemp crop or plant; and
  - 2. Originate from either:
    - a. A person, business, college or university licensed or certified in a state or federal program authorized to produce industrial hemp; or
    - b. A foreign source that is authorized by the country of origin to export industrial hemp seed or propagative material to produce an industrial hemp crop.
- B. Each licensed grower or nursery is responsible for the acquisition of seed or propagative materials used for the growth of industrial hemp. The licensee shall provide the Department the following information prior to planting:
  - 1. A copy of the seed or propagative material producer's certificate, license or equivalent documentation authorizing the production of industrial hemp;
  - 2. An official analysis of the crop or plant that produced the seed or propagative material that indicates the crop or plant contained a Total Delta-9 THC concentration of not greater than 0.300% on a dry weight basis;
  - 3. Phytosanitary certificates or nursery certificates issued by a plant regulatory official for any propagative materials to ensure compliance with A.R.S. § 3-211 and 3 A.A.C. 2; and
  - 4. A pre-planting report, on a form provided by the Department, which includes:
    - a. The variety/strain name of the material;
    - b. The amount or quantity of the material;
    - c. The lot number or numbers of the material; and
    - d. The name, address, phone number and email address of the seed or propagative material provider.
- C. Labeling requirements. All Industrial Hemp seed or propagative material sold within or into Arizona must be labeled as to variety/strain or hybrid name, and origin. Labelers of seed or propagative material must provide to the Department, breeder descriptions and variety release information including any subsequent updates/amendments to these descriptions.
  - 1. For purposes of labeling, the number or other designations of hybrid industrial hemp shall be used as a variety name.
  - 2. All Industrial Hemp seed for planting purposes sold within or into Arizona is subject to the Arizona seed laws under A.R.S. §§ 3-231 et seq. and this Chapter.
- D. Restrictions.
  - 1. A person that receives seed or propagative materials that does not comply with this Article or any other phytosanitary, seed or labeling law of the state shall immediately notify the Department and hold the seed or propagative material until a disposition is provided by the Department.
  - 2. The Department may direct a licensee to place a shipment of seed or propagative material on hold to ensure compliance with this Article and any other law or regulation that may apply to the shipment of agricultural seed and plants for planting purposes.

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**Historical Note**

New Section made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2).

**R3-4-1007. Location Requirements; Signage**

- A.** Location requirements.
1. A Licensed Grower or Processor shall not grow, process, or store industrial hemp in any residential dwelling.
  2. A Licensee is responsible for maintaining compliance with all applicable city and county land use restrictions, zoning laws, building, and fire codes and ordinances.
  3. A registered location shall be made available for inspection at the request of an inspector during normal business hours.
  4. A licensed grower or processor shall not grow, process, or store any forms of *Cannabis* that are not classified as industrial hemp within a single structure at the registered location.
- B.** Signage. A licensed grower or processor shall conspicuously post signage at the perimeter of the registered location that includes the following information:
1. The statement, "Arizona Department of Agriculture Industrial Hemp Program - No Trespassing Allowed";
  2. Licensee's name and license number; and
  3. The Arizona Department of Agriculture, Industrial Hemp Program phone number.

**Historical Note**

New Section made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2).

**R3-4-1008. Compliance; Recordkeeping; Audits**

- A.** General compliance requirements.
1. All licensees are subject to audits to ensure compliance with the recordkeeping requirements in subsection (B);
  2. An authorized Department inspector shall be allowed access to all growing, storage, and processing locations of a licensee's industrial hemp crop, hemp seed, propagative material, harvested material, handling and processing equipment to conduct a visual inspection and determine if a violation of this Article may exist.
- B.** Recordkeeping. All licensees may be audited to ensure compliance with all recordkeeping requirements. A licensee shall comply with the recordkeeping requirements in this subsection at a minimum. Additional recordkeeping requirements may be established as set in policy and updated annually.
1. All records documenting the growth, propagation, harvesting, storage, agronomic data, shipping, receiving, transportation, distribution, processing, sale, purchase, third party analysis or research of all plants, seeds and materials shall be kept within the state of Arizona and made available for inspection on request.
  2. An in-state agent must be maintained for receipt and storage of records.
  3. All records shall be maintained for not less than five years.
- C.** Sampling and testing. All licensees are subject to the collection of a representative sample of any *Cannabis* plant, hemp crop or harvested hemp in possession of the licensee or licensee's agent to determine the total concentration of Delta-9 THC as reported by a certified laboratory to ensure compliance with this Article and any state or federal law, rule or order regulating *Cannabis* as an agricultural commodity.
1. Sampling method. The Department shall publish a policy on the methods in which a *Cannabis* plant or crop may be sampled, which may be updated annually as needed.
  2. Only an authorized Department inspector may collect an official sample to determine compliance with this Article.

3. When collecting an official sample, an authorized Department inspector shall:
    - a. Collect a representative sample of the crop, plants or harvested crop;
    - b. Split the official sample as follows:
      - i. One-third for retention by the Department or to provide to a certified laboratory for compliance with this Article;
      - ii. One-third for confirmation of analytical results if required; and
      - iii. One-third that is provided to the licensee for retention or to utilize for additional analysis by a third party laboratory. Any results provided to the licensee by a third party laboratory do not supersede official results.
    - c. Label all official samples with an official sample number, sample date, collector name, location ID, and grower license ID number;
    - d. Apply official custody seals to all official samples; and
    - e. Complete an official chain of custody form that is signed and dated by the inspector and licensee or the licensee's representative.
  4. Sample transport and submission. The Department shall not be liable for samples that are detained by any federal, state or local law enforcement agency.
    - a. If a certified laboratory receives a sample with a broken custody seal or incomplete or missing chain of custody, that sample shall be null and void;
    - b. All official samples retained by the Department are the property of the Department; and
    - c. The Department is not liable to reimburse the licensee for official samples collected.
  5. Sample results. Any result provided to the Department by a certified laboratory is the property of the state and a copy shall be provided to the licensee.
- D.** Volunteer hemp plants. It shall be the responsibility of the licensee to monitor and destroy.

**Historical Note**

New Section made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2).

**R3-4-1009. Reserved****Historical Note**

Section reserved at 25 A.A.R. 1447 (Supp. 19-2).

**R3-4-1010. Reserved****Historical Note**

Section reserved at 25 A.A.R. 1447 (Supp. 19-2).

**R3-4-1011. Notifications; Reports**

- A.** All notifications and reports for licensees shall be made on forms provided by the Department unless otherwise indicated in this Section or as directed by the Associate Director.
- B.** Grower Licensees shall notify the Department of the following activity:
1. Notice of intent to harvest no less than 14 days prior to harvest;
  2. Intent to transport a harvested crop no less than 72 hours prior to shipment or transport;
  3. Notify the Department of any significant damage or destruction of a crop or harvested crop caused by natural or manmade causes within 48 hours of discovery of the damage or destruction; and

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4. Notify the Department within 14 days if any change in business information including business name, address, contact information or responsible party.
- C. Planting report. Within 7 days after planting, complete and submit a planting report that includes:
  1. The Growers license number;
  2. The location or locations where a crop was planted (the "site"), expressed in GPS Coordinates and displayed on a map or aerial photo;
  3. The variety name or names of each planting corresponding to the location indicated in subsection (C)(2); and
  4. The actual area planted of each site.
- D. Grower and nursery reports. By December 31st of each year, a grower or nursery shall provide the Department a report of the following:
  1. The sale or distribution of any industrial hemp grown under the grower's license;
  2. The name and address of the person or entity receiving the industrial hemp; and
  3. The amount of the industrial hemp sold or distributed.
- E. Processor notifications. A licensed processor shall notify the department of all shipments of industrial hemp imported from outside of the state for processing within 72 hours of receipt of the shipment. The notification shall include:
  1. A copy of the shipping manifest that indicates the name, physical address, and phone number of the shipper, and the total weight of the hemp commodity in the shipment;
  2. A copy of the documentation issued by a regulatory official that attests the hemp commodity contains a Total Delta-9 THC Concentration not greater than 0.300%; and
  3. A copy of the industrial hemp grower's certificate, license or equivalent documentation authorizing the production of industrial hemp in that state;
  4. A phytosanitary certificate or certificate of inspection issued by a plant regulatory official; and
  5. Documentation issued at origin that attests to the owner, origin, type and amount of hemp material in the shipment.
- F. Other notifications. A licensee shall notify the Department within 72 hours from receipt of results of any third party analysis that determined a hemp crop or plant sample contained a Delta-9 THC concentration greater than 0.300%.

**Historical Note**

New Section made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2).

**R3-4-1012. Unauthorized Activity; Violations**

- A. A licensee shall have committed a violation of this Article by:
  1. Failing to provide a legal description of land on which a licensee grows, processes, stores or researches industrial hemp or hemp seed;
  2. Failing to obtain the proper license with the Department;
  3. Producing or distributing *Cannabis sativa*, with a total Delta-9 THC concentration greater than 0.300% on a dry weight basis, unless otherwise permitted by state or federal law, rule or order;
  4. Violating a term or condition of the signed licensing agreement or corrective action plan; or
  5. Violating any law, rule, or order in the regulation of industrial hemp.
- B. False Statement. Any person who materially falsifies any information contained in an application to participate in the program established under this Article shall be ineligible to participate in the program.
- C. No unauthorized person shall:
  1. Grow, cultivate, handle, store, harvest, transport, import or process industrial hemp;
  2. Trespass on a property registered as an industrial hemp site;
  3. Disturb, damage or destroy an industrial hemp plant or crop on a registered location; or
  4. Tamper, damage or destroy posted signage as required under R3-4-1008.
- D. No authorized program licensee shall:
  1. Offer for sale, trade, transfer possession of, gift, or otherwise relinquish possession of industrial hemp plants, plant parts, or hemp seed that is capable of germination to an unauthorized person;
  2. Destroy an industrial hemp crop, stored industrial hemp or hemp seed without prior notification to the Department.
  3. Transport industrial hemp plants, seed, propagative material or unprocessed harvested industrial hemp without notifying the Department; or
  4. Import or export industrial hemp plants or plant parts for processing; seed or propagative material for planting purposes without notifying the Department and complying with all import or export regulatory requirements as determined by a regulatory official.
- E. Intentional or Knowing Violations. Any violation that is determined to be committed intentionally or knowingly shall be reported to the State Attorney General and any relevant state and local law enforcement agencies.

**Historical Note**

New Section made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2).

**R3-4-1013. Corrective Actions**

- A. In addition to being subject to possible license suspension, license revocation, and monetary civil penalty procedures set forth in R3-4-1014, a person who is found by the Department to have violated any law, rule or Director's Order governing that person's participation in the program shall be subject to a corrective action plan.
- B. The Associate Director may impose a written and dated corrective action plan for a negligent violation of any law, rule or Director's Order governing a person's participation in the hemp program.
- C. Corrective action plans issued by the Department shall include, at a minimum, the following information:
  1. The requirements a person must fulfill to correct a violation of this Article as indicated in subsection (D);
  2. A reasonable date by which the person shall complete violation corrections; and
  3. A requirement for periodic reports from the violator to the department about the violator's compliance with the corrective action plan, laws, rules or Director's Orders for a period of at least three years from the date of the corrective action plan.
- D. Corrective Action Plan. The Department may prescribe one or more of the following provisions to a person in violation of this Article.
  1. Hemp crops or harvested hemp shall not be removed from the licensee's registered hemp site if found in violation of R3-4-1012 (A)(3) by having a Total Delta-9 THC concentration of greater than 0.300% on a dry weight basis.
  2. In addition to one or more of the components listed in A.R.S. § 3-317, a corrective action plan may contain one or more of the requirements:
    - a. Stripping stalks and destruction of floral material;

## CHAPTER 4. DEPARTMENT OF AGRICULTURE - PLANT SERVICES DIVISION

- b. Sterilization of seed and destruction of floral material;
  - c. THC remediation of leaf and floral material as prescribed by the Associate Director;
  - d. Education and training; and/or
  - e. Other corrective measures prescribed by the Associate Director.
3. Failure to complete the prescribed corrective measure within the timeframe indicated in the corrective action plan or to complete any component of a corrective action plan shall constitute a second violation of this Article.
  4. The cost of implementing a corrective action plan is the burden of the licensee.
- E.** Repeat violations. A person that violates this Article, the laws governing the production of industrial hemp, or any order issued by the Associate Director three times in a five-year period shall be ineligible for license issued by the Department for a period of five years beginning on the date of the third violation.

**Historical Note**

New Section made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2).

**R3-4-1014. Penalties**

- A.** Civil penalties. A person that violates this Article, a licensing requirement, a licensing term or condition, or any other rule or order of the Department within a five year period may be fined as follows:

1. First offense - \$1,000;
  2. Second offense - \$2,500;
  3. Third offense - \$5000.
- B.** License suspension. A person that violates this Article, a licensing requirement, a licensing term or condition, or any other rule or order of the Department may have their licensing privileges suspended until completion of any corrective actions prescribed in R3-4-1013.
- C.** License revocation. A person that intentionally violates this Article, a licensing requirement, a licensing term or condition, or any other rule or order of the Department, or who commits a third offense within a five year period:
1. Shall have all licenses issued pursuant to this Article revoked;
  2. All hemp crops, seed, and harvested industrial hemp of the licensee shall be seized and destroyed as prescribed by the Associate Director;
  3. The person found in violation shall be responsible for the cost of the destruction of all hemp crops, seed, and harvested material; and
  4. The person in violation shall not be eligible for a license under this Article for a period not less than five years.
- D.** Intentional or knowing violations shall be punished according to A.R.S. §§ 3-319 and or 13-3405.

**Historical Note**

New Section made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2).

### 3-107. Organizational and administrative powers and duties of the director

#### A. The director shall:

1. Formulate the program and policies of the department and adopt administrative rules to effect its program and policies.
2. Ensure coordination and cooperation in the department in order to achieve a unified policy of administering and executing its responsibilities.
3. Subject to section 35-149, accept, expend and account for gifts, grants, devises and other contributions of money or property from any public or private source, including the federal government. All contributions shall be included in the annual report under paragraph 6 of this subsection. Monies received under this paragraph shall be deposited, pursuant to sections 35-146 and 35-147, in special funds for the purpose specified, which are exempt from the provisions of section 35-190 relating to lapsing of appropriations.
4. Contract and enter into interagency and intergovernmental agreements pursuant to title 11, chapter 7, article 3 with any private party or public agency.
5. Administer oaths to witnesses and issue and direct the service of subpoenas requiring witnesses to attend and testify at or requiring the production of evidence in hearings, investigations and other proceedings.
6. Not later than September 30 each year, issue a report to the governor and the legislature of the department's activities during the preceding fiscal year. The report may recommend statutory changes to improve the department's ability to achieve the purposes and policies established by law. The director shall provide a copy of the report to the Arizona state library, archives and public records.
7. Establish, equip and maintain a central office in Phoenix and field offices as the director deems necessary.
8. Sign all vouchers to expend money under this title, which shall be paid as other claims against this state out of the appropriations to the department.
9. Coordinate agricultural education efforts to foster an understanding of Arizona agriculture and to promote a more efficient cooperation and understanding among agricultural educators, producers, dealers, buyers, mass media and the consuming public to stimulate the production, consumption and marketing of Arizona agricultural products.
10. Employ staff subject to title 41, chapter 4, article 4 and terminate employment for cause as provided by title 41, chapter 4, article 5.
11. Conduct hearings on appeals by producers regarding the assessed actual costs of the plow up and the penalty of one hundred fifty per cent for unpaid costs pursuant to section 3-204.01. The director may adopt rules to implement this paragraph.
12. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

#### B. The director may:

1. Authorize in writing any qualified officer or employee in the department to perform any act that the director is authorized or required to do by law.

2. Construct and operate border inspection stations or other necessary facilities in this state and cooperate by joint agreement with an adjoining state in constructing and operating border inspection stations or other facilities within the boundaries of this state or of the adjoining state.
3. Cooperate with agencies of the United States and other states and other agencies of this state and enter into agreements in developing and administering state and federal agricultural programs regarding the use of department officers, inspectors or other resources in this state, in other states or in other countries.
4. Cooperate with the office of tourism in distributing Arizona tourist information.
5. Enter into compliance agreements with any person, state or regulatory agency. For the purposes of this paragraph, "compliance agreement" means any written agreement or permit between a person and the department for the purpose of enforcing the department's requirements.
6. Abate, suppress, control, regulate, seize, quarantine or destroy any agricultural product or foodstuff that is adulterated or contaminated as the result of an accident at a commercial nuclear generating station as defined in section 26-301, paragraph 1. A person owning an agricultural product or foodstuff that has been subject to this paragraph may request a hearing pursuant to title 41, chapter 6, article 10.
7. Engage in joint venture activities with businesses and commodity groups that are specifically designed to further the mission of the department, that comply with the constitution and laws of the United States and that do not compete with private enterprise.
8. Sell, exchange or otherwise dispose of personal property labeled with the "Arizona grown" trademark. Revenues received pursuant to this paragraph shall be credited to the commodity promotion fund established by section 3-109.02.

3-313. Rulemaking; fees; intent

A. For the purposes of carrying out this article, the director shall:

1. Adopt rules pursuant to title 41, chapter 6 to oversee the licensing, production and management of industrial hemp and hemp seed in this state pursuant to this article.
2. Adopt fees by rule.
3. Authorize qualified applicants to propagate, harvest, transport or process, or any combination thereof, industrial hemp according to rules adopted by the director.

B. The legislature intends that the fees adopted pursuant to subsection A, paragraph 2 of this section be used to fund the department's activities in licensing, testing, inspecting and supervising industrial hemp production.

State of Arizona  
Senate  
Fifty-fourth Legislature  
First Regular Session  
2019

**CHAPTER 5**  
**SENATE BILL 1003**

AN ACT

AMENDING LAWS 2018, CHAPTER 287, SECTION 7; AMENDING LAWS 2018, CHAPTER 287, SECTION 9; RELATING TO AGRICULTURAL LICENSING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Laws 2018, chapter 287, section 7 is amended to read:  
3 Sec. 7. Rulemaking authority; exemption  
4 A. The Arizona department of agriculture may adopt rules to carry  
5 out title 3, chapter 2, article 4.1, Arizona Revised Statutes, as added by  
6 ~~this act~~ LAWS 2018, CHAPTER 287.  
7 B. THE ARIZONA DEPARTMENT OF AGRICULTURE SHALL ADOPT THE INITIAL  
8 RULES TO CARRY OUT TITLE 3, CHAPTER 2, ARTICLE 4.1, ARIZONA REVISED  
9 STATUTES, AS ADDED BY LAWS 2018, CHAPTER 287, BY MAY 31, 2019.  
10 ~~B.~~ C. For the purposes of this act, the Arizona department of  
11 agriculture is exempt from the rulemaking requirements of title 41,  
12 chapter 6, Arizona Revised Statutes, for one year after ~~the general~~  
13 ~~effective date of the fifty-third legislature, second regular~~  
14 ~~session~~ AUGUST 3, 2018.  
15 Sec. 2. Laws 2018, chapter 287, section 9 is amended to read:  
16 Sec. 9. Effective date  
17 Title 3, chapter 2, article 4.1, Arizona Revised Statutes, as added  
18 by ~~this act~~ LAWS 2018, CHAPTER 287, and sections 13-3405, 41-619.51,  
19 41-1758, 41-1758.01 and 41-1758.07, Arizona Revised Statutes, as amended  
20 by ~~this act~~ LAWS 2018, CHAPTER 287, are effective ~~one year from and after~~  
21 ~~the general effective date of the fifty-third legislature, second regular~~  
22 ~~session~~ FROM AND AFTER MAY 31, 2019.  
23 Sec. 3. Emergency  
24 This act is an emergency measure that is necessary to preserve the  
25 public peace, health or safety and is operative immediately as provided by  
26 law.

APPROVED BY THE GOVERNOR FEBRUARY 20, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE FEBRUARY 20, 2019.