

NOTICES OF PROPOSED RULEMAKING
Initiated After January 1, 1995

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first filing a Notice of Proposed Rulemaking, containing the preamble and the full text of the rules, with the Secretary of State's Office. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Arizona Administrative Register*.

Under the Administrative Procedure Act (A.R.S. § 41-1001 *et seq.*), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING
TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 30. BOARD OF TECHNICAL REGISTRATION

1. **Sections Affected:**
R4-30-106
Rulemaking Action
Amend
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 32-106(C)
Implementing statutes: A.R.S. §§ 32-106(D) and 32-124(2)
3. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Lavern Douglas
Address: Board of Technical Registration
1951 West Camelback Road, Suite 250
Phoenix, Arizona 85015
Telephone: (602) 255-4053
Fax: (602) 255-4051
4. **An explanation of the rules, including the agency's reasons for initiating the rules:**
R4-30-106(B) lists the fees set by the Board for each of the licensing examinations administered by the Board. In 1994, the legislature amended A.R.S. § 32-106(D) to allow use of an examination administration services contract. A contract was signed in 1995 for examination administration services. The proposed amendment incorporates the fees charged for each examination by the vendor.
5. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable.
6. **The summary of the economic, small business, and consumer impact:**
The principal impact of the rule amendment will be on applicants for registration who are required to take examinations. There is a minimal increase for some parts of the examinations.
The impact on small businesses will be minimal since the cost of the examinations is usually borne by the applicant and examination fees have little impact on the cost of services to the consumer.
7. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**
Name: Lavern Douglas
Address: Board of Technical Registration
1951 West Camelback Road, Suite 250
Phoenix, Arizona 85015
Telephone: (602) 542-4053
Fax: (602) 542-4051
8. **The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**
No public proceeding is scheduled. A person may submit written comments to or request that an oral proceeding be held on the proposed rule by submitting the comments or a written request for hearing no later than October 2, 1995, to the person listed above.
9. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
Not applicable.

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10. Incorporations by reference and their location in the rules:
None.

11. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 30. BOARD OF TECHNICAL REGISTRATION

ARTICLE 1. GENERAL PROVISIONS

R4-30-106. Fees

ARTICLE 1. GENERAL PROVISIONS

R4-30-106. Fees

- A. No change.
 - 1. No change.
 - 2. No change.
- B. Examination fees
 - 1. Architect-in-training exam
 - a. Division D/F, structural technology - general and long span (national exam) . . . \$60 85
 - b. Division E, structural technology - lateral forces (national exam) \$45 85
 - c. Division G, mechanical, plumbing, electrical and life safety systems (national exam) \$65 85
 - d. Division H, materials and methods (national exam) \$65 85
 - 2. Professional architect exam
 - a. Division A, pre-design (national exam) . \$70 85
 - b. Division B, site design (national exam) . . \$95 85
Division B, graphic site design (national exam) \$95 110
 - c. Division C, building design (national exam) \$115 170
 - d. Division I, construction documents and services (national exam) \$65 85
 - 3. No change.
 - 4. No change.
 - 5. Engineer-in-training exam -- fundamentals (national exam) \$45 75
 - 6. Engineering-in-training handbook \$5
 - ~~6-7.~~ Professional aeronautical, agricultural, civil, chemical, control systems, electrical, environmental, fire protection, industrial, mechanical, metallurgical, mining, nuclear, petroleum and sanitary engineer exams -- principles and practices (national exam) \$85 105
 - ~~7-8.~~ No change.
 - 8-9. Professional structural engineer exam
 - a. Principles and practice special supplement part I (national exam) \$75 105
 - b. Principles and practice special supplement part II (national exam) \$125 145

- 910. Geologist-in-training exam -- fundamentals (local exam) \$200 195
- ~~1011.~~ Professional geologist exam -- principles and practices (local exam) \$200 195
- ~~1112.~~ Landscape architect-in-training exam
 - a. Test 2, Programming and environmental analysis (national exam) \$45 77
 - b. Test 3, Conceptualization and communication (national exam) \$90 127
 - c. Test 4, Design synthesis (national exam) \$85 123
- ~~1213.~~ Professional landscape architect exam
 - a. Test 1, Legal and administrative aspects of practice (national exam) \$40 70
 - b. Test 5, Integration of technical and design requirements (national exam) . . \$105 138
 - c. Test 6, Grading and drainage (national exam) \$95 130
 - d. Test 7, Implementation of design through construction process (national exam) \$60 90
- ~~1314.~~ Land surveyor-in-training exam - fundamentals (national exam) \$65 85
- ~~1415.~~ Professional land surveyor exam
 - a. Principles and practices (national exam) \$75 105
 - b. No change.
- ~~1516.~~ No change.
 - a. No change.
 - b. No change.
- C. No change.
- D. No change.
 - 1. No change.
 - 2. No change.
 - 3. No change.
 - 4. No change.
 - 5. No change.
 - 6. No change.
 - 7. No change.
 - 8. No change.
 - a. No change.
 - b. No change.
 - c. No change.
 - d. No change.
 - 9. No change.
 - 10. No change.
- E. No change.
- F. No change.
- G. No change.
- H. No change.

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NOTICE OF PROPOSED RULEMAKING

TITLE 10. LAW

**CHAPTER 1. DEPARTMENT OF LAW
ATTORNEY GENERAL'S OFFICE**

1. **Sections Affected:** **Rulemaking Action**
R10-1-201 Repeal
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 41-192(B)(2)
Implementing statute: A.R.S. § 41-192(A)(2)
3. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Elizabeth Stewart, Assistant Attorney General
Address: Attorney General's Office
1275 West Washington
Phoenix, Arizona 85007
Telephone: (602) 542-8331
Fax: (602) 542-4385
4. **An explanation of the rules, including the agency's reasons for initiating the rules:**
The Attorney General intends to repeal this Section since A.R.S. § 41-772 establishes limitations on political activity for attorneys.
5. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable.
6. **The summary of the economic, small business, and consumer impact:**
It is not anticipated that the repeal of this Section will have any economic, small business, or consumer impact.
7. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**
Name: Elizabeth Stewart, Assistant Attorney General
Address: Attorney General's Office
1275 West Washington
Phoenix, Arizona 85007
Telephone: (602) 542-8331
Fax: (602) 542-4385
8. **The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**
Written comments will be accepted at the above address until September 28, 1995, at 5 p.m.
An oral proceeding to receive public comment will be held as follows:
Date: September 28, 1995
Time: 2 p.m.
Location: Attorney General's Office
South Conference Room
Capitol Center Building
15 South 15th Avenue, Third Floor
Phoenix, Arizona 85037

The Attorney General follows Title II of the Americans with Disabilities Act. The Attorney General does not discriminate against persons with disabilities who wish to make oral or written comments on proposed rulemaking or otherwise participate in the public comment process. Individuals with disabilities who need a reasonable accommodation (including auxiliary aids or services) to participate in the public comment process, or who require this information in an alternate form, may contact Elizabeth Stewart at (602) 542-8331 (Voice); (602) 542-5002 (TDD); 1275 West Washington, Phoenix, Arizona 85007. Requests should be made as soon as possible so that the Attorney General's Office will have sufficient time to respond.
9. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
None.
10. **Incorporations by reference and their location in the rules:**
None.
11. **The full text of the rules follows:**

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TITLE 10. LAW

CHAPTER 1. DEPARTMENT OF LAW
ATTORNEY GENERAL'S OFFICE

ARTICLE 2. POLITICAL ACTIVITY

Section

R10-1-201. Prohibition of political activity

ARTICLE 2. POLITICAL ACTIVITY

R10-1-201. Prohibition of political activity

- ~~A. No Assistant Attorney General or attorney who has been assigned permanent responsibility for supervising other attorneys employed by the Department of Law may:~~
- ~~1. Use any political endorsement in connection with any appointment to a position in public employment.~~
 - ~~2. Use or promise to use any official authority or influence for the purpose of influencing the vote or political action of any person or for any consideration.~~
- ~~B. No Assistant Attorney General or attorney who has been assigned permanent responsibility for supervising other attorneys may be a member of any national, state, or local committee of a political party, or an officer or chairman of a committee of a partisan political club, or a candidate for nomination or election to any paid public office, or shall take~~

~~any part in the management or affairs of any political party or in any political campaign, except that any employee may express his or her opinion, attend meetings for the purpose of becoming informed concerning the candidates for public office and the political issues, and cast his or her vote.~~

- ~~C. The provisions of this Section do not apply to school board elections or community college district governing board elections, and an Assistant Attorney General or attorney who has been assigned permanent responsibility for supervising other attorneys may serve as a member of the board of trustees of a common or high school district or as a member of the community college district governing board.~~
- ~~D. Nothing contained in this Section shall be construed as denying any Assistant Attorney General or attorney who has been assigned permanent responsibility for supervising other attorneys his or her civil or political liberties as guaranteed by the United States and Arizona Constitutions.~~
- ~~E. The provisions of this rule shall not apply to any employee of the Administrative Division of the Attorney General's Office if the Attorney General, in writing, specifically waives the applicability of this rule.~~

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

1. Sections Affected:

R12-4-102
R12-4-123
R12-4-304
R12-4-305
R12-4-308
R12-4-318
Article 7
R12-4-701
R12-4-702
R12-4-703
R12-4-704
R12-4-705
R12-4-706
R12-4-707
R12-4-708
R12-4-709
R12-4-710
R12-4-711
R12-4-712

Rulemaking Action

Amend
New Section
Amend
Amend
Amend
Amend
New Article
New Section
New Section

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 17-231(A)(1).
Implementing statutes: A.R.S. §§ 17-232, 17-333, 17-342, and 17-345 for R12-4-102.
A.R.S. § 17-231(A)(7) for R12-4-123.
A.R.S. §§ 17-102, 17-231(A)(3), 17-235, 17-301, and 17-371 for R12-4-305.
A.R.S. §§ 17-211(D)(3) and (4) and 17-231(A)(4) for R12-4-308.
A.R.S. §§ 17-296, 17-297, and 17-298 for R12-4-701 through R12-4-712.

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

Name: Susan L. Alandar, Administrative Services Manager
Address: Game and Fish Department DO HQ
2221 West Greenway Road
Phoenix, Arizona 85023
Telephone: (602) 789-3289
Fax: (602) 789-3299

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

R12-4-102: In open meeting on May 19, 1995, the Game and Fish Commission accepted a "petition for rule" submitted pursuant to R12-4-601 by the Arizona Trappers Association. (R12-4-601 is a Commission rule authorized by A.R.S. § 41-1033 which allows any person to petition an agency requesting the adoption of a rule in a manner and form prescribed by the agency.)

The proposal is to reduce the fee for a bobcat tag from \$5 to \$2; for a resident trapping license, from \$50 to \$10; and for a nonresident trapping license, from \$250 to \$50.

In its petition, the Arizona Trappers Association provided the following as its reason for this fee reduction proposal:

"In November 1994, the voters of Arizona approved Proposition 201 which has withdrawn from the trappers of Arizona the privilege of utilizing all public lands within the state. The resulting situation is that trappers have been regulated to less than 20% of the area previously available to them.

"It is our contention that trapping licenses are cost prohibitive at their current price because of the reduction in lands available to us and the dramatic downward spiral in the value of furs. For this reason we urge the Commission to reduce the price of trapping licenses (as described above).

"These reductions would benefit not only trappers under the current circumstances but would also benefit the agricultural industry within the state by encouraging recreational trapping on the private lands of the state's farms and ranches.

"The state itself would benefit by these license fee reductions because trappers would continue to ply their trade and a valuable wildlife management tool would not be lost."

It was pointed out by the petitioner that trappers have been steadily losing income because of the reduced value of furs over the last several years. For example: in 1987, a coyote pelt was worth \$20; bobcat, \$259; and gray fox, \$36. In 1995, a coyote pelt is worth only \$6.57; bobcat, \$45; and gray fox, \$7.50.

The Game and Fish Department, in its evaluation of the petition, provided the following information to the Commission:

"Passage of Proposition 201, amending A.R.S. § 17-301, denied the use of public lands to licensed Arizona trappers. This converts to approximately 50% of Arizona and only leaves privately owned lands and Indian (Native American) lands open to traditional trapping methods.

"The reduced fees may increase trapping efforts and place the Department closer to meeting its strategic goals relative to predator and furbearer harvest and trapping recreational days."

The Department's recommendation was that the Commission accept the petition for rule. The draft rule designates an effective date for this change to be July 1, 1996, in order to conform to A.R.S. § 17-332(E), which states: "Trapping licenses are valid from July 1 through June 30 of the following year." This is different from the majority of all other licenses, which are valid for a "license year" and "expire on December 31."

R12-4-123: Pursuant to A.R.S. § 17-211(A), the Director is designated as the chief administrative officer of the Department. The Attorney General's Office has advised that, even though there is specific direction and oversight given to the Director and the Department by the Commission regarding the expenditure of funds through the budget process, the provisions contained in A.R.S. § 17-231(A)(7) still need to be addressed. The statute requires the Commission to "prescribe rules for the expenditure, by or under the control of the director, of all funds arising from appropriation, licenses, gifts, or other sources."

R12-4-123 would formalize the processes that have been used by the Commission and the Department since the Department was created in the 1958 amendment to Title 17. The rule addresses the general authority for the Director to expend funds from all sources in compliance with all applicable laws and rules, including expenditures authorized in Commission-approved agreements and budgets, legislatively approved budgets, and from gifts (donations). Additionally, the rule stipulates that the Director shall ensure implementations of sound internal management controls of the expenditures.

Subsection (A) of the rule identifies general categories for the sources of funds (appropriations, licenses, gifts, or other sources) which are contained in the 19 fund accounts which equate to the Department's annual operating budget, as well as the donations made to the Commission and the Department. Further, the language stipulates that these funds may be expended to implement the conditions of Commission agreements with other entities (governmental and non-governmental); Department guidelines; and the expenditures from the approved budgets must be in agreement with the programs, projects, and services contained in the approved budgets that are developed as a part of the two-year budget cycle process. With regard to donations, the Director is granted authority to expend funds as designated by the donor. If the gifts have not been given stipulations by the donors, the Director may expend the funds for public purposes which further the Department's responsibilities and duties.

Frequently, the Commission executes agreements with other entities, both governmental and nongovernmental, for the purpose of implementing activities which further benefit the activities of the Commission and the Department. In many circumstances, the conditions of these agreements require the Commission and Department to expend funds in order to accomplish desired activities, programs, or developments. The rule stipulates that the Director is authorized to expend Department funds to accomplish the purposes designated in these Commission agreements.

The Department has developed guidelines and procedures over the years to help ensure that the expenditure of funds is accomplished in a manner that is consistent with the goals and objectives of the Commission and any other stipulations, statements, and purposes directed to the Department by the Commission. One of the key guidelines that has recently been developed to provide this accountability is the "Budget Prioritization Process." This is a document that has been approved by the Commission which includes the Department mission statement and strategic plans, guiding statements which have been defined in detail that address Department priorities, and ranking procedures with weighted factors that help ensure that funds are allocated to programs and projects which address the Department's and Commission's priorities.

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The budget requests of the Department are prepared on two-year cycles with the legislative mandate of all state agencies. This is an involved process that begins with all of the budget units of the Department and is facilitated by the Funds Planning Unit of the Director's Office. This process entails several months of extensive input and review by the Department and culminates with a detailed presentation and review by the Department with the Commission in an open meeting in June every other year. Prior to the Commission meeting there are informal briefings with individual Commissioners and formal briefing papers are prepared and sent to commissioners for review prior to the June Commission meeting. The budgets are approved, with modifications as directed by the Commission, at that or a subsequent meeting and forwarded to the Governor's budget office and on to the Legislature for consideration and approval. The Legislature does not approve all of the budget requests that are submitted since many of the funds contained in the Commission-approved budget are non-appropriated funds. The Legislature only appropriates 7 of the 19 funding authorities available to the Commission. These include: the Game and Fish Fund; Watercraft Licensing Fund; Game, Nongame Fund; Wildlife Endowment Fund; Capital Improvement Fund; Land & Water Conservation/Recreation Fund; and Waterfowl Conservation Fund. Additionally, it should be noted that the Game and Fish Department is unique in that it receives no General Fund support from the Legislature.

The methods of control and management of expenditures will be those accepted as the principles for governmental accounting and those established by Arizona law and in accordance with the rules and procedures established by the State Auditor General and the Department of Administration. These methods also include periodic internal and external audits of financial management and systems done by the Department's internal audit unit, the Auditor General, and contract auditors hired by the Department to assist in strengthening financial management and control. The preparation of an annual agency financial report that is submitted to the Legislature and which reports on the Department's assets, liabilities, expenses, fund balances, appropriation expenditures, capital projects/expenditures, federal fund receipts and expenditures, and revenues from the sale of licenses and other sources also contribute to ensuring the methods and control are effective.

R12-4-304 and R12-4-318: R12-4-304 prescribes methods for taking listed wildlife during "general" open hunting seasons and forms the foundation for sister rule R12-4-318 which prescribes narrower restrictions or requirements for other various hunt structures (commonly called "seasons") separate from general seasons. Methods of take which may be used during seasons established under R12-4-318 may not be different than those in R12-4-304, but there may be fewer methods allowed. For instance, while firearms and archery are both allowed for deer in R12-4-304, only archery is allowed for deer in an "archery-only" season under R12-4-318.

Two objectives are being addressed in the proposed changes to these rules. The first objective is to reduce or eliminate the loss or damage to habitat caused when hunters legally take reptiles. The second objective is to provide increased safety to hunters during turkey season.

Method of take for reptiles. On a global scale, habitat destruction and degradation are perhaps the single-most important factor causing declines in wildlife populations. There is the opportunity to control habitat loss through the effective management of the legal take of wildlife.

Excavation of shelters and outright destruction of habitat components or alteration of habitat structure can substantially reduce the quality of habitat and its ability to support species of wildlife that depend upon it. Downed logs and standing snags may be broken apart or stripped of bark. Rocks are rolled, causing temporary loss of the moist microhabitats that form underneath. When rock outcrops are disturbed by moving cap rocks, separating rocks that are in contact with each other, or breaking exfoliations or other small pieces of rock away from larger rocks, habitat is lost permanently. Rotting logs are frequently torn apart, with hands, pry bars, stump rippers, and other devices. Animals utilizing cavities within the rotting log are left without habitat.

Hands, pry bars, hydraulic jacks, and other devices are often used to separate juxtaposed rocks, move cap rocks, or break away exfoliations, allowing the collector access to animals that use the tight crevices and spaces between the two pieces of rock. It is often impossible to replace these rocks after they have been moved or broken and even when replacement is possible it is rarely practiced. These habitats are, for all intents and purposes, permanently lost.

It is desirable to eliminate or tightly restrict habitat destruction resulting from the techniques that are now legally used. With the increase in monetary value of certain reptiles in the pet trade, destructive collection practices have proliferated over the past 10 to 20 years and can be expected to continue to increase into the foreseeable future.

Department law enforcement personnel have noted an increase in collecting and habitat disturbance in the past few years since the California Fish and Game Commission liberalized regulations in regard to possession and commercialization of certain species of reptiles. Habitat loss for these species, and incidental loss for non-target wildlife, are occurring at an alarming rate.

To effectively cope with these negative effects and recent increases in collecting pressure, the Department needs to protect habitats that are being impacted, and the wildlife that depend upon them, by restricting legal methods of take.

In a recent survey by the Nongame Amphibians and Reptiles Program, 34 professional individuals from agencies and organizations, biologists, conservation organizations, and private individuals (including many users) responded to a question concerning this issue. Thirty-three of these respondents (including all 8 individuals/work units within the department, 14 external resource managers/agencies, 3 private organizations, and 8 private individuals) indicated that the Department should take measures to regulate methods and/or devices that result in habit damage associated with take of amphibians and reptiles.

At worst, the proposed rule change will force collectors to gather wildlife when they are active and exposed. Collection of snakes and lizards from their daytime shelters is analogous to night-lighting for deer or shooting turkeys in a roost tree at night in that the animals are afforded no shelter (either physically or temporally) from hunters. Animals are far more vulnerable to a hunter who is allowed to invade their shelters. In this case, the problem is further compounded by habitat loss.

R12-4-304(E). This subsection of the rule defines the method of take for reptiles. The language to be added to the rule would stipulate that the methods used must not modify or destroy the existing habitat and that certain devices may not be used to accomplish the taking of the reptile.

Most wildlife benefits would go to small or moderately sized nongame species (including small birds and mammals, reptiles, amphibians, and terrestrial mollusks and crustaceans) that commonly use the small microhabitats directly affected by the changes. Users will benefit from preservation of habitat and long-term sustained harvest of species that are impacted by destructive methods of take. Supporters of the proposed change include nearly all groups with an orientation toward conservation. This includes certain user groups.

Opposition can be expected from some users, particularly those who employ the destructive collection techniques. It should be noted that some present supporters of habitat protection are former practitioners of the destructive methods of take.

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Methods of take for turkeys. The Commission takes very seriously the issue of hunter safety. It has established a hunter-safety program that is recognized throughout the country as one of the best in the United States, including being recognized as the best program in the nation for several years. The program has received many other awards.

During 1985-1994, there were 65 reported hunting-related accidents, with four of these occurring during the turkey seasons. One of the accidents attributed to turkey hunting resulted in a fatality caused from a hunter being shot by a .22 caliber rimfire magnum rifle. This fatality has brought about concern regarding the safety of hunters engaged in hunting turkeys.

Hunters currently have the option of using a shotgun, rifle, handgun, crossbow, or longbow in the pursuit of turkey, as specified in R12-4-304(A).

Several suggestions have been offered as reasons why a restriction should be placed on limiting the choice of weapons for hunting turkeys in order to make it a safer sport. One is that about 80% of those engaged in hunting turkeys use shotguns; therefore, most of the hunters would not be affected by elimination of rifles and handguns. Another argument offered is that hunters using rifles are able to shoot turkeys at considerably longer distances than those using shotguns and they may have an unfair advantage over hunters using other weapons. It is also suggested that rifle bullets and shotgun slugs cause more fatalities to hunters.

There are other arguments offered that suggest reasons why it is not appropriate to consider changing the rule to further restrict the method of take or to establish limited weapons-shooting shotgun-only seasons. In 1994, responses from the participants at the Department's public hearings on the hunt recommendations were asked their position on the potential elimination of rifle and handguns for the taking of turkey. The majority of the responses were against such a recommendation. Their responses were based on the concern that placing a weapon's restriction for turkey would set a precedent for taking similar action on weapons used in other big game hunting and that this would play into the agenda of the anti-hunting elements. Their feeling was that safety was not a concern because there would have been so few accidents in all big game hunting in Arizona. Another argument is that it is not unsafe for the turkey hunters to be in the field with others using all legal weapons under the current rule. They suggest that, with the average of 30,000+ turkey hunter days per year, that one fatality in 300,000 turkey hunter days (1985-1994) demonstrates that turkey hunting is a very safe activity. Another suggestion is that, if it is determined that safety is an issue, it should be addressed by managing the number of permits through stratified hunts to reduce the number of hunters in the field or reducing the number of permits if there is a trend in the growth of accidents versus placing restrictions on the method of take as the means to address a safety issue.

The proposed amendments to the rule offer the option of placing further restrictions on the weapons to be used when hunting turkey, R12-4-304(A) (Method of take) or establishing a limited weapons-shotgun season by amending R12-4-318(C) (Seasons).

R12-4-304(A). The intent of this change to the rule would be an attempt to make hunting for turkey a safer hunting activity by restricting the options for weapon choice to shotguns shooting shot with a specific maximum size, and to bows and crossbows. If this amendment to the rule were adopted there would not be a need to adopt an amendment to R12-4-318, discussed below, to establish limited weapons season.

There are two hunting seasons for turkey, one in the fall and the other in the spring. During both of these seasons there are some small game animals that can be taken with rimfire rifles and rimfire handguns. Under the proposed rule, the hunter would be restricted to taking small game animals using a shotgun if the hunter chose to hunt those animals during the turkey seasons. The rule, therefore, would not preclude the hunter from taking any animal which he or she currently may chose to hunt during the turkey seasons, but it will be an inconvenience for the 20% of the hunters that currently hunt turkey with a rifle.

There are no other big game general seasons that overlap the turkey seasons that would be affected by precluding the hunter from carrying a rifle or handgun.

R12-4-318. The intent of this change to the rule would be an attempt to make hunting for turkey a safer hunting activity by establishing a limited weapons-shooting-shot-only season in which the hunter would be restricted to the option of choosing to use a shotgun shooting shot, or a bow or crossbow. There are two options associated with this change. One option would be that the limited-weapons-only season would be in addition to the continuance of the fall and spring general seasons without any change to R12-4-304. The other option would be to substitute the limited-weapons seasons for the general regular spring and fall seasons.

R12-4-305. This rule has two objectives. First, it protects wildlife resources by preventing unlawful possession, transport, import, or export of wild mammals, birds, and reptiles. Second, it allows for lawful possession, transport, import, or export by prescribing the methods for complying with governing statutes.

It is proposed to amend the rule to add a new requirement that carcasses of quail be possessed or transported with a fully-feathered wing or head left attached. At the same time, a minor change to subsection (A) would make this rule conform to a recent change proposed to R12-4-302, which will give hunters the option of tagging a sandhill crane around the leg or neck.

The requirement to retain one fully-feathered wing or head on the carcass of a quail will allow law enforcement officers to ensure that hunters have not exceeded the bag limit for individual species of quail. Without a head or wing left attached, it is impossible to identify quail species.

The proposed wording is taken from existing wording in the rule with reference to migratory birds. Hunters have been required to retain one fully-feathered wing on migratory birds taken in Arizona for many years. This conforms to federal law and is familiar to hunters.

This proposal will allow the Department to establish differential bag limits for species of quail taken. This will allow the Department to manage these species independently. There is a growing concern among the quail hunting public that Mearns quail are being over-hunted. One method of reducing harvest pressure is to reduce the bag limit. The other major species of quail are Gambel and Scaled; their populations are adequate and there is no need to reduce bag limits for those species. There are three additional quail species in Arizona. The masked bob-white is an endangered species and there is no open season. The California quail is found in a small isolated area of private land and is not widely hunted. Northern bob-white quail are used by dog trainers, on shooting preserves, and at field trial events.

The proposed rule would ensure that all species of quail be identifiable.

R12-4-308. The purpose of the rule is to provide the Department with a mechanism to gather biological information and to aid in the enforcement of wildlife laws. R12-4-308(C)(1) provides for the establishment of procedures specific to bighorn sheep hunters.

Subsection (C)(1) has been in effect since 1953. The rule provides that the individual hunter who has been issued a big game tag for bighorn sheep is required to personally check in at a Department office, between the hours of 8 a.m. to 5 p.m., Monday through Friday, within five days prior to embarking on the hunting activity.

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Each year the Department issues slightly in excess of 100 bighorn hunt-permit tags to hunter applicants through a random computer drawing process. These tags are sought by more than 5,700 applicants; on the average, 1,400 are non-residents. Commission rule also stipulates that no more than 10% of the applicants who are issued hunt-permit tags shall be nonresidents. Because there is such a limited number of bighorn sheep permit-tags available, they are highly sought by big game hunters. Since there are so few permits available each year and there is such a large number of hunters who desire to hunt bighorn sheep, the bag limit is only one bighorn sheep in the hunter's lifetime.

The majority of these hunters have contracted with licensed guides who assist them in the pursuit of the bighorn sheep. Since Department offices are open only Monday through Friday, it is necessary for these individuals to generally arrive a day early to accommodate compliance with the rule. It has been suggested by the Commission and others that this is a substantial inconvenience to those hunters who do not have ready access to Department offices. It has also been noted that this not only affects nonresidents but also many residents whose access to Department offices is similarly as inconvenient. The Commission therefore wishes to consider the impact of eliminating this requirement from the rule.

The Department regional offices were asked to gather information from the biological and law enforcement staffs in each region. Information received from the Department regional office staff indicates that the need for information is based solely on the need for information about the hunter and the intended hunting activities. The Department does not gather any biological information at that time since all of the biological information is obtained when the hunter checks out at Department offices after the hunt has been completed.

Staff of three regional offices indicated support for the need to obtain information about the hunter and the need to provide information to the hunter prior to the hunt event. Much of the information that is obtained from the hunter at this time concerns the description of the vehicles to be used on the hunt, the intended location of the campsite, the name of the guide, and other similar information that would be of use to Department field personnel who may check on the activities of the hunter and the hunter's guide. The other three regional office staffs indicated that it was not necessary for them to have non-biological information for law enforcement purposes, as they felt that there were other ways they could accomplish law enforcement objectives.

The Department has already received comments regarding the current requirement to check in with the Department prior to embarking on the bighorn sheep hunt. These comments indicate that they feel it is unnecessary to require the hunter to check in with the Department in this manner. They support the necessity of the Department to obtain biological information after the hunt has been completed and support the fact that the hunter should comply with this portion of the rule. One organization that strongly supports the proposed rule change is the Arizona Desert Bighorn Sheep Society. This organization works closely with the Department in the improvement and development of water catchments and generates in excess of \$300,000 annually that is donated to the Commission for the improvement of bighorn sheep populations and habitat.

The objective and intent of the proposed change in the rule will eliminate the need for a bighorn sheep hunter to personally check in at a Department office within five days preceding the hunt.

Article 7. Heritage Grants

R12-4-701 through R12-4-712. This new set of rules will formalize the procedures currently used by the Department for the evaluation, allocation, and administration of funds for grants approved to other governmental organizations for which funding is provided from the Heritage Fund, established within A.R.S. Title 17, Chapter 2, Article 6. The rules prescribe application procedures, eligibility requirements, project evaluation processes, terms, and conditions for applicants who receive funding, and the reporting requirements for approved projects.

The need for this Article is based upon advice from the Attorney General's Office, which has determined that the Commission is required to adopt rules regarding the distribution of funds to other governmental organizations since the expenditure of these funds directly affects the general public.

In November 1990, an initiative was passed by Arizona voters to establish the Heritage Fund. The fund derives its revenue from Lottery funds, \$10 million annually to the Game and Fish Department to further the preservation and conservation of sensitive habitats and species, and to the Arizona State Parks Board and local levels of government to develop and improve recreation and trails facilities and historic preservation properties throughout the state.

A.R.S. § 17-298 specifies the purpose and percentages for expenditures from this fund. A.R.S. § 17-297 exempts the fund from appropriation and expenditures from the fund are administered by the Game and Fish Commission and are not subject to outside approval.

Article 7. Rules General to all Grant Categories

R12-4-701 contains definitions relevant to this new Article. R12-4-702 contains the general provision requirements common to all Heritage Grant categories. R12-4-709 prescribes general procedures for applying for Heritage Grants and R12-4-703 the criteria for review and modification of proposals. R12-4-710 through R12-4-712 are also generally applicable.

R12-4-701. The rule generally defines the terms used in association with the administration of grant-in-aid functions.

"Budget Prioritization Process." The "Budget Prioritization Process" is a new term within Commission rules. This process and document contain the guidelines used by the Department when the agency makes budgetary and project-funding decisions. A copy of the document which fully describes this process is given to every grant applicant.

"Facilities." Though many of the projects that are considered and approved for allocation of Heritage funding by the Department are for projects which result in studies, reports, and activities, there is a significant number of projects that are for the construction of capital facilities.

"Fund." The "fund" represents the revenue source, the Heritage Fund, A.R.S. § 17-297. The statute provides that expenditures from the "fund" are not subject to appropriation by the legislature and may be used for a large variety of programs and projects to: improve the conditions of wildlife species in certain categories of endangerment and their associated habitats, enhance urban wildlife and its habitats, develop environmental education programs, and improve public access to recreation lands.

"Participant." These are the federal, state, and local units of government, including school districts, that are eligible to receive funding from the "fund" and have the contractual obligations to complete the project and to operate and maintain the facilities which have received assistance from the "fund."

The terms remaining should be self-explanatory.

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R12-4-702. This rule provides requirements common to all Heritage Grant categories (specific categories are addressed in R12-4-704 through R12-4-708.)

Subsection (A) contains the Department's schedule and duties. The "Budget Prioritization Process" is defined and explained previously; the "Grant Application Manual", also provided to each grant applicant, contains detailed guidance and information helpful to applicants, and all required forms. Annualized information on project emphasis is also provided; while the criteria for eligible projects does not change, the emphasis may need to shift on the type of project in which funds may best be awarded annually. This is further addressed within R12-4-708, which specifies that "Each year the Department shall provide a listing of habitat and species as defined within A.R.S. § 17-296 which will currently be considered in accordance with biological, conservation, and management status changes."

An important stipulation stated in this Section indicates that the applicants who have failed to comply with the rules, conditions of the participant-in-aid agreement, or who have not completed projects within the two-year project period, will be considered ineligible to receive additional funding. The only exceptions would be if amendments granting project extensions have been approved by the Department.

It is necessary that the conditions and stipulations contained in the general provisions are known to applicants at the time they consider applying for funding support because of the obligations they assume once a project is approved for funding. In particular, applicants must fully understand their long-term obligations to the projects and the intended public benefit of capital improvement projects constructed with the "fund."

R124-703. This rule contains criteria for review and modification of proposals. It declares that the Department will consider Department priorities, as part of the "Budget Prioritization Process," to evaluate and rank all of the applications that are submitted. Since there are usually more requests than funds available, it is necessary to ensure that all projects competing for the limited funds are judged fairly.

In addition to considering the merits of a project based upon the request submitted, the Department may consider other modifications to any project application. This is done because experience has shown that many applicants do not present a clear picture of what the project is to accomplish. It also provides the opportunity to make a project viable for the year in which it was submitted versus forcing the applicant to resubmit the project in the following year.

R124-709. This rule prescribes application procedures. It prescribes all of the information that the applicant must include on and with the application forms provided by the Department. The information required from an applicant is critical to the evaluation of the project and effective administration of a project once approved.

Subsection (B) references the "application checklist" which lists all of the items that are required within the project application. This guidance makes it relatively simple for the applicant to comply with the Department requests for information. If an applicant does not provide the information, the Department may consider rejecting the application due to insufficient data being provided as a part of the application process.

Subsections (C) thru (H) describe how the application forms are to be completed and what information is to be included on and with the forms. This includes detailed location maps of the project sites, site plans, if appropriate, detailed project cost estimates, and agreements or written permission from land owners or managers to enter land to conduct research. Subsection (G) focuses on the need to complete and include an environmental checklist with the project. It is important to note that this document is not limited to the evaluation of Heritage Fund project applications. This document is utilized by the Department in the evaluation of all projects and activities of the agency. It is considered the guiding principle of the Commission regarding the impact on the environment that any activity of the Department may have.

Subsection (H) indicates that the Department will provide a list of questions that must be answered by the applicant that will assist in the evaluation of the project proposal. The criteria for these questions are within Article 7 and questions must and will fit within that criteria but may differ to address emphasis shifting annually.

R12-4-710. There exists within A.R.S. §§ 41-861 through 41-864 a State Historic Preservation Act which has provisions mandating all state agencies to consider the potential impact to significant cultural resources that may result from any activities or projects undertaken by these agencies. The intent of this rule is to ensure that the compliance obligations of this statute are met by the participants prior to the transfer of grant funds by the Department. Helpful information on how to apply for this certification is provided to applicants in the "Grant Application Manual."

R124-711. The intent of this rule is to identify the minimum conditions that are to be contained in the agreement between the Department and the participant receiving financial support from the "fund." Since the agreement is the legal document between the Department and the participant, it is important that it contain the necessary details regarding the scope of work/expected products, administrative stipulations for both the Department and the participant, penalties for violation of the terms of the agreement, and terms for agreement cancellation and remedies and legal obligations of the parties.

R124-712. An important consideration for the Department is adequate and timely reporting on the progress/status of projects. It is the intent of this rule to ensure timely and quality reporting by the participants to the Department as well as ensuring that participants maintain adequate files and records for at least five years after completion of the project.

Heritage Grant Categories.

Five separate grant categories have been created based upon provisions within the governing statutes. These categories are addressed individually within R12-4-704 through R12-4-708.

R12-4-704. The purpose of this category of grant is to promote or enhance wildlife and wildlife habitat in urban areas by distributing funds as provided in A.R.S. § 17-298(D). Subsection (A) restates the statutory definition essential to understanding the rule and Subsection (B) necessarily provides specific clarifications for definition of what is considered as "close proximity to urban areas".

Subsection (D) indicates that projects funded in this program are meant to emphasize the need to conserve, enhance, and develop wildlife habitats and populations in the urban areas of the state. One of the intended benefits is to promote the increase in awareness to the populace in the urban areas of the importance and benefit of wildlife to the state and to instill an appreciation of the state's wildlife. The rule specifies the details of eligible project activities and programs, including research, development of wildlife-oriented recreation opportunities, informational services, solution of wildlife and human conflicts, enhancement and restoration of aquatic and terrestrial habitats, and release of wildlife in urban settings.

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R12-4-705. The purpose of this grant category is to enhance and develop access to public lands by distributing funds as provided in A.R.S. § 17-298(A).

It should be noted that the provision of additional or improved access to public lands may not always be in the best interest of the resource or of the recreational experience of the recreation user. Given this, projects may also be considered and approved to reduce or otherwise limit public access in order to minimize negative impacts on biotic resources to meet the Department's mission, goals, and objectives.

R124-706. The purpose of this grant category is to promote and enhance environmental education activities by distributing funds as provided in A.R.S. § 17-298(E). The intent of this rule is to stimulate grants that portray wildlife issues in a balanced and fair manner which develops an awareness, appreciation, and understanding of wildlife and its environment and to increase responsible actions toward wildlife. Strong emphasis and encouragement is placed on proposals which have an impact on Arizona schools and children.

R124-707. The purpose of this grant category is to promote the development of wildlife habitat demonstration and educational projects in a schoolyard environment and to develop an awareness in school children of wildlife and habitat by distributing funds as provided in A.R.S. § 17-298(D). The intent of the rule is to stimulate grants that support construction of wildlife habitat facilities or the conduct of urban wildlife programs on public school facilities. These projects must incorporate native plant and animal species, and the children in the school must be involved in the planning, development, and construction process.

R124-708. The purpose of this grant category is to help preserve and enhance the state's natural biological diversity by distributing funds as provided in A.R.S. § 17-298(B). The intent of the rule is to stimulate grants that address protection and preservation issues associated with sensitive habitats. The Department will annually provide a listing of sensitive habitats and species which addresses the protection and preservation priorities that are to be met through the approval of "fund" dollars to project proposals.

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

Not applicable.

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

R124-102. Continued low pelt prices and loss of public lands trapping have decreased the number of licensed trappers to 109 in 1994-95. Impact on Department revenue would therefore be minimal. Fur dealers could see some increase in fur supplies if a reduced fee were to result in more trapping activity. Farmers and livestock operators may have more opportunity to use the services of trappers on their private land which could result in a decrease of predators which cause loss to agricultural industries.

Cost savings would be greatest for nonresident trappers. Overall reductions in fees could lure a few trappers back to use their license on private land for recreational purposes. The fur industry is at present not lucrative enough to create expectation of great commercial activity.

R124-123. The only cost to the Department will be that associated with the procedure of the rules proposal and adoption process since all of the efforts needed to implement the rule are now in place.

Compliance with authorizing statutes will have indirect benefit of protecting the Department from potential legal complications.

R124-304(E) There may be a need for increased law enforcement activity associated with the proposed rule change prohibiting destruction of habitat while taking reptiles, but this would be worked into existing work schedules, so increased costs are not expected. It is possible that some collectors will adopt new collecting methods, including night collecting with the aid of artificial lights. This may place some additional demand of field law enforcement personnel, though increased costs would not be expected. Decreased revenues will be generated only if some collectors who buy hunting licenses solely or primarily for the purpose of collecting wildlife using the restricted methods decide that it is no longer feasible for them to pursue the activity and they elect not to buy a license at all. This effect is expected to be very small. Results of a recent hunter survey indicate that fewer than 2% of licensed hunters collect reptiles at all, live or dead. Only a small proportion of these are likely to utilize destructive methods of take, and fewer still are likely to give up collecting rather than change collecting methods.

In the long-term, if habitat-destructive collecting practices are curtailed under the proposed rule changes, the scenic values of lands administered by other agencies can be expected to benefit. With continued damage to rock formations and other habitat components tourist interest in the long-term would wane for many of Arizona's scenic lands, resulting in decreased revenues to those agencies that charge fees for recreational use of the lands they administer.

Hardware and sporting goods stores, gas stations, and motels may be affected by changes in collecting methods that may result from implementation of the proposed rule changes. They might see a very small decrease in the sales of implements such as pry bars and car jacks, and there should be small increases in the sale of batteries, hand-carried lights, increased gasoline sales, and increases in motel usage might occur with increased night collecting, as has been noted in other states where road collecting is popular.

Benefits will be mostly non-monetary. Non-consumptive users and sightseers would benefit from preservation of habitats and increased stability of wildlife populations. Consumptive users could see long-term benefits in the form of sustained yields of the wildlife resource. This added stability would be especially important at accessible habitat sites, which are the most vulnerable to damage.

R124-304(A) and R124-318(C) The change in the elimination of rifle and handgun as a legal method of take or setting limited-weapons season would allow the Department to offer what may be perceived as safer turkey hunting opportunities. Either of these proposals is expected to be controversial.

Presently about 20% of hunters use rifles to hunt turkey. There should be no increased costs to businesses, though there may be a slight reduction in revenue if the 20% of hunters who use rifles refuse to convert to shotgun (unlikely). There could be a reduction in license sales and ammunition sales. There will be an increased cost to the hunter who has to purchase a shotgun.

R124-305. The clarification for evidence of legality for the possession and transportation of quail will allow the Department to manage each species independently. It will also allow field inspection of carcasses to obtain biological data. This change may result in some buyer resistance in the form of fewer licenses sold for a few years. However, this type of requirement is presently in place for migratory birds, and it is unlikely that there will be buyer resistance.

The benefit would be to hunters by the increased management options made available to the Department. There could be additional hunting opportunity in the future.

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R124-308. There will not be a reduction in revenue attributable to the adoption of this rule, as the revenue for this activity is based on the number of hunt permit-tags issued. The number to be issued is based solely on the biological evaluations of the habitat-carrying capacity and the animal populations.

There should be a reduction in cost to the bighorn sheep hunter since the hunter will have one less trip to make during the hunt. The cost savings could include fuel, food, and lodging.

The decreased revenues that the businesses will bear will be extremely small and have little consequence on the overall operation of the affected businesses.

Article 7. Since the procedures which these rules address are already in place and being used by the Department, there should be no additional costs or any decreases in revenue as a result of this rulemaking.

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

Name: Susan L. Alandar, Administrative Services Manager
Address: Game and Fish Department DO HQ
2221 West Greenway Road
Phoenix, Arizona 85023
Telephone: (602)789-3289
Fax: (602)789-3299

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

Written comments will be accepted at the above address until October 20, 1995. Public hearings to discuss this proposal will be held as follows:

Date: October 9, 1995
Time: 7 p.m.
Location: Quality Hotel
St. Augustine Room
475 North Granada
Tucson, Arizona

Date: October 17, 1995
Time: 7 p.m.
Location: Game and Fish Department
Highway 260
Pinetop, Arizona

Date: October 17, 1995
Time: 7 p.m.
Location: Game and Fish Department
5025 North Stockton Hill Road
Kingman, Arizona

Date: October 17, 1995
Time: 7 p.m.
Location: Game and Fish Department
9140 East County 10 1/2 Street
Yuma, Arizona

Date: October 19, 1995
Time: 5 p.m.
Location: Game and Fish Department
3500 South Lake Mary Road
Flagstaff, Arizona

Date: October 20, 1995
Time: 7 p.m.
Location: Wildlife Building, State Fairgrounds
McDowell Road and 17th Avenue
Phoenix, Arizona

The Game and Fish Commission will hold additional public hearing and may take final action to amend the rule on:

Date: December 15, 1995
Time: 1:30 p.m.
Location: Wildlife Building
State Fair Grounds
McDowell Road and 17th Avenue
Phoenix, Arizona

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9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable.
10. Incorporations by reference and their location in the rules:
Not applicable.
11. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 5. GAME AND FISH COMMISSION

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

- R12-4-102. Fees for Licenses, Tags, Stamps, and Permits
R12-4-123. Expenditure of Funds

ARTICLE 3. TAKING AND HANDLING OF WILDLIFE

- R12-4-304. Lawful Methods of Taking Wild Mammals, Birds, and Reptiles
R12-4-305. Possession, Sale, Transportation, Importation, and Exportation of Carcasses of Wild Mammals, Birds, and Reptiles
R12-4-308. Wildlife Inspections, Checking Stations, and Roadblocks

ARTICLE 7. HERITAGE GRANTS

- R12-4-701. Heritage Grant Definitions
R12-4-702. General Provisions
R12-4-703. Review and Modification of Proposals
R12-4-704. Urban Wildlife and Urban Wildlife Habitat Grants
R12-4-705. Public Access Grants
R12-4-706. Environmental Education Grants
R12-4-707. Schoolyard Habitat Grants
R12-4-708. IIAPAM: Grants for Identification, Inventory, Acquisition, Protection, and Management of Sensitive Habitat
R12-4-709. Grant Applications
R12-4-710. State Historic Preservation Office Certification
R12-4-711. Participant Agreements
R12-4-712. Reporting and Record Requirements

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

R124-102. Fees for Licenses, Tags, Stamps, and Permits

- A. No change.
B. No change.
C. No change.
D. Stamps and special use permit fees:
1. No change.
2. No change.
3. No change.
4. Bobcat permit tag \$5.00\$2.00
5. No change.
6. No change.
7. No change.
8. No change.
E. Other license fees:
1. No change.
2. No change.
3. No change.
4. No change.
5. No change.
6. No change.

7. No change.
8. No change.
9. No change.
10. Trapping license (effective 07-01-96)
Resident \$50.00\$10.00
Nonresident \$250.00\$50.00
Resident juvenile \$10.00
11. No change.
12. No change.
13. No change.

- F. No change.
G. No change.

R12-4-123. Expenditure of Funds

A. The Director may expend funds arising from 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. For gifts, as designated by the donor. Undesignated donations shall be expended for a public purpose in furtherance of the Department's responsibilities and duties.

B. The Director shall ensure the implementation of internal management controls to comply with subsection (A) and to deter unlawful use or expenditure of funds.

ARTICLE 3. TAKING AND HANDLING OF WILDLIFE

R12-4-304. Lawful Methods of Taking Wild Mammals, Birds, and Reptiles

- A. Lawful methods for taking big game, subject to restrictions set forth in R12-4-318:
1. All big game, except buffalo and turkey, may be taken with:
 - a. Centerfire rifles;
 - b. Muzzleloading rifles;
 - c. All other rifles using black powder or synthetic black powder;
 - d. Centerfire handguns;
 - e. Handguns using black powder or synthetic black powder;
 - f. Shotguns shooting slugs;
 - g. Bows having a standard pull of 40 or more pounds, using arrows with broadheads no less than 7/8 inch in width with metal cutting edges.
 2. Buffalo may only be taken with:
 - a. Centerfire rifles;
 - b. Muzzleloading rifles;
 - c. All other rifles using black powder or synthetic black powder;

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- d. Bows having a standard pull of 50 or more pounds, using arrows with broadheads of no less than 7/8 inch in width with metal cutting edges.
- 3. Deer ~~and javelina and turkey~~ may also be taken with crossbows having a minimum draw weight of 125 pounds, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges.
- 4. ~~Turkey and javelina~~ Javelina may also be taken with:
 - a. .22 finifire magnum rifles,
 - b. 5 mm rinifire magnum rifles.
- 5. ~~Turkey may also be taken with shotguns shooting shot only be taken with:~~
 - a. Shotgun shooting shot size T (0.20 inch) or smaller in diameter;
 - b. Bows having a standard pull of 40 or more pounds, using arrows with broadheads no less than 7/8 inch in width with metal cutting;
 - c. Crossbows having a minimum draw weight of 125 pounds, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges.
- 6. The placing of any substance anywhere in the state in a manner intended to attract bears is permitted only as prescribed by R12-4-318.

- B. No change.
- C. No change.
- D. No change.

E. Reptiles, except soft-shelled turtles, may be taken with any method not prohibited in R12-4-303 or R12-4-318 except that any method utilized shall not involve the excavation, structural alteration, or destruction of any burrow, crevice, or other shelter utilized by such wildlife; rocks, logs, or other structures, including cap rocks or exfoliations, shall not be moved, separated, or broken. Reptiles may be taken with artificial light subject to the following restrictions:

- 1. No change.
- 2. No change.

R124-305. Possession, Sale, Transportation, Importation, and Exportation of Carcasses of Wild Mammals, Birds, and Reptiles

- A. No change.
- B. No change.
- C. No change.
- D. No change.
- E. Each sandhill crane possessed or being transported shall have a ~~hunt permit tag attached as prescribed in R12-4-302 to its leg~~ and either the fully-feathered head or one fully-feathered wing shall remain attached until it arrives at the hunter's permanent abode or the place where it is to be consumed.
- F. Carcasses of all quail which are possessed or being transported shall each have one fully-feathered wing or fully-feathered head attached until they arrive at the hunter's permanent abode or place where they are to be consumed.
- FG. A person who has legally killed a big game animal may authorize its transportation or shipment by filling out and signing the transportation or shipping permit portion of his or her ~~big game~~ tag. The transportation or shipping permit is not valid for the transportation or shipping of big game taken on a resident license from a point within to a point without the state, unless accompanied by a separate Transportation and Shipping Permit issued by the Department. The following information shall be provided on the form:
 - 1. No change.

- 2. No change.
- 3. No change.
- 4. No change.

~~GH.~~ No change.
~~HI.~~ No change.

R124-308. Wildlife Inspections, Check Stations, and Road-blocks

- A. No change.
- B. No change.
- C. Bighorn sheep, bear, and mountain lion inspections shall be conducted at the Department's Phoenix and regional offices. These offices are open 8 a.m. to 5 p.m., Monday through Friday, except on legal state holidays.
 - 1. All bighorn sheep hunters shall ~~personally check in within five days prior to hunting, and personally check out within three days following the close of the season.~~ Each hunter who takes a bighorn sheep shall submit the intact horns and skull for inspection and photographing. The Department representative shall affix a mark or seal to one horn of each bighorn sheep lawfully taken pursuant to Commission order. The mark or seal shall not be removed, altered, or obliterated.
 - 2. No change.
 - 3. No change.
- D. No change.
- E. ~~This rule is effective January 1, 1993.~~

R124-318. Seasons

- A. No change.
- B. No change.
- C. The Commission may, by order, establish and designate other seasons as listed below. Other seasons shall have specific requirements and lawful methods of take more restrictive than those for general and special seasons, as prescribed in this rule. While taking wildlife:
 - 1. No change.
 - 2. No change.
 - 3. No change.
 - 4. No change.
 - 5. No change.
 - 6. No change.
 - 7. No change.
 - 8. No change.
 - 9. ~~A person participating in a "limited weapon - shotgun shooting shot" season may only use the following, when prescribed in R12-4-304 as lawful for the species hunted: shotgun shooting shot, bow and arrow, cross-bow, pneumatic weapons, falconry, slingshots, any trap except foot-hold steel traps, nets, hand-propelled projectiles, or capture by hand.~~
 - 910. A person participating in a "limited weapon-gunfire" season may only use or possess the following, when prescribed in R12-4-304 as lawful for the species hunted: rifled firearms using rimfire cartridges, shotgun shooting shot or slug, bow and arrow, crossbow, pneumatic weapons, falconry, slingshots, any trap except foot-hold steel traps, nets, hand-propelled projectiles, or capture by hand.
 - 1011. A person participating in a "falconry-only" season shall be a falconer either licensed pursuant to R12-4-422 or exempted pursuant to R12-4-407 and shall use no method of take except falconry.
 - 1112. A person participating in a "juniors-only hunt" shall be 14 years of age or under, and meet the requirements of A.R.S. § 17-335.

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D. This rule is effective January 1, 1995.

ARTICLE 7. HERITAGE GRANTS

R124-701. Heritage Grant Definitions

In addition to the definitions provided in A.R.S. §§ 17-101 and 17-296, the following definitions shall apply to the rules within this Article:

1. "Budget Prioritization Process" means a document approved by the Game and Fish Commission based upon the Department mission statement, strategic plans, and current guiding statements which define the Department's priorities. This process is also used for prioritizing grant applications.
2. "Facilities" means capital improvements.
3. "Fund" means a granting source from the Arizona Game and Fish Heritage Fund, pursuant to A.R.S. § 17-297.
4. "Commission" means the Game and Fish Commission.
5. "Participant" means an eligible applicant that has been awarded a grant from the fund.
6. "Project" means an activity, or series of related activities, which are described in the specific project scope of work and which result in specific products or services.
7. "Project period" means the period of time during which all approved work and related expenditures associated with an approved project are to be accomplished by the participant.
8. "Public agency" means the federal government or any federal department or agency; Indian tribe; this state: all departments, agencies, boards, and commissions of this state; counties; school districts; cities; towns; all municipal corporations; and any other political subdivision of this state.
9. "Specific scope of work" means the units of work to be accomplished by an approved project.
10. "Approved application" means the participant's application including any changes, exceptions, deletions, or additions made by the Department prior to and for the purposes of approval.

R124-702. General Provisions

- A. Application deadlines shall be the last working day of November each year and funds shall become available July 1 of the following year. The "Grant Application Manual" containing application forms and instructions and the *Budget Prioritization Process* as defined in R12-4-701 shall be available from the Department's Funds Planning Section within the Phoenix office. Any annualized information on project emphasis for each fund shall also be available from the Department's Funds Planning Section.
- B. Applications for Heritage Grants shall be made in accordance with A.R.S. §§ 17-296, 17-297, and 17-298, and Commission rules within 12 A.A.C. 4, Article 7, in order to be eligible for consideration. Applicants who have failed to comply with the rules or conditions of the participant-in-aid agreements are not eligible for further grants if they have any project over two years old which has not been completed and closed, unless a formal extension has been requested and approved.
- C. All applicants shall be notified of the results of their applications in writing by the Department, and grant awards shall be announced at a regularly scheduled open meeting of the Game and Fish Commission. An unsuccessful applicant may submit an appeal regarding a grant award within 30 calendar days of the Commission meetings, in accordance with the provisions of R12-4-608.

- D. Projects described in an application shall not begin until a participant-in-aid agreement has been signed and shall be completed as specified in the agreement. All costs shall be supported by records to substantiate the expenditure of funds.
- E. For development projects, properties and facilities shall be operated and maintained for the benefit of the public.
- F. The participant shall control land or waters on which capital improvements are to be made, through fee title, lease, easement, or agreement. The terms and provisions of the applicant's management or control rights to the proposed site shall be commensurate with the proposed investment in at least one of the following three respects:
 1. The time remaining on the use agreement shall be a term sufficient, in the judgement of the Game and Fish Department, to ensure a period of public use commensurate with the expenditure of awarded funds.
 2. The use agreement cannot be revocable at will by the property owner and shall provide for the option to renew by the managing agency.
 3. Applicant shall show evidence that public access exists to the actual site where the project is proposed, unless the purpose of the project proposal is to specifically create such access or limit such access.
- G. Capital improvements built with Heritage funds shall be used for a public benefit for the useful life of the improvement.
- H. A participant shall give suitable public acknowledgement of grant assistance for the life of a project. When a project involves acquisition, development, or renovation, a permanent sign shall be installed describing the funding sources and dollar amounts of all funds. The cost of this signage shall be allowable as part of the initial project but the participant shall be responsible for maintenance or replacement of the sign as required. All other project types shall include funding acknowledgement on any publicly available or accessible products resulting from the project.
- I. Project proposals for less than \$1000 shall not be accepted by the Department except that environmental education and schoolyard grant proposals shall not be for less than \$500.
- J. Operation and maintenance costs, including costs for reprinting of publications or other media, shall be the responsibility of the participant and are not an eligible cost.
- K. Grant funds shall not be used to supplement or pay permanent public employees, except when used for separately contracted labor for the specific project.

R124-703. Review of Proposals

- A. Grant proposals are competitive, and final decisions shall be made from a list of projects ranked by the Department. Proposals shall be reviewed and judged on the basis of their compatibility with priorities of the Game and Fish Department, project feasibility, merit, and usefulness. The Department shall evaluate and rank all eligible proposals pursuant to the criteria established in these rules and to the Department's *Budget Prioritization Process* as approved by the Commission and available from the Department's Funds Planning Section.
- B. Funding of a project may be contingent upon revision of a proposal as suggested by the Department.

R124-704. Urban Wildlife and Urban Wildlife Habitat Grants

- A. "Urban wildlife" means the wildlife that occurs within the limits of an incorporated area or in close proximity to an urban area that receives significant impact from human use. (A.R.S. § 17-296(6)).
- B. In order to be eligible for a grant award, a proposed project location shall meet one of the following criteria:

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1. Be within the corporate limits of an incorporated city or town;
2. Be within the communities of Green Valley, Flowing Wells, Sun City, or Sun City West;
3. Be within five miles, in straight distance, of the boundary of an incorporated area or one of the communities listed above.

C. In order to be eligible for an urban wildlife or urban wildlife habitat grant, applicant shall be a public agency, as defined in R12-4-701.

D. Eligible projects will conserve, enhance, and establish wildlife habitats and populations in harmony with urban environments, and increase public awareness of and support for urban wildlife resources.

R12-4-705. Public Access Grants

A. "Public access" means providing entry to publicly held lands for recreational use where such entry is consistent with the provisions establishing those lands. (A.R.S. § 17-296(1)). Publicly held lands are those federal, public, and reserved lands, State Trust Lands, and other lands within the state of Arizona which are owned, controlled, or managed by the United States, the state of Arizona, agencies, or political subdivisions thereof.

B. In order to be eligible for a public access grant award, applicants must be a public agency, as defined in R12-4-701.

C. Eligible projects will increase, maintain, or reduce public access as needed, for recreational use in cooperation with federal land managers, local and state governments, private landowners, and public users, and inform and educate the public about recreational use of publicly held lands and public access to those lands.

R12-4-706. Environmental Education Grants

A. "Environmental education" means educational programs dealing with basic ecological principles and the effects of natural and man related processes on natural and urban systems and programs to enhance public awareness of the importance of safeguarding natural resources. (A.R.S. § 17-296(7)).

B. In order to be eligible for an environmental education grant award, applicant shall be a public agency, as defined in R12-4-701.

C. Eligible projects will develop awareness, appreciation, and understanding of Arizona's wildlife and its environment and increase responsible actions toward wildlife. Project proposals shall utilize Arizona wildlife as their focus and present wildlife issues in a balanced and fair manner. Proposals should have impact on Arizona schools and school children. Project proposals shall be for no less than \$500 and no more than \$10,000.

R12-707. Schoolyard Habitat Grants

A. In order to be eligible for a schoolyard habitat grant, the applicant shall be a public school within Arizona.

B. Eligible projects will encourage wildlife education on school sites through the development or enhancement of urban wildlife or urban wildlife habitats. Project proposals shall encourage native wildlife species, utilize a majority of native plant materials, and demonstrate water conservation techniques. Projects should actively utilize school children in the planning, development, and construction process, and that projects demonstrate long-term sustainability, and be fully integrated into the school curriculum. Eligible activities will develop and maintain wildlife habitat projects on school sites or adjacent areas that allow wildlife education activities and encourage use by urban wildlife species.

R124-708. IIAPAM: Grants for Identification, Inventory, Acquisition, Protection, and Management of Sensitive Habitat

A. The following definitions are established in A.R.S. § 17-296:

1. "Habitat protection" means the process of protecting the quality, diversity, abundance, and serviceability of habitats for the purposes of maintaining or recovering populations of Arizona wildlife.
2. "Sensitive habitat" means the specific areas within the geographical area historically or currently occupied by a species or community of species in which are found those physical or biological features essential to the establishment or continued existence of the species and which may require special management, conservation, or protection considerations.

B. In order to be eligible for an IIAPAM grant award, applicant shall be a public agency, as defined in R12-4-701.

C. Eligible projects will preserve and enhance Arizona's natural biological diversity. Each year the Department shall provide a listing of habitat and species as defined within A.R.S. § 17-296 which will currently be considered in accordance with biological, conservation, and management status changes. Proposals shall incorporate at least one of the following elements in order to be eligible for a grant award:

1. Identification, inventory, acquisition, protection, or management of sensitive habitat;
2. Inventory, identification, protection, or management of species as addressed within A.R.S. § 17-296.

R124-709. Grant Applications

A. In order to be eligible, grant applications shall be submitted in accordance with the schedule established by R12-4-702. A separate application must be submitted for each funding source. Three complete copies of the complete application, as set forth in this rule, shall be submitted on paper sized 8 1/2" by 11". All copies shall be legible. Facsimile or "FAX" copies shall not be accepted.

B. The first page of the application shall be the "Application Checklist" which lists all items required within the application. Each item shall be checked off by the applicant if included in the application, or initialed by the applicant if the item is not applicable to the application.

C. The applicant shall provide the following information on the grant application form:

1. Name of the eligible applicant;
2. The county and legislative district where the project(s) will be undertaken;
3. The official mailing address of the applicant;
4. The name, title, and telephone number of the individual who will have the day-to-day responsibility for the proposed project;
5. If applicable, the name, title, and telephone number of the individual associated with any sponsored party, who will have the day-to-day responsibility for the project;
6. Identification of the particular grant fund from which assistance is being requested, pursuant to R12-4-704, R12-4-705, R12-4-706, R12-4-707, or R12-4-708;
7. The proposed project title incorporating the name of the site, if any, and the essence of the type of work to be accomplished;
8. The clear and concise scope description and objective of the proposed project; nature of what is to be accomplished; the methods to be used; the product that will result from the project;
9. The beginning and ending dates for the project;
10. The appropriate funding amounts that will be utilized to accomplish the project, including the Heritage Grant

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funds requested, and evidence of secured matching funds or contributions;

11. The grant application form shall be signed by the individual legally authorized to act on behalf of the applicant in conducting all official business related to the project;
 12. Certification that the applicant has authority to enter into agreements, accept funding, and fulfill the terms of the proposed project.
- D.** Applicant shall submit location map clearly identifying project locations or project proposal areas; if applicable, applicant shall also submit a site plan and floor plan.
- E.** Applicant shall submit with the grant application the following information to provide evidence of control and tenure of the project site:
1. If the project site is owned by the applicant, a copy of the appropriate legal document showing title in the name of the applicant and the legal description of the property;
 2. If the proposed project site will be managed by the applicant, a copy of the lease, special-use permit, intergovernmental agreement, or other appropriate official instrument;
 3. For research project proposals for sites not controlled by the applicant, a copy of the permit or agreement allowing for the research or, at a minimum, a letter of intent from the land manager to allow the research.
- F.** The applicant shall submit an estimated project cost sheet form with the following information:
1. Project title as designated on the application form;
 2. If applicable, pre-agreement costs requested;
 3. If applicable, all estimated development costs in order of priority of need, facilities to be constructed, unit measurements, number of items, and total costs;
 4. All land parcels to be acquired listed in priority order, acreage involved, and anticipated dates of acquisition;
 5. The cost, title, and name of personnel who would accomplish the project objectives and who receive benefit from the grant;
 6. Total costs for entire project proposal shall include Heritage grant funds requested and, if applicable, applicant contribution to the project, and any other sources.
- G.** The applicant shall submit an environmental checklist form to identify whether the grant, as proposed, will:
1. Affect any federally listed endangered or threatened species or their designated critical habitat;
 2. Be expected to have organized opposition, or generate substantial public controversy;
 3. Involve any modification to or development in a flood plain;
 4. Involve any new construction or development in wetlands;
 5. Include the introduction or exportation of any species not presently or historically occurring in the receiving location;
 6. Include construction, major modification, or additions to buildings, shooting ranges, roads, trails, public use facilities, water impoundments, or water control structures;
 7. Involve habitat alteration or land use changes such as planting, burning, clearing, grazing, water manipulation, or modification of public use;
 8. Include use and disposal of any chemical toxicant;
 9. Directly necessitate mortality or displacement of fish or wildlife, either intentionally or incidentally;

10. Impact on any wild or scenic river, wilderness area, or national trail, as designated by state or federal law;
 11. Result in any discharge which will conflict with federal or state air or water quality regulations;
 12. Affect any species listed as threatened native wildlife, as defined in R12-4-401;
 13. Affect any prime or unique farmland or forestland, or other ecologically critical area;
 14. Have substantive sociological or socioeconomic consequences or affect public health or safety;
 15. Have any substantive environmental impacts not addressed above, or result in cumulative impacts which separately do not require assessment but together must be considered substantial;
 16. Require any federal or state permits or expenditures of federal funds.
- H.** The applicant will be required to answer questions relevant to the grant applied for and to the *Budget Prioritization Process* by which the proposal will be evaluated and ranked.

R124-710. State Historic Preservation Office Certification
The Department shall not release grant funds until certification is received from the State Historic Preservation Officer in accordance with A.R.S. § 41-861 through 41-864, the State Preservation Act, which mandates that all state agencies consider the potential of activities or projects to impact significant cultural resources.

R12-4-711. Participant Agreements

- A.** Prior to any transfer of funds, participant shall agree to and sign a participant agreement, which shall include the following minimum stipulations:
1. Awarded grant funds shall be used solely for eligible purposes of the funding program as defined by law and as approved. Total project costs shall not be exceeded by the applicant unless otherwise amended.
 2. Awarded grant funds, less 10%, shall be transferred to the participant within one year of the grant award as requested in writing by the participant and approved by the Department. Transfer of the final 10% shall be at the written request of the participant and upon receipt of a certification of the completion of the project from the participant. The Department may perform acceptance inspections prior to release of final payment.
 3. Transferred grant funds shall be deposited by the participant in a separate project account carrying the name and number of the project, and the funds shall be expended from the account only as authorized under the terms of the agreement.
 4. Following contract award, amendments to the specific terms, scope, conditions, or provisions of the agreement shall be processed in writing and signed by the Department and the participant. Requests for extension beyond the approved project period shall be submitted by the participant no later than 30 days prior to the approved contract expiration date in order to be considered. After project completion, the Department may approve an administrative extension, not to exceed 90 days, to coordinate evaluation and review of final product and coordination of project closure.
 5. Violation of rules or any condition of agreement by the participant shall authorize the Department to seek recovery of all funds granted and allow the Department to consider the participant ineligible to apply for future funding in this program for a period not to exceed five years.

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6. Participant shall operate and maintain grant-assisted capital improvements and provide reasonable protection of any project improvements.
 7. Participant sponsoring a third party or subcontractors shall be responsible for compliance with agreement provisions in the event of third-party or subcontractor default.
 8. Only those costs associated with approved project work incurred during the project period shall be eligible for fund assistance.
 9. Project period is designated to be two years from the effective date of the agreement unless otherwise agreed upon by the Department and the participant through an amendment.
 10. Should a balance of awarded grant funds be available upon completion of approved project elements, participant may with Department approval develop additional scope elements.
 11. Amendments to accommodate additions or changes to the agreement shall be requested in writing by the participant stating the need and rationale for the amendment.
 12. Any equipment purchased exclusively with project funds by the participant with a unit value of \$1000 or more shall be surrendered to the Department upon completion of the project.
 13. Values of real property purchased with grant assistance shall be appraised by an Arizona certified appraiser within one year before the purchase of lease according to the Uniform Standards of Professional Appraisal Practice. The Department may select an appraiser for independent evaluation. Acceptance of land conveyance documents is contingent upon approval by the Game and Fish Commission and the Governor.
 14. Failure to submit reports as required shall delay grant reimbursement or processing until the participant has submitted all past due reports.
 15. The Department may conduct inspections as needed during the project period to assure compliance with all terms and rules.
 16. Funds shall not be used for the purpose of producing income. However, income-producing activities incidental to accomplishment of approved purposes shall be allowable if used only to further the purposes of the approved project or returned to the original funding source as designated by agreement. Any funds remaining at the end of the project period shall be returned to the Department.
- B. The agreement shall set forth the terms of cancellation and remedies and legal obligations of the parties.**
- R12-4-712. Reporting and Record Requirements**
- A. Within 30 days after the end of each quarter, participants shall submit a quarterly project-status report to the Department covering activities for the quarter that just ended. This report shall include the following:**
1. Progress in completing approved scope of work.
 2. Budget report.
 3. Anticipated delays and problems preventing expeditious completion of the project.
- B. Project records shall account for any income or interest derived from project funds.**
- C. Each participant shall retain and shall contractually require each subcontractor to retain all books, accounts, reports, files, and other records relating to the acquisition and performance of the contract for a period of five years after the completion of the contract. All such documents shall be subject to inspection and audit by the Department. Upon request a legible copy of any or all such documents shall be produced. The participant may substitute microfilm copies in place of the original records after project costs have been verified.**