

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1995, each agency shall begin the rulemaking process by 1st 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.

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TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

PREAMBLE

1. Sections Affected

R12-4-102
R12-4-114
R12-4-203
R12-4-218
R12-4-309
R12-4-310
R12-4-422
R12-4-422
R12-4-501
R12-4-502
R12-4-503
R12-4-505
R12-4-510
R12-4-517

Rulemaking Action

Amend
Amend
New Section
Repeal
Amend
New Section
Repeal
New Section
Amend
Amend
Amend
Amend
Amend
Amend

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

Authorizing statute: A.R.S. § 17-231(A)(1) is the Commission's general rulemaking authority for Title 17, and A.R.S. § 5-311(A)(1) is the Commission's general rulemaking authority for Title 5.

Implementing statutes: A.R.S. § 17-333 for R12-4-102, R12-4-203, and R12-4-218;
A.R.S. § 17-332 for R12-4-114;
A.R.S. § 17-102 for R12-4-309;
A.R.S. § 17-331 for R12-4-310;
A.R.S. § 17-238 for R12-4-422;
A.R.S. § 5-301 for R12-4-501;
A.R.S. §§ 5-321(A), 5-391(A), and 5-311(A)(5) for R12-4-502;
A.R.S. § 5-321 for R12-4-503;
A.R.S. § 5-311 (A)(5) for R12-4-505, R12-4-510, and R12-4-517.

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

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

R12-4-102

R12-4-102 establishes fees for licenses, tags, stamps, and permits. It is proposed to: reduce the nonresident guide license fee to be the same as the resident guide license fee; and to extend to nonresident youths the special fee of \$18 for a Class F license which was recently adopted by the Commission for resident youths.

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Nonresident Guide License Fee Reduction. The 1994 Arizona Legislature amended A.R.S. § 17-362 to remove a long-standing prohibition against licensing nonresidents as guides. The Department supported this bill, which was proposed as a result of a court ruling that invalidated that prohibition. The bill also amended A.R.S. § 17-333(A)(22) to add authorization for a fee of up to \$500 for a nonresident guide license. The Game and Fish Commission adopted rulemaking which became effective December 16, 1994, establishing the fee at \$500. The ceiling amount of \$500 was adopted in order for the new fee to remain consistent with other nonresident fees for licenses and permits, which are set at an average ratio of 5:1.

However, nonresident guides have since questioned the legality of the \$500 fee. The Department's legal counsel found that courts have recently held that less favorable treatment by the state toward nonresidents runs afoul of the Privileges and Immunities Clause if the activity involved is "sufficiently basic to the livelihood of the nation" as to fall within the purview of the clause, and "it is not closely related to the advancement of a substantial state interest." Carlson v. State, 798 P.2d 1269 (Alaska 1990).

Professional guiding in Arizona is a commercial operation upon which people depend for their livelihoods, A.R.S. § 17-101(A)(9), and is entitled to the protection of the Privileges and Immunities Clause. Therefore, the discriminatory nonresident guide fee must demonstrate a sufficiently close connection to a legitimate state purpose to be valid.

The Game and Fish Department is unable at this time to establish a legitimate interest or "peculiar source of evil at which the state is aimed," Hicklin v. Orbeck, 98 S. Ct. 2482 (1978), created by nonresident guides which requires a \$500 fee. See Powell v. Daily, 712 P.2d 356 (Wyoming 1986).

Class F License Nonresident Youth Fee Reduction. At its meeting in August 1995, the Commission adopted an amendment to this rule to modify the fees that are assessed for the sale of certain licenses. The effective date for the implementation of the new fees will be January 1, 1997.

One of the licenses that was modified as a result of this action was the Class F resident youth license. It was reduced from \$25 to \$18.

During this rulemaking, the agency discussed a suggestion to also establish a nonresident youth license for the same fee. Since the original proposed amendment to the rule did not include a consideration for a nonresident youth license, to include such a recommendation at the August Commission meeting may have been a substantive change to the proposed rule. It was believed that the public should have full opportunity to address this proposal. The Department therefore instead prepared this separate proposed amendment to the rule. The proposed amendment would establish a nonresident youth license, also for a fee of \$18, effective date January 1, 1997.

Recent trends in Arizona and other states indicate that the average age of the hunting and fishing public is rising. This means that we are seeing a decline in the interest in, and recruitment of, the younger members of the population to hunting and fishing activities.

The Department and Commission are committed to developing programs that will encourage and recruit youth to hunting and fishing so they will be encouraged to retain their interest and participation in these activities when they become adults. It is necessary to continue to recruit the younger generations in order to provide for the long-term management of wildlife.

The Commission established the Class F resident youth license to help meet this objective. It is hoped this will serve as an incentive to the youth and their parents to encourage their participation in these activities. This is a major program commitment by the Commission to strive to develop hunters and anglers who will have a longer interest in the participation of hunting and fishing.

The Commission feels that the residency of youth should not be a limiting factor in the Commission's desire to recruit younger hunters and anglers.

The Class F license is authorized by A.R.S. § 17-333(A)(8) with a ceiling of \$32 for residents and \$135.50 for nonresidents. The fees implemented within R12-4-102 includes a \$2 surcharge authorized by A.R.S. § 17-345. No change in the surcharge is included in the proposal.

R12-4-114

It is proposed that this rule be amended to reserve 10% of available hunt permit-tags for each hunt number for elk, buffalo, bighorn sheep, and antelope for persons and groups who have bonus points.

Background: "The Drawing." The Department uses a random selection process, generally known as "the drawing", to equitably apportion available tags among hunters when demand exceeds supply.

The Game and Fish Commission annually reviews wildlife management statistics and input from the public and, by "Commission order," establishes seasons during which wildlife may be taken. (Commission orders are exempted from rulemaking pursuant to A.R.S. § 41-1005(A)(2). Open seasons are for a stated time period, in a specific area, and for a specific "legal animal" (as described in the Commission order.) Many of these seasons are further restricted to the "method of take" which may be used (authority for this is established by rule.) As part of this process, based upon wildlife management requirements, the Commission may determine whether only a limited number of "legal animals" may be taken during an open season, and if so, how many. The Commission Order then designates the number of "hunt permits" to be made available to the public for that season, and assigns a "hunt number" to that season to differentiate it from areas and seasons where this restriction does not apply.

The drawing becomes necessary because there are more persons wishing to hunt a particular species in a particular area by a particular method of take than there are available hunt permits for that species. The drawing is intended to ensure that this limited number of tags (known as "hunt permit-tags") is distributed fairly. R12-4-114(C) prescribes how the drawing is to be conducted.

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Bonus Point System. Until March 1, 1991, hunt permit-tags were awarded on a "straight" random drawing system, wherein each applicant for a particular hunt number had exactly the same statistical probability of being drawn as every other applicant for that hunt number. Before the computer age, "the drawing" was a social event where hunters gathered to see if their name would be among those manually drawn from the big, hand-rolled cage.

However, Arizona's human population has grown greatly since those days. In 1989, during the review of the Commission's rules on the drawing, it was decided to look for ways to help the frustrated hunter who applies hopefully each year for a big game tag, but who is all too frequently unsuccessful, since certain tags must be limited while the number of hopeful hunters is not.

The Department studied different types of drawing systems (including "waiting periods" and "preference points" which are used by other states), and surveyed and talked to many hunters, and after a rulemaking process with much public involvement, adopted R12-4-107 to implement the "bonus point system" for 4 of the most popular big game species. This system has basically 2 requirements in order to participate: 1st, you must have a hunting license at the time you apply in the drawing (since the intent is to reward those who have faithfully supported wildlife management) and 2nd, you must submit a valid application in the drawing. Each time a person meets those requirements, and is not successful in being drawn, that person accumulates a bonus point for that genus. Each bonus point accumulated grants that person an extra "entry" in the drawing the next time they apply.

This system was chosen over other systems because, while it rewards those persons who have supported wildlife management and who have submitted applications regularly, it does not deny others the opportunity to be drawn. Persons who prefer to buy their license only after being drawn may always have their normal valid entry; also, new hunters...young and old alike...may compete in the drawing.

The bonus point system has been successful in meeting its objective of improving the odds for long-term participants, but not successful enough for everyone. In September 1995, Dan Westfall and Larry Knipp, 2 avid elk hunters from Glendale, came to the Commission with a plan to set aside some of the hunt permit-tags just for people with a lot of bonus points. The Commissioners asked the Department to explore the plan further, and get public comment. As part of this assignment, the Department contracted a survey by the Behavior Research Center, Inc., of Phoenix. The results of this survey were that 7 out of 10 big game hunters (72%) believe the bonus point system should be modified to reserve the first 10% of each hunt's permits for those hunters with the greatest number of bonus points.

The proposed modification to R12-4-114(C) contains this proposal. It should be noted that the proposal could not apply to hunt numbers for which there are less than 10 hunt permit-tags available.

R12-4-218 and R12-4-203

It is proposed to repeal R12-4-218 (Game Bird Stamp) and replace it with new section R12-4-203 (National Harvest Information Program) which would require that persons taking ducks, geese, doves, band-tailed pigeons, snipe, coots, common moorhen or blue grouse have evidence of compliance (either an HIP stamp or code number on their license) in possession.

The National Harvest Information Program (HIP) was developed as a cooperative effort between state wildlife agencies and the U.S. Fish and Wildlife Service (USFWS) to obtain more accurate, comparable data on the harvest of migratory game birds. Accurate harvest data is a vital tool for management of wildlife populations. Since migratory game bird populations occur in several states and countries, data must be collected throughout the annual range of the population. Although all states collect some type of harvest data, differences in methodology have not allowed compilation of regional or national totals, nor direct comparison. Data on lightly hunted species is limited.

In order to address this problem, the International Association of Fish and Wildlife Agencies recommended implementation of the HIP. Federal rules have been enacted requiring state participation. Other states began phasing into the program in 1992 (the schedule for state participation is based on the number of migratory game bird hunters within each state) and all states will be participants in 1998. Arizona is scheduled to enter the program in 1997, which is when this rule will become effective.

The role of each state in the HIP is to collect names, addresses and hunting information from migratory game bird hunters. That data is then provided to the U.S. Fish and Wildlife Service. The USFWS selects a stratified random sample of hunters based upon the hunters' responses regarding their hunting activity the previous year. The selected hunters receive a questionnaire on current harvest by period (month), area (county), and species or group of species harvested. The responses are compiled and statewide harvest estimates developed. When this information is combined with harvest data from other states and countries (including Canada and Mexico) within the range of any given population, the total harvest pressure on that population can be determined. The harvest data in conjunction with population survey data will facilitate adjustment of hunting regulations commensurate with population status and objectives. Because all states will be collecting comparable data, hunt regulations can also be adjusted to achieve equitable sharing of the resource among the various states, provinces and nations.

In order to implement this program in Arizona, it is proposed to repeal R12-4-218 and adopt new Section R12-4-203. R12-4-218 requires hunters to obtain a "game bird stamp" to validate their hunting license for taking band-tailed pigeons, blue grouse, and/or pheasant. That rule becomes unnecessary with the enactment of the HIP, since the purpose of the game bird stamp is basically the same: to collect name and addresses for hunting surveys.

The new rule has been developed to place the least possible burden on the hunting public. It gives them a choice: they can obtain a "HIP stamp" by filling out a form, or provide the same information by phone and be given a code number to write on the back of their license. The form will be available from any office and will be reprinted in the annual "hunt regulations" which are distributed through license dealers statewide; the telephone number will be contained in the same publication.

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This validation (the stamp or the code number) will be available from July 1 through March 10 each year and will be valid from September 1 through March 10 each year. The Migratory Bird Treaty Act prohibits migratory bird seasons between March 10 and September 1. Making validation available July 1 provides a "window" of 2 months for hunters to validate their licenses prior to the opening of the first migratory bird season. Many of these seasons cross over calendar years, and even though a hunter will (as always) have to have a hunting license valid for both calendar years, they will not be required to obtain 2 HIP validations. They only need to retain their old license with the stamp on it to prove compliance, or transfer their code number to the back of the new license. Waterfowl hunters are familiar with this process as the same situation exists for waterfowl stamps.

The proposed rule does contain a provision that the HIP stamp or code number will validate a license for band-tailed pigeons only if the individual indicates the intent to take band-tailed pigeons at the time of application (this will be a question within the application process). This requirement is not yet in the federal rule, but is being promulgated, and is expected to become effective in 1997. It is necessary because such a small percentage of persons hunt band-tailed pigeons that they need to be "separated" to attain an adequate survey sample.

The rule would become effective July 1, 1997, to begin the 1st annual cycle under the new Harvest Information Program.

R12-4-309

The purpose of R12-4-309 is to reduce the incidence of "buddy-hunting," by closing certain big game hunt areas to all hunters except those holding the required big game permits. It is important to understand what the term "buddy-hunting" means.

Buddy-hunting is a term used to describe an individual who does not have a big game permit but does accompany a lawfully permitted hunter and unlawfully participates in the take of wildlife. Buddy-hunting also includes a permitted hunter who shoots more than 1 animal for the benefit of a party of people. It is taking wildlife and tagging it for another.

Such actions increase the total harvest of the big game resource. The number of permits made available is based upon the Department's total desired harvest and the expected factor for the percentage of successful hunters. When the success ratio goes up, the number of available permits must go down in subsequent years.

The Commission annually establishes hunting season dates and locations by Commission order (Commission orders are lawfully exempted from the rulemaking process). The types of seasons ("general", "archery-only", "muzzleloader", etc.) are established in R12-4-318 and the requirements listed in R12-4-318 apply to the seasons opened by Commission order. (For instance, when the Commission opens an "archery-only" season for elk, only archery equipment may be used to take elk during that season.)

R12-4-309(A) states that seasons for elk (general, muzzleloader, and archery) and general javelina seasons are closed to all hunters not in possession of a permit for those hunts. This is intended to reduce the number of hunters afield and to reduce the potential for buddy hunting.

There are exceptions to subsection (A), however, and the proposed amendment is to the exceptions. It results from a petition for rule change from the Arizona Bowhunters Association, which the Commission accepted on August 4, 1995.

As currently written, subsection (C)(2) of the rule allows hunting during these elk and javelina seasons by:

Persons holding "special big game license tags" pursuant to A.R.S. § 17-346. Only 2 of these tags per big game species may be issued each year to nonprofit organizations, who may then sell the tags with the resultant proceeds used for wildlife management.

Deer or antelope hunters (when the Commission has opened a season for deer or antelope in the same unit as a season for elk or javelina). People may obtain antelope tags only through the drawing, but archery deer tags may also be purchased "over the counter."

The proposed amendments to (C)(2) would result in the following changes:

Deer hunting in these units would be restricted to persons who have an elk or javelina tag or a deer "hunt permit-tag" obtained through the drawing. "Over the counter" deer tags would no longer be valid in these areas unless the holder also has the elk or javelina hunt permit-tag. This addresses a concern with overcrowding in the elk units if seasons were to be opened concurrently.

Persons with hunt permit-tags for buffalo or bighorn sheep would now be able to hunt in these units when seasons are run concurrently.

There would be no change for antelope hunters.

The result of these changes is that the Commission would now be able to establish concurrent, or overlapping seasons by Commission order, increasing recreational opportunity for persons with hunt permit-tags while maintaining the restrictive purpose of the rule.

R12-4-310

This would be a new Section establishing a free fishing permit for governmental agencies and nonprofit organizations which provide rehabilitation and treatment services for persons with disabilities. The permit would allow these agencies and organizations to provide unlicensed fishing opportunity to persons with physical, developmental, or mental disabilities.

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A.R.S. § 17-331 prohibits the take of wildlife without a license in possession, except as provided in Title 17 or Commission "order" (since Commission Orders may only do those things specified within the Administrative Procedure Act as exempted from rulemaking, an exemption from licensing requirements must be done by rule, not order.)

The agency is proposing to provide authority for the Commission to establish a free group fishing permit for governmental agencies or departments and nonprofit organizations which provide rehabilitation and treatment services for individuals with disabilities. The intent is to provide unlicensed fishing opportunity to a segment of the public which currently has great difficulty in engaging in this recreational activity. Since the rule will require the permittee to provide 1 hour instruction to the participants, the Department will furnish an outline of the subject matter to assist the permittee in meeting this requirement.

Current statute provides for a resident youth group 2-day fishing license, as authorized in A.R.S. § 17-333(A)(6). Under this statute, only nonprofit organizations which sponsor adult supervised activities for groups of juveniles 14 through 17 years of age are eligible for this license. This license was established primarily for scouting groups, though other groups could be considered under this license if they meet the age restrictions. Because of the age restrictions, this license provides little practical opportunity for use by disabled patients and clients of agencies and organizations which provide rehabilitation and treatment services. The age restriction places major constraints since most patients and clients are of all ages.

The agency believes that there is a need to provide fishing recreation opportunities for individuals and groups who are under supervisory care in rehabilitation and treatment service agencies and organizations. These persons currently do not have the ability to participate in fishing activities alone, and it would be cost prohibitive for the agencies and organizations to purchase fishing licenses for these persons, as would be required under current law and rules.

Several representatives of agencies and nonprofit organizations have contacted the Department requesting that provisions be made to allow those jurisdictions to conduct free fishing clinics for disabled persons. The intent of the requested clinics would be to provide a recreational experience for their clients and patients as well as benefit the rehabilitation and treatment objectives of these organizations.

The proposal would authorize the clinics to take place at any public body of water within the state or on its borders. In waters that border other states, the Colorado River, individuals would be required to fish from the Arizona shoreline only, unless they possessed the necessary licenses and permits which allowed them to fish from a boat. Commission rule R12-4-312(A) requires persons fishing from a boat or other floating device on the waters of Lake Mead, Lake Mohave, or the Colorado River forming the mutual boundary between Arizona and Nevada and Utah, to have an additional permit. Also, A.R.S. § 17-342(A) through (C) has a similar requirement on the waters between Arizona and California. This situation exists because there is concurrent jurisdiction by the adjacent states; enforcement officers from each of these states, enforce the same law on the water. It is not likely that many of the fishing opportunities authorized by these permits would be conducted in boats because of the potential safety concerns.

R12-4-422

In response to a petition from the Arizona Falconers' Association, the Commission proposes to amend R12-4-422 to preclude issuance of a citation to falconers in the event of inadvertent kill of nontarget wildlife by a raptor. The Section is being repealed and adopted in more understandable style and format, and provision is also being added to allow capture of raptors by nonresident falconers.

Falconry is defined as the sport of taking quarry by means of a trained raptor (a raptor is a bird of prey). R12-4-422 allows the traditional practice of falconry while protecting Arizona raptors and complying with federal standards regulating the taking, possession, and transportation of raptors for the purpose of falconry.

A.R.S. § 17-235 requires the Commission to prescribe rules in accordance with the Migratory Bird Treaty Act. Raptors are listed within 50 CFR 10.13 as migratory birds. Arizona is a participant in the joint federal/state falconry permit system. R12-4-422 is written to comply with federal law. However, it is being repealed and adopted in clearer form as part of this rulemaking. A cross-reference between the current rule and the proposed rule is included in the economic impact statement and is available from the Department. Discussion of proposals:

Inadvertent Take. This amendment of R12-4-422 would be a new provision concerning the use of falconry for the take of wildlife, intended to remove the potential for the issuance of a citation by a law enforcement officer to a falconer whose hunting bird (raptor) inadvertently kills a species for which there is no season or the season for the species is closed. It is proposed, within new subsection (M), as the result of a petition from the Arizona's Falconers Association, which the Game and Fish Commission accepted on August 4, 1995.

Under the current rule, licensed falconers are responsible for their raptor's kill as though they were the hunter rather than the raptor. If the raptor inadvertently kills a species that is not in season, or 1 for which there is no season, the licensed falconer may be guilty of illegal take and subject to receiving a citation from a law enforcement officer.

The falconry rule allows a hunter (the falconer) to use a method other than a mechanical device to aid in the taking of wildlife for the hunter. It should be noted that the raptor is under the command of the licensed falconer as a result of training the raptor has received from the falconer; however, the raptor is not under the direct control of the falconer at the time the bird is released and is actually engaged in the hunting activity.

The natural hunting instinct of the raptor may result in the accidental killing of a species that is not open to hunting. As a result of such an incident, the hunter may be held responsible for the action of the raptor, even though the hunter has no direct control of the bird from the time the bird is released from its tether to engage in the actual hunting endeavor.

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The proposed rule includes a provision that if the raptor does accidentally kill a species that is not legal, the hunter shall leave the dead wildlife where it lies. Additionally, the bird will have the opportunity to feed upon the dead animal before leaving the site. The purpose of this is to reinforce the retention of the hunting skill of the raptor by retaining an "award" incentive in the bird.

There are only about 80 licensed falconers in the state of Arizona. Nearly all of the licensed falconers are members of the Arizona Falconers Association. These individuals are authorized to use their trained raptors to take all small game species as provided in R12-4-304(B) during the open seasons as authorized by the Commission.

Since there are so few licensed falconers in the state, there is a very small percentage of the hunting public engaged in this activity. The magnitude of hunting pressure created by hunting with raptors is very small when compared with the rest of the hunting population. The result is that the law enforcement effort required to enforce falconry laws is insignificant and the potential of the officers encountering falconers in the field because of the statewide distribution is very small. There have been very few citations written by the Department for any violations by falconers. There have been no citations written by the Department for any violations regarding accidental kills of species by raptors.

In order for a person to become a licensed falconer in the State, it is necessary that the individual go through an extensive training and qualification program in order to receive the required certification to participate in falconry. This results in a much closer adherence to rules and statutes than is attributed to the much larger hunting public of Arizona.

There are 34 states that have instituted similar rules that relieve the falconer from liability if it is determined that the killing of protected or out-of-season species was accidental. There are 7 other states that have informal policies and practices within their wildlife departments where they treat the accidental kills in the same manner. The Department's Law Enforcement Branch indicates that it currently takes a similar perspective and leaves it to the discretion of the officer in the field to determine if the kill was inadvertent. The majority of the states have, therefore, recognized that it appears to be reasonable to assume that raptors under the command of license hunters will, from time to time, inadvertently kill a protected species or kill a legal species out of season. These states acknowledge that the falconer should not be responsible for this kill if the falconer leaves the dead wildlife where it lies (most states) or allows the raptor to feed upon it.

Take by nonresident falconers. Upon the advice of legal counsel, the provision restricting capture of raptors from the wild to resident falconers is being changed to extend this privilege to nonresidents who are licensed falconers in a state recognized by the U. S. Fish and Wildlife Service as meeting federal falconry standards. This appears in subsection (J).

The number of raptors captured to date has been limited by 2 factors: (1) the limited number of licensed Arizona falconers, who are the only persons authorized to capture raptors; and (2) when it is necessary to further restrict harvest of a particular species of raptor, Commission rule R12-4-114 is implemented, and a limited number of permits are made available, which applicants must compete for by following the instructions in R12-4-104. This has been done only rarely to protect certain species of raptors.

Adding nonresident falconers to the persons who may capture raptors creates an almost unlimited pool of persons who may be taking raptors. The rule has therefore been written with the following intent and purpose:

- (1) A hunt permit-tag (acquired through a drawing) would be required for *nonresident falconers* to capture any species of raptor for which there is evidence to believe would be over-harvested by nonresidents if the number of permits were not limited. There are specific concerns which apply only to nonresidents; a more detailed explanation follows later.
- (2) It would *not require* a hunt permit-tag for resident falconers to take the same species of raptor, because of other inherently limiting factors (the number of licensed Arizona falconers and the restrictions on take and replacement within R12-4-422) which would not result in over-harvest by residents. (To reiterate: currently and in the future, if there is concern that even limited resident harvest could impact raptor populations, a limited number of permits are set and residents must compete in a drawing to obtain those permits.)
- (3) The rule in effect would establish a pool of permits for nonresidents only -- residents would not be competing with nonresidents for these permits.

Special concerns which apply to nonresident falconers. Arizona currently has 3 species of raptors for which there is a large demand from falconers. First is the Harris hawk. Harris hawks are only found in the wild in Texas, New Mexico, and Arizona. They are 1 of the most, if not the most, popular falconry bird. They sell for \$400 to \$700 when purchased from authorized federal raptor breeding facilities. Allowing unlimited nonresident take would likely result in levels of harvest that would negatively impact the wild population.

The next raptor of concern is the Goshawk. Currently only 3 permits for the capture of Goshawks are available statewide. Goshawk populations throughout the west are under scrutiny and some states do not allow Goshawk harvest for falconry purposes. Allowing unlimited take by residents or nonresidents would negatively impact the wild population.

Peregrine falcons will also be a concern. They are on the endangered species list and currently may not be harvested from the wild. The listing may be removed in the next couple of years, and harvesting could then become legal. In that event literally hundreds of falconers could expect to wish to capture them from the wild.

Other Arizona falconry birds are not that enticing to nonresidents at this time, and permits for take by residents or nonresidents would probably be unnecessary.

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R12-4-501 and R12-4-502

R12-4-501 contains definitions applicable to the rules within 12 A.A.C. 4, Article 5, Boating and Water Sports. It is proposed to amend the definition for "letter of gift" to remove reference to address of previous and new owner.

R12-4-502 establishes application requirements for Arizona watercraft registration. All applicants would be required to surrender original registration or titling documents previously issued by any jurisdiction in order to obtain current Arizona registration. Another provision would prohibit persons from obtaining watercraft registration by providing false information or documentation.

Definition for "letter of gift" in R12-4-501. Defining the necessary contents of a letter of gift is intended to clarify registration requirements, making the process easier for everyone concerned. However, the current definition results in the requirement that the watercraft registration applicant provide the address of both the buyer and the seller of the watercraft. This is an unnecessary burden on the applicant. The definition for "bill of sale" does not contain this requirement, and neither should the definition for "letter of gift."

Proposal to require surrender of all original registration or titling documentation. R12-4-502 establishes the requirements for applying for an Arizona watercraft registration.

Amendments to the rule would require that an applicant surrender any titling or registration documents previously issued by an agency of jurisdiction, in order to receive current Arizona registration. Titling and/or registration documents issued by agencies are considered legal documents of existence and ownership.

Unless all such legal documents are surrendered to the agency of jurisdiction upon application for current registration, these documents remain "at large" as proof of existence and ownership useless to any individuals except thieves who may wish to use these documents to "launder" stolen watercraft. Since Arizona (and most other states) does not have the resources to inspect all watercraft for which registration is sought, it is possible for a person to falsify or illegally use such documents to register a watercraft to which they are not the rightful owner. These documents may also be used to defraud an insurance company for a watercraft that does not exist. The surrender of the original certificates or titles removes these documents from circulation.

Prohibition against false statements or documentation. New language appears in subsection (K) to provide an avenue to prosecute persons that give false information or documentation when attempting to register a watercraft. Currently the only course of prosecution lies within A.R.S. § 13-2407 (tampering with a public record) and A.R.S. § 13-2704 (unsworn falsification). Enforcement of A.R.S. § 5-321 and R12-4-502 pursuant to Title 13 involves several problems: 1st, these statutes involve culpable mental states for prosecution and are classified as high offenses, (class 6 felony and class 2 misdemeanor); 2nd, many precincts specify procedural requirements involving a county attorney's office and/or grand jury indictments prior to the filing of charges.

This new provision would allow for more timely prosecution of violators attempting to provide the department with false information, statements or documentation. A violation under this Section would be classified as a class 3 misdemeanor.

R12-4-503

It is proposed to remove the requirement that an applicant submit a notarized form in order to renew registration earlier than the 15th of the month prior to the month of expiration. This was a new provision in 1992; prior to that time, early registration had not been allowed. The form was believed necessary because of the staggered registration schedule authorized by A.R.S. § 5-321(01). Administration of the schedule requires issuance of a variety of decals valid for a period of up to 18 months to the Department's 7 offices which register watercraft. The concern was that allowing early renewals would require handling an even greater variety of decals with subsequent increase in the chance for confusion and error. The form was intended to provide a tracking device for internal purposes as well as ensuring the renewal is issued only to the owner. However, the notarized form has proven to be an unnecessary burden on the owner.

R12-4-505

This rule prohibits registration of a watercraft without a hull identification number (HIN), and specifies when the Department may assign a HIN to a watercraft. It is proposed to add a provision allowing assignment of a HIN to a watercraft which has had its HIN fraudulently removed or altered, when the assignment is requested by governmental agencies subsequent to forfeiture proceedings or civil process.

The 1995 5-year review of this rule resulted in the following findings:

A "hull identification number" as described in R12-4-501 is required for registration of watercraft as prescribed within R12-4-502. 33 CFR 181.23 and 181.25 prescribe the number, size, sequence and placement of characters to be included in the hull identification number. All manufacturers and state jurisdictions are required to comply. The hull identification number (or "HIN") is the essential element of watercraft identification, so much so that A.R.S. § 5-391(F) makes it a class 6 felony to fraudulently alter or remove a hull identification number. Assigning an identification number to a watercraft, either by the manufacturer or the issuing authority, provides for identification of a boat, regardless of state of registration. This is the only form of identification that stays with the boat from time of manufacture to the end of the life of the hull.

Additionally, the rule provides for manufacturer and governmental error or noncompliance. The rule allows for corrections that do not result in unfairly penalizing a new watercraft owner who had no responsibility for the error or the noncompliance. The rule also considers that the Department must ensure that a missing or improper HIN is not the result of fraud.

The rule does meet its intended objective to provide for the issuance of a unique identification number for each watercraft, provides for exemptions, and corrects errors or acts of noncompliance that would render a watercraft unregistrable.

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The Department has discovered a minor omission in subsection (B) that over-restricts the Department's authority to issue a hull identification number for a specific and uncommon circumstance. During the investigative process of enforcing A.R.S. § 5-392, watercraft are seized that have had all identification numbers intentionally removed. These boats are suspected stolen, but because they cannot be identified, the rightful owner cannot be found. Pursuant to A.R.S. § 13-4305 the boat is forfeited to the seizing governmental agency. However, the limitations of the rule that guard against replacement of a HIN that has been fraudulently removed, also prevents a governmental agency from obtaining a HIN to sell unidentifiable forfeited craft at auction.

Due to the overly restrictive language of subsection (B), the department recommends amending the language to allow hull identification numbers to be issued to watercraft that have been forfeited to governmental agencies by civil process or court order.

R12-4-510

The current rule allows the Department to issue a refund for the renewal of watercraft registration when the owner has erroneously paid twice for the same renewal. It is intended as a customer service to correct an honest mistake. It is proposed to amend the rule to also allow the Department to issue a refund when a person erroneously pays for the renewal of registration on a watercraft they no longer own.

The Department mails renewal notices to all registered watercraft owners 6 weeks prior to their expiration date as established under the staggered watercraft registration system.

Generally, the owner mails the notice back to the Department with the required fee, and their renewal registration is mailed to them in turn. Obviously, most people do not pay twice for the same renewal, nor would they want to.

There is 1 fairly common exception:

Some persons receive this notice, but instead of responding immediately, they put it aside. They mail it back later, when it is drawing near to the date of expiration of their watercraft registration.

Sometimes they wait so long, in fact, that the date of expiration arrives and they have not yet received their renewal. Yet they want to use their boat, and are aware that if they do they could receive a citation for operating with expired registration.

Quite often, they hitch their boat up and drive to the nearest Department office on the way to the lake. They explain what has happened and that they want their renewed registration "now" even though their check and notice are in the mail.

As a convenience, the Department will and does issue a renewal so that they can use their watercraft. But since it is not possible to determine whether they have really mailed their fee already, the fee must be paid "now". And, if the expiration date has passed, the penalty fee of \$5 must be paid as well.

Yet this rule does not fully meet its customer service objective. It does allow for a refund for 1 renewal of a watercraft when the registered owner has paid twice for the same renewal, but it does not allow for the individual that has paid a renewal for a watercraft that has been sold to another individual.

For example, the registered owner owns more than 1 jet ski. He sells 1 jet ski to a second individual who has not transferred ownership yet. Because the jet ski has not been transferred, the registered owner receives the renewal notice through the mail. The registered owner does not verify the renewal notice and therefore, pays the renewal by mistake. It is estimated that this example occurs approximately 20 times a year.

It is proposed to add a provision that will allow for a refund of a watercraft registration that was paid in error. This provision will address only watercraft that have been sold, where the seller inadvertently renewed the incorrect watercraft. A refund would be granted, provided the certificate and decals are returned unused within 30 calendar days. This transaction would be deleted from the data base, therefore allowing the new registered owner to purchase the certificate and decals in his/her name.

The applicant is advised that they may get a refund for the fee already sent in, but not for any penalty fee which they have paid. A.R.S. § 5-321(H) is quite clear: "On renewal of any watercraft registration that has not been renewed by the current expiration date, the Department shall assess a penalty unless the watercraft ownership has been transferred and the watercraft was not re-registered subsequent to the expiration date."

The rule requires that the owner return the certificate of number and the decals that are not going to be used in order to obtain the refund. The Department wants these back, because there is always the potential for fraudulent use on an unregistered or stolen watercraft.

R12-4-517

This rule restricts the use of watercraft and boat engines on certain bodies of water in order to protect the public and the environment. It is proposed to add Coors Lake to the list of waters restricted for the use of power boats to a single electric trolling motor only.

Coors Lake is a small, shallow reservoir approximately 2 miles north of the town of Bagdad, in Yavapai County. Its size fluctuates between 28 and 35 acres, and it is a maximum of 36 feet deep. The land surrounding the lake is owned by the State Land Department on the east and by the Cyprus Bagdad Copper Company on the west. The Game and Fish Department and the Cyprus Bagdad Copper Company do have a cooperative agreement that the lake is managed as sport fishery available for public use.

It is proposed to add this lake to the list of lakes restricted to the use of an electric trolling motor only (unpowered watercraft are and will continue to be allowed on the lake.) The Department's Wildlife Manager assigned to the area has received several public

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complaints regarding people running high horsepower outboard motors at the lake. Due to the small size of the lake and many unmarked obstructions (rocks and submerged vegetation) within the lake, this is not considered safe. Cyprus Bagdad Copper Company has posted signs against the use of gas motors, and most people abide by the signs, but there are a few who are aware there is no law prohibiting the use of gas motors on the lake. Enforcement officers must instead rely upon statutes prohibiting reckless operation of watercraft, and must witness careless or reckless operation in order to issue a citation. Prohibiting the use of gas motors would simplify law enforcement efforts and enhance public safety since it would reduce the ability of watercraft on the lake to reach unsafe speeds. It would also assist in maintaining water quality in this small lake by reducing the risk of fuel and oil spills from gasoline engines.

Other changes to the rule are for the purpose of clarity. Subsection (D) is deleted as unnecessary; these closures are properly accomplished by controlled-use markers.

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

R12-4-102: Nonresident Guides. Based upon 1995 licensing figures, Department revenue would be reduced by \$11,200 annually as a direct result of the rule change. Each nonresident guide would benefit by a reduction of \$400 in cost annually.

R12-4-102: Nonresident Youth. Direct revenue reduction to the Game and Fish Department should be less than \$90,000 and would be outweighed by the potential benefit created for the future of hunting and fishing and its peripheral benefit to the Arizona economy.

R12-4-114. This rule would have some benefit to persons who have accumulated bonus points by repeated, unsuccessful entry in the "drawing" for hunt permit-tags for buffalo, antelope, and elk, at minimal cost to the Department. It would not currently benefit persons with bonus points for bighorn sheep.

R12-4-203 and R12-4-218. The rule establishing the state "game bird stamp" program would be repealed and replaced with the national program in compliance with federal regulations. Main impact would be upon dove and snipe hunters, who are the only affected hunters who do not already have to obtain either a game bird stamp or waterfowl stamp to validate their hunting license for these birds. There will be no cost to hunters. Federal grant will pay for the program the 1st 2 years; cost after that time is estimated at \$25,000 annually. The program will result in more accurate harvest data nationwide and will benefit hunters in the future.

R12-4-309. The amendment would create additional recreational opportunity at no additional cost to the Department or hunters.

R12-4-310. There would be no cost to businesses or to the organizations obtaining the free permit except costs related to conducting the 2-day fishing events authorized by the permit. Costs to the Game and Fish Department would be minimal and absorbed into ongoing programs.

R12-4-422. Impact on the Department will be minimal. No citations have ever been issued for inadvertent kill of nontarget wildlife by a falconer's raptor. Allowing capture of raptors by nonresident falconers will not increase or decrease costs to the Department or change management of wild raptors, as numbers which may be captured are limited by Commission order.

R12-4-501 and R12-4-502. This proposed rulemaking would reduce opportunities for criminals to "legitimize" stolen watercraft. It would provide a clearer avenue for prosecution of persons providing false statements or documentation to register watercraft.

R12-4-503. Pursuant to A.R.S. § 41-1055(D)(3), the proposed rulemaking is exempt from the requirement to prepare an economic, small business, and consumer impact statement.

R12-4-505. The rule will provide economic benefit to federal, state, county, and local governments by allowing previously "unregisterable" watercraft to be sold at public auction. The public would benefit by being provided an opportunity to purchase seized or forfeit watercraft for salvage or use.

R12-4-510. The rule does contain safeguards to ensure it is used only as intended: application for refund must be made within 30 days, and the person applying for the refund must return the original certificate of number and decals to the Department. The rule would incur some administrative costs to the state, but it is not expected that requests for refunds will exceed 20 or 30 per year, and it is believed that the costs are outweighed by the need to provide this service to the public.

R12-4-517. Persons would not be able to use gasoline motors on Coors Lake, a very small lake approximately 2 miles north of the town of Bagdad in Yavapai County. Economic impact is expected to be very limited.

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 DOAS
2221 West Greenway Road
Phoenix, AZ 85023-4399
Telephone: (602) 789-3289
Fax: (602) 789-3299

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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 August 6, 1996. Public hearings to discuss the proposals will be held as follows:

Date: August 6, 1996

Time: 7 p.m.

Location: Quality Hotel & Suites
475 North Granada
Tucson, Arizona

Date: August 6, 1996

Time: 7 p.m.

Location: Game and Fish Department
Highway 260
Pinetop, Arizona

Date: August 6, 1996

Time: 7 p.m.

Location: Game and Fish Department
5325 North Stockton Hill Road
Kingman, Arizona

Date: August 6, 1996

Time: 7 p.m.

Location: Game and Fish Department
9140 East County 10 1/2 Street
Yuma, Arizona

Date: August 6, 1996

Time: 7 p.m.

Location: Game and Fish Department
3500 South Lake Mary Road
Flagstaff, Arizona

Date: August 6, 1996

Time: 7 p.m.

Location: Wildlife Building, State Fairgrounds
17th Avenue and McDowell
Phoenix, Arizona

The Game and Fish Commission will hold an additional public hearing and may take final action on:

Date: September 6, 1996

Time: 2 p.m.

Location: Little America
2515 East Butler Avenue
Flagstaff, Arizona

The Game and Fish Commission follows Title II of the Americans with Disabilities Act. The Commission 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 Susan L. Alandar at (602)789-3289 (Voice); 1-800-367-8939 (TDD); 2221 West Greenway Road, Phoenix, Arizona 85023-4399. Requests should be made as soon as possible so that the Arizona Game and Fish Department will have sufficient time to respond.

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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 4. GAME AND FISH COMMISSION

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

- R12-4-102. Fees for Licenses, Tags, Stamps, and Permits
R12-4-114. Issuance of Nonpermit-tags and Hunt Permit-tags

ARTICLE 2. MISCELLANEOUS LICENSES AND PERMITS

- R12-4-203. National Harvest Information Program
R12-4-218. Game Bird Stamp

ARTICLE 3. TAKING AND HANDLING OF WILDLIFE

- R12-4-309. Restricted Hunts
R12-4-310. Fishing Permits

ARTICLE 4. LIVE WILDLIFE RULES

- R12-4-422. Falconer License
R12-4-422. Falconers, Licensing, and Requirements

ARTICLE 5. BOATING AND WATER SPORTS ~~Watersports~~

- R12-4-501. Boating and Water Sports Definitions
R12-4-502. Application for Watercraft Registration
R12-4-503. Renewal of Watercraft Registration
R12-4-505. Hull Identification Numbers
R12-4-510. Refunds for Renewals
R12-4-517. Watercraft and Boat Engine Restrictions

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

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

- A. No change.
B. No change.
1. No change.
2. No change.
3. No change.
4. No change.
5. No change.
6. No change.
7. Class F, Combination Resident Adult \$34.00
hunting and fishing license.
Youth fee applies before Resident or
and through calendar year Nonresident Youth \$18.00
of the applicant's 20th
birthday. Nonresident Adult \$100.00
8. No change.
9. No change.
10. No change.
C. No change.
D. No change.
E. Other license fees:
1. No change.
2. No change.

3. No change.
4. Guide license Resident \$100.00
Nonresident ~~\$500.00~~ \$100.00
5. No change.
6. No change.
8. No change.
9. No change.
10. No change.
11. No change.
12. No change.
13. No change.
F. No change.
G. No change.

R12-4-114. Issuance of Nonpermit-tags and Hunt Permit Tags

- A. In accordance with A.R.S. § 17-332 and the provisions of this rule, the Department shall annually provide numbered tags for sale to the public. Each tag includes ~~shall include~~ a transportation and shipping permit as prescribed in A.R.S. §§ 17-332 and 17-371. Tags are ~~shall be~~ made of tear-resistant material with an adhesive back covered by a detachable paper backing and ~~shall~~ clearly identify, when issued, the animal for which the tag is valid.
B. No change.
C. When the number of hunt permits for a species in a particular hunt area must be limited, a Commission order establishes ~~shall establish~~ a hunt number for that hunt area, and a hunt permit-tag is ~~shall be~~ required to take the species in that hunt area.
1. No change.
2. The Department uses ~~shall use~~ the following procedure to determine whether a hunt permit-tag will be issued to an applicant:
a. The Department reserves a maximum of 10% of the hunt permits for each hunt number for elk, buffalo, bighorn sheep, and antelope to issue to persons and groups who have bonus points which have been issued according to R12-4-107.
b. The Department issues the reserved hunt permit-tags for hunt numbers designated by eligible applicants as their first or second choices. The Department issues the reserved hunt permit-tags by random selection:
i. First, to eligible applicants with the greatest number of bonus points for that genus.
ii. Next, if there are reserved hunt permit-tags remaining, to eligible applicants with the next greatest number of bonus points for that genus.
iii. If there are still tags remaining, to the next eligible applicants with the next greatest number of bonus points; continuing until all of the reserved tags have been issued or until there are no more applicants for that hunt number who have bonus points.

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a-c. First selection from all unreserved hunt permit-tags is shall be by random drawing.

b-d. When the bag limit established by Commission order is more than 1 per calendar year, or when there are hunt permit-tags remaining unissued after the random drawings first, these hunt permit-tags are shall be available on a set date on a 1st-come, 1st-served basis by mail or over the counter from Department offices as specified in the hunt permit-tag application schedule published annually by and available from the Department.

- D. The Department shall ensure that no ~~No~~ more than 10% of the total available bighorn sheep or buffalo hunt permit-tags in any calendar year are shall be issued to nonresidents and that no ~~No~~ more than 50% nor more than 2 bighorn sheep or buffalo hunt permit-tags in any hunt number are shall be issued to nonresidents.
- E. The Department shall ensure that no ~~No~~ more than 10% of the total available hunt permit-tags are shall be issued to nonresidents for the following hunts, except that when hunt numbers have 10 or less available hunt permit-tags, no more than 1 hunt permit-tag are shall be issued to a nonresident:
1. No change.
 2. No change.
- F. This rule is effective January 1, 1997 1996.

ARTICLE 2. MISCELLANEOUS LICENSES AND PERMITS

R12-4-203. National Harvest Information Program (HIP)

- A. An individual taking ducks, geese, doves, band-tailed pigeons, snipe, coots, common moorhen, or blue grouse shall have in possession either:
1. A Harvest Information Program (HIP) stamp, affixed to the back of a Class F, G, or H license; or
 2. A Harvest Information Program code number, written in the designated space on the back of a Class F, G, or H license.
- B. HIP stamps and code numbers are available from the Department annually from July 1 through March 10, and are valid from September 1 through March 10. To obtain the stamp or the code number, individuals shall provide their name, mailing address, date of birth, identification number, hunting license number, and information regarding past and anticipated hunting activities. The HIP stamp or code number validates a license for taking band-tailed pigeons only if the individual indicates the intent to take band-tailed pigeons at the time of application.
1. Individuals may obtain a HIP stamp by providing the required information to the Department on a form available in the annual "Hunt Regulations" publication or available from any Department office.
 2. Individuals may obtain a HIP code number by providing the required information by touch-tone telephone to a toll-free number available from the Department.
- C. This rule is effective July 1, 1997.

R12-4-218. Game bird stamp

- A. Persons taking band-tailed pigeon, blue grouse, or pheasant shall have in possession a game bird stamp, valid for the season and affixed to the back of a Class F, G, or H license.
- B. Applicants may obtain a game bird stamp by submitting their name and mailing address on a form provided by the Department. The form and the stamp shall be available from all Department offices through the mail or in person.
- C. Game bird stamps shall be available from July 1 through the end of February.

ARTICLE 3. TAKING AND HANDLING OF WILDLIFE

R12-4-309. Restricted Hunts

- A. No change.
- B. Persons taking elk or javelina according pursuant to subsection (A) may take other wildlife in season before killing their permitted elk or javelina, according pursuant to the restrictions in R12-4-318.
- C. Following are the exceptions to subsection (A) of this rule:
1. Archery-only elk hunters may continue to hunt other wildlife in season with bow and arrow after killing their permitted elk.
 2. Persons holding special big game license tags issued pursuant to R12-4-120, or ~~big game~~ hunt permit-tags valid for deer, or antelope, buffalo or bighorn sheep may take their lawful big game during an open season running concurrently with any season named in subsection (A).
 3. No change.
 4. Trappers licensed under pursuant to R12-4-307 may trap in these areas.
- D. This rule is effective January 1, ~~1993~~ 1997.

R12-4-310. Fishing Permits

- A. The Department may issue a Fishing Permit to state, county, or municipal agencies or departments and to nonprofit organizations licensed by or contracted to the Department of Economic Security or Department of Health Services, whose primary purpose is to provide physical or mental rehabilitation or training for persons with physical, developmental, or mental disabilities. The permit will allow persons with physical, developmental, or mental disabilities to fish without a fishing license. The permit will authorize this activity for up to 20 persons for the 2 days specified on the permit upon any public waters except that fishing in the waters of the Colorado River is restricted to fishing from the Arizona shoreline only, unless the persons fishing under the authority of the permit also possess a valid Colorado River stamp from the adjacent state. The persons fishing under the authority of the permit shall comply with other statutes, Commission orders and rules not contained in this Section.
- B. An applicant for a Fishing Permit shall provide the following to the Department:
1. A completed application form obtained from the Department, containing:
 - a. The name, address, and telephone number of the agency, department, or nonprofit organization requesting the permit;
 - b. The name, position title, and telephone number of the person who will be responsible for supervising the persons who will be fishing under the authority of the permit;
 - c. The total number of persons who will be fishing under the authority of the permit;
 - d. The dates of the 2 days for which the permit will be valid;
 - e. The location for which the permit will be valid.
 2. Nonprofit organizations shall also submit documentation that they are licensed by or contracted to the Department of Economic Security or the Department of Health Services for the purpose of providing rehabilitation or treatment services to individuals and groups possessing physical, developmental, or mental disabilities.
- C. The Department shall issue the approved Fishing Permit to the applicant within 30 calendar days of receiving an application meeting the criteria of this Section.
- D. The Fishing Permit permittee shall provide 1 hour of instruction on fish identification, fishing ethics, safety, and tech-

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niques to the persons who will be fishing under authority of the permit. The lesson plan for this instruction will be provided to the permittee by the Department.

- E.** Each person fishing without a license under the authority of the Fishing Permit may take only 1/2 the regular bag limit established by Commission order for any species, unless the regular bag limit is 1, in which case the permit authorizes the regular limit.
- F.** The permittee shall submit a report to the Department not later than 30 days after the end of the authorized fishing dates. The Department may deny issuance of future Fishing Permits to permittees failing to submit the report. The permittee shall report on a form available from the Department:
1. The Fishing Permit number and the information contained in the permit;
 2. The total number of persons who fished and total hours fished;
 3. The total number of fish caught, kept, and released, by species.

ARTICLE 4. LIVE WILDLIFE RULES

R12-4-422: Falconer License

- A.** For the purposes of this rule, the following definitions apply:
1. "Eyas" means a flightless raptor that is dependent upon a parent bird for food and is found in the nest.
 2. "Falconry" means the sport of taking quarry by means of a trained raptor.
 3. "Passage" means a raptor in immature plumage, capable of flight and able to hunt and obtain its own food, and which is less than 1 year of age.
 4. "Raptor" means a live migratory bird of the species great horned owl, *Bubo virginianus*, of the family Strigidae; any of the family Falconidae; and any of the family Accipitridae, other than the bald eagle, *Haliaeetus leucocephalus*, which under the provisions of this rule may be used in the practice of falconry.
 5. "Sponsor" means a licensed Class II or Class III falconer who agrees to supervise and instruct no more than 3 Class I falconers in the practice of falconry at any 1 time.
- B.** A falconer license allows the licensee to take, possess, transport, and import raptors for falconry purposes in accordance with the requirements of this rule and Commission order. It also allows educational display of raptors and allows raptors to be released, exported, and given away. Feathers that are molted or those feathers from birds held in captivity that die may be retained and exchanged by licensees only for purposes of repairing or replacing a broken feather with a feather.
- C.** A falconer license shall be issued only in accordance with the qualifications of the applicant established in subsections (D), (E), and (F) of this rule and shall be valid from the date issued until the 3rd December from the date of issue. The qualification specified on the license governs the species and number of birds which may be possessed, or which may be taken under the authority of that falconer license in accordance with the Commission order establishing raptor capture seasons. Any applicant not previously licensed in Arizona shall be subject to the following inspection by the Department prior to issuance of a license:
1. Raptor housing facilities shall be inspected by the Department and shall meet the standards set in subsection (L) of this rule before licensing by the Department.
 2. Equipment shall also be inspected by the Department and shall meet the requirements set at subsection (M) of this rule before licensing by the Department.

D. A Class I Apprentice Falconer Classification requires the following:

1. In order to be eligible for this classification, the applicant:
 - a. Shall be 14 years of age or older;
 - b. Shall be sponsored by a licensed Class II or Class III falconer at time of application and for the first 2 years as a falconer;
 - c. Shall be required to answer correctly at least 80 percent of the questions on a supervised examination approved by the U.S. Fish and Wildlife Service and administered by the Department, relating to basic biology, care, and handling of raptors, literature, laws, or other appropriate subject matter.
2. A Class I falconer shall not possess more than 1 raptor at 1 time, nor obtain more than 1 raptor for replacement during any calendar year. The raptor must be taken from the wild. Within this limit, a Class I falconer may possess any raptor lawfully obtained in another state. A Class I falconer shall not take an eyas bird.

E. A Class II General Falconer Classification requires the following:

1. In order to be eligible for this classification, the applicant:
 - a. Shall be at least 18 years of age;
 - b. Shall have at least 2 years of falconry experience at the Class I level, computed from the date that the falconer obtained the first falconer license or permit as an apprentice;
 - c. Shall present a letter of recommendation from a falconer's association affiliated with the North American Falconers Association which states that the applicant is qualified and eligible to become a Class II falconer.
2. A Class II falconer shall not possess more than 2 raptors at 1 time. Raptors may be any species except a golden eagle or a species listed as endangered or threatened as defined in R12-4-401.
3. A Class II falconer shall not obtain more than 2 raptors for replacement during any calendar year.

F. A Class III Master Falconer Classification requires the following:

1. In order to be eligible for this classification, the applicant:
 - a. Shall be at least 23 years of age;
 - b. Shall have at least 5 years of falconry experience at the Class II level, computed from the date that the falconer obtained the first falconer license or permit as a Class II falconer.
2. A Class III falconer shall not possess more than 3 raptors at 1 time. Raptors may be of any species, except that prior written authorization from the Director of the U.S. Fish and Wildlife Service is required to possess golden eagles or species listed as endangered or threatened as defined in R12-4-401.
3. A Class III falconer shall not obtain more than 2 raptors taken from the wild during any calendar year, but may obtain raptors from other lawful sources within the 3-raptor possession limit.

G. Individuals who do not have an Arizona falconers license who have imported raptors or who have obtained their raptor other than from the wild shall submit the raptor to the Department for inspection at the time of application for their falconer's license. Any new resident shall make application for an Arizona falconer license within 30 days of importing any raptor possessed pursuant to a falconer license issued by another state or jurisdiction.

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- H.** Application for a falconer license shall be made on a form provided by and available from any Department office. Application requires the following be provided by the applicant:
1. Name, address, and phone number;
 2. Physical description and date of birth;
 3. Valid Arizona hunting license number and Department identification number;
 4. Falconer classification desired. Class I applicants shall supply their sponsor's name and address on this form;
 5. The number of raptors the applicant possesses at the time the application is submitted and the species, age, if known; sex, if known; band numbers; date of acquisition; and source of each;
 6. Signature of applicant.
- I.** The holder of a falconer license may capture raptors for the purpose of falconry only, in accordance with Commission order, subject to the following requirements and restrictions:
1. The falconer license and Arizona resident hunting license shall be in the possession of the licensee during capture.
 2. Any nontarget raptor inadvertently captured shall be immediately released. If the raptor is wearing a band or other marker, the licensee shall report the capture and release of the marked bird to the Department, along with any identifying number and related information.
 3. It is unlawful to remove any immature or fledgling raptor from any nest, unless 1 or more live fledgling raptors remain in the nest after such removal.
 4. Raptors may be captured only with traps or bird nets which are unlikely to cause injury to the raptor. No mist nets, steel-jawed traps, or stupefying substances shall be used.
 5. All traps or nets in use shall be in constant attendance.
 6. Any raptor trap or net being used shall be plainly identified with the licensee's name and address.
- J.** Each raptor captured shall be presented to the Department within 14 calendar days after capture. A Department representative shall attach a numbered band to 1 leg of the lawfully obtained raptor. This band may not be removed except by an authorized official of the Department, or except as provided in subsection (R) of this rule. Altering, counterfeiting or defacing of a band by a person is prohibited, except that licensees may remove the rear tab on the band and may smooth any imperfect surface provided the integrity of the band and numbering are not affected.
- K.** Birds taken from the wild in Arizona may, with the concurrence of the U.S. Fish and Wildlife Service, be transferred to an Arizona resident's federal raptor propagation license.
- L.** Before a license may be issued under the provisions of this rule, the applicant shall provide either an indoor or outdoor housing facility designed to protect the raptor from the environment, predators and undue disturbances. These facilities must be inspected and certified by a Department representative as meeting the following standards:
1. Indoor facilities shall be large enough to allow easy access for caring for the raptors housed in the facility. No more than 1 raptor species may be kept in the same facility unless each raptor is tethered or separated by partitions. The area for each bird will be large enough to allow the bird to fully extend its wings. There shall be at least 1 window, protected on the inside by vertical bars, spaced narrower than the width of the bird's body, and a door that can be easily closed and secured. The floor of the facility shall permit easy cleaning and shall be well drained. Perches shall be provided which are textured to prevent foot problems.
 2. Outdoor facilities shall be fenced and covered with netting or wire, or roofed to protect the birds from disturbance and attack by predators, except that perches more than 6 1/2 feet high need not be covered or roofed. The enclosed area shall be large enough to insure the birds cannot strike the fence when flying from the perch. Protection from the sun, wind and inclement weather shall be provided for each bird. Perches shall be provided which are textured to prevent foot problems.
- M.** In addition to the facilities at subsection (L), the following equipment is required:
1. Jesses — at least 1 pair of jesses of a type wherein bracelets are affixed to each leg of a raptor with a grommet through which a strap passes freely so that an escaped bird can pull the strap out of the bracelet. The jesses shall be constructed of pliable, high quality leather or suitable synthetic material to be used when any raptor is flown free. Traditional 1 piece jesses may only be used on raptors when not being flown.
 2. Leashes and swivels — at least 1 flexible, weather-resistant leash and 1 strong swivel of acceptable falconry design;
 3. Bath container — at least 1 container, 2 to 6 inches deep and wider than the length of the raptor, for drinking and bathing for each raptor;
 4. Outdoor perches — at least 1 weathering area perch of an acceptable design shall be provided for each raptor; and
 5. Weighing device — a reliable scale or balance suitable for weighing the raptor or raptors held and graduated to increments of not more than 2 ounces, or 15 grams.
- N.** The limitations of this rule shall not prohibit a person who possesses a lawfully taken raptor prior to January 1, 1977, from obtaining a license for that raptor. All such birds shall be identified with markers supplied by the U. S. Fish and Wildlife Service and cannot be replaced if death, loss, release, or escape occurs.
- O.** A person who possesses raptors obtained before January 1, 1977, in excess of the number allowed under that person's class license, shall be allowed to retain the extra raptors. All such birds shall be identified with markers from the Department and supplied by the U.S. Fish and Wildlife Service. No replacement can occur, nor may an additional raptor be obtained, until the number in possession is at least 1 less than the total number authorized by the falconer classification held by the licensee pursuant to this rule.
- P.** No raptor taken from the wild in Arizona shall be transferred to another falconer licensed outside of Arizona or exported from the state, except by written authorization from the Department. Such transactions shall not involve more than 2 raptors, singly or in combination, per licensee in any calendar year. The Department may deny any request when the number or species which have been or are being exported is not in the best interest of raptor management.
- Q.** A licensee may place a raptor or raptors in the care of another, provided written authorization is given to the person for temporary care. If the period of care will exceed 30 days, the Department shall be informed of this action in writing by the licensee, within 3 days of the transfer. Written notification will include the location of the bird, who is caring for it, and approximately how many days it will be in the care of the second person.
- R.** When a raptor is no longer used in the practice of falconry, it may be:
1. Released to the wild into suitable habitat, provided:
 - a. All jesses, markers, and other equipment are removed;

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- b. ~~Any federal marker is removed and returned to the Department within 10 days of the release;~~
- e. ~~A licensee shall not release to the wild any raptor not taken from the wild in Arizona;~~
- 2. ~~Given to another licensed falconer, except pursuant to subsection (F);~~
- 3. ~~Transferred to the Department;~~
- 4. ~~Lawfully possessed captive-bred raptors marked with seamless leg bands may be sold or traded.~~
- S. ~~A licensee changing residence to another jurisdiction may export their lawfully possessed raptors;~~
- T. ~~When a raptor has died, the carcass shall be transferred to a Department office or destroyed, provided any federal markers are removed and returned to the Department and prior authorization to destroy the carcass is obtained from the Department.~~
- U. ~~When a raptor escapes, the licensee shall report the escape to any Department office within 5 days. Recapture may be accomplished at any time of the year by any falconer licensed pursuant to this rule. Any person recapturing a banded raptor shall notify the Department within 5 calendar days of the capture.~~
- V. ~~Within 5 calendar days of acquisition of any raptor by any method, or disposition of any raptor by any method, a falconer licensee shall submit to the Department a copy of a U.S. Fish and Wildlife Service Migratory Bird Acquisition and Disposition Report, Form 3-186A, dated 6/30/91, not including any later revisions, which is incorporated by reference herein. The form shall be completed and signed by the licensee in accordance with the instructions on the form. A copy of the incorporated form is on file with the Secretary of State and available from the U.S. Fish and Wildlife Service Regional Law Enforcement Office, Albuquerque, New Mexico 87103.~~
- W. ~~Falconer licenses are subject to the provisions of R12-4-409.~~
- X. ~~This rule is effective January 1, 1995.~~

R12-4-422. Falconers: Licensing and Requirements

- A.** For the purposes of this Section, the following definitions apply:
- 1. "Evas" means a flightless raptor that is found in the nest and is dependent upon a parent bird for food.
 - 2. "Falconry" means the sport of taking quarry by means of a trained raptor.
 - 3. "Passage" means a raptor in immature plumage, capable of flight and able to hunt and obtain its own food, and which is less than 1 year of age.
 - 4. "Raptor" means a live migratory bird of the species great horned owl, *Bubo virginianus*, of the family Strigidae; any of the family Falconidae; and any of the family Accipitridae, other than the bald eagle, *Haliaeetus leucocephalus*; which under the provisions of this rule may be used in the practice of falconry.
 - 5. "Sponsor" means a licensed Class II or Class III falconer who agrees to supervise and instruct no more than 3 Class I falconers in the practice of falconry at any 1 time.
- B.** The Department shall inspect the raptor housing facilities and equipment of any applicant not previously licensed in Arizona, and determine that the facilities and equipment meet the requirements of this rule, before issuing a license to the applicant. A license is valid from the date it is issued by the Department until the 3rd December from the date of issue. The Department shall issue the falconers licenses to applicants complying with application procedures in this rule and meeting the following criteria:
- 1. An applicant for a Class I Apprentice Falconer License:
 - a. Must be 14 years of age or older;
 - b. Must have a sponsor at the time of application, and shall provide to the Department a written commit-

ment from the sponsor to continue sponsoring the applicant for the 1st 2 years as a licensed falconer;

- c. Shall answer correctly at least 80% of the questions on an examination supervised and administered by the Department and approved by the U.S. Fish and Wildlife Service, relating to basic biology, care, and handling of raptors, and other subject matter related to falconry.
- 2. An applicant for a Class II General Falconer License:
 - a. Must be 18 years of age or older;
 - b. Must have at least 2 years of falconry experience at the Class I level, computed from the date that the applicant obtained the 1st Class I Apprentice Falconer License;
 - c. Shall provide to the Department a letter of recommendation from a falconers' association affiliated with the North American Falconers Association, stating that the applicant is qualified and eligible to become a Class II falconer.
- 3. An applicant for a Class III Master Falconer License:
 - a. Must be 23 years of age or older.
 - b. Must have at least 5 years of falconry experience at the Class II level, computed from the date that the applicant obtained the 1st Class II General Falconer License.
- C. Any new resident shall make application for an Arizona falconer license within 30 days of importing any raptor possessed by the authority of a falconer license issued by another lawful jurisdiction. Any applicant for an Arizona falconers license shall present any raptor in possession for inspection at the time of application.
- D. Applicants shall provide the following information on a form available from the Department, and shall sign the completed form:
 - 1. Name, address, and telephone number;
 - 2. Physical description and date of birth;
 - 3. Valid Arizona hunting license number and identification number;
 - 4. The falconer license classification desired. Class I applicants shall supply their sponsor's name and address on the form;
 - 5. The number of raptors the applicant possesses at the time of application and the species; age, if known; sex, if known; band numbers; date of acquisition; and source of each.
- E. A Class I licensee may possess only 1 raptor at a time; the raptor may be lawfully obtained in another state. The Class I licensee shall obtain all birds from the wild and shall not obtain more than 1 raptor for replacement purposes during any calendar year. A Class I licensee shall not take an evas bird.
- F. A Class II licensee shall not possess more than 2 raptors at a time. The raptors may be any species except a golden eagle or a species listed as endangered or threatened. A Class II licensee shall not obtain more than 2 raptors during any calendar year.
- G. A Class III licensee shall not possess more than 3 raptors at a time. The raptors may be of any species authorized by the U.S. Fish and Wildlife Service. A Class III licensee shall not obtain more than 2 raptors taken from the wild during any calendar year, but may obtain raptors from other lawful sources within the 3-raptor possession limit.
- H. All falconer applicants and licensees shall provide either an indoor or outdoor housing facility meeting the following standards, designed to protect the raptor from the environment, predators, and undue disturbances:

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1. Indoor facilities must be large enough to allow easy access for caring for the raptors housed in the facility. The area for each bird must be large enough to allow each raptor to fully extend its wings, with perches textured to prevent foot problems. The facility must have at least 1 window, protected on the inside by vertical bars, spaced narrower than the width of the raptor's body, and a door that can be easily closed and secured. The floor of the facility must be well drained and designed to permit easy cleaning. The licensee shall not keep more than 1 raptor species in the same facility unless each raptor is tethered or separated by partitions.
 2. Outdoor facilities must be fenced and covered with netting or wire, or roofed to protect the raptors from disturbance and attack by predators, except that perches more than 6-1/2 feet high need not be covered or roofed. The enclosed area must be large enough to insure the raptors cannot strike the fence when flying from the perch. The licensee shall provide protection from the sun, wind, and inclement weather for each raptor and perches which are textured to prevent foot problems.
- I. All falconer applicants and licensees shall possess and use the following equipment:
1. At least 1 pair of jesses constructed of pliable, high-quality leather or synthetic material, containing bracelets to affix to each leg of a raptor, with a grommet through which a strap passes freely so that an escaped raptor can pull the strap out of the bracelet. The licensee shall use this equipment when any raptor is flown free. Licensees may use traditional 1-piece jesses on raptors only when not being flown;
 2. At least 1 flexible, weather-resistant leash and 1 strong swivel designed for falconry;
 3. At least 1 container, 2 to 6 inches deep and wider than the length of the raptor, for drinking and bathing for each raptor;
 4. At least 1 raptor perch for each raptor;
 5. A reliable scale or balance suitable for weighing the raptor or raptors, held and graduated to increments of not more than 1/2 ounce, or 15 grams.
- J. A Class I, II, or III falconer licensed in Arizona or a state recognized by the U.S. Fish and Wildlife Service as meeting federal falconry standards may capture raptors for the purpose of falconry only, in accordance with the Commission order establishing raptor capture seasons for licensed falconers. When there is reason to believe that a species of raptors may be overharvested by nonresidents if the number of permits is not limited, the Commission shall specify the number of permits available to nonresidents in the Commission order.
1. During capture, the licensee shall have in possession the falconer license, Arizona hunting license, and any required hunt permit-tag issued to that licensee.
 2. The licensee shall immediately release any nontarget raptor inadvertently captured. If the raptor is wearing a band or other marker the licensee shall report the capture and release of the marked bird to the Department, along with any identifying number and related information.
 3. The licensee shall not remove any eyas raptor from any nest unless 1 or more live eyas raptors remain in the nest after the removal.
 4. The licensee may capture raptors only with traps or bird nets which are unlikely to cause injury to the raptor, and shall not use mist nets, steel-jawed traps, or stupefying substances.
 5. The licensee shall ensure that all traps or nets in use are in constant attendance, and that any raptor trap or net being used is plainly identified with the licensee's name and address.
6. The licensee shall present each raptor captured to the Department within 14 calendar days after capture. A Department representative shall attach a numbered band to 1 leg of the lawfully obtained raptor. This band shall not be removed except by an authorized official of the Department, or except as provided in this rule. Licensees shall not alter, counterfeit, or deface a band but may remove the rear tab on the band and may smooth any imperfect surface provided the integrity of the band and numbering are not affected.
- K. Licensees may use raptors for educational display.
- L. Licensees may retain and exchange feathers that are molted or those feathers from raptors held in captivity that die only for purposes of repairing or replacing a broken feather with a feather.
- M. If any raptor used in falconry incidentally kills any species of wildlife for which there is no open season or for which the season is closed, the licensee shall not take the dead wildlife into possession. The licensee shall leave the wildlife where it lies, but may allow the raptor making the kill to feed on the dead wildlife before leaving the site.
- N. Licensees may transfer raptors taken from the wild in Arizona to an Arizona resident's federal raptor propagation license, with the concurrence of the U.S. Fish and Wildlife Service.
- O. A licensee shall not transfer a raptor taken from the wild in Arizona to another falconer licensed outside of Arizona, or export the raptor from the state, without written authorization from the Department. The Department shall not authorize exportation transactions involving more than 2 raptors taken from the wild in Arizona, singly or in combination, per licensee in any calendar year. The Department shall deny any request for authorization of exportation when the number or species which have been or are being exported is not in the best interest of raptor management.
- P. A licensee may place a raptor or raptors in the care of another licensee, providing that the licensee gives written authorization to the other licensee for temporary care. If the period of care will exceed 30 days, the licensee shall submit the following written information to the Department within 3 days of the transfer:
1. The location of the raptor or raptors,
 2. The name of the licensee caring for the raptor or raptors,
 3. Approximate number of days the raptor or raptors will be in the care of the other licensee.
- Q. A licensee may do 1 of the following when in possession of a raptor no longer used in the practice of falconry:
1. Release the raptor to the wild into suitable habitat, provided that the raptor was taken from the wild in Arizona, and that all jesses, markers, or other equipment are removed, and that any federal marker is removed and returned to the Department within 10 days of release.
 2. Give the raptor to another licensed falconer, except as provided in subsection (O).
 3. Transfer the raptor to the Department.
 4. Sell or trade the raptor, if it is a lawfully possessed captive bred raptor marked with a seamless leg band.
- R. Licensees changing residence to another jurisdiction may export their lawfully possessed raptors.
- S. A licensee shall transfer the carcass of a raptor which has died to a Department office, or destroy the carcass after receiving authorization for destruction of the carcass from the Department. The licensee shall remove any federal markers prior to destroying the carcass and return the markers to the Department.

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- T.** A licensee shall report the escape of a raptor to the Department within 5 days. Any licensed falconer may recapture an escaped banded raptor at any time and shall notify the Department within 5 calendar days of the capture.
- U.** Within 5 calendar days of acquisition of any raptor by any method, or disposition of any raptor by any method, a falconer licensee shall submit to the Department a copy of a U.S. Fish and Wildlife Service Migratory Bird Acquisition and Disposition Report, Form 3-186A, dated June 30, 1991, not including any later revisions, which is incorporated by reference. The form shall be completed and signed by the licensee in accordance with the instructions on the form. A copy of the incorporated form is on file with the Secretary of State and available from the U.S. Fish and Wildlife Service Regional Law Enforcement Office, Albuquerque, New Mexico, 87103.
- V.** Falconer licensees are subject to the provisions of R12-4-409.

ARTICLE 5. BOATING AND WATER SPORTS WATER-SPORTS

R12-4-501. Boating and Water Sports Definitions

- A.** In addition to the definitions provided in A.R.S. § 5-301, the following definitions apply to this Article unless the context otherwise requires:
1. No change.
 2. "Bill of sale" means a written agreement transferring which transfers ownership, and including: the name of the buyer and seller; the manufacturer of the watercraft sold, if known; the hull identification number, unless exempted by R12-4-505; and the purchase price and sales tax paid, if any; and the signature of the seller.
 3. "Boats keep out" means an operator or user of no watercraft, waterskis, surfboards, or similar contrivances shall not enter.
 4. "Controlled-use marker" means an any anchored or fixed marker on the water, shore, or on a bridge that controls the operation of watercraft, water skis, surfboard, or similar contrivances.
 5. "Homemade watercraft" means a any watercraft which was not fabricated or manufactured for resale and to for which a manufacturer has not attached a hull identification number is not required to be attached by the manufacturer. A watercraft assembled from a kit, or constructed from an unfinished manufactured hull, is shall be a "homemade watercraft" if not already assigned a hull identification number by the manufacturer.
 6. No change.
 7. "Letter of gift" means a document, transferring ownership of a watercraft, signed by the previous owner, stating that the watercraft is a gift and listing containing the name and address of both the previous and the new owner, the name of the manufacturer of the watercraft if known, and the hull identification number, unless exempted by R12-4-505.
 8. No change.
 9. "No ski" means a no person shall not be towed on water skis or similar devices.
 10. No change.
 11. "Owner" in reference to a watercraft means a any person who claims lawful possession of a watercraft by virtue of legal title or equitable interest, which entitles that person to possession.
 12. No change.
 13. No change.
 14. No change.

15. "Sound level" means the noise level measured in decibels on the A-weighted scale of a any sound level instrument that conforms with the requirements set forward by the American National Standards Institute in Specifications for Sound Level Meters.
16. No change.
17. No change.
18. No change.
19. "Watercraft" means a any boat or other floating device of rigid or inflatable construction designed to carry people or cargo on the water and that is propelled by machinery, oars, paddles, or wind action on a sail. Exceptions are except sea-planes, makeshift contrivances constructed of innertubes or other floatable materials which are and not propelled by machinery, personal flotation devices worn or held in hand, and other objects used as floating or swimming aids. For the purpose of registration only, "watercraft" does shall not include nonmotorized inflatable watercraft which are is 12 feet or less in length.
20. "Watercraft agent" means a any person authorized by the Department and acting in behalf of the Department to collect appropriate fees for the registration and numbering of watercraft.
21. "Watercraft number" means the registration number issued by the Department under pursuant to A.R.S. § 5-321.
22. No change.

R12-4-502. Application for Watercraft Registration

- A.** A person shall apply Any application for watercraft registration pursuant to A.R.S. § 5-321 using shall be made upon a form provided by the Department. The applicant shall provide the following information The following information shall be provided on the form for registration of all watercraft except homemade watercraft, which are addressed in subsection (B):
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. No change.
 11. Name, mailing address, and date of birth of each owner. To simplify the description of joint ownership when a watercraft is owned by more than 1 person, the applicant shall indicate ownership by use of 1 of the following methods:
 - a. Where ownership is joint tenancy with right of survivorship or community property with right of survivorship, the applicant shall use "and/or" between the names of the owners. To transfer registration of the watercraft, each party shall provide a signature if both are living. Upon legal proof of the death of either party, the living party may transfer registration of the watercraft upon the signature of the living party.
 - b. Where ownership is a tenancy in common the applicant shall use "and" between the names of the owners. To transfer registration of the watercraft, each party shall provide a signature. In the event of the death of any party, the interest of the deceased party must be handled through probate proceedings.
 - c. Where the ownership is joint tenancy with an express intent that either of the owners have full

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authority to transfer registration, the applicant shall use "or" between the names of the owners. As a condition of transferring registration as just indicated above, each owner must sign the application. To transfer registration, either party's signature is sufficient for transfer.

11. Name, mailing address, and date of birth of each owner. When a watercraft is owned by more than 1 person, application for registration of that watercraft shall indicate ownership by use of 1 of the following methods, and the Department shall record and transfer registration as prescribed:
- a. ~~The use of "and/or" between the names of individuals shall require the signatures of both parties if both are living. Upon legal proof of the death of either party, the Department shall transfer registration upon the signature of the living party.~~
 - b. ~~The use of "and" between the names of individuals shall require the signatures of both parties. In the event of the death of either party the interest of the deceased party shall be handled through probate proceedings.~~
 - e. ~~The use of "or" between the names of individuals shall express to the Department the intent that either of the owners have full authority to transfer registration of the watercraft.~~
- B. The applicant shall provide the following information for registration of homemade watercraft using the same ownership designations specified in subsection (A). The owner shall sign the application and have it notarized unless it is signed in the presence of a Department employee. The following information shall be provided for application for registration of homemade watercraft. The application shall be signed by the owner, and the signature shall be notarized if the application is not signed in the presence of a Department employee. Ownership designation shall be the same as in subsection (A)(12) of this rule.
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. No change.
- C. In accordance with A.R.S. § 5-321, the applicant shall submit with the application for registration a receipt for use tax paid from the Department of Revenue unless:
1. The applicant is exempt from use tax as provided in 15 A.A.C. 5; or
 2. The applicant is transferring the watercraft from another jurisdiction to Arizona without changing ownership; or
 3. Sales or use tax paid is shown on the bill of sale or receipt submitted by the applicant; or
 4. The applicant submits a notarized affidavit of exemption stating that the acquisition of the watercraft was for rental or resale purposes.
- C. Any application for registration shall be accompanied by a tax receipt from the Department of Revenue, unless:
1. ~~Sales tax paid is shown on the bill of sale; or~~
 2. ~~The acquisition of the watercraft was exempt from sales tax pursuant to A.R.S. Title 42, Chapter 8, Article 2; or~~
 3. ~~The applicant submits proof of exemption from sales tax provided by the Arizona Department of Revenue; or~~
4. ~~Watercraft from another jurisdiction is being changed to Arizona without transfer of ownership.~~
- D. To in order to obtain registration as a commercial watercraft under pursuant to A.R.S. § 5-322(H), the owner shall provide evidence of payment of the *ad valorem* property tax under the provisions of Article 9, Section 16 of the Arizona Constitution; the tax privilege license number; and the business name, address, and telephone number.
- E. To in order to obtain watercraft dealer registration under pursuant to A.R.S. § 5-322(G), the applicant shall be a business offering watercraft for sale, or a watercraft manufacturer registered by the U.S. Coast Guard. The applicant shall provide the following information on a form available from the Department. The Department shall issue the number of certificates and decals specified, or deny issuance, within 30 calendar days of receiving the application.
1. All business names used for the sale or manufacture of watercraft in Arizona, and the mailing address and telephone number for each business to be issued watercraft dealer registrations.
 2. Tax privilege license number.
 3. U.S. Coast Guard manufacturer identification code, if applicable.
 4. The total number of certificates of number and decals to be issued.
 5. Name, address, signature and phone number of the owner or manager of the principal business.
- F. An applicant registering a watercraft which has never previously been registered by any jurisdiction shall submit the following: Application for registration of a watercraft never previously registered by any jurisdiction shall be accompanied by:
1. No change.
 2. A letter of gift, if the watercraft was acquired as a gift instead of by purchase. The previous owner shall state in the letter of gift that the watercraft was never previously registered. Or: Watercraft acquired as a gift instead of by sale shall be accompanied by a letter of gift including a statement that the watercraft has never previously been registered.
 3. Watercraft may be registered without either a bill of sale or a letter of gift or compliance with R12-4-507 only if the owner submits a form either notarized or signed in the presence of a Department employee, attesting to (a), (b), or (c) below:
 - a. That the watercraft was manufactured prior to 1972, that it is 12 feet or less in length, and that it is not propelled by machinery other than an outboard engine; or
 - b. That the watercraft was previously owned by the applicant in a state that required neither registration nor titling; or
 - c. That the watercraft was previously owned by the applicant in a state that did require registration and titling, but that the applicant did not register or title the watercraft because the watercraft was not used; and
 - d. The applicant shall provide all of the following on the form: All of the following are to be provided on the form, by the applicant:
 - i. Full name and mailing address of each owner;
 - ii. Type of watercraft and propulsion type;
 - iii. Overall length of craft;
 - iv. Manufacturer's name, if known;
 - v. Year built or model year, if known;
 - vi. Hull identification number, unless exempted by

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R12-4-505;

- vii. Hull material;
- viii. Fuel type;
- ix. Horsepower of engine, if any.

- G. An applicant transferring registration of an Arizona-registered watercraft to a new owner shall surrender to the Department the original certificate of number assigned by the registered owner, or a bill of sale or letter of gift. Application for registration of a watercraft registered in Arizona but for which ownership has been transferred shall be accompanied by a certificate of number assigned by the registered owner, or by the bill of sale or letter of gift. If the bill of sale or letter of gift is not signed by the registered owner, the Department shall not transfer registration until it has received a release of interest from the registered owner or until the applicant has complied with the procedures prescribed in R12-4-507. The only exception is if unless the watercraft has not been currently registered within the past 5 years, was manufactured prior to 1972, and is 12 feet or less in length and is not propelled by machinery other than an outboard engine, in which case the applicant owner shall comply with the same requirements prescribed in subsection (F)(3)(a) and (d) of this rule.
- H. If ownership has been transferred from a registered owner in a manner other than sale or gift of the watercraft, or pursuant to subsection (A)(11) of this rule, the applicant shall present legal documentation to prove such transfer of ownership.
- I. An applicant Application for registration of a watercraft registered in another jurisdiction shall surrender 1 of the following to the Department in order to obtain registration; be accompanied by 1 of the following:
- 1. Original registration documentation Registration by the other jurisdiction to the same applicant.
 - 2. Original registration documentation by the other Registration by another jurisdiction showing that ownership has been transferred to the applicant.
 - 3. When the other a jurisdiction's registration documentation does not include any area for showing transfer of ownership, the applicant shall submit registration shall be accompanied by a bill of sale or letter of gift from the registered owner to the applicant with the other jurisdiction's original registration documentation.
 - 4. The applicant shall submit 1 of the following if registration documentation has been lost:
 - a. A letter from the issuing jurisdiction verifying that the registered owner in that jurisdiction is the same person shown as the seller or giver on the bill of sale or letter of gift submitted to the Department.
 - b. A letter from the issuing jurisdiction verifying that the registered owner in that jurisdiction is the same person that is applying for registration in Arizona.
 - 4. If documentation has been lost, a letter from the issuing jurisdiction verifying that the registered owner in that jurisdiction is either the same party shown as the seller or giver on the bill of sale or letter of gift submitted to the Department, or the person applying for registration.
 - 5. No change.
- J. An applicant Application for registration of a watercraft titled in another jurisdiction shall surrender be accompanied by 1 of the following to the Department in order to obtain registration:
- 1. The applicant's original title, or documentation from the lien holder lawfully holding such title, with a copy of the title.
 - 2. When ownership has transferred, the original title showing transfer of ownership to the Arizona applicant.
 - 3. The applicant shall submit 1 of the following if the title to the watercraft has been lost:

a. A letter from the issuing jurisdiction verifying that the titled owner in that jurisdiction is the same person shown as the seller or giver on the bill of sale or letter of gift submitted to the Department.

b. A letter from the issuing jurisdiction verifying that the titled owner in that jurisdiction is the same person that is applying for registration in Arizona.

- 3. If documentation has been lost, a letter from the issuing jurisdiction verifying that the registered owner in that jurisdiction is either the same party shown as the seller or giver on the bill of sale or letter of gift submitted to the Department, or the person applying for registration.
- 4. No change.

K. A person shall not apply for or obtain a watercraft registration by making a false statement or providing false information on any application or written instrument submitted to the Department. The Department may require that any original documentation required by this rule be surrendered to the Department in order to obtain Arizona registration.

L. The Department shall issue watercraft registrations within 30 calendar days of receiving valid application and documentation as required by this rule, whether from the applicant or from a watercraft agent pursuant to R12-4-509. An application ~~is not~~ shall not be considered valid if the Department receives legal documentation that legal action may affect ownership of the watercraft.

M. No change.

R12-4-503. Renewal of Watercraft Registration

A. The Department shall mail renewal notices to the address of the watercraft owner as shown on the certificate of number, 6 weeks prior to the last day of the month of expiration ~~established under pursuant to R12-4-504.~~ It is but it shall be the responsibility of the owner to ensure that renewal is achieved whether or not the notice is received.

B. In order to renew registration, the applicant shall submit the registration fee required by A.R.S. Title 5, Chapter 3, and the renewal notice provided by the Department ~~or the form required by subsection (C).~~ In the absence of the renewal notice, the registered owner shall present 1 of the following:

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

~~C.~~ A currently registered owner may request renewal up to 6 months prior to the normal expiration date by providing the following on a form available from the Department. Compliance with Subsection (B)(1) and (2) shall not be required if the applicant mails the completed form to the Department's Phoenix office and if renewal is to be mailed to the address of record:

- 1. Name and address of the registered owner;
- 2. The AZ number of the watercraft;
- 3. The notarized signature of the registered owner.

~~D-C.~~ The Department shall renew watercraft registration within 30 calendar days of receiving the valid application for renewal. The Department shall mail the renewal registration shall be mailed to the address of record unless the applicant has achieved renewal in person or unless there is a notarized request from the registered owner to mail it to another address.

R12-4-505. Hull Identification Numbers

A. The Department Watercraft shall not register watercraft be registered without a hull identification number as defined in R12-4-501.

B. The Department shall assign a hull identification number to a watercraft with a missing or improper hull identification number only when the Department determines that:

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1. A hull identification number has not been fraudulently removed or altered, unless the application is made by a governmental agency and is accompanied by an order of forfeiture or order of seizure or other civil process;
 2. The missing or improper hull identification number was caused by error of the manufacturer or a government jurisdiction or failure of a previous owner of a watercraft to comply with this rule, or because the watercraft is meets the definition of a "homemade watercraft" as defined prescribed in R12-4-501.
- C. The Department shall assign or deny assignment of a hull identification number make determination pursuant to subsection (B) and the hull identification number issued or denied within 30 days of receipt of a valid application, described in pursuant to R12-4-502.
- D. The Department shall accept a bill of sale presented with a missing or improper hull identification number shall be accepted for registration purposes only if:
1. It matches the hull identification number or lack of hull identification number thereof on the watercraft;
 2. A hull identification number is issued by the Department under pursuant to subsection (B) of this rule.
- E. The applicant or the Department shall affix the hull identification number issued by the Department shall be affixed as follows:
1. On watercraft with transoms, to the right or starboard side of the transom within 2 two inches of the top of the transom or hull/deck joint, whichever is lowest.
 2. On watercraft without transoms, to the starboard outboard side of the hull, back or aft within 1 one foot of the stern and within 2 two inches of the top of the hull, gunwale, or hull/deck joint, whichever is lowest.
 3. On catamarans and pontoon boats, on the aft crossbeam within 1 one foot of the starboard hull attachment.
 4. If the hull identification number would not be visible because of rails, fittings, or other accessories, affix it as closely as possible in the manner prescribed in subsection (E)(1), the number shall be affixed as near as possible as prescribed in paragraph (E)(1).
 5. Affix a duplicate of the visibly affixed hull identification number shall be affixed in an unexposed location on a permanent part of the hull.
 6. Each hull identification number is to be shall be burned, carved, stamped, embossed, molded, bonded, or otherwise permanently affixed to a non-removable part of the watercraft so that alteration, removal, or replacement would be obvious. A hull identification number shall not be affixed to parts of the watercraft which are removable.
 7. The characters of each hull identification number affixed to the watercraft are to be shall be no less than 1/4 one-fourth inch in height.

R12-4-510. Refunds for Renewals

- A. The Department shall issue refunds for fees paid for renewal of watercraft registration under the following circumstances:
1. The Department shall issue a refund for 1 renewal fee when the registered owner has paid twice for the same registration renewal for the same watercraft.
 2. The Department shall issue a refund for a renewal fee when a registered owner has erroneously paid for renewal of a watercraft that has already been sold to another individual, provided that the application for refund is made within 30 calendar days of the renewal.
 3. The person applying for the refund shall surrender an original certificate of number and 1 set of decals to the Department in order to receive the refund.

B. The Department shall not refund payment of any penalty fee for late registration.

~~The Department shall issue a refund for 1 renewal of watercraft registration when the registered owner has paid twice for the same renewal, provided that no refund shall be made for payment of any penalty fee for late registration, and provided that 1 certificate of number and 1 set of decals are returned to the Department.~~

R12-4-517. Watercraft and Boat Engine Restrictions

A. Persons operating power boats on the following waters shall use a single electric trolling motor only: Power boats on the following waters are restricted to the use of a single electric motor only:

Arivaca Lake	McKellips Park Lake
Bear Canyon Lake	Nelson Reservoir
Becker Lake	Pena Blanca Lake
Black Canyon Lake	Riggs Flat Lake
Bunch Reservoir	River Reservoir
Chaparral Lake	Roper Lake
Cluff Ponds	Rucker Canyon Lake
Coconino Reservoir	Santa Fe Lake
Concho Lake	Scott's Reservoir
<u>Coors Lake</u>	Sierra Blanca Lake
Dankwork Pond	Soldier Lake (in Coconino County)
Dogtown Reservoir	Stehr Lake
Granite Basin Lake	Stoneman Lake
J.D. Lake	Tunnel Reservoir
Knoll Lake	Whitehorse Lake
Lee Valley Lake	Woodland Reservoir
Lower Lake Pleasant	Woods Canyon Lake
Lynx Lake	

B. Persons operating power boats on the following waters shall use only a single electric trolling motor or a single gasoline motor not exceeding 8 manufacturer-rated horsepower: Power boats on the following lakes are restricted to the use of a single electric motor or a single gasoline engine not to exceed 8 manufacturer-rated horsepower.

Ashurst Lake	Kaibab Lake
Big Lake	Kinnikinick Lake
Blue Ridge Reservoir	Luna Lake
Cataract Lake	Parker Canyon Lake
Chevelon Canyon Lake	Rainbow Lake
Cholla Lake Hot Pond	Show Low Lake
Crescent Lake	Willow Springs Lake
Fool Hollow Lake	

C. Persons shall not operate watercraft. Watercraft are prohibited on Frye Mesa Reservoir, Rose Canyon Lake, and Snow Flat Lake.

D. Watercraft are prohibited from entering the following waters during the dates designated:

1. The posted portion of Luna Lake from April 1 through July 31.
2. The posted portions of Alamo Lake from December 1 to the end of waterfowl season.
3. The posted portions of the Tonto Arm of Roosevelt Lake from November 15 through February 15.
4. The posted portions of Mitty Lake from November 15 through February 28.
5. The posted portions of Becker Lake from April 1 through July 31.

E. D. This rule does Motor restrictions do not apply to boats of governmental agencies while on official duty or to Department-approved emergency standby boats operated by lake concessionaires when operating to address public safety or public welfare when approved by the Department.