

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE ANIMAL SERVICES DIVISION

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R3-2-801 | 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. § 3-605(C)
Implementing statutes: A.R.S. §§ 3-605 and 3-606
- 3. The effective date for the rule:**
May 9, 2001
- 4. A list of all previous notices appearing in the Register addressing the adopted rule:**
Notice of Rulemaking Docket Opening: 6 A.A.R. 3113, August 18, 2000
Notice of Proposed Rulemaking: 6 A.A.R. 3804, October 6, 2000
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|------------|---|
| Name: | Sherry Blatner |
| Address: | Arizona Department of Agriculture
1688 West Adams, Room 235
Phoenix, AZ 85007 |
| Telephone: | (602) 542-0962 |
| Fax: | (602) 542-0111 |
| E-mail: | sherry.blatner@agric.state.az.us |
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**
This rulemaking updates the United States Grade A Pasteurized Milk Ordinance incorporation by reference. Materials that were previously separately listed are stricken as they are now incorporated in the revised Ordinance.
- 7. A reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**
None
- 8. 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
- 9. The summary of the economic, small business, and consumer impact:**
It is not anticipated that the rulemaking will have any impact on private industry, small business, or consumers.
- A. *The Arizona Department of Agriculture*
The Department will use the new version of the Pasteurized Milk Ordinance for dairy and dairy products control but will not be economically affected by the change.

B. *Political Subdivision*

Political subdivisions of this state are not directly affected by the implementation and enforcement of this rulemaking.

C. *Businesses Directly Affected by the Rulemaking*

The dairy and dairy products industry will follow the new Pasteurized Milk Ordinance (PMO) but should not incur any additional costs associated with the new version of the PMO.

D. *Private and Public Employment*

Private and public employment are not directly affected by the implementation and enforcement of this rulemaking.

E. *Consumers and the Public*

Consumers and the public are not directly affected by the implementation and enforcement of this rulemaking.

F. *State Revenues*

This rulemaking will have no impact on state revenues.

10. A description of the changes between the proposed rules, including supplemental notices and final rules:

Minor clarifying changes were made in response to comments from Council staff.

11. A summary of the principal comments and the agency response to them:

No comments were received regarding the rulemaking.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

13. Incorporations by reference and their location in the rules:

R3-2-801(11) Grade A Pasteurized Milk Ordinance, including the Administrative Procedures and Appendices, 1999 Revision.

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 3. AGRICULTURE

**CHAPTER 2. DEPARTMENT OF AGRICULTURE
ANIMAL SERVICES DIVISION**

ARTICLE 8. DAIRY AND DAIRY PRODUCTS CONTROL

Section

R3-2-801. Definitions

ARTICLE 8. DAIRY AND DAIRY PRODUCTS CONTROL

R3-2-801. Definitions

In addition to the definitions provided in A.R.S. §§ 3-601 and 3-661 the following terms apply to this Article.

1. "3-A Sanitary Standards" and "3-A Accepted Practices," as published in Dairy and Food and Environmental Sanitation, amended June 1, 1992, means the criteria for cleanability of dairy processing equipment. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.
2. "C-I-P" means a procedure by which equipment, pipelines, and other facilities are cleaned-in-place as prescribed in the 3-A Accepted Practices.
3. "Converted" means the process by which a frozen dessert is changed from a frozen to semi-frozen form without any change in the ingredients.
4. "Fluid trade product" means any trade product as defined in A.R.S. § 3-661(5) that resembles or imitates milk, low-fat milk, chocolate milk, half and half, or cream.
5. "Food establishment" means any establishment, except a private residence, that prepares or serves food for human consumption, regardless of whether the food is consumed on the premises.
6. "Frozen desserts mix" or "mix" means any frozen dessert before being frozen.
7. "Grade A raw milk" means raw milk produced on a dairy farm that conforms to Section 7 of the PMO and the requirements of R3-2-805.

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8. "Parlor" and "milk room" ~~means~~ mean the facilities used for the production of Grade A raw milk for pasteurization.
9. "Plant" means any place, premise_s, or establishment_s, or any part, including specific areas in retail stores, stands, hotels, restaurants_s, and other establishments where frozen desserts are manufactured, processed, assembled, stored, frozen_s, or converted for distribution or sale, or both. A plant may consist of rooms or space where utensils or equipment is stored, washed_s, or sanitized and where ingredients used in manufacturing frozen desserts are stored. Plant includes:
 - a. "Manufacturing plant" means a location where frozen desserts are manufactured, processed, pasteurized_s, and converted.
 - b. "Handling plant" means a location that is not equipped or used ~~for the~~ to manufacturing manufacture, ~~processing process, pasteurizing pasteurize,~~ or ~~converting of~~ convert frozen desserts, but where frozen desserts are sold or offered for sale other than at retail.
10. "Plate line" means a horizontal structural member, such as a timber, that provides the bearing and anchorage for the trusses of a roof or the rafters.
11. "PMO" means the Grade A Pasteurized Milk Ordinance – 1978 Recommendations of the United States Public Health Service/Food and Drug Administration, ~~1995 1999 Revision, This term includes the information found in the Administrative Procedures and Appendices of the PMO, and the PMO updates in the IMS-a 39, effective September 26, 1997, and the IMS-a 40, effective October 24, 1997.~~ This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department and the Office of the Secretary of State.
12. "Retail food store" means any establishment offering packaged or bulk goods for human consumption for retail sale.

NOTICE OF FINAL RULEMAKING

TITLE 10. LAW

CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

PREAMBLE

1. Sections Affected

R10-4-501
R10-4-502
R10-4-503
R10-4-504

Rulemaking Action

New Section
New Section
New Section
New Section

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

A.R.S. § 41-2421(J)(5)

3. The effective date of the rules:

May 11, 2001

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 6 A.A.R. 2732, July 21, 2000

Notice of Proposed Rulemaking: 6 A.A.R. 3460, September 8, 2000

Notice of Public Information: 6 A.A.R. 3856, October 6, 2000

Notice of Supplemental Proposed Rulemaking: 7 A.A.R. 642, February 12, 2001

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

Name: Gerald Hardt

Address: 3737 North 7th Street, Suite 260
Phoenix, AZ 85014

Telephone: (602) 230-0252

Fax: (602) 728-0752

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

The purpose of the Article is to establish the guidelines to govern the Full-service Forensic Crime Laboratory Account. Without rules to govern the administration of the account, the account cannot be made available, awarded, or properly administered.

7. A reference to any study that the agency relied on in its evaluation of a justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None

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

The promulgation of this rule will not diminish a previous grant of authority of a political subdivision of this state.

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

There will not be any significant economic impact as a result of the implementation of the proposed rules. The benefits from the adoption of the rules, both quantitative and qualitative, far outweigh the potential costs.

Costs/Benefits to implementing agency: The Arizona Criminal Justice Commission will experience a slight increase in its supplies and services budget. The personnel budget will not be increased because management of the grant funds will be accomplished through use of existing staff. No significant increase in administrative overhead is anticipated because the policies of the Commission allow for an annual draw from the fund to pay the costs incurred administering the grant program.

Costs/benefits to other agencies directly affected by implementation: Other state agencies will not be adversely affected by implementation of the rules governing awarding of grant funds. In fact, the Department of Public Safety will be adversely affected if rules governing the distribution of the Full-service Forensic Crime Laboratory Account are not completed in a timely manner. Because the Department of Public Safety is one of only five agencies to operate a full-service forensic crime laboratory, it has a significant interest in applying for grant funding.

The State Treasury Department will not have a significant cost increase as a result of the proposed rules. The department already receives and administers the account into which these funds are deposited upon receipt from the courts. A slight cost increase could result from the issuance of the warrants necessary to transfer funds to the grantees.

Costs/benefits to political subdivisions: There are five law enforcement agencies that could benefit from the distribution of the grant funds. These agencies (Department of Public Safety, Phoenix Police Department, Mesa Police Department, Scottsdale Police Department, and Tucson Police Department) all have full-service forensic crime laboratories currently in operation. If awarded funding, they, and the communities they serve, will benefit from improved crime laboratory operations.

There are no significant costs associated with the distribution of grant funds to these agencies. All of the agencies have personnel already assigned to the administration of other grants they receive. The increased costs of administering an additional grant will be in the area of supplies for the completion of the required reports. No other increased costs are anticipated.

Costs/benefits to business: There are no anticipated costs or benefits to private industry. Due to the small number of full-service forensic crime laboratories, increased purchases of consumable laboratory supplies will not generate a significant increase in purchases from the agency-contracted vendors. Even the purchase of large dollar items (i.e.: specialized laboratory equipment) will not generate a significant increase in the revenues received from a purchase.

The only anticipated cost could be a reduction in outsourcing the processing of biological evidence by the Phoenix Police Department. However, the Department does not outsource all of its biological evidence processing. Biological evidence processing is only outsourced on an as needed basis. The Phoenix Police Department strives to complete all of its biological evidence testing in-house.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules:

The rules have been modified to ensure the grant solicitation and award process is succinct and understandable for all potential applicants. New headings have been added that clearly delineate each Section's content. The Section dealing with the administrative costs to the Commission has been removed and is addressed within the internal procedures of the Commission.

11. A summary of the principal comments and the agency response to them:

None

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

13. Incorporations by reference and their location in the rules:

None

14. Was this rule previously adopted as an emergency rule?

No

15. Full text of the rules follows:

TITLE 10. LAW

CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

ARTICLE 5. FULL-SERVICE FORENSIC CRIME LABORATORY ACCOUNT

Section

R10-4-501. Definitions

R10-4-502. Grant Solicitation Process

R10-4-503. Grant Application Review; Approval by the Commission

R10-4-504. Reports

ARTICLE 5. FULL-SERVICE FORENSIC CRIME LABORATORY ACCOUNT

R10-4-501. Definitions

In this Article:

1. "Account" means the Full-service Forensic Crime Laboratories Account established by A.R.S. § 41-2421(J)(5).
2. "Commission" means the Arizona Criminal Justice Commission established by A.R.S. § 41-2404.
3. "Full-service forensic crime laboratory" means a facility that:
 - a. Is operated by a criminal justice agency that is a political subdivision of the state;
 - b. Employs at least one full-time forensic scientist who holds a minimum of a bachelor's degree in a physical or natural science;
 - c. Is registered as an analytical laboratory with the Drug Enforcement Administration of the United States Department of Justice for possession of all scheduled, controlled substances; and
 - d. Provides, at a minimum, services in the areas of drugs, serology and DNA, and firearms and toolmarks.

R10-4-502. Grant Solicitation Process

The Commission shall annually publish and forward to all Arizona criminal justice agencies that operate a full-service forensic crime laboratory a grant solicitation for distribution of Account monies. The grant solicitation shall contain:

1. The Commission's goals for the grant program for the current allocation year.
2. Applicant eligibility criteria.
3. The format in which grant applications must be submitted.
4. The date by which grant applications must be submitted.
5. Grant application evaluation criteria.
6. Project expenses for which Account monies may be used.
7. The period in which all Account monies must be expended.
8. Account money reversion criteria and process, and
9. The award denial appeal process.

R10-4-503. Grant Application Review; Approval by the Commission

- A. The Commission shall review each application and make a decision to approve or disapprove an application within 120 days of the date by which grant applications are due.
- B. If the Commission determines additional information is needed to facilitate its review of an application, the Commission shall request from the applicant:
 1. Additional information, or
 2. Application modifications.
- C. After review, the Commission shall vote to approve or disapprove an application in whole or in part, based on:
 1. The grant criteria published in the grant solicitation;
 2. The amount of funds available for the current allocation year; and
 3. Compliance with the application format.

R10-4-504. Reports

- A. Within 20 days after the end of the first through third calendar quarters, a grantee shall submit a written report to the Commission containing:
 1. The amount of Account money available for use at the beginning of the ending quarter.
 2. An itemized accounting of the amount of money expended or encumbered during the quarter.
 3. A projected date of expenditure of encumbered Account money, and
 4. The unspent and unencumbered balance to begin the next quarter.
- B. Within 60 days after the end of the fiscal year, a grantee shall submit a written report to the Commission containing all of the following information:
 1. The beginning balance of the Account money for the fiscal year.

2. The total amount of Account money expended by the grantee during the fiscal year.
3. The total amount of the encumbrances remaining at the end of the fiscal year.
4. An itemized accounting of how the expended Account money (including outstanding encumbrances) is related to the stated project goals and objectives, and
5. A narrative assessment of the effective and efficient use of Account money to meet stated goals and objectives during the fiscal year.

NOTICE OF FINAL RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

PREAMBLE

1. **Sections Affected**

R12-4-313	Amend
R12-4-406	Amend
R12-4-407	Amend
R12-4-411	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)

Implementing statutes: A.R.S. §§ 17-231(A)(3); 17-102; and 17-301 for R12-4-313
A.R.S. §§ 17-231(B)(8) and 17-306 for R12-4-406
A.R.S. §§ 17-238 and 17-306 for R12-4-407
A.R.S. §§ 17-231(B)(8) for R12-4-411
3. **The effective date of the rules:**

The effective date for all four rules is May 25, 2001. May 25, 2001, is the Agency's best estimate of the earliest possible filing date after the Notice of Final Rulemaking is presented to the Governor's Regulatory Review Council. The effective date is included in the rule language because the rule text is also published in the Department's Fishing Regulations. Providing the effective date as a part of the rule language clarifies when rule changes become effective for the Agency's customers and stakeholders. The rules will compliment Commission Order 40: General Sport Fishing and Commission Order 42: Crustaceans and Mollusks.
4. **A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 5 A.A.R. 4503, November 26, 1999

Notice of Proposed Rulemaking: 6 A.A.R. 2669, July 14, 2000
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Mark E. Naugle
Manager, Rules and Risk Management

Address: Arizona Game and Fish Department DORR
2221 West Greenway Road
Phoenix, AZ 85023-4399

Telephone: (602) 789-3289
6. **An explanation of the rule, including the agency's reasons for initiating the rule:**

Scientific research indicates that the introduction of non-native crayfish into Arizona's managed and natural waters has had a negative impact on native species, aquatic ecosystems, and sportfish. Arizona is the only state without naturally occurring crayfish. Two non-native species, the northern crayfish and the red swamp crayfish, have been introduced into Arizona waters and have caused major ecosystem impacts. Now widespread in canals, streams, ponds, and lakes, non-native crayfish have increasingly caused significant habitat damage and have negatively impacted other aquatic biota. Non-native crayfish are drastically changing Arizona's aquatic ecosystems, making them less habitable for other species.

Crayfish are detrimental to Arizona's native aquatic communities and sportfish; they selectively forage on invertebrates, aquatic vegetation, and various life stages of vertebrates, and they compete with fish and other aquatic species for food and shelter. In addition, their burrowing behavior degrades water quality, erodes the food base, limits vegetation growth, and makes it difficult for sight-feeding fish such as trout to feed. Major reductions in populations of invertebrates, amphibians, turtles, native fish, and some sportfish can be attributed to the introduction of crayfish. In

addition, crayfish negatively impact sportfish and their habitats, potentially reducing the number of angler days available to Arizona anglers and thereby Agency revenues.

Live crayfish are currently available from bait stores, a few grocery markets, and pet stores. They are thought to be most commonly spread in the wild via bait-bucket introductions and through the disposal of unwanted pets. The rule-making will reduce the threat posed by non-native crayfish to Arizona's aquatic ecosystems by restricting the use of live crayfish as bait; by prohibiting the import, purchase, and sale of live crayfish in the pet/aquarium trade; and by prohibiting the sale of live freshwater crayfish to the public for consumption. Specifically, the rules will be amended as follows:

R12-4-313. Lawful Methods of Taking Aquatic Wildlife; Restrictions

This rule permits as many lawful methods of take as possible for aquatic wildlife to provide maximum recreational opportunity while avoiding detrimental impact to the resource or its habitat. The proposed amendment will liberalize methods of take for crayfish, increasing the potential for the take of crayfish for bait or for human consumption.

R12-4-406. Restricted Live Wildlife

This rule lists wildlife for which a special license is required to engage in any activity prohibited by A.R.S. § 17-306 or R12-4-402 or unauthorized by R12-4-404. The proposed amendment will make it unlawful to possess live crayfish without a special license or permit, except as allowed for in Article 4 and Commission order 42. This rule will prohibit the sale of crayfish as pets and will help to prevent the intentional or accidental introduction of non-native crayfish into Arizona waters through the disposal of unwanted pets.

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

This rule waives requirements for a special license in situations where it is not needed to protect Arizona's wildlife resources and public safety. The rule also specifies what activities are allowable as part of this waiver. The proposed amendments will allow continued import and purchase of live crayfish for restaurant and food market trade and will allow persons already possessing crayfish, either as pets or in private waters, to keep the crayfish without special licensure.

In addition, the incorporation by reference in subsection (A)(9) will be updated to identify the 1999 revision of the United States Department of Agriculture Animal Welfare Act and to identify the USDA Animal Care Office address from which the incorporation by reference may be ordered.

R12-4-411. Minnow Dealer's License

This rule prescribes the criteria and operating requirements for a minnow dealer's license to allow for the sale of live bait while protecting aquatic wildlife resources from the introduction of undesirable species or disease. The proposed amendment will prohibit the sale of crayfish as live bait for sport fishing, reducing the intentional or accidental introduction of non-native crayfish into Arizona waters.

7. A reference to any study that the agency relied on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

Fernandez, P.J., and P.C. Rosen. 1996. Effects of the Introduced Crayfish *Orconectes virilis* on Native Aquatic Herpetofauna in Arizona. Final Report, IIPAM Project No. 194054. Heritage Program, Arizona Game and Fish Department, Phoenix, AZ.

Childs, M., Arizona Game and Fish Department, Research Branch. 1999. Literature Review and Field and Laboratory Studies of Northern Crayfish, *Orconectes virilis*, in Arizona. IIPAM project No. QGR 6912. Heritage Program, Arizona Game and Fish Department, Phoenix, AZ.

Lodges, D.M., C.A. Taylor, D.M. Holdich, and Jostein Skurdal. 2000. Nonindigenous Crayfish Threaten North American Freshwater Biodiversity. Lessons from Europe. *American Fisheries Society* 25(8): 7-20.

A person may review or obtain copies of these reports by contacting:

Name: Mark E. Naugle
Manager, Rules and Risk Management

Address: Arizona Game and Fish Department, DORR
2221 West Greenway Road
Phoenix, AZ 85023

Telephone: (602) 789-3289

8. 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

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

**R12-4-313. Lawful Methods of Taking Aquatic Wildlife; Restrictions and
R12-4-411. Minnow Dealer's License**

Individuals directly affected by the proposed rulemaking include bass and catfish anglers, crayfish bait anglers, minnow dealers (bait dealers), crayfish connoisseurs, sportfish anglers, the public, and aquatic researchers. There will be no direct cost to the agency, and any costs incurred by persons affected by the rulemaking will be minimal.

Anglers will no longer be able to purchase live crayfish from minnow dealers for use as bait. Minnow dealers will no longer be able to sell live crayfish as bait. Crayfish connoisseurs, who catch crayfish for consumption, will benefit from the liberalization of take methods. Minnow dealers who sell crayfish traps and nets may also benefit through increased sales of crayfish traps, nets, or other implements.

The rulemaking will benefit sportfish anglers, crayfish connoisseurs, the general public, aquatic researchers, and Arizona's wildlife resources. The changes will help slow the spread of non-native crayfish in managed and natural waters, will protect existing sportfish and aquatic ecosystems, and will bring public awareness to the issue of aquatic invasive species.

**R12-4-406. Restricted Live Wildlife and R12-4-407. Exemptions from Special License Requirements for
Restricted Live Wildlife**

Individuals directly affected by the rulemaking include pet owners, pet stores, tropical fish wholesalers, pond owners, restaurants or markets licensed to sell food to the public, private individuals wishing to possess live freshwater crayfish for educational or scientific purposes, sportfish anglers, the public, and aquatic researchers. There will be no direct cost to the agency and any costs incurred by persons affected by the proposed rulemaking will be minimal.

Under the rule change to R12-4-406, individuals who keep crayfish as pets would be required to choose alternative crustaceans as pets. Freshwater crabs and shrimp are usually less expensive than the crayfish commonly sold as pets and are readily available. Pet owners who use live crayfish as a "snack" for their large aquarium fish would have to switch to frozen or fresh-killed crayfish purchased from markets or bait stores; to live goldfish, minnows, shrimp, or crabs; or to other invertebrates. Both frozen crayfish and feeder fish are less expensive than live crayfish.

Freshwater crayfish possessed prior to the effective date of the rule, however, may continue to be possessed alive, may be propagated, and their progeny may be held without special license under the proposed rule change to R12-4-407. Because only a limited number of crayfish are sold by pet stores and tropical fish wholesalers, the financial impact on these businesses will be minimal. Other crustaceans could be sold as alternative pets, and frozen or fresh-killed crayfish, goldfish, minnows, shrimp, crabs, or other invertebrates could be sold as an alternative feeder food by the pet stores and tropical fish wholesalers.

The amendments to R12-4-407 will allow persons already possessing crayfish, either as pets or in private waters, to keep the crayfish without special licensure. The rule change to R12-4-407 will also allow restaurants and the food market trade to continue to import and purchase live crayfish for sale to the public. While in the possession of the restaurant or market, the crayfish may be displayed alive for sale, may be offered alive for sale, and may be sold alive. However, any crayfish sold alive must be killed before transport from the restaurant or market.

Under the rulemaking, any private individual who wants to possess live freshwater crayfish for educational or scientific purposes will be required to obtain a special license to possess live crayfish from the Department. These licenses are issued without charge, usually within less than 30 days. The Agency believes that these requests will be rare.

The rulemaking will benefit sportfish anglers, the general public, and aquatic researchers. The proposed changes will help slow the spread of non-native crayfish in managed and natural waters, will protect existing sportfish and aquatic ecosystems, and will bring awareness to the issue of aquatic invasive species.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

There were no substantive changes between the text of the rule contained in the Notice of Proposed Rulemaking filed with the Secretary of State on July 14, 2000, and the text of the rule as finally adopted by the Arizona Game and Fish Commission on October 21, 2000. The following nonsubstantive changes in rule text were made:

1. A provision was added to allow seine nets as a legal method of take for crayfish, provided the net does not exceed 10 feet in length and four feet in depth.
2. In the description of the traps allowed for the take of crayfish, the trap dimension entrance size requirement was removed.

These changes were based on verbal public comments from anglers. These changes meet the original intent of the rule, which was to liberalize the methods of take for crayfish to help reduce overall crayfish numbers and to increase the take of crayfish to be used as bait at the site of capture or for human consumption.

At its October 21, 2000, meeting, the Arizona Game and Fish Commission voted to adopt these modifications to R12-4-313, R12-4-406, R12-4-407, and R12-4-411 and directed the Department to file Notice of Final Rulemaking with the Governor's Regulatory Review Council (GRRC).

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The Department filed the Notice of Final Rulemaking with the Governor's Regulatory Review Council on October 23, 2000, but the Notice was subsequently returned to the Department with a significant number of nonsubstantive stylistic changes designed to conform the Notice to the requirements of the Governor's Regulatory Review Council and the Secretary of State's office.

The editorial changes requested by the Governor's Regulatory Review Council were nonsubstantive and did not change the meaning of the rules. However, they were substantial in number and changed the appearance of the rule language. Approximately three years ago, the Arizona Game and Fish Commission delegated to the Department staff the authority to make very minor modifications to Commission-approved rule language (for example, minor punctuation changes and the usage of capital letters). The Commission did not delegate the authority to the Department to make the types of changes that the Governor's Regulatory Review Council staff requested, and the modified rule language (which incorporates the G.R.R.C. suggested revisions) needed Commission approval before it could be resubmitted. Consequently, the Department brought the Notice of Final Rulemaking on R12-4-313, R12-4-406, R12-4-407, and R12-4-411 back to the Commission at its January 2001 meeting for approval and adoption.

On January 19, 2001, the Commission approved the G.R.R.C. suggested nonsubstantive revisions to R12-4-313, R12-4-406, R12-4-407, and R12-4-411, and these nonsubstantive grammatical and stylistic revisions were consequently made to the final rule language that is contained in the Notice of Final Rulemaking.

In addition, R12-4-316 was removed from the proposed rulemaking package for further consideration. Supplemental Proposed Rulemaking for R12-4-316 is currently underway.

11. A summary of the principal comments and the agency response to them:

This explanatory statement addresses the oral and written comments and arguments received regarding the rulemaking. Comments both pro and con were numbered in the order received or evaluated.

1. Argument: There were 82 written and 15 oral comments in support of the Arizona Game and Fish Commission proposed rulemaking (Comments 1-22, 24-25, 32-44, 47-67, 93-100, 102-114, 116-117 and 120). Commenters included:

- Trout Unlimited, AZ State Council
- The Desert Flycasters
- Arizona Flycasters Club
- Northern Arizona Flycasters
- Heritage Public Advisory Committee
- Arizona State University, Department of Life Sciences
- Arizona State University, Department of Biology
- University of Arizona, Department of Entomology
- University of Arizona, Department of Ecology and Evolutionary Biology
- University of Arizona, College of Agriculture
- University of Illinois, Center for Aquatic Ecology
- Grand Canyon University, Department of Biology
- Grand Canyon University, College of Science and Allied Health
- The Nature Conservancy, Arizona Chapter
- New York Zoological Society
- Tucson Herpetological Society
- Arizona Herpetological Society
- Arizona Sonora Desert Museum
- U.S. Department of the Interior, Bureau of Land Management, Arizona State Office, Phoenix, AZ
- U.S. Department of the Interior, U.S. Fish and Wildlife Service, Cibola National Wildlife Refuge, AZ
- U.S. Department of the Interior, USFWS, Phoenix, AZ
- U.S. Department of the Interior, USFWS, AZ Fishery Resources Office
- U.S. Department of the Interior, National Park Service, Tucson, AZ
- U.S. Department of the Interior, National Park Service, Grand Canyon National Park, AZ
- U.S. Department of Agriculture, Forest Service, Apache/Sitgreaves, AZ
- Pima County Flood Control District, Tucson, AZ

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- Chemehuevi Indian Tribe, Environmental/Agricultural Department, Havasu Lake, California
- State of Nevada, Division of Wildlife
- Wisconsin State Bureau Of Endangered Resources
- Audubon Institute, Louisiana
- Bucknell University, PA, Department of Biology
- Southwest Declining Amphibian Populations Task Force
- Grand Canyon Region Native Fish Work Group
- Southwest Walleye Anglers
- Arizona residents from Flagstaff, Mesa, Page, Patagonia, Payson, Peoria, Phoenix, Pine, Roosevelt, Scottsdale, Snowflake, Tempe, and Tucson.

These comments generally supported any regulation reasonably calculated to eliminate, or at least reduce the spread of, non-native crayfish in Arizona. These comments expressed concern about the devastating effect crayfish have had on sportfish, aquatic ecosystems, water quality, and native species (fish, amphibians, snails, clams, reptiles, and insects). Many of these comments cited scientific data and research, as well as anecdotal evidence of the widespread damage crayfish have caused, especially in streams.

Evaluation: The agency agrees. Research by Agency biologists and other scientists concur with the comments received. The rule changes will help prevent the spread of non-native crayfish (both existing and new species) in Arizona and will benefit sportfish, native fish, other aquatic species, and aquatic ecosystems.

2. **Argument:** There was one comment supporting rulemaking that prohibited the live transport of crayfish for consumption (Comment 7).
Evaluation: The agency agrees. Crayfish intended for human consumption are quickly and easily processed (purged, killed, cooked, and packaged) in the field before being transported home.
3. **Argument:** There were two comments providing information on marketing, preparing, and trapping crayfish. These individuals expressed neither support nor opposition to the rulemaking (Comments 23 and 54).
Evaluation: The agency will earnestly evaluate the information provided and apply when appropriate.
4. **Argument:** There was one comment suggesting that rulemaking should allow crayfish to be used as live bait in the same waters where taken (Comment 45).
Evaluation: The agency agrees. The rulemaking allows anglers to continue using use live crayfish as bait at the waters where captured.
5. **Argument:** There was one comment suggesting the rulemaking should allow markets to sell live crayfish for human consumption (Comment 26).
Evaluation: The agency does not agree. Although the rulemaking allows licensed restaurants and markets to continue importing live crayfish for food preparation or sale, the businesses would be prohibited from allowing their customers to take live crayfish home. Allowing restaurants and markets to sell live crayfish to their customers could contribute to the accidental or intentional spread of crayfish in Arizona if the crayfish are released into the wild.
6. **Argument:** There were 10 comments opposing rulemaking that prohibits the transport of dead or live crayfish from the place of capture to a residence. Five of the comments received were on a form letter (Comments 79-86, 90, and 91).
Evaluation: The agency does not agree. Most of these comments (seven) resulted from an erroneous newspaper article that stated that the proposed rulemaking would prohibit consumers from transporting crayfish home, requiring, instead, that the crayfish be eaten at the place of capture. This is not the case. The Agency's proposed rulemaking would allow unlimited numbers of dead crayfish to be transported home or elsewhere.
7. **Argument:** There were five comments (three from the same individual) and one petition, opposing any rulemaking or regulation changes (Comments 68-72 and 90).
Evaluation: The agency does not agree. The rulemaking is reasonable, feasible, prudent, and benefits anglers, sport and native fish, native species, and aquatic ecosystems.
8. **Argument:** There were three comments opposing rulemaking that would prohibit the transport and possession of live crayfish used for scientific research or education (Comment 87, 115, and 118).
Evaluation: The agency does not agree. Scientists and educators can continue to transport unlimited numbers of live crayfish to the lab or classroom, provided they obtain a scientific collecting permit or wildlife holding license. The permit is free, easy to apply for, and processed within 30 days of receipt.

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12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:

R12-4-407(A)(9). Exemptions from Special License Requirements for Restricted Live Wildlife.

The United States Department of Agriculture 9 CFR Subchapter A, Animal Welfare, 01-01-00 Edition, not including any later amendments or editions, is incorporated by reference in R12-4-407(A)(9) and is available for inspection at any Department office. In addition, a copy may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 3. TAKING AND HANDLING OF WILDLIFE

Section

R12-4-313. Lawful Methods of Taking Aquatic Wildlife; Restrictions

ARTICLE 4. LIVE WILDLIFE

Section

R12-4-406. Restricted Live Wildlife

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

R12-4-411. Minnow Dealer's License

ARTICLE 3. TAKING AND HANDLING OF WILDLIFE

R12-4-313. Lawful Methods of Taking Aquatic Wildlife; Restrictions

- A.** ~~A person may take aquatic~~ Aquatic wildlife ~~may be taken during the~~ day or night ~~and may use artificial~~ Artificial light ~~may be used.~~
- B.** ~~A person may take fish~~ Fish ~~may be taken~~ by the following methods:
1. All fish may be taken by angling as defined in A.R.S. § 17-101 or simultaneous fishing as defined in R12-4-101 with any bait, ~~or~~ artificial lures, or flies, subject to the following restrictions:
 - a. ~~A person shall not use any species of fish~~ No species of fish shall be used as live bait, or ~~possessed~~ possess any species of fish for use as live bait, at, in, or upon any waters unless that species is specified as a "live baitfish" for those waters by Commission order. Live baitfish shall not be transported from the waters where taken except as allowed in R12-4-316.
 - b. The flesh of game fish, except sunfish of the genus *Lepomis*, shall not be used as bait.
 - c. Waterdogs shall not be used as live bait in that portion of Santa Cruz County lying east and south of State Highway 82 or that portion of Cochise County lying west of the San Pedro River and south of State Highway 82.
 - d. Fish may ~~only~~ be taken by artificial lures and flies, as defined in R12-4-101, only in waters designated by Commission order as "artificial lures and flies only"; waters so designated may be further restricted to the use of barbless hooks, meaning any fish hook manufactured without barbs or on which barbs have been completely closed or filed off.
 2. In addition to angling, the following fish may also be taken by ~~the following~~ these methods:
 - a. Carp (*Cyprinus carpio*), buffalofish, mullet, tilapia, and suckers, except razorback suckers (*Xyrauchen texanus*) may also be taken by bow and arrow, cross-bow, snare, gig, spear, spear gun, ~~or~~ ~~and~~ snagging. Snagging ~~is~~ shall only be allowed in areas designated by Commission order. None of these methods shall be practiced within 200 yards of any boat dock or designated swimming area.
 - b. Live baitfish may also be taken for personal use as bait by:
 - i. A cast net not to exceed a radius of three feet measured from the horn to the headline;
 - ii. A minnow trap, as defined in R12-4-101;
 - iii. A seine ~~net~~ not to exceed 10 ~~ten~~ feet in length and four feet in width; or depth;
 - iv. A dip ~~Dip~~ net.
 - c. Striped bass may also be taken by spear or spear gun, only in those waters designated by Commission order.

- C. In those waters designated by Commission order, ~~trout shall be killed and retained~~ a person taking trout shall kill and retain the fish as part of the bag limit or immediately release the fish released. ~~Further~~ No further fishing is prohibited ~~allowed~~ after the legal bag limit of trout is ~~has been~~ killed.
- D. The Commission may, by order, designate a special season when fish may also be taken by hand, or by any hand-held, non-motorized implement ~~that which~~ does not discharge a projectile. ~~The~~ Such special season may apply to any waters where a fish die-off is imminent due to poor or low water conditions, or ~~as a result of~~ Department fish renovation procedures.
- E. ~~A person may take waterdogs~~ Waterdogs and other amphibians, soft-shelled turtles, mollusks, and crustaceans ~~may be taken~~ with a minnow trap, ~~or a crayfish net,~~ or by angling, by hand, or with any hand-held, nonmotorized implement ~~that which~~ does not discharge a projectile. Bullfrogs may also be taken by bow and arrow, crossbow, ~~or~~ and slingshot.
- F. A person may take crayfish using:
1. A trap not more than three feet in the greatest dimension. An unattended crayfish trap shall have an attached, water-resistant identification tag that bears the legible name, address, and fishing license number of the person using the trap. A crayfish trap shall be raised and emptied daily; or
 2. A seine net that is not larger than 10 feet in length and four feet in width.
- G. This rule is effective May 25, 2001.

ARTICLE 4. LIVE WILDLIFE

R12-4-406. Restricted Live Wildlife

- A. ~~Unless specified otherwise, mammals~~ Mammals listed below are “restricted live wildlife” as defined in R12-4-401. The taxonomic classification from Volumes I and II of Walker’s Mammals of the World, Fifth Edition, 1991, and not including any later edition, ~~is incorporated by reference and is shall be~~ the authority in the following designations; a copy is on file with the Secretary of State and is available for inspection at any Department office.
- All species of the genus Didelphis. Common name: American opossums.
 - All species of the order Insectivora. Common names: Insectivores or shrews and moles.
 - All species of the order Chiroptera. Common name: bats.
 - All species of the family Pongidae of the order Primates. Common names: orangutans, chimpanzees, gorillas.
 - All species of the order Edentata. Common names: edentates; or sloths, anteaters, and armadillos.
 - All species of the order Lagomorpha. Common names: pikas, rabbits, hares. Genus *Oryctolagus*, containing domestic rabbits, is not wildlife.
 - All species of the following families of the order Rodentia. Common name: rodents.
 - The family Sciuridae. Common names: squirrels, chipmunks, marmots, woodchucks, and prairie dogs.
 - The family Geomyidae. Common name: pocket gophers.
 - The family Castoridae. Common name: beavers.
 - The family Erethizontidae. Common name: New World porcupines.
 - The family Capromyidae. Common names: hutias, coypus, or nutrias.
 - All species of the order Carnivora. Common name: carnivores. *Canis familiaris*, domestic dogs; *Felis catus*, domestic cats; and *Mustela putorius furo*, domestic ferrets, are not wildlife.
 - All species of the following families of the order Artiodactyla. Common name: even-toed ungulates.
 - The family Tayassuidae. Common name: peccaries.
 - The following genera of family Cervidae:
 - The genus *Alces*. Common name: moose.
 - The genus *Odocoileus*. Common name: white-tailed and mule deer.
 - The genus *Cervus*. Common name: red deer and wapiti, except that the species *Cervus nippon*, Nippon deer, is not restricted.
 - The family Antilocapridae. Common name: pronghorn.
 - The family Bovidae. Common names: cattle, ÷ buffalo, bison, oxen, duikers, antelopes, gazelles, goats, and sheep, ÷ except that the following are not restricted:
 - The genus *Bubalus*. Common name: water buffalo.
 - The genus *Bison*. Common name: bison; American bison or buffalo.
 - Capra hircus*, domestic goats; *Ovis aries*, domestic sheep; and *Bos taurus*, domestic cattle, are not wildlife.
- B. Birds listed below are “restricted live wildlife” as defined in R12-4-401.
- The following species within the family Phasianidae. Common names: partridges, grouse, turkeys, quail, and pheasants.
 - Alectoris chukar*. Common name: chukar.
 - Callipepla californica*. Common name: California; or valley quail.
 - Callipepla gambelii*. Common name: Gambel’s quail.
 - Callipepla squamata*. Common name: scaled quail.

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- e. *Colinus virginianus*. Common name: northern bobwhite. Restricted only in Units 34A, 36A, 36B, and 36C as prescribed in R12-4-108.
- f. *Cyrtonyx montezumae*. Common name: Montezuma or Mearn's quail.
- g. *Dendragapus obscurus*. Common name: blue grouse.
- h. *Phasianus colchicus*. Common names: ringneck and whitewing pheasants.
- 2. The species *Rhynchopsitta pachyrhyncha*. Common name: thick-billed parrot.
- C.** Reptiles listed below are "restricted live wildlife" as defined in R12-4-401.
 - 1. All species of the order Crocodylia. Common names: gavials, caimans, crocodiles, and alligators.
 - 2. The following species of the order Testudines. Common names: turtles; and tortoises.
 - a. All species of the family Chelydridae. Common name: snapping turtles.
 - b. All species of the genera *Gopherus* and *Xerobates* of the family Testudinidae. Common name: gopher tortoises, including the desert tortoise.
 - 3. All species of the following families or genera of the order Squamata.
 - a. The family Helodermatidae. Common names: Gila monster; and Mexican beaded lizard.
 - b. The family Elapidae. Common names: cobras, mambas, coral snakes, kraits, and Australian elapids.
 - c. The family Hydrophiidae. Common name: sea snakes.
 - d. The family Viperidae. Common names: true vipers and pit vipers, including rattlesnakes.
 - e. The family Atractaspidae. Common name: burrowing asps.
 - f. The following species and genera of the family Colubridae:
 - i. *Dispholidus typus*. Common name: boomslang.
 - ii. *Thelotornis kirtlandii*. Common name: bird snake or twig snake.
 - iii. *Rhabdophis*. Common names: keelbacks.
- D.** Amphibians listed below are "restricted live wildlife" as defined in R12-4-401. The following species within the order Anura. Common names: frogs and toads.
 - 1. All species of the genus *Xenopus*. Common name: clawed frogs.
 - 2. The species *Bufo horribilis*, *Bufo marinus*, *Bufo paracnemis*. Common names: giant or marine toads.
- E.** Fish listed below are "restricted live wildlife" as defined in R12-4-401.
 - 1. American grayling, the species *Thymallus arctius*.
 - 2. Bass, all species of the family Serranidae.
 - 3. Bighead carp, the species *Aristichthys nobilis*.
 - 4. Bony tongue, the species *Arapaima gigas*.
 - 5. Bowfin, the species *Amia calva*.
 - 6. Catfish, all species of the family Ictaluridae.
 - 7. Crucian carp, the species *Carassius carassius*.
 - 8. Electric catfish, the species *Malapterurus electricus*.
 - 9. Electric eel, the species *Electrophorus electricus*.
 - 10. European whitefish or ide, the species *Leuciscus idus* and *Idus idus*.
 - 11. Freshwater drum, the species *Aplodinotus grunniens*.
 - 12. Freshwater stingray, all species of the family Potamotrygonidae.
 - 13. Gars, all species of the family Lepisosteidae.
 - 14. Goldeye, all species of the family Hiodontidae.
 - 15. Herring, all species of the family Clupeidae.
 - 16. Indian carp, all of the species *Catla catla*, *Cirrhina mrigala*, and *Labeo rohita*.
 - 17. Lampreys, all species of the family Petromyzontidae.
 - 18. Mooneye, all species of the family Hiodontidae.
 - 19. Nile perch, all species of the genus *Lates*.
 - 20. Pike, all species of the family Esocidae.
 - 21. Pike topminnow, the species *Belonesox belizanus*.
 - 22. Piranha, all species of the genera *Serrasalmus*, *Serrasalmo*, *Phygocestrus*, *Teddyella*, *Rooseveltiella*, and *Pygopristis*.
 - 23. Shad, all species of the family Clupeidae except threadfin shad, species *Dorosoma petenense*.
 - 24. Sharks, all species, both marine and freshwater, of the orders Hexanchiformes, Heterodontiformes, Squaliformes, Pristiophoriformes, Squatiniformes, Orectolobiformes, Lamniformes, and Carcharhiniformes.
 - 25. Silver carp, the species *Hypophthalmichthys molitrix*.
 - 26. Snakehead, all species of the family Ophicephalidae.
 - 27. South American parasitic catfish, all species of the family Trichomycteridae and Cetopsidae.
 - 28. Sunfish, all species of the family Centrarchidae.
 - 29. Tetras, all species of the genus *Astyanax*.
 - 30. Tiger fish, the species *Hoplias malabaricus*.
 - 31. Trout, all species of the family Salmonidae.

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32. White amur, the species *Ctenopharyngodon idellus*.
 33. Walking catfish, all species of the family Clariidae.
 34. Walleye, the species *Stizostedion vitreum*.
 35. White perch, the species *Morone americanus*.
 36. Yellow perch, the species *Perca flavescens*.
 37. Rudd, the species *Scardinius erythrophthalmus*.
- F. Crustaceans listed below are "restricted live wildlife" as defined in R12-4-401.
1. Asiatic mitten crab, the species *Eriocheir sinensis*.
 2. Australian crayfish; ~~all species of the family Parastacidae; and all freshwater species within the families Astacidae, Cambaridae, and Parastacidae.~~
- G. Mollusks listed below are "restricted live wildlife" as defined in R12-4-401.
- Zebra mussel, the species *Dreissena polymorpha*.
- H. This rule is effective ~~January 1, 1995; May 25, 2001.~~

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

- A. The Commission waives ~~the requirement that a person requirements to~~ obtain a special license for lawfully possessed restricted live wildlife ~~as follows; under the following conditions:~~
1. Desert tortoises *Xerobates (Gopherus) agassizii* possessed without a special license ~~before prior to~~ April 28, 1989, may be possessed, transported, and given away. Desert tortoises possessed ~~under pursuant to~~ this Section Rule may be propagated, and progeny may be held in captivity for 24 months from the date of hatching, ~~if when they are shall~~ be disposed of by gift or as directed by the Department. The person receiving a desert tortoise given away ~~under pursuant to~~ this Section Rule is also exempt from special license requirements.
 2. A licensed veterinarian may possess the wildlife while furnishing medical care; and may release rehabilitated wildlife as directed by the Department, ~~if provided:~~
 - a. Records of restricted live wildlife ~~that which~~ are kept ~~under pursuant to~~ the requirements of the Veterinary Medical Examining Board ~~are shall be~~ subject to inspection by Department game rangers; ~~and~~
 - b. ~~The Commission or Department assumes no~~ No financial responsibility ~~shall be assumed by the Commission or the Department~~ for any care provided, except ~~care when~~ authorized by the Department.
 3. ~~Wildlife~~ The wildlife may be imported, possessed, and exported ~~if the wildlife is when being~~ transported through the state within a period of 72 continuous hours, ~~the transportation when it~~ is accomplished by one person without transfer or sale, and ~~the wildlife when it~~ is accompanied by evidence of lawful possession as defined in R12-4-401.
 4. ~~Wildlife~~ The wildlife may be imported, transported, possessed, exhibited, and exported for a government-authorized state or county fair, or by a circus, or imported, possessed, transported, and exported for the purpose of filming for television, movies, or commercials, ~~if provided the wildlife:~~
 - a. Is accompanied by evidence of lawful possession, as defined in R12-4-401;
 - b. ~~Is Shall not be~~ in the state for more than 60 ~~consecutive~~ days;
 - c. ~~Is Shall be~~ maintained under complete control and ~~prevented prohibited~~ from ~~coming into contact with the public contact.~~
 5. ~~Wildlife~~ The wildlife may be imported, transported, possessed, and displayed for advertising purposes other than filming, and exported, ~~if provided the wildlife it:~~
 - a. Is accompanied by evidence of lawful possession, as defined in R12-4-401;
 - b. ~~Is Shall not be~~ in the state for more than 10 ~~consecutive~~ days, and ~~the public is not charged a no~~ fee to view the wildlife ~~shall be charged to the public;~~
 - c. ~~Is Shall be~~ maintained under complete control and ~~prevented prohibited~~ from ~~coming into contact with the public contact.~~
 6. Game fish may be imported and transported to restaurants or markets licensed to sell food to the public, ~~if provided that~~ the game fish being sold are killed before transport from the restaurant or market. While in the possession of the restaurant or market, the fish may be displayed for sale, offered for sale, and sold.
 7. ~~Wildlife is~~ The wildlife was taken alive ~~under pursuant to~~ and is possessed in compliance with R12-4-404 or R12-4-427.
 8. An Arizona falconer license is not required for a visiting nonresident falconers hunting on a valid Arizona hunting license ~~if the falconer is when they are~~ licensed as falconers in the falconer's ~~their~~ state of residency.
 9. Wildlife may be imported, purchased, possessed, transported, traded, given away, propagated, killed, and exported by medical or scientific research facilities registered by the United States Department of Agriculture ~~under pursuant to~~ 9 CFR Subchapter A, Animal Welfare, revised January ~~1985~~ 2000, not including any later amendments or editions, which is incorporated by reference ~~in this Section herein.~~ A copy is on file with the Secretary of State and is available for inspection at any Department office, or it may be ordered from the ~~Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402~~ United States Department of Agriculture, Marketing & Regulatory Programs, Animal and Plant Health Inspection Service, Animal Care, Western Region, 9580 Micron Avenue Suite J, Sacramento, CA 95827-2623, 916-857-6205.

10. Crayfish may be imported and transported to restaurants or markets licensed to sell food to the public, if the crayfish being sold are killed before transport from the restaurant or market. While in the possession of the restaurant or market, the live crayfish may be displayed for sale, offered for sale, and sold.
11. Freshwater crayfish (families Astacidae, Cambaridae, and Parastacidae) possessed before January 1, 2001, may be possessed alive, propagated, and their progeny held without special license. Live freshwater crayfish may not be transported, sold, offered for sale, given away, or released, except under this Section and R12-4-316.
- B. ~~An~~ No exemption granted by this Section rule is not shall be valid for any wildlife protected by federal law or rule unless supported by federal permission or documentation rendering the exemption lawful.
- C. This rule is effective ~~January 1, 1995.~~ May 25, 2001.

R12-4-411. Minnow Dealer's License ~~dealer's license~~

- A. A minnow dealer's license allows any or all of the following: import, transport, purchase, possession, display for sale, offer for sale, ~~sell and sale~~ as live bait, kill, trade, or export of any or all of the following live aquatic wildlife as bait:
- ~~1. Crayfish;~~
 - ~~21.~~ Fathead minnow, *Pimephales promelas*;
 - ~~32.~~ Golden shiner, *Notemigonus crysoleucas*;
 - ~~43.~~ Goldfish, *Carassius auratus*;
 - ~~54.~~ Mosquito fish, *Gambusia affinis*;
 - ~~65.~~ Red shiner, *Notropis lutrensis*;
 - ~~76.~~ Threadfin shad, *Dorosoma petenense*;
 - ~~87.~~ Waterdogs, except in that portion of Santa Cruz County lying east and south of State Highway 82, or that portion of Cochise County lying west of the San Pedro River and south of State Highway 82.
- B. A minnow dealer's license ~~also~~ allows the take for sale, transport, and sale of waterdogs from the waters of Arizona in compliance with Commission order.
- C. ~~An applicant for~~ The following criteria are requisite for approval of a minnow dealer's license shall submit:
1. One application ~~must be submitted~~ for each place of business. Each place of business is shall be licensed separately; and
 2. One application ~~must be submitted~~ for each person individual taking waterdogs for sale.
- D. ~~An applicant for a minnow dealer's license shall apply~~ Application shall be made on a form provided by the Department and, which is available from any Department office. The Department shall issue the license or deny the application within 30 calendar days. The applicant shall provide ~~Application requires~~ the following information to be provided by the applicant:
1. Name of applicant,
 2. Date of birth,
 3. Mailing address,
 4. Location where aquatic wildlife will be held and sold,
 5. Species of aquatic wildlife to be sold, and
 6. Signature of applicant.
- E. ~~A person may import live~~ Live baitfish specified in subsection (A) ~~Subsection A may be imported~~ from California and Nevada without accompanying certification that the fish are free from disease, or import live baitfish ~~they may be imported~~ from any other state if accompanied by certification that the fish are free of furunculosis.
- F. ~~A~~ The minnow dealer's license is subject to the provisions of R12-4-409.
- G. This rule is effective May 25, 2001.

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 4. BANKING DEPARTMENT

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R20-4-401 | 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. § 6-123(2)
- Implementing statutes: A.R.S. §§ 6-537(A)(1) and 6-537(C)

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3. The effective date of the rules:

May 3, 2001

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 6 A.A.R. 1812, May 19, 2000

Notice of Proposed Rulemaking: 6 A.A.R. 4435, November 24, 2000

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

Name: John P. Hudock
Address: 2910 N. 44th Street, Suite 310
Phoenix, AZ 85018
Telephone: (602) 255-4421, ext. 167
Fax: (602) 381-1225
E-mail: jhudock@azbanking.com

6. An explanation of the rule, including the agency's reason for initiating the rule:

This rule regulates the fidelity bond coverage of state-chartered Credit Unions. In its Five-Year Rule Review Report approved November 3, 1998, the Department proposed to overhaul this Section to bring it into conformity with modern rule writing standards. This proceeding is intended to fulfill that promise.

7. A reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:

The Department did not rely on any study as an evaluator or justification for the rule.

8. 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

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

A. The Banking Department

The Department's income and expenses as a result of this rulemaking are negligible, and it does not expect to experience any adverse economic impact. It will bear the administrative and human resources cost of this rulemaking. The revision of these Sections may result in some marginal cost savings for the Department because the modernized rules will promote easier communication with licensees. State Banking will continue to bear the costs of enforcement.

B. Other Public Agencies

The State will incur normal publishing costs incident to rulemaking.

C. Private Persons and Businesses Directly Affected

Costs of services will not increase to any measurable degree. These revisions also should not increase any licensee's cost of doing business in compliance with these rules.

D. Consumers

No measurable effect on consumers is expected.

E. Private and Public Employment

There is no measurable effect on private and public employment

F. State Revenues

This rulemaking will not change state revenues.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Council staff made several suggestions to streamline the language of the revised rule and clarify its meaning. The Department has used those suggestions to change the text of the proposed rule, transforming it into the text contained in this Notice of Final Rulemaking. None of the changes between the proposed rules and the final rules have any substantive effect on the compliance requirements imposed by the rule. Rather, they have the effect of clarifying the rule and making it easier to understand the steps required for compliance.

11. A summary of the principal comments and the agency response to them:

The public was invited to comment in the Notice of Proposed Rulemaking. That invitation contained an agency contact name, address, telephone number, and fax number. However, no comments were received and no arguments against adoption have been raised.

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12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:

There is no material incorporated by reference in these final rules.

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 20. COMMERCE, BANKING AND INSURANCE

CHAPTER 4. BANKING DEPARTMENT

ARTICLE 4. CREDIT UNIONS

Section

R20-4-401. Fidelity Bond Coverage — ~~A.R.S. § 6-537~~

ARTICLE 4. CREDIT UNIONS

~~R20-4-401. Fidelity Bond Coverage — A.R.S. § 6-537~~

- A. ~~A~~ The credit union shall have a fidelity bond in ~~the such~~ form and ~~in the in~~ such amount ~~required as to meet the requirements necessary to for maintain maintaining~~ federal insurance on its accounts.
- B. ~~A~~ All fidelity bond bonds purchased by a credit union to comply with this Section shall ~~must include provide for~~ faithful-performance-of-duty coverage.
- C. A credit union shall purchase its fidelity bond from an insurer that holds a certificate of authority from the Arizona Director of Insurance to transact surety business in Arizona. All sureties writing credit union bonds must be authorized by the Director of Insurance for the state of Arizona as an acceptable surety on bonds in the state.