

## 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 2. ADMINISTRATION

#### CHAPTER 5. DEPARTMENT OF ADMINISTRATION PERSONNEL ADMINISTRATION

#### PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|-----------------------------|--------------------------|
| R2-5-301                    | Amend                    |
| R2-5-302                    | Amend                    |
| R2-5-303                    | Amend                    |
| R2-5-304                    | Amend                    |
| R2-5-305                    | Amend                    |
| R2-5-306                    | 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. §§ 41-763 and 38-611(B)  
Implementing statute: A.R.S. §§ 41-783(1), 41-783(25), 41-783(26), 41-783(27)
- 3. The effective date of the rules:**  
June 6, 2001
- 4. A list of all previous notices appearing in the Register addressing the proposed rule:**  
Notice of Proposed Rulemaking: 7 A.A.R. 696, February 9, 2001  
Notice of Rulemaking Docket Opening: 7 A.A.R. 841, February 9, 2001
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Thomas Michael, Human Resources Generalist  
Address: 1831 W. Jefferson, Room 104  
Phoenix, AZ 85007  
Telephone: (602) 542-4897  
Fax: (602) 542-2796
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**  
R2-5-302 establishes the authority to pay a signing bonus when needed for recruitment and to make a counteroffer pay adjustment to retain an employee. R2-5-303 authorizes making a special detail salary permanent after 24 months in the detail; establishes higher promotional salary increase percentages; establishes greater salary decrease percentages for voluntary grade decreases; allows the salary to be retained when an employee takes a voluntary grade decrease for specified personal reasons; and removes the two-year limitation for an employee affected by a reduction in force (RIF) to retain the pre-RIF salary. Clarification, stylistic, and housekeeping revisions are being made to all Sections along with the specific changes. The changes are consistent with the work of the Personnel Rules Review Committee (PRRC).
- 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:**  
Not applicable

**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:**

There will be no small business impact. There is expected to be some impact on certain employees and on the expenditure of state funds, because the changes to R2-5-302 and R2-5-303 include authorizing the payment of unbudgeted salary increases in certain circumstances. However, it would be difficult to project the extent to which agencies might use the new provisions regarding the numbers of employees and the funds involved.

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

Two groups, including Human Resources Managers and employees representing state agencies, suggested grammatical and other changes relating to clarification. These changes were made by modifying a word or sentence. The G.R.R.C. staff reviewed the rules and recommended changes in style and format that were incorporated. A supplemental notice repealing R2-5-307 On-call Duty will be filed with the Secretary of State. No substantive changes were made to the submitted rules.

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

Two public hearings were held with only six attendees. Four were there as observers and did not offer any comments. There was one oral public comment concerning increasing the salary of an employee in the amount of 2.5% upon completing original probation. The suggestion was not included, because it is not consistent with the current State of Arizona salary administration system that is based on salary ranges with salary adjustments based on performance and legislative authorization of funds. This existing system differs from a pay grade step system with increases funded and based on a specific period of time in each step of the pay grade rather than performance. The only other principle comment received was in the attached letter and suggested establishing one-time performance or retention bonuses. This suggestion was considered, as indicated in the letter, however it was not included because state statutes prescribe that state employees shall receive the salary provided by law, and shall not, under any pretext, receive any salary or emolument in excess of the salary so provided.

**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:**

Fair Labor Standards Act (FLSA) in R2-5-305

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

No

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

TITLE 2. ADMINISTRATION

CHAPTER 5. DEPARTMENT OF ADMINISTRATION  
PERSONNEL ADMINISTRATION

ARTICLE 3. CLASSIFICATION AND COMPENSATION

Section

- R2-5-301. Classification
- R2-5-302. Salary Plans
- R2-5-303. Salary Administration
- R2-5-304. ~~Performance-Based~~ Performance-based Salary Adjustments
- R2-5-305. Overtime Pay and Compensatory Leave
- R2-5-306. Standby Duty Pay

ARTICLE 3. CLASSIFICATION AND COMPENSATION

**R2-5-301. Classification**

- A. General. ~~Classification is a grouping of~~ The Director shall group positions into classes based on similarities of duties and responsibilities. All state service positions are assigned a class specification with a specific title. An agency head may not appoint, transfer, promote, or demote an employee, or make any change in ~~compensation~~ salary for any position until the position ~~has been~~ is allocated to a class.
- B. Class title. ~~An agency shall use~~ The class title of a position shall be used to designate the position in all budget estimates, payrolls, vouchers, and communications in connection with personnel processes.

- C. ~~Class specifications~~ specification. A class specification indicates the kinds of positions to be allocated to the class, as determined by the duties and responsibilities described ~~in~~ for that class. Each class specification ~~will~~ shall contain a statement of the ~~minimum~~ education, experience, knowledge, skills, abilities, and other qualifications required to perform the work. Required Postsecondary postsecondary educational education requirements ~~must~~ shall be attained in an institution ~~which~~ that meets the standards established by a recognized accrediting body.
- D. ~~Changes~~ Change in classification plan. The Director may establish new classes and divide, combine, alter, or abolish existing classes, after consultation with affected agency heads.
- E. Allocation. The Director shall place every position in a class based on its duties and responsibilities. The Director may delegate to An an agency head the authority to ~~may~~ underfill a position ~~with the prior approval of the Director~~.
- F. ~~Changes~~ Change in job duties. If a material and permanent change ~~has taken~~ takes place in the duties and responsibilities of a position, the agency head shall report this change to the Director who may order a reclassification of the position. The employee in the position at the time of reclassification ~~shall be~~ is entitled to continue to serve in ~~that~~ the position.
- G. Review. An ~~incumbent~~ employee in a position or an agency head may file a written request with the Director for review of the classification of the position. ~~If the request is approved, the review will be conducted by an analyst other than the one who made the current classification decision.~~

**R2-5-302. Salary plans**

- A. Classes. The Director shall allocate ~~Each each~~ class ~~shall be allocated~~ to a specific pay grade or rate.
- B. Salary. ~~Every state service employee will be paid in~~ The base salary of an employee shall not be less than the minimum nor more than the maximum of the pay grade to which the employee's class is allocated, except for an underfill; or as otherwise specified by these rules.
- C. Alternative salary ~~plans~~ plan. The Director may approve a special salary ~~plans~~ plan and pay ~~practices~~ practice for a certain ~~classes~~ class or ~~groups~~ group of employees. In approving a special salary ~~plans~~ plan, the Director shall consider ~~such~~ factors such as occupational patterns, economic conditions, and incentive plans common to government, business, and industry.
- D. Counteroffer pay adjustment. Subject to available funding, the Director may approve a pay adjustment as a counteroffer to a verifiable job offer to retain a current employee in the same position. A counteroffer shall not exceed the maximum of the pay grade.
- E. Hiring bonus. The Director may establish guidelines for the payment of a hiring bonus to attract a new employee into a state service position when there is:
  - 1. A shortage in the labor market;
  - 2. Recruitment or retention difficulty; or
  - 3. A requirement for a unique, critical skill.

**R2-5-303. Salary Administration**

- A. ~~Administration. Salary.~~ The salary of an employee shall be not less than the minimum nor more than the maximum of the pay grade of the class to which the employee's position is allocated except for:
  - 1. The salary of an employee that exceeds the maximum salary of the pay grade of a class due to a downward reclassification of the employee's position;
  - 2. The salary of an employee that exceeds the maximum salary of the pay grade of a class due to a change of the class to a lower pay grade;
  - 3. The salary of an employee upon special detail to a position in a class with a lower pay grade;
  - 4. The salary of an employee upon placement on a mobility assignment in a class with a lower pay grade than the employee's permanent status class;
  - 5. The salary of an employee that exceeds the maximum salary of the pay grade of a class, due to an authorized shift differential;
  - 6. The salary of an employee that exceeds the maximum salary of the pay grade of a class due to receipt of a special performance adjustment;
  - 7. The salary of an employee that exceeds the maximum salary of the pay grade of a class due to the receipt of special payments, such as hazardous duty pay; and
  - 8. The salary of an employee that exceeds the maximum salary of the pay grade of a class due to a reduction in force as provided in subsection (K).
- ~~1.~~ B. Salary adjustment. The salary used to compute any an adjustments adjustment covered in this Section shall be is the employee's base ~~rate~~ salary not including overtime pay, shift differential, special performance ~~award~~ adjustment previously granted, or pay for other special situations. ~~Following an adjustment to the base rate salary, a special performance award and an agency shall add to the new rate of pay any other special pay situation still valid shall be added back to the new rate of pay.~~
- 2. ~~Salary range. The salary of each state service employee shall fall within the salary range an employee shall be not less than the minimum nor more than the maximum of the grade to which the employee's class is allocated except for:~~

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

- a. ~~The salary of an employee which that exceeds the maximum salary of the pay grade of a class due to a downward reclassification;~~
- b. ~~The salary of an employee which that exceeds the maximum salary of the pay grade of a class due to a change of the class to a lower grade;~~
- c. ~~The salary of an employee upon detail to special duty detail to a lower grade;~~
- d. ~~The salary of an employee upon placement on a mobility assignment in a class with a lower grade than the employee's permanent status grade;~~
- e. ~~The salary of an employee which that exceeds the maximum salary of the pay grade of a class, due to an authorized shift salary differential;~~
- f. ~~The salary of an employee which that exceeds the maximum salary of the pay grade of a class due to receipt of a special performance award;~~
- g. ~~The salary of an employee which that exceeds the maximum salary of the pay grade of a class due to the receipt of any other special payments, such as hazardous duty pay; and~~
- h. ~~The salary of an employee which that exceeds the maximum salary of the pay grade of a class due to a reduction in force as provided in subsection (I) below.~~

- 3. ~~Except as provided otherwise in subsections (A)(2)(a) through (h), if a salary action results in a new salary level which would be lower than the entrance salary or higher than the maximum salary of the grade, the employee shall receive the entrance salary or the maximum salary, respectively.~~

**4.C.** ~~Administrative adjustments~~ adjustment. Subject to available funding, The the Director may approve a pay adjustment to:

- 1. ~~resolve~~ Resolve a manifest error ~~or~~;
- 2. Increase the base salary of a supervisor that is below the base salary of a subordinate;
- 3. Correct an clear inequity by approving an adjustment; or
- 4. Increase a transferred employee's base salary based upon documentation of recruitment difficulties to fill the position, specific needs identified by the agency, or the employee's education, experience, knowledge, skills, and abilities.

**B.D.** ~~Classification or pay grade changes.~~

- 1. ~~The base salary of an employee in a position which that is reclassified to a class with a higher pay grade, or in a class which that is changed allocated to a higher pay grade, shall be increased by 2.5%; provided the employee is paid within the salary range of the grade. If establishing increasing the base salary of an employee whose position is reclassified to a class allocated to a higher pay grade would result in a salary level that would be is lower less than the entrance salary or would exceed greater than the maximum salary of the pay grade, the employee's salary shall be established at the entrance salary or at the maximum salary of the pay grade, respectively.~~
- 2. ~~The base salary of an employee in a shall remain the same if the employee's position which is reclassified to a lower class with a lower pay grade, or is in a class which that is changed allocated to a lower pay grade, and which is:~~
  - a. ~~within~~ Within the salary range of the new pay grade, ~~will remain the same, or~~
- 3. ~~The salary of an employee in a position which is reclassified to a lower class, or in a class which is changed to a lower grade, and which is~~
  - b. ~~higher~~ Greater than the maximum salary of the new pay grade, ~~shall remain the same for a maximum of 2 years from the date of reclassification or regrading.~~
- 3. ~~During this period In the situation described in subsection (D)(2)(b), the employee shall is not be eligible for a general salary adjustments adjustment or performance increases based salary adjustment except for a special performance adjustment until the employee's salary is less than the maximum salary of the new pay grade. If the pay range encompasses the employee's salary at a later date, the employee shall be eligible for general salary adjustments and performance increases. After 2 years, the salary of the employee shall not exceed the maximum salary of the new pay grade.~~
- 4. ~~The Director shall establish guidelines that shall supersede the provisions of subsections (B) (D)(1), (D)(2), and (D)(3) when setting the salary of an employee in a classification affected by a Classification Maintenance Review or a Special Market Adjustment.~~

**C.E.** ~~Demotion. The salary of an An employee who is has demoted a change in assignment for cause from a position in one class to a position in another class having a lower pay grade shall receive a salary be decreased by 5%, an amount equal to the midpoint of the pay grade from which the employee is demoted multiplied by 7.0% and then deducted from the employee's current base salary provided that a 5% decrease results in the employee's salary falling within the salary range of the grade to which the employee's class is allocated. If a 5% the decrease would result in an the employee's salary falling below is less than the entrance salary or above greater than the maximum salary of the new pay grade to which demoted, the employee employee's salary shall receive be within the entrance salary or the maximum salary range of the new pay grade, respectively.~~

**D.F.** ~~Detail to special duty~~ Special detail.

- 1. ~~The salary of an employee on a detailed to special duty detail to a class at a pay grade higher greater than the permanent pay grade of the employee's permanent class shall be set in accordance with subsection (H) (J) below.~~

Arizona Administrative Register

Notices of Final Rulemaking

2. The salary of an employee ~~on a detailed to special duty detail to a class~~ at a pay grade ~~lower less~~ than the pay grade of the employee's permanent ~~grade class~~ shall be the same salary as that ~~received paid prior to before~~ the ~~special detail~~, which may exceed the maximum salary of the pay grade of the class to which detailed.
3. ~~Any~~ A general salary adjustment ~~which that~~ becomes effective during an employee's ~~detail to special duty detail~~ shall be applied to the salary the employee is ~~receiving paid~~ while on ~~special detail~~. However, if the employee's salary is at ~~the maximum salary for the pay grade of the special detail position, the employee shall be paid the maximum salary of the pay grade of the class to which detailed.~~
4. The salary of an employee who returns to a permanent position after a ~~detail to special-duty detail~~ of 24 months or less shall be the same salary as that paid ~~prior to before~~ the ~~special detail~~, plus the percentage or flat dollar increase of ~~any an~~ intervening general salary adjustment or special market adjustment for which the employee ~~was is~~ eligible, and the dollar amount of ~~any a~~ performance increase ~~which that~~ the employee ~~was awarded received~~ during the ~~special detail~~.
5. An employee who returns to the prior position after a special detail of more than 24 months and who received satisfactory or better performance evaluations while in the special detail shall be paid the special detail salary. However, if the special detail salary would exceed the maximum for the pay grade of the employee's permanent class, the employee shall be paid the maximum salary of the pay grade for the class.

**E.G.** Mobility assignment.

1. The salary of an employee on a mobility assignment ~~in to~~ a covered position ~~in a class~~ at a pay grade ~~higher greater~~ than the pay grade of the employee's permanent ~~grade class~~ shall be set in accordance with subsection ~~(H) (J)~~ below.
2. The salary of an employee ~~in on~~ a mobility assignment ~~in to~~ a covered position ~~in a class~~ at a pay grade ~~lower less~~ than the pay grade of the employee's permanent ~~grade class~~ shall be the same salary as that ~~received paid prior to before~~ the mobility assignment, which may exceed the maximum salary of the pay grade of the class to which assigned.
3. ~~Any~~ A general salary adjustment ~~which that~~ becomes effective during an employee's mobility assignment to a covered position shall be applied to the salary the employee is ~~receiving paid~~ while on mobility assignment. However, if the employee's salary is at the maximum salary for the pay grade of the employee's permanent position, the employee shall be paid the maximum salary for the pay grade of the class.
4. The salary of an employee who returns to a permanent position after a mobility assignment shall be the same salary as that paid ~~prior to before~~ the mobility assignment, plus the percentage or flat dollar amount of increase of ~~any an~~ intervening general salary adjustment or special market adjustment for which the employee ~~was is~~ eligible, and the dollar amount of ~~any a~~ performance increase ~~which that~~ the employee ~~was awarded received~~ during the mobility assignment.

**F.H.** Normal entrance Basic hiring rates rate. The salary of all ~~A~~ new employees employee shall be the entrance paid a salary up to the midpoint of the salary pay grade established for the pay grade of the employee's class to which the employee is appointed. The basic hiring rate for a qualified applicant may be at a higher salary than the midpoint based on factors such as the applicant's education, experience, knowledge, skills, or abilities, the availability of qualified applicants, the applicant's earning history, or the geographical location of the position.

**G.I.** Other entrance Special recruitment rates rate.

1. The Director may establish a special recruitment rate for a class at a salary higher than the entrance up to the midpoint of the salary pay grade when:
  1. ~~it~~ It is not possible to recruit a qualified employee's employee at the established entrance salary basic hiring rate; or provided the special recruitment rate is not higher than the maximum salary of the grade. When such an appointment is made, all other employees with lower salaries, who are in the same class, agency, and geographical location, shall be raised to the same level.
  2. Competitive starting salaries for the class exceed the established basic hiring rate.
2. The Director may authorize a special entrance rate for the appointment of a qualified applicant at a higher salary than the entrance salary based on such factors as the unusual and outstanding character of the applicant's experience, education, and ability, the availability of qualified applicants, the applicant's earning history, or the geographical location of the position, provided the special entrance rate is not higher than the maximum salary of the grade.

**H.J.** Promotion.

1. ~~An~~ A permanent status employee who is ~~has promoted a permanent change in assignment from a position in 1 one~~ class to a position in another class having a higher pay grade shall receive a salary increased by an amount equal to the midpoint of the new pay grade multiplied by 7.0% and then added to the employee's current base salary ~~or 2 grades shall receive a 5 increase in salary; and an employee who is promoted 3 or more grades shall receive a 10 increase in salary, provided increasing the salary by 5% or 10% does not result in a new salary that is lower than the entrance salary or higher than the maximum salary of the grade. If establishing the increase promotional in the employee's salary would result results in a salary level that would be is lower less than the entrance salary or higher greater than the maximum salary of the new pay grade, the employee's salary shall be within the established at the entrance salary or at the maximum salary range of the pay grade, respectively.~~

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

2. ~~The Director~~ An agency head may authorize ~~the promotion of a salary increase for~~ a qualified employee ~~with a salary increase that is~~ greater than the percentage listed in subsection (J)(1), based on ~~such~~ such factors such as the unusual and outstanding character of the employee's experience, education, and ability, or education, experience, knowledge, skills, or abilities, the availability of qualified applicants, the applicant's earning history or the geographical location of the position, ~~provided the promotional salary level does not exceed the maximum salary of the grade.~~
3. A promoted employee may accept a lower salary in the new pay grade than is otherwise authorized; if fiscal constraints prohibit the granting of the normal promotional increase and the new salary level is not ~~lower~~ less than the entrance salary of the new pay grade. ~~An agency shall not offer a salary which is less than the entrance salary of the new pay grade.~~
4. ~~The salary of an~~ An employee who is promoted to the position to which the employee was in special detailed detail shall be paid at a minimum the salary received while on special detail.
5. The salary of an employee on a special detail who is promoted to ~~any~~ a position other than the position to which detailed shall be calculated as follows:
  - a. The salary ~~shall~~ is first be adjusted for a return from special detail as specified in subsection ~~(D)~~ (F)(4) or (F)(5), as applicable.
  - b. The salary ~~shall~~ is then be adjusted for the promotion as specified in this subsection.
6. The salary of an employee on promotional probation who is again promoted to another position shall be calculated from the employee's current base salary.

~~I.K.~~ K. Reduction in force. The salary of an employee who is reduced to a class in a lower pay grade due to a reduction in force, ~~which is higher than the maximum salary of the new pay grade, shall remain~~ remains the same even if the salary is higher than the maximum salary of the new pay grade for a maximum of 2 years from the date of the reduction in grade. During this period the employee ~~shall not be eligible for general salary adjustments or performance increases.~~ If ~~Unless~~ the pay range encompasses the employee's salary is less than the maximum of the new pay grade at a later date, the employee shall ~~is not~~ be eligible for a general salary adjustments adjustment and or a performance increases increase. After 2 years, the salary of the employee shall not exceed the maximum salary of the new pay grade.

~~J.L.~~ L. Repromotion.

1. The salary of an employee who is repromoted to the class held prior to the reduction in force shall be the salary ~~held by~~ paid the employee at the time of the reduction in force, plus the percentage or ~~flat~~ dollar amount of increase of ~~any~~ an intervening general salary adjustment or special market adjustment for which the employee is eligible, and the dollar amount of ~~any~~ a performance increase ~~which that the employee was awarded~~ received at the lower pay grade.
2. The salary of an employee who is repromoted to a class with a higher pay grade than the current class but with a lower pay grade than the class held prior to the reduction in force, shall be set in accordance with subsection ~~(H)~~ (J)(1).
3. A repromoted employee may accept a lower salary in the new pay grade than is otherwise authorized if fiscal constraints prohibit the granting of the normal promotional increase and ~~provided~~ the new salary level is not lower less than the entrance salary of the new pay grade. The employee's salary shall be within the established range of the pay grade ~~An agency shall not offer a salary which is less than the entrance salary of the new pay grade.~~

~~K.M.~~ M. Return to state service.

1. The salary of a former state service employee who ~~returns to~~ is reinstated or reemployed in state service ~~from a reinstatement or reemployment register shall~~ may:
  - a. ~~be~~ Be the same salary ~~held by the employee as that paid~~ when separated, ~~provided the salary held by the former employee when separated is not lower than~~
  - b. Not exceed the maximum salary of the pay grade if the new pay grade is less than the prior pay grade, and
  - c. Not be less than the entrance salary of the pay grade if of the new pay grade is higher than the prior pay grade. in effect upon the former employee's return to state service. An agency shall not offer a salary which is lower than the entrance salary of the pay grade.
2. If an employee accepts a lower salary, the employee retains reinstatement rights.
- 2.3. If fiscal constraints prohibit the granting of the former salary, the ~~A~~ former employee may accept a lower salary in the pay grade than is otherwise authorized if fiscal constraints prohibit the granting of the former salary and provided the salary is not lower less than the entrance salary of the pay grade. ~~An agency shall not offer a salary which is lower than the entrance salary of the pay grade.~~

~~L.N.~~ N. Reversion. An employee who is promoted but does not complete ~~the~~ a promotional probationary period and returns to the former position or to another position in a class in a lower pay grade ~~will return to~~ shall be paid the same salary held in the grade as that paid at the time of promotion, plus the percentage or ~~flat~~ dollar amount of increase of ~~any~~ an intervening general salary adjustment or special market adjustment for which the employee ~~was~~ is eligible, and the dollar amount of ~~any~~ a performance increase ~~which that the employee was awarded~~ received at the higher grade.

~~M.O.~~ O. Shift differential. The Director may authorize a salary shift differential to be paid to an employees employee on other than a day shifts shift. ~~The shift differential shall not exceed 10% of the employee's current salary. The Director shall~~

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

establish a competitive shift differential rate periodically based on an annual survey of the market place. Employees in the same class in the same agency who work on the same shift shall receive the same ~~percentage~~ shift differential rate.

**N-P.** Transfer. The salary of an employee who is transferred to a position in the same class or to another class in the same salary pay grade shall be the same salary as that ~~received paid prior before~~ to the transfer unless the provisions of subsection (C) (4) apply.

**O-Q.** Voluntary Pay Grade Decrease.

1. A permanent status employee who is granted a voluntary permanent change in assignment from a position in one class to a position in another class with a lower pay grade due to a career path change, relocation, or personal reasons shall be paid the same salary as that paid before the voluntary pay grade decrease to the class in the lower pay grade provided the salary is within the new pay grade. A voluntary pay grade decrease to a class with a lower pay grade is limited to once in a 5-year period.
- 1-2. The salary of a permanent status employee who volunteers for a pay grade decrease for reasons other than those outlined in subsection (Q)(1) shall be paid a salary decreased by 2.5 an amount equal to the midpoint of the pay grade held before the pay grade decrease multiplied by 7.0% and then deducted from the employee's current base salary for a 1-grade decrease, 5% for a 2-grade decrease, and 10% for a decrease of 3 grades or more, provided that the decreased salary does not exceed the maximum salary or fall below the minimum salary of the lower grade. If the decreased decrease in salary exceeds the maximum salary of the range, the employee's salary is less than the entrance salary or greater than the maximum salary of the new pay grade, the employee's salary shall then be within the maximum salary of the lower range of the new pay grade.
- 2-3. An employee promoted within one year to the immediately prior class shall receive be paid the same salary as that paid held at the time before the voluntary pay grade decrease to the class of at the lower pay grade decrease in that class plus any general and merit adjustments made to the lower salary the percentage or dollar amount of increase of an intervening general salary adjustment or special market adjustment for which the employee is eligible, and the dollar amount of a performance increase that the employee received at the lower pay grade.
- 3-4. An employee promoted to a class other than the employee's immediately prior class shall receive be paid a salary set in accordance with subsection ~~(H)~~ (J).
- 4-5. An original probationary employee who volunteers for a pay grade decrease shall be paid the entrance salary basic hiring rate of the new pay grade.

**R2-5-304. Performance-Based based Salary Adjustments**

- A. Performance-based salary adjustment limits. Subject to legislative appropriation, the Director shall determine employee eligibility ~~for~~ and the minimum and maximum percentage for a performance-based salary adjustment.
- B. Performance-based salary adjustments.
  1. All employees who are in the state service on the date listed in the The Director shall issue performance-based salary adjustment guidelines, issued by the Director and who meet the criteria listed in the guidelines are eligible for a performance-based salary adjustment up to the percentage limit set in the guidelines, effective on the date set in the guidelines.
  2. All employees who are in the state service on the date listed in the guidelines and who meet the criteria listed in the guidelines are eligible for a performance-based salary adjustment that takes effect on the date set in the guidelines.
  - 2-3. A performance-based salary adjustment may not raise the base salary of an employee beyond the maximum salary of the pay grade.
  - 3-4. An employee may not receive a performance-based salary adjustment greater than the percentage increase limit set in the guidelines issued by the Director.
- C. Special performance ~~awards~~ adjustment. An employee at the maximum salary of the employee's pay grade, or who is eligible for a performance-based salary adjustment that places the employee at the maximum salary of the pay grade, is eligible for a special performance ~~award~~ adjustment. The special performance ~~award~~ adjustment shall be a
  1. May be a lump sum or other payment method established by the Director in the performance-based salary adjustment guidelines.
  2. Shall not exceed the percentage limit outlined in the performance-based salary adjustment guidelines issued by the Director; and
  3. Shall be paid over the term established by the Director in the performance-based salary adjustment guidelines.
- D. Combination of increases. An employee shall not receive a combination of a performance-increase based salary adjustment and a special performance ~~award~~ adjustment exceeding the limit set in the ~~performance-based salary adjustment~~ guidelines issued by the Director.

**R2-5-305. Overtime Pay and Compensatory Leave**

- A. Approval of overtime work. An agency head may require that an employee work overtime and:
  1. Shall approve in advance ~~all~~ work in excess of 40 hours per week ~~workweek~~ or in excess of an established a work period as defined by the Fair Labor Standards Act (FLSA); 29 U.S.C. 203, August 1998, published by the U.S. Gov-

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

ernment Printing Office Superintendent of Documents, Mail Stop: SSOP Washington, D.C. 20402-9328, incorporated by reference and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments must be approved by the agency head; and

2. May assign an employee who volunteers for overtime before mandatory overtime is required.
- B.** Exemptions. The Director shall determine exemptions from minimum wage and maximum hour requirements in accordance with the Fair Labor Standards Act, 29 U.S.C. ~~Section 201~~ 213, October 1998, published by the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP Washington, D.C. 20402-9328, incorporated by reference ~~herein~~ and on file ~~in~~ with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.
- C.** Non-exempt employees.
1. An agency shall compensate an employee in a non-exempt position who works in excess of 40 hours per ~~week work-~~week or in excess of ~~an established a~~ work period as defined by the FLSA shall be compensated by either:
    - a. Additional pay at the rate of 1 1/2 times the employee's regular rate for each excess hour worked; ~~or,~~
    - b. Compensatory leave at the rate of 1 1/2 hours for each excess hour worked.
  2. An employee shall select either overtime pay or compensatory leave for overtime compensation. If the employee selects both overtime pay and compensatory leave, The the agency head shall determine if the excess hours are to be compensated by overtime pay or compensatory leave, unless which applies. If the an employee's compensatory leave balance has reached reaches the maximum allowed in subsection (F) below, in which case the agency shall compensate the employee must be compensated by overtime pay.
- D.** Exempt employees.
1. An employee in ~~an exempt a~~ position that is exempt from the FLSA, except for those excluded in subsection (E) ~~below~~, who works in excess of 40 hours per ~~week workweek~~ or in excess of an established work period shall ~~receive~~ earn one hour of compensatory leave for each hour of overtime worked, until the employee's compensatory leave balance reaches the maximum allowed in subsection (F) ~~below~~. When the maximum balance is reached, an agency shall not require or allow an exempt employee shall not be required or allowed to work overtime.
  2. The Director may approve overtime pay at the regular rate for positions exempt from the Fair Labor Standards Act, (29 U.S.C. ~~Section 201, 207, September 1995, published by the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP Washington, D.C. 20402-9328, incorporated by reference herein and on file in with the Department and the Office of the Secretary of State~~), This incorporation by reference contains no future editions or amendments, which These positions are eligible for compensatory leave because the primary duty is management; when ~~either any~~ of the following criteria is met:
    - a. ~~The Director determines that the practice is determined by the Director to be~~ a prevailing condition in the Arizona labor market,
    - b. ~~and when pay Overtime pay to subordinates reduces pay~~ differentials between subordinates and supervisors ~~are reduced by overtime pay received by non-exempt subordinates~~ to the extent that it is no longer an incentive to remain in the supervisory position; ~~or~~
    - b.c. ~~When temporary~~ Temporary emergency conditions arise that make it more practical to pay overtime than to grant compensatory leave.
- E.** Excluded employees. ~~Employees in the following positions are excluded from receiving either overtime pay or compensatory leave:~~
1. ~~All elected positions. An employee in a position described under A.R.S. § 41-783(25) is excluded from receiving either overtime pay or compensatory leave.~~
  2. ~~All positions which are appointed pursuant to A.R.S. § 38-211. Under A.R.S. § 41-783(25)(c), a professional position is a physician or attorney position that is compensated in accordance with a special salary plan.~~
  3. ~~All professional positions. Professional positions are all physician and attorney positions compensated in accordance with a special salary plan~~
  4. ~~Persons whose primary duty is to manage the state agency or state agency subdivisions, which include divisions, bureaus, or equivalent units, and:~~
    - a. ~~Who use discretionary powers.~~
    - b. ~~Who direct the work of at least two other employees.~~
    - e. ~~Who have the authority to hire and fire.~~
- F.** Maximum accumulation. The maximum number of hours of accumulated compensatory leave is:
1. ~~Four hundred and eighty 480~~ hours for an employee who works in a public safety activity or an emergency response activity; ~~or,~~
  2. ~~Two hundred and forty 240~~ hours for an employee who works in any other activity.
- G.** Payment ~~upon separation.~~
1. An agency head may pay an employee at any time for all or any portion of the employee's accrued compensatory leave balance at the employee's current base salary, subject to funding availability.

2. An agency shall pay an employee who has unused compensatory leave at the time of separation from the state service shall receive compensation for each hour of such compensatory leave at:
- 1-a. The employee's average rate received by the employee base salary during the last three years of the employee's employment; or,
  - 2-b. The employee's final rate received by the employee base salary, whichever is higher.
- H. Inter-agency Transfer. An agency head may pay an employee who is transferred transfers to another state service agency shall transfer for all accumulated and unused compensatory leave at the time of the transfer to the employee's compensatory leave account in the new agency. An agency may transfer part or all of the compensatory leave accumulated by an employee who transfers to another agency with the gaining agency's concurrence. If the gaining agency does not concur, the losing agency shall pay all of the accumulated compensatory leave that the gaining agency will not accept.
- R2-5-306. Standby duty pay Duty Pay**
- A. Definition. "Standby duty" means the requirement imposed upon an employee by an agency to remain at the employee's duty location or other designated location at any time when the employee is not scheduled to work.
  - B. Authority. An agency head may place an employee on standby duty when the agency head considers such the action to be in the best interests interest of the state service.
  - C. Payment. Standby duty is considered to be work under the Fair Labor Standards Act, 29 U.S.C. Section 201, incorporated by reference herein and on file in the Office of the Secretary of State FLSA. The An agency shall pay an employee on standby duty will receive the employee's regular rate of pay; and shall count all periods of standby duty will be counted in determining eligibility for overtime compensation.

**NOTICE OF FINAL RULEMAKING**

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 4. GAME AND FISH COMMISSION**

**PREAMBLE**

- |                             |                                 |
|-----------------------------|---------------------------------|
| <b>1. Sections Affected</b> | <b><u>Rulemaking Action</u></b> |
| R12-4-121                   | New Section                     |
| R12-4-402                   | Amend                           |
| R12-4-409                   | Amend                           |
| R12-4-413                   | Amend                           |
| R12-4-418                   | Amend                           |
| R12-4-420                   | Amend                           |
| R12-4-421                   | Amend                           |
| R12-4-423                   | Amend                           |
| R12-4-424                   | 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. § 17-332(D) for R12-4-121
  - A.R.S. §§ 17-231(B)(8) and 17-306 for R12-4-402
  - A.R.S. §§ 17-238 and 17-306 for R12-4-409
  - A.R.S. §§ 17-238, 17-306 and 17-307 for R12-4-413
  - A.R.S. §§ 17-231(B)(8), 17-238 and 17-306 for R12-4-418
  - A.R.S. §§ 17-231(B)(8), 17-238 and 17-306 for R12-4-420
  - A.R.S. §§ 17-102, 17-238, 17-239, and 17-306 for R12-4-421
  - A.R.S. §§ 17-238 and 17-306 for R12-4-423
  - A.R.S. §§ 17-306 and 17-317 for R12-4-424
- 3. The effective date of the rules:**
- The effective date for all nine rules will be July 1, 2001. The effective date is delayed because the yearlong hunt season begins on July 1 and runs through June 30. An effective date of July 1, 2001, will allow for changes to appear in the Fall Hunt Regulations (published in May 2001). This will provide notice of the changes to the public prior to the start of the hunt season.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

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

Notice of Rulemaking Docket Opening for R12-4-121: 6 A.A.R. 2678, July 14, 2000

Notice of Rulemaking Docket Opening for all other rules: 5 A.A.R. 765, March 12, 1999 and 6 A.A.R. 1089, March 24, 2000

Notice of Proposed Rulemaking for all nine rules: 6 A.A.R. 3886, October 13, 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

Telephone: (602) 789-3289

Fax: (602) 789-3677

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

**R12-4-121. Big Game Permit or Tag Transfer**

During the 2000 legislative session, A.R.S. § 17-332 was amended through HB 2555, to allow a parent or legal guardian to transfer a big game permit or tag to the parent's or guardian's minor child, pursuant to the following requirements:

1. The transfer must be prescribed by the Arizona Game and Fish Commission.
2. The parent or guardian must accompany the child in the field and must be within 50 yards of the child when the animal is taken.
3. The minor child is between the ages of 10 years and 17 years and has a valid class F or G hunting license on the date of transfer.
4. A minor child less than the age of 14 years has satisfactorily completed a Department-approved hunter education course on the date of transfer. Any big game taken counts toward the child's bag limit.

HB 2555 was signed by the Governor and the statutory amendment became effective July 18, 2000. This statutory amendment creates the necessity that the Commission adopt a procedure prescribing the manner in which the permit or tag is transferred from the parent or guardian to the minor child. Legally, this procedure constitutes an agency practice that sets forth requirements to be followed by the public and, therefore, must be established through a Commission Rule.

Therefore, the agency is proposing this new rule to establish the manner by which a parent or legal guardian can transfer a big game permit or tag to the parent's or guardian's minor child.

**R12-4-402. Live wildlife: prohibited acts**

This rule lists all activities associated with live wildlife, in conjunction with those in A.R.S. § 17-306, which are prohibited except as specifically authorized within the Commission's rules and A.R.S. Title 3, Chapter 16.

Although the rule is effective in meeting its objective, the five-year review of this rule identified that the language of A.R.S. § 17-306 should be incorporated into the rule for the purpose of clarity. A.R.S. § 17-306 was amended after this rule was created to cross-reference A.R.S. Title 3, Chapter 16, which contains new laws allowing aquaculture (and places regulation of the aquaculture industry in the Department of Agriculture.) This creates the perception of inconsistency as the rule only references wildlife laws. It would make the law more understandable to incorporate the language of A.R.S. § 17-306 into this rule rather than just cross-referencing it. This would list all prohibitions in one central location. Therefore, the proposed rulemaking incorporates the language of A.R.S. § 17-306 into this rule for the purpose of clarity.

In addition, the proposed rulemaking addresses the recent amendment of R12-4-417 and R12-4-422 that allows the exhibit of live wildlife under certain circumstances and with proper license, by stating that a person may exhibit lawfully possessed wildlife only as authorized within the Commission's rules or A.R.S. Title 3, Chapter 16. This will let the reader be aware that commercialization is unlawful without a license.

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

This rule prescribes requirements and penalties common to special licenses and grants authority to the Department to issue licenses. Although the rule is generally effective in meeting its objective, the five-year review of this rule and additional agency analysis identified the need for the following amendments.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

In 1996 the Arizona legislature passed SB 1056, which requires state agencies to adopt by rule time-frames for reviewing and issuing licenses. In response to this a new rule, R12-4-106, was adopted by the Commission and became effective June 10, 1998. Since R12-4-106 provides licensing time-frames for the special licenses in Article 4, R12-4-409 should be amended to cross-reference R12-4-106 and to explain licensing time-frame parameters to ensure awareness.

A.R.S. § 41-1092.11 is in conflict with R12-4-409(B), and therefore requires change to the rule. A.R.S. § 41-1092.11 provides that a license shall not expire until an agency takes final action on a timely and sufficient renewal application. R12-4-409(B) states that a license will remain valid after expiration, only if the application for renewal has no change from the currently existing license. Because Section 41-1092.11 does not recognize the distinction made in R12-4-409(B), the agency proposes to revise the language to clarify that if a new application is submitted on or before current license expiration, the current license remains valid pending final agency action.

In addition, the proposed rulemaking amends subsection (D) to replace the reference to R12-4-608 with a reference to the statutes governing appealable actions; moves the reference to disciplinary actions in subsection (E) to subsection (I) which identifies all disciplinary actions; and makes the rule consistent with required rulemaking language and style.

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

This rule prescribes criteria and operating requirements for game farm licensees. Although the rule is effective in meeting its objective, the five-year review of this rule identified that the incorporation by reference in subsection (B)(5)(c) should be updated.

The proposed rulemaking updates the incorporation by reference in subsection (B)(5)(c), deletes the reference to time-frames already identified in R12-4-106 and proposed to be referenced in R12-4-409, and makes the rule consistent with required rulemaking language and style.

**R12-4-418. Scientific Collecting Permit**

This rule prescribes criteria and operating requirements for permits to allow the take of wildlife (live or dead) for scientific or educational purposes, outside of the normal seasons and bag and possession limits established by Commission order, while protecting wildlife resources.

Although the rule is effective in meeting its objective, the five-year review of this rule identified that the rule could be improved. The agency maintains nongame occurrence databases for locality-specific information provided in mandatory scientific collection reports. To effectively manage both nongame and game wildlife, the agency needs basic information on common and rare, native and non-native species. R12-4-418(G)(4) requires detailed collection information for wildlife species listed as "*threatened native wildlife*." All other wildlife species taken, banded, possessed, or disposed of must be reported only by species and number per subsection (G)(5). Thus, important locality information is not required for these species, and specimens that are sampled, but not taken, do not even have to be reported. Therefore, the proposed rulemaking will amend the rule to require relevant information on all wildlife collected, observed, banded, or otherwise handled. It also provides latitude for the Department to require a lesser reporting standard for species for which detailed information is not needed.

In addition, the proposed rulemaking deletes the reference to time-frames already identified in R12-4-106 and proposed to be referenced in R12-4-409; clarifies that no person shall exhibit wildlife held under a scientific collecting permit, and makes the rule consistent with required rulemaking language and style.

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

This rule prescribes the criteria and operating requirements for zoo licenses, in order to allow and control the operation of commercial facilities open to the public where the principal business is holding wildlife in captivity for exhibition purposes in a manner that protects resident wildlife resources and public safety. Although the rule is generally effective in meeting its objective, the five-year review of this rule and additional agency analysis identified the need for several amendments.

The proposed rulemaking clarifies the authority for a zoo to obtain and possess non-restricted indigenous live wildlife, corrects the reference to the definition of "zoo" in subsection (B)(1), updates the incorporation by reference in subsection (B)(2), amends (B)(3) to parallel language in R12-4-417, deletes the reference to time-frames already identified in R12-4-106 and proposed to be referenced in R12-4-409, and makes the rule consistent with required rulemaking language and style.

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

This rule provides for a private business service for the public for the removal of nuisance wildlife while maintaining protection of the resource. Although the rule is generally effective in meeting its objective, the five-year review of this rule and additional agency analysis identified the need for several amendments.

Clarification is needed regarding the functional relationship between actions conducted under this existing rule and rule R12-4-113, the small game depredation rule. While the rules have been interpreted to function together to justify the wildlife service licensee acting as “agent” for the holder of the small game depredation permit, this rule change would make this potential relationship explicit. This change is necessary to clarify the relationship between the two rules. If the rule is not changed this relationship will exist primarily as an item of institutional knowledge in the agency rather than being codified. This obscures the relationship and leads to possible failure to recognize the opportunities provided by the rules working together. This proposed amendment will clarify that a wildlife service licensee may act as an agent for the holder of a small game depredation permit.

Another proposed change would relieve public safety agencies from the requirement of obtaining this license while engaged in their legitimate responsibilities in the community. This change is necessary to resolve the economic and logistical costs of requiring each individual in a public safety agency that might be acting in that capacity to obtain a wildlife service license. Public safety personnel on a statewide basis conduct many of these actions annually. This has the effect of providing local and immediate relief to the public confronted with situations where wildlife has caused a risk of a public safety incident to occur. This is of great benefit to both the Arizona Game and Fish Department (Department) and to the public. Without this ability to respond, public safety would be adversely affected. Agencies would be likely to discontinue these types of services due to the logistical costs of licensing if individual licensing was required. This proposed amendment will specify that public safety organizations such as fire and police departments are exempted from special licensing requirements for the capture, transport, and release of wildlife for public safety purposes.

In addition, the proposed rulemaking clarifies that an agent of the licensee is not authorized to operate under the same license, deletes the reference to time-frames already identified in R12-4-106 and proposed to be referenced in R12-4-409, and makes the rule consistent with required rulemaking language and style.

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

This rule prescribes criteria, procedures, and operating requirements intended to meet the needs of wildlife, which are the property of the people of Arizona, and the needs of rehabilitators, who perform a valuable service for wildlife for no commercial benefit. Although the rule is generally effective in meeting its objective, the five-year review of this rule and additional agency analysis identified the need for several amendments.

The proposed rulemaking updates the incorporation by reference in subsection (A)(4), deletes the reference to time-frames already identified in R12-4-106 and proposed to be referenced in R12-4-409, clarifies in subsections (B) and renumbered (F) that a person shall not educationally display or exhibit wildlife held under a wildlife rehabilitation license, clarifies that a wildlife holding permit is required to permanently possess wildlife that cannot be restored to the wild, clarifies in subsection (E) that an applicant must pass an exam associated with the additional taxa, clarifies that a licensee may not display live wildlife in soliciting and accepting donations, and makes the rule consistent with required rulemaking language and style.

**R12-4-424. White Amur Stocking License**

This rule permits possession of triploid white amur (grass carp) and their stocking in closed aquatic systems as allowed under A.R.S. § 17-317.

Although the rule is generally effective in meeting its objective, the five-year review of this rule identified that administration could be improved by a change to subsection (B), which requires a license for each closed aquatic system. The rule currently permits the stocking of triploid white amur in closed aquatic systems or separately managed reaches of that system by a single applicant on a single application. Applicants that operate or manage separate systems currently must submit separate applications and pay separate fees for each closed system. This creates redundant work on the part of applicants with multiple systems and increases the cost of compliance.

The agency determined that the regulatory burden on licensees can be reduced without negatively impacting the effectiveness or enforcement of the rule. A single license could be issued for more than one closed aquatic system when operated by the same owner. This would reduce paperwork, cost to the licensee, and agency visits to the field. The proposed rulemaking will revise subsection (B) to allow issuance of license for more than one closed aquatic system when operated by same owner.

In addition, the proposed rulemaking clarifies that the Department’s determination regarding the applicant’s submission of a written proposal addressing the biological ramifications of stocking in watersheds containing “threatened native wildlife” shall be made during the substantive review time-frame, deletes or modifies references to time-

frames already identified in R12-4-106 and proposed to be referenced in R12-4-409, and makes the rule consistent with required rulemaking language and style.

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

Not applicable

**8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules 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:**

R12-4-121. Big Game Permit or Tag Transfer

The proposed rulemaking will result in no added cost to the agency, the 125,000 persons who annually hold big game permits or tags, or any other persons. The proposed rulemaking will benefit parents or legal guardians of minor children who wish to transfer their unused big game permit or tag to a qualified minor. There will be no charges or fees associated with the permit or tag transfer.

R12-4-402. Live wildlife: prohibited acts

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

R12-4-413. Private Game Farm License

R12-4-420. Zoo License

R12-4-423. Wildlife Rehabilitation License

The proposed rulemaking will result in no added cost to the agency, to persons holding special licenses, or to any other persons. The proposed rulemaking will benefit the agency, persons holding special licenses, and the public by improving the accuracy, clarity, and understanding of the rules.

R12-4-418. Scientific Collecting Permit

The proposed rulemaking will result in no added cost to the agency, to persons holding scientific collecting permits, or to any other persons. The proposed rulemaking will benefit the agency, permittees, and the public by providing the agency with basic information on common and rare, native and non-native species that is needed to effectively manage both nongame and game wildlife. The proposed rulemaking will also benefit the agency, permittees, and the general public by improving the accuracy, clarity, and understanding of the rule.

R12-4-421. Wildlife Service License

The proposed rulemaking will not result in any additional costs to any persons, government agencies, or businesses in Arizona. The proposed rulemaking increases the opportunity for licensees to conduct their business and frees public safety agencies to look for solutions to legitimate public safety issues. The proposed rulemaking will also benefit the agency, permittees, and the general public by improving the accuracy, clarity, and understanding of the rule.

R12-4-424. White Amur Stocking License

The proposed rulemaking will result in no added cost to the agency, to persons applying for or holding this special license, or to any other persons. The proposed rulemaking will benefit the agency, license applicants, licensees, and the public by reducing the regulatory burden on applicants and licensees and by improving customer service and satisfaction. The proposed rulemaking will also benefit the agency, permittees, and the general public by improving the accuracy, clarity, and understanding of the rule.

**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 rules contained in the Notice of Proposed Rulemaking filed with the Secretary of State on October 13, 2000, and the text of the rules as finally adopted by the Arizona Game and Fish Commission on May 11, 2001. Minor grammatical, formatting, and stylistic changes were made throughout the rule package.

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

No public comments for or against the rules were received.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

**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:**

R12-4-423(A)(4). Wildlife Rehabilitation License

United States Fish and Wildlife Service, Department of the Interior 50 CFR 10.13, revised October 1 1999, ~~1988~~, not including any later amendments or editions, which is incorporated by reference in this Section, ~~herein~~. A copy of the incorporated matter is on file with the Secretary of State and 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.

**14. Were these rules previously adopted as emergency rules?**

No

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

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 4. GAME AND FISH COMMISSION**

**ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS**

Section

R12-4-121. ~~Repeated~~ Big Game Permit or Tag Transfer

**ARTICLE 4. LIVE WILDLIFE**

Section

R12-4-402. Live Wildlife: Prohibited Acts ~~wildlife: prohibited acts~~

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

R12-4-413. Private Game Farm License

R12-4-418. Scientific Collecting Permit

R12-4-420. Zoo License

R12-4-421. Wildlife Service License

R12-4-423. Wildlife Rehabilitation License

R12-4-424. White Amur Stocking License

**ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS**

**R12-4-121. Repeated Big Game Permit or Tag Transfer**

**A. A parent or guardian to whom a big game permit or tag is issued may transfer the unused permit or tag to the parent's or guardian's minor child, if:**

- 1. The minor child is from 10 to 17 years old on the date of transfer.**
- 2. The minor child has a valid class F or G hunting license on the date of transfer, and**
- 3. A minor child less than 14 years old has satisfactorily completed a Department-approved hunter education course by the date of transfer.**

**B. A parent or guardian may obtain a transfer, in person, at any Department office. To obtain a transfer, a parent or guardian shall provide the following:**

- 1. Proof of ownership of the big game permit or tag to be transferred;**
- 2. The minor's class F or G general or lifetime hunting license, and if the minor is less than 14 years old, proof of satisfactory completion of a Department-approved hunter education course; and**
- 3. The unused big game permit or tag.**

**C. The Department shall issue a transfer permit or tag in the name of the minor child.**

**D. This rule is effective July 1, 2001.**

**ARTICLE 4. LIVE WILDLIFE**

**R12-4-402. Live Wildlife: Prohibited Acts** ~~wildlife: prohibited acts~~

**A. A person shall not import or transport any live wildlife into the state, or possess, offer for sale, sell, sell as live bait, trade, give away, purchase, rent or lease, display for any purpose, propagate, stock, or release within the state any live wildlife, or export any live wildlife, or kill any captive wildlife, or operate a shooting preserve, except as authorized by this Chapter or as defined in A.R.S. Title 3, Chapter 16. A person may exhibit lawfully possessed wildlife only as authorized by this Chapter or as defined in A.R.S. Title 3, Chapter 16.**

~~In addition to those prohibitions in A.R.S. § 17-306, no person shall give away, rent or lease, purchase, exhibit or display for any purpose, offer for sale, sell as live bait, propagate, stock, or export any live wildlife or kill any captive wildlife, or~~

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

operate a shooting preserve, except as authorized by this Chapter.

**B.** This rule is effective July 1, 2001.

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

- A. The Department shall issue special licenses as defined in R12-4-401, ~~if when~~ application is made and criteria are met as prescribed in the rule governing the specific special license. The Department shall either grant or deny a special license within the administrative completeness review time-frame and the overall time-frame listed for the special license in R12-4-106 and in a manner consistent with A.R.S. Title 41, Chapter 6, Article 7.1. During the administrative completeness review time-frame, the Department may return to the applicant, without denial, any incomplete application that is lacking information required by the rule governing the specific special license. Each returned application shall be accompanied by written notice stating what information the applicant failed to provide. The administrative completeness review time-frame and the overall time-frame listed for the special license in R12-4-106 are suspended from the date on the notice until the date that the Department receives the missing information from the applicant. During the substantive review time-frame, the Department may make one comprehensive written request for additional information. The Department and the applicant may mutually agree in writing to allow the agency to submit supplemental requests for additional information. The substantive review time-frame and the overall time-frame listed for the special license in R12-4-106 are suspended from the date on the request until the date that the Department receives the additional information from the applicant. A No special license is not for any wildlife shall be valid for any wildlife protected by federal law or regulation unless supported by federally-issued ~~federally-issued~~ documentation rendering the licensed activity lawful.
- B. All special licenses expire on December 31 for the year issued unless otherwise specified in the governing rule. If application for a new special license is not made by the expiration date, live wildlife possessed ~~under pursuant to~~ the expired license ~~is shall be considered~~ unlawfully possessed and is subject to seizure by the Department. If application for a new special license ~~with no change from a currently existing special license~~ is made on or ~~before prior to~~ the expiration date, the existing license ~~remains shall remain~~ valid ~~while application is pending with the Department until the Department makes a final determination to grant or deny the special license, and, in the event that the application is denied, until the last day for seeking a review of the final determination.~~
- C. ~~Knowingly providing false information upon application for any special license shall be grounds for denying the special license, and any~~ The Department shall deny a special license if the applicant knowingly provides false information upon application. Any special license so obtained is void and of no effect from the date of issuance, thereof.
- D. The Department shall provide written notice to an applicant whose application is denied stating the reason for denial with references to the statutes or rules on which the denial is based. The applicant may appeal the denial to the Commission as prescribed in A.R.S. §§ 41-1092.02 through 41-1092.12. Denials shall be issued in writing and shall state the reason for denial. Any person whose application has been denied may appeal to the Commission as provided in R12-4-608
- E. Special license holders ~~or licensees~~ shall keep records and submit reports as required by the rule governing their special license. ~~The licensee~~ Such records shall be exhibit exhibited the records to any Department game ranger upon reasonable request. ~~Failure to keep records or submit reports as required shall be grounds for rejecting an application or for revocation of a special license.~~
- F. Facilities of special license holders are subject to reasonable inspection by a game ranger for compliance with any requirements imposed by this Article. A routine inspection ~~is not shall not be considered~~ reasonable ~~if when~~ the game ranger has inspected another facility holding wildlife of the same class within the previous ~~72 seventy-two~~ hours ~~and when~~ the game ranger ~~has~~ had contact with the wildlife or there ~~is was~~ reason to believe disease may have been present ~~at the other facility.~~
- G. ~~If When~~ a disease, as determined by a person with relevant expertise, or other ~~emergency~~ condition ~~constituting an emergency~~ exists that poses an immediate threat to the welfare of wildlife, including the wildlife held ~~under pursuant to~~ a special license, or ~~to~~ the public, the Department ~~shall may~~ immediately order a cessation of operation under ~~the~~ special license and, if necessary, humane disposition or quarantine of any contaminated or ~~threatened threatening~~ wildlife. ~~Disease~~ The licensee shall perform disease testing, quarantine the wildlife, or destroy the wildlife must be performed as directed by the Department or wildlife quarantined must be destroyed. Any The licensee shall ensure that any disease giving rise to an emergency condition under pursuant to this subsection is shall be diagnosed by a person or persons professionally certified to make the such diagnosis. Once operation has ceased and an emergency no longer exists, subsection (H) applies shall apply.
- H. ~~If When~~ a condition exists, including disease or any violation of this Article, ~~that including any violation of Section R12-4-428, which~~ poses a threat to the welfare of wildlife, including the wildlife held, or ~~to~~ the public, but ~~the which~~ threat does not constitute an emergency, the Department shall provide the licensee a written notice of the condition, by certified mail or personal service, ~~specifying which notice shall specify~~ a reasonable period of time for the licensee to cure the noticed condition. Failure of the licensee to cure the noticed condition within the time specified by the Department ~~is shall~~ constitute a violation ~~under pursuant to~~ subsection (I) of this Rule. ~~If When~~ a licensee receives three notices ~~under pursuant to~~ this subsection for the same condition within a two-year period, the Department shall treat the third notice shall be treated as a failure to cure.

- ~~I.~~ Violation of any provision of this rule, or of A.R.S. § 13-2908, criminal nuisance; or conviction of any criminal offense involving cruelty to animals, including A.R.S. § 13-2910; or of the rule governing a specific special license; or refusal to permit reasonable inspection of facilities, wildlife, or required records may result in any or all of the following actions by the Department:
- ~~1. Filing of criminal charges.~~
  - ~~2. Suspension of authority to hold wildlife pursuant to special license for the remainder of validity of the license.~~
  - ~~3. Seizure of any wildlife held pursuant to the special license, and its humane disposition except that such wildlife shall not be killed pending appeal by the licensee.~~
  - ~~4. Denial of subsequent application for a special license for a period not to exceed five years.~~
- ~~I.~~ The Department shall take any of the following actions against a person for violation of any provision of this rule; the rule governing a specific special license; A.R.S. § 13-2908 relating to criminal nuisance; A.R.S. § 13-2910; for a conviction of any other criminal offense involving cruelty to animals; for refusal to permit reasonable inspection of facilities, wildlife, or required records; or for failure to keep required records or submit required reports to the Department:
1. Filing of criminal charges.
  2. Suspension of authority of a licensee or any agent of the licensee to hold wildlife under special license for the remainder of the validity of the license period.
  3. Seizure of any wildlife held under the special license, and its humane disposition except that such wildlife shall not be killed pending appeal by the licensee.
  4. Denial of subsequent application for a special license for a period not to exceed five years.
- ~~J.~~ A person may appeal Department actions identified in subsections (I)(2), (I)(3), and (I)(4) to the Commission as prescribed in A.R.S. §§ 41-1092.01 through 41-1092.12.
- ~~K.~~ ~~J.~~ This rule is effective July 1, 2001 ~~January 1, 1995~~.

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

- A. A private game farm license allows any or all of the following: offer for sale, sale, trade, rent or lease, giving away, purchase, display for sale, import, possession, propagation, rearing, transport and export of the live wildlife specified on the license. Private game farm ~~The~~ wildlife may be killed but shall not be hunted.
- B. The following criteria are prerequisites for requisite to approval of a private game farm license:
- Escape ~~A possible escape~~ of the proposed species will ~~would~~ not create a threat to indigenous wildlife.
  - An applicant shall provide, with the application required by subsection (C), ~~shall be accompanied by~~ a detailed diagram of the facilities where wildlife is to be held; and a detailed description of the procedures to be employed by the applicant in meeting the requirements of R12-4-428.
  - The Department may issue a license for only the following pen-reared game birds:
    - Alectoris chukar*, chukar;
    - Callipepla californica*, California or valley quail;
    - Callipepla gambelii*, Gambel's quail;
    - Callipepla squamata*, scaled quail;
    - Colinus virginianus*, northern bobwhite. License is required only Units 34A, 36A, 36B, and 36C, as prescribed in R12-4-108;
    - Cyrtonyx montezumae*, Montezuma or Mearn's quail;
    - Dendragapus obscurus*, blue grouse; and
    - Phasianus colchicus*, ringneck and whitewing pheasant.
  - The Department may issue a license for ~~fox foxes~~ or mink ~~if when~~ a prior inspection of the holding facilities or the plans for those facilities by the Department proves escape is unlikely.
  - The Department may issue a license for other mammals listed as restricted live wildlife only if when:
    - The same species does not exist in the wild in Arizona;
    - The wildlife ~~is shall be~~ disposed of only by export from Arizona, to game farms licensed under pursuant to this rule, to zoos licensed under pursuant to R12-4-420, or to medical or scientific research facilities with an exemption exempted under pursuant to R12-4-407; ~~or by export from Arizona.~~
    - The application required in subsection (C) ~~of this rule~~ is accompanied by proof of current licensing by the United States Department of Agriculture under pursuant to 9 CFR Subchapter A., Animal Welfare; and ~~01-01-1992~~ edition, not including any later amendments or editions, which is incorporated by reference 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.
    - The application required in subsection (C) ~~of this Rule~~ is also accompanied by a typed proposal explaining the species to be possessed, the purpose of possession, and the purpose of propagation if applicable, and the planned disposition of wildlife including progeny, and how the licensee ~~shall will~~ prevent escape, threat to native wildlife, and threat to public safety.

**Notices of Final Rulemaking**

- 6. The Department may issue a license for any other restricted live wildlife not addressed in ~~subsections~~ subsection (B)(3), (B)(4), or (B)(5), only ~~if when~~ the wildlife was held ~~under pursuant to~~ a private game farm license issued ~~before prior to~~ April 28, 1989.
- 7. ~~An applicant shall submit a separate application for each~~ Application shall be for a single location.
- C. ~~An applicant shall use an application~~ Application shall be made on a form available from any Department office. The Department shall issue the license or deny application within 30 calendar days of receiving the application. The applicant shall provide ~~Application requires the following information on the form to be provided by the applicant:~~
  - 1. Name, address, and telephone number of the applicant;
  - 2. Location of game farm, including street address or legal description;
  - 3. Species and number of live wildlife to be obtained or, if application is for renewal, species and number of live wildlife that which are currently in captivity; and
  - 4. Signature of applicant.
- D. ~~A licensee shall ensure that each~~ Each shipment of live wildlife imported into the state ~~is shall be~~ accompanied by a certificate of health issued by a licensed veterinarian.
- E. ~~A licensee~~ Licensee shall ~~maintain~~ keep records for three years ~~that which shall~~ include the number, species, source, and date of wildlife obtained or raised and the number, species, and date of disposition and manner of disposition of all wildlife, including the names of persons to whom wildlife is sold, bartered or given.
- F. ~~A licensee shall provide a receipt shall be provided to each person transporting dead wildlife from the site of the game farm. The receipt shall include the date of purchase, barter, or gift; and the name of the game farm; and the number, by species, of transported wildlife to be transported.~~
- G. ~~A licensee shall ensure that shipments~~ Shipments of wildlife made by the game farm ~~are shall be~~ accompanied by documentation showing the name of the game farm, date shipped, the number of species and the number of individuals per species of wildlife in the shipment, ~~and~~ the name of the person or common carrier transporting the shipment, and the name of the person who will receive the shipment.
- H. ~~A game farm licensee is~~ Game farm licenses are subject to ~~the provisions of~~ R12-4-409 and R12-4-428.
- I. This rule is effective ~~July 1, 2001~~ January 1, 1995.

**R12-4-418. Scientific Collecting Permit**

- A. ~~A~~ The scientific collecting permit allows the following, subject to Department evaluation of and stipulations ~~made pursuant to~~ the application submitted in compliance with subsection (C):
  - 1. ~~A permittee may take wildlife~~ Wildlife specified on the permit ~~may be taken~~ in the localities and time periods specified on the permit, ~~and may be taken by any method prescribed in R12-4-304 or R12-4-313, and, when~~ If specifically authorized on by the permit, the permittee may take the wildlife ~~may also be taken by the use of stupefying or deleterious substance substances, electroshock, pitfall pitfalls, leghold trap traps, snare snares, or net nets, and at night by firearm firearms, providing the least-onerous, practical method is employed. The Department may rescind or modify any method of take authorized on the in a permit when it is deemed necessary to do so to protect the interests of wildlife or public safety. The permit may restrict the number of animals per species or other taxa that which may be taken, as well as the age or condition of the wildlife that which may be taken.~~
  - 2. ~~A permittee may possess, transport, propagate, or educationally display live wildlife specified on the permit. The possession, transportation, propagation and educational display of live wildlife until December 31 of the year of collection. A person shall not exhibit wildlife held under a scientific collecting permit.~~
  - 3. ~~A permittee shall dispose of live wildlife specified on the permit~~ Specified live wildlife may be disposed of as authorized by the Department, by releasing the wildlife or released when not removed from the area where captured, or by releasing the wildlife released in a location previously approved by the Department, or as authorized by the Department.
  - 4. ~~A permittee shall only release live wildlife specified on the permit when the wildlife is not removed from the area where captured, or when the wildlife is released in a location previously approved by the Department.~~
- B. ~~The following criteria are requisite to approval:~~
  - 1. ~~The applicant's privilege to take or possess wildlife is not under current suspension or revocation by the government of any state or the United States.~~
  - 2. ~~Issuance of a scientific collecting permit shall be for a purpose which is in the best interest of the wildlife species to be held, wildlife management, education, the advancement of science, or promotion of the public health or welfare, when such purpose may be served without posing a threat to wildlife or public safety, and without unnecessarily duplicating previously documented projects. Determination of purpose shall be based upon a written proposal which shall be submitted with the application form required at subsection (C). The Department may require submission of interim reports in addition to those required by subsection (G), and may make the requirement a criterion for issuance.~~
- B. The Department shall issue a scientific collecting permit only if:
  - 1. The applicant's privilege to take or possess wildlife is not under current suspension or revocation by the government of any state or the United States;

Arizona Administrative Register

Notices of Final Rulemaking

2. The permit is for the purpose of wildlife management; gathering information valuable to maintenance of wild populations; education; the advancement of science; or promotion of the public health or welfare;
  3. The permit is for a purpose that is in the best interest of the wildlife or the species, will not adversely impact other affected wildlife in Arizona, and may be served without posing a threat to wildlife or public safety;
  4. The permit is for a purpose that does not unnecessarily duplicate previously documented projects; and
  5. The Department has verified the purpose based on a written project proposal submitted as part of the application form required in subsection (C).
  6. The Department may require submission of interim reports in addition to those required by subsection (G), and may make the submission of these additional interim reports a criterion for permit issuance.
- C. An applicant Applicants shall provide the following information on an application a form supplied by the Department: - The form shall be accompanied by a detailed description, not to exceed three pages, of the purpose, methods, completion schedule, and publication intent of the project proposed, including a statement of the qualifications of the applicant relative to the proposal, and by a detailed description of the procedures to be employed by the applicant in meeting the requirements of R12-4-428. Application shall be submitted to the Department's Phoenix office. The Department shall issue the permit or deny the application within 30 calendar days of receiving the application.
1. Name, home address, home telephone ~~phone~~ number, and physical description of applicant;
  2. If applicable, the name, address, and telephone number of the scientific or educational institution affiliation or governmental employer;
  3. A complete list by species, or higher taxa, if applicable ~~appropriate~~, of all wildlife for which collecting authorization is sought and the number of individuals per taxon;
  4. The locality or localities for which collecting activities are proposed;
  5. Whether the applicant proposes to:
    - a. Salvage specimens found dead;
    - b. Collect specimens alive and keep them;
    - c. Collect specimens by killing;
    - d. Collect specimens alive and release at the site where taken without transporting from that site after photographing, ~~or~~ banding, or marking them with rings, bands, collars, brands, or other markings.
  6. The method or methods of take to be used, including justification for selection of the methods proposed; and
  7. Planned disposition of wildlife collected and progeny of wildlife collected.
- D. An applicant shall submit with the application form, a detailed project proposal, not to exceed three pages, explaining the purpose, methods, completion schedule, and publication intent of the project; stating the qualifications of the applicant relative to the proposal; and describing in detail the procedures the applicant will use to meet the requirements of R12-4-428.
- E. The applicant shall submit the application to the Department's Phoenix office.
- ~~F.D.~~ The Department issues each scientific Scientific collecting permit permits shall be issued to an individual, individuals, but an applicant applicants may request in writing that one or more named individuals be authorized to act as an agent agents on the applicant's their behalf, provided that:
1. An There is an employment or supervisory relationship exists between the permittee and the agent all agents, and the no agent's privilege to take or possess wildlife is not shall be under current suspension or revocation revocations by the government of any state or the United States; and -
  2. If the permit limits the number of animals that which may be collected, the limit applies shall apply to the aggregate of all agent collectors.
- G. 3- A permittee Permittees may at any time during the license period make a written request to amend the their permit to add or delete agents meeting the criteria in subsection (F) above. The Department shall approve or deny the request within 30 calendar days of receipt.
- H. 4- A permittee shall notify the The Department shall be notified in writing within 10 ~~ten~~ calendar days of terminating termination of any agent.
- ~~I.E.~~ Before Prior to collecting any wildlife at night with firearms, a the permittee shall notify the regional Department office nearest the locality of the planned collection and advise that office of the dates, times, places and methods of collection.
- ~~J.F.~~ A permittee shall ensure that a A copy of the permit accompanies shall accompany any shipment of wildlife made under authority of the permit.
- ~~K.G.~~ Each A permittee shall file a written report on a form available from the Department, within 30 days after expiration of the permit. A report is required even if no collecting was done. The following information shall be provided by the permittee shall provide the following information and shall include information from agents acting for on behalf of the permittee:
1. Name and address of the permittee and any agency affiliation relevant to the permit;
  2. Name and address of all agents;
  3. Scientific collecting permit number and date of issuance;

Arizona Administrative Register

Notices of Final Rulemaking

4. ~~A list by specimen of all species collected live or dead of any species listed as "Threatened Native Wildlife" as defined in R12-4-401; big game animals as defined in A.R.S. § 17-101; yellow mud turtle, Kinosternon flavescens; flat-tailed horned lizard, Phrynosoma mcallii; Gila monster, Heloderma suspectum; rock rattlesnake, Crotalus lepidus; twin-spotted rattlesnake, Crotalus pricei; ridgenosed rattlesnake, Crotalus willardi; and desert tortoise, Xerobates (Gopherus) agassizii; providing also detailed localities including legal descriptions, dates of take and places of disposition for all such specimens;~~
- 4.5. ~~A list by specimen of all species collected, live or dead, of any species the Department includes on the permit, providing detailed localities of collection, observation, banding, or other handling, dates of take, places of disposition, and other relevant information the Department includes on the permit; and A list by species and number of individuals for all wildlife taken, banded, possessed, or disposed of that are not listed above.~~
5. ~~A list by individual for all species live or dead, collected, banded, possessed, or disposed of that are not listed in accordance with subsection (K)(4).~~

~~L.H.~~ A permittee under this Section is ~~Scientific collecting permits are subject to the provisions of R12-4-409 and R12-4-428.~~  
~~M.I.~~ A scientific collecting permit expires ~~Scientific collecting permits expire on December 31 of the year of issuance, or, if the permittee is a representative of an institution, organization, or agency, upon the permittee's termination of affiliation with that entity, whichever comes first.~~

~~N.J.~~ This rule is effective ~~July 1, 2001~~ January 1, 1995.

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

- A. A zoo license allows ~~any or~~ all of the following: exhibit, educational display, import, purchase, export, possession, propagation, euthanization, transport, ~~giving give~~ away, ~~offering offer~~ for sale, and sale or trade of restricted live wildlife ~~and other Arizona wildlife legally possessed~~, subject to the following restrictions:
  1. ~~A licensee shall hold all~~ All wildlife possessed ~~by the zoo shall be held~~ in the facilities specified on the license except when ~~the wildlife is being~~ transported to or from temporary exhibits. Temporary exhibits shall not exceed 20 consecutive days at any one location.
  2. ~~A licensee shall only dispose~~ Disposition of restricted live wildlife within Arizona ~~shall only be~~ to another zoo licensed ~~under pursuant to this Section rule, to a game farm licensed under pursuant to R12-4-413, to a medical or scientific research facility exempted under pursuant to R12-4-407, or as directed by the Department.~~
  3. ~~A licensee No zoo shall not~~ accept any wildlife donations, ~~or not~~ purchase or otherwise obtain wildlife without accompanying evidence of lawful possession.
  4. ~~A licensee may dispose of all~~ All wildlife obtained ~~under pursuant to a scientific collecting permit; or wildlife that which has been loaned to the zoo by directly from the Department, may be disposed of~~ only as directed by the Department.
- B. The following criteria are ~~prerequisites for requisite to~~ approval of a zoo license:
  1. ~~The Department shall ensure that the operation meets shall meet~~ the definition of "zoo" at ~~A.R.S. § 17-101(A)(23).~~ A.R.S. § 17-101 (A)(22).
  2. ~~An applicant shall submit with the application~~ Application shall be accompanied by proof of current licensing by the United States Department of Agriculture ~~under pursuant to 9 CFR Subchapter A, Animal Welfare, 01-01-92 edition, not including any later amendments or editions, which is incorporated by reference 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.~~
  3. ~~The Department shall ensure that the~~ The issuance of a license ~~is shall be~~ for a purpose in the best interest of the wildlife or species to be held, ~~does and shall~~ not adversely impact upon any other wildlife in Arizona, ~~and does not pose a threat to wildlife or public safety.~~
- C. ~~An applicant shall use~~ Application shall be made on a form ~~provided by and~~ available from any Department office. ~~The Department shall issue the license or deny the application within 30 calendar days of receiving the application. The following shall be provided by the applicant on the form: The applicant shall provide the following information on the form:~~
  1. Name and location of ~~the~~ zoo;
  2. Mailing address and telephone number for ~~the~~ zoo;
  3. Signature of owner or person responsible for the zoo; ~~and~~ ;
  4. ~~If the application~~ Applications which ~~is~~ are not for renewal of a previously granted license, ~~shall be accompanied by a list, by species, of restricted live wildlife and other legally possessed Arizona wildlife to be held and the number of each species.~~ The list shall include scientific and common names ~~for restricted live wildlife~~ as specified in R12-4-406.
- D. ~~A licensee~~ Licensee shall maintain a record of each animal obtained ~~under pursuant to subsection (A), paragraph (4) for three years following the date of disposition. The record shall include the species, date received, any Department approval authorizing acquisition, and the date and method of disposition.~~
- E. ~~A licensee under this Section is~~ Zoo licenses are subject to the provisions of R12-4-409.
- F. This rule is effective ~~July 1, 2001.~~ January 1, 1995.

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

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

- A.** A wildlife service license allows the live capture, transport, and relocation to the wild of furbearing, predatory, or non-game wildlife that is causing a nuisance ~~or causing~~ property damage, or posing a threat to the health or life of any human being, or ~~if where~~ the life, health, or well-being of the any such wildlife is threatened by the condition of its immediate environment. A wildlife service license also allows the live capture, transport, and relocation to the wild of small game wildlife if the licensee is operating under a valid small game depredation permit issued under R12-4-113 to the wildlife service licensee or another for whom the licensee is acting as an agent. The Department shall issue a wildlife service license to a qualified individual ~~Wildlife service permits shall be issued to individuals and shall be subject to Department evaluation of and stipulations made pursuant to the application submitted in compliance with subsection (C). Only the individual named on the license may conduct activities the license authorizes. A wildlife service license is~~ Wildlife service permits shall not be valid for any wildlife protected by federal law or regulation unless supported by federally-issued documentation rendering the activity lawful. Persons employed by and conducting activities under the auspices of any public safety government agency or incorporated business authorized to provide public safety measures are exempt from the licensing requirements of this Section.
- B.** The following criteria are prerequisites for requisite to approval of a wildlife service license:
1. The applicant's privilege to take or possess wildlife is not under current suspension or revocation by the government of any state or the United States; and -
  2. The licensee has provided shall provide documentation to prove a minimum of six months of full-time employment or voluntary service experience in handling wildlife of the species or groups of species for which the wildlife service license will permit would be valid.
- C.** An applicant shall use ~~Application shall be made on~~ a form available from any Department office. ~~The Department shall issue the permit or deny the completed application within 60 calendar days of receiving it. The~~ An applicant shall provide the following information shall be supplied at the time of application:
1. The applicant name ~~Name~~, mailing address, ~~and~~ day and night telephone numbers to be provided to the public seeking service, and the hours and days of the week when the applicant will be available for service;
  2. A list of furbearing, predatory, small game, or nongame wildlife, by species or groups of species, for which authorization is requested;
  3. The general geographic area where for which services are to be performed;
  4. The signature ~~Signature~~ of the applicant and the date of application ~~submittal of application~~; and
  5. A ~~The applicant shall submit a~~ written narrative statement with the application, containing an explanation a statement of the applicant's experience in the capture, handling, and removal of wildlife, specifying all species of wildlife for which the applicant has performed the such a function; and referencing the general location and dates that the such services were performed, along with the methods of disposition for wildlife captured.
- D.** ~~The Department may return to the applicant, without denial, any application that is lacking information required above, including information that is necessary to establishing that the applicant has met the criteria requisite to approval. Each returned application shall be accompanied by a letter stating what information the applicant has failed to provide. When the missing information can be provided verbally, the Department may handle the corrections by telephone, noting where such changes have been made, and the 60-day approval or denial period shall be restarted on receipt of the completed application.~~
- D.E.** A licensee shall be in possession of a copy of the approved license shall be in the possession of the licensee at all times when the licensed function is being performed.
- E.F.** ~~Capture, removal, transport and relocation~~ A licensee shall capture, remove, transport, or relocate to the wild of any wildlife taken under pursuant to this Section rule shall be accomplished in the manner that which is least likely to cause injury to the affected wildlife and is least likely to result in negative human interaction. The licensee licensee's shall not possess possession of the wildlife shall not extend beyond the period of time necessary to transport and relocate the wildlife to the wild, except as allowed by R12-4-427. Wildlife No wildlife shall not be publicly displayed or exhibited during any period of possession under pursuant to this Section rule.
- E.G.** A wildlife service licensee shall advise the Department in writing within five working days of any change in telephone number numbers, area of service, or change in business hours or days as previously submitted to the Department.
- G.H.** A licensee Licensees may, at any time during the license period, make a written request to amend the their license to add or delete authority to transport and release designated species of wildlife, provided that any addition requested meets the requirements of subsection (A) of this rule. The Department shall grant approve or deny the request within 60 calendar days of receipt, by the procedures prescribed in subsections (C) and (D) of this rule.
- H.I.** A licensee seeking Applications for renewal of a wildlife service license licenses without change to the species or species groups they are authorized to handle under an approved license of or authority may reference supportive materials submitted previously, rather than submitting and replicate copies of the such materials need not be submitted with the application for renewal.
- I.J.** A licensee Licensees shall submit a written report to the Department before January 21 on or before the 20th day of January following each license year. The report shall contain the following information:

Notices of Final Rulemaking

1. The licensee's name, address, telephone number, and ~~license permit~~ number; and -
2. A list of all services performed ~~under pursuant to the license permit~~ during the preceding calendar year, including for each animal the date, location of service, ~~the~~ number and species of wildlife removed, and the final disposition of each animal removed, including ~~the~~ location of release.

~~J.K.~~ A licensee under this Section ~~The wildlife service license~~ is subject to the provisions of R12-4-409 and R12-4-428.

~~K.L.~~ This rule is effective July 1, 2001, ~~January 1, 1993~~.

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

A. For the purposes of this ~~Section~~ ~~Rule~~, the following definitions ~~shall~~ apply:

1. "Agent" means a person designated on ~~a the~~ license who assists a licensee in performing rehabilitative functions, including transport or release of wildlife, provided there is an employment or direct supervisory relationship between the licensee and the ~~person~~ agent.
2. "Assistant" means a person not designated as an agent who assists ~~a the~~ licensee under direct supervision at the premises described on the license.
3. "License" means ~~a the license~~ form issued by the Department, and ~~an the~~ application form submitted by ~~an the~~ applicant and approved by the Department, including any stipulations made upon approval.
4. "Migratory birds" means all species listed at 50 CFR 10.13, revised October 1 ~~1999, 1988~~, not including any later amendments or editions, which is incorporated by reference ~~in this Section, herein~~. A copy of the incorporated matter is on file with the Secretary of State and 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.
5. "Taxa" means groups of animals within specific classes of wildlife occurring in Arizona ~~and having with common characteristics in common with each other~~ that establish relatively similar requirements ~~for in~~ habitat, food, and other ecological or behavioral factors pertinent to establishing standards of housing, care, ~~or and/or~~ rehabilitation as follows:

- a. Amphibians: all amphibians.
- b. Reptiles: all reptiles.
- c. Birds:
  - i. ~~Non-passerines non-passerines~~, birds in any Order other than those named below;
  - ii. ~~Raptors raptors~~, birds in the Orders Falconiformes or Strigiformes;
  - iii. ~~Quail quail~~, birds in the Order Galliformes;
  - iv. ~~Doves doves~~, birds in the Order Columbiformes;
  - v. ~~Hummingbirds hummingbirds~~, birds in the Order Trochiliformes; ~~and~~
  - vi. ~~Passerines passerines~~, birds in the Order Passeriformes.
- d. Mammals:
  - i. ~~Nongame nongame~~ mammals;
  - ii. ~~Bats bats~~; all bats;
  - iii. ~~Big big~~ game mammals: bighorn sheep, bison, black bear, deer, elk, javelina, mountain lion, ~~and~~ pronghorn; ~~and~~
  - iv. ~~Carnivores carnivores~~: bobcat, coati, coyote, foxes, ringtail, skunks, ~~and~~ weasel.
  - e. All other systems of classification or nomenclature notwithstanding, endangered or threatened species and threatened native wildlife, as defined ~~in at~~ R12-4-401, and golden eagles, Gila monsters, twin-spotted rattlesnakes, and banded rock rattlesnakes are not included in the taxa defined above and shall not be possessed ~~under pursuant to~~ license unless specifically authorized on that license.

B. A wildlife rehabilitation license allows the live capture; transport; possession; rehabilitation; transfer to a practicing veterinarian for treatment or euthanasia or to another rehabilitator licensed for the wildlife; ~~or and~~ release and euthanasia of the injured, diseased, disabled, orphaned, or otherwise debilitated live wildlife specified on the license. ~~The license it~~ may also allow the wildlife to be exported, transferred to a licensed zoo or disposed of as directed by the Department. ~~A person shall not educationally display or exhibit wildlife held under a wildlife rehabilitation license.~~ The authorized activities ~~are shall be~~ subject to Department evaluation of, and stipulations ~~made pursuant to~~, applications submitted in compliance with subsections ~~(D) or (E) (E) or (F)~~. ~~The Department may deny a license Applications may be denied or limit a the license may be limited~~ based upon the training and experience of the applicant. ~~The Department shall issue wildlife Wildlife~~ rehabilitation licenses ~~subject to the following conditions shall be:~~

1. ~~The Department shall issue a wildlife rehabilitation license Issued only for the purpose of restoring wildlife to the wild through rehabilitative activities,; all All wildlife held under pursuant to the license remains the property of the state State of Arizona and shall be returned to the Department upon on request; -~~
2. ~~The Department shall issue a wildlife rehabilitation license Issued to provide a public service,; with the The names and telephone numbers of all licensees are being subject to public disclosure by the Department, and a licensee shall not charge a no fee or other compensation shall be charged by the licensee for the wildlife rehabilitation functions performed; -~~

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

3. ~~The Department shall issue a wildlife rehabilitation license Issued to an individual individuals, who is shall be solely responsible for all expenses incurred and all actions taken undertaken under pursuant to the license, including all actions and omissions of all agents and assistants; - and~~
  4. ~~The Department shall issue a wildlife rehabilitation license that is valid Valid only for the premises described on the license.~~
- C. The following criteria are ~~prerequisites for requisite to approval of a wildlife rehabilitation license:~~
1. The privilege of the applicant or any agent to take or possess wildlife is not under current suspension or revocation by the government of any state or the United States.
  2. ~~The Department shall issue a license Licenses to rehabilitate migratory birds shall be issued only to persons 18 years of age or older. A minor's parent or legal guardian shall cosign the The application of a minor to rehabilitate any other species shall be cosigned by the minor's parent or legal guardian and shall ensure that the application is be notarized before prior to submittal. See subsection (B)(3)(5) of this rule.~~
  3. The applicant shall provide documentation to prove one or more of the following:
    - a. A valid, current license issued by a state veterinary medical examination authority, authorizing the applicant to practice as a veterinarian; -
    - b. A minimum of six months of experience performing wildlife rehabilitative work for an average of not less than eight hours per week for the taxa of animals covered proposed to be held under pursuant to the license, while assisting a licensed wildlife rehabilitator, a veterinarian, or a state or federal wildlife agency; or -
    - c. A current, valid wildlife rehabilitation license, issued by the government of any state or the United States.
  4. The applicant shall ~~also~~ provide documentation that, within the last five years, the applicant has answered correctly at least 80% percent of the questions on a written or tape-recorded examination, supervised and administered by the Department, related to: wildlife rehabilitation; the handling, transport, humane treatment, and nutritional, behavioral, developmental, ecological, and habitat requirements of wildlife; captivity standards established under at R12-4-428; human and wildlife safety considerations; this Section rule; and R12-4-409.
    - a. ~~The Department shall administer the examination test shall be administered~~ by appointment at any Department office during normal working hours.
    - b. ~~The Department shall mail the~~ written score of the examination test shall be mailed to the applicant within 30 calendar days of the examination date.
    - c. ~~The Department shall consider only~~ Only those sections of the examination test that are applicable to the taxa of wildlife for which the license is sought shall be considered in establishing the qualifications of the applicant; and
  5. Any licensee who, before prior to the expiration of a Department license to rehabilitate wildlife, applies makes application to continue without change the authorized activities for the authorized species unchanged for those species and for no others is exempt exempted from the written examination required by this subsection (C)(4), unless written reports filed under pursuant to subsection (Q) show that no rehabilitative functions were performed during the license period preceding the one for which the application is submitted being made.
- D. ~~An applicant shall use Applications for wildlife rehabilitation licenses shall be made on a form available from any Department office to apply for a wildlife rehabilitation license. Except as provided at Subsection E of this Rule, the Department shall issue the license or deny the application within 60 calendar days of receipt. Applications and licenses issued under pursuant to this Section rule shall reference the taxa defined in subsection (A) of this rule or shall specify stipulate specific species.~~
1. The applicant shall submit the following information on the form:
    - a. Name, date of birth, mailing address, and telephone number of the applicant; -
    - b. Names, dates of birth, mailing addresses, and telephone numbers of all agents; -
    - c. Street addresses or legal descriptions of all premises at which wildlife rehabilitation facilities would be established; -
    - d. The taxa or species of wildlife proposed to be rehabilitated; - and
    - e. Signature of the applicant and date of application submittal of the application.
  2. The applicant form shall include with the form be accompanied by typed, signed statements executed by all proposed agents, acknowledging that their privilege to take or possess wildlife is not under current suspension or revocation by the government of any state or of the United States.
  3. The applicant form shall also include with the form be accompanied by a typed, signed narrative statement demonstrating, describing, or including at a minimum the following:
    - a. Whether the applicant requests that methods of disposition of wildlife include export, transfer to a licensed zoo, or other methods under direction of the Department; -
    - b. ~~If the Any application concerns rehabilitation of to rehabilitate taxa not currently authorized by the Department, shall include a statement of the applicant's training and experience in the handling, capturing, rehabilitating, and caring for capture, rehabilitation, and care of the taxa for which the application is submitted; being made.~~
    - c. Detailed diagrams of all rehabilitation facilities in which wildlife would be held, including facilities to be used by agents. The diagrams must describe holding facility dimensions, though not necessarily to scale, and materials,

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

location relative to buildings and fences, and relevant information about ~~as to~~ proposed construction and expected completion dates; ~~and~~

- d. A description of the procedures to be employed to ensure the standards set in R12-4-428 are always met at all times, including ~~a description of~~: cleaning methods; food and water supply; shelter; bedding; and mechanisms for prevention of escape ~~of by~~ wildlife and, for potentially dangerous animals, protection of human safety.
  4. ~~If~~ ~~When~~ required by subsection (C) ~~of this rule~~, the application shall also include ~~be accompanied by~~ documentation of a passing score on the examination prescribed in subsection (C)(4).
  5. The applicant shall submit one ~~One~~ or more of the following ~~shall also be submitted~~ with the application:
    - a. A typed, signed statement that the applicant is a licensed, practicing veterinarian; ~~or~~
    - b. A typed, signed statement from the Department's Adobe Mountain Wildlife Center Coordinator that the Center will ~~shall~~ assist the applicant in providing rehabilitative treatment for the wildlife to be held under ~~pursuant to the~~ license; or
    - c. A typed, signed statement from a licensed, practicing veterinarian that the veterinarian is ~~shall~~ be reasonably available to give ~~render~~ veterinary services requested by the licensee as necessary to facilitate rehabilitation of wildlife. The licensee shall be responsible for any veterinary expenses. ~~Responsibility for expenses incurred in the treatment shall be determined by the veterinarian and the licensee.~~
  6. A licensee seeking ~~Applications for~~ renewal of a wildlife rehabilitation license ~~licenses~~ without change of species, ~~or~~ location, or design of facilities may reference supportive materials submitted previously, rather than submitting and replicate copies of the such materials need not be submitted with the application for renewal.
- ~~E.~~ The Department may return without denial or approval any application lacking information required by Subsection D. Each returned application shall be accompanied by a letter identifying the information the applicant failed to provide. ~~When missing information can be provided verbally, the Department may handle the corrections by telephone, noting where such changes have been made, and the date and source thereof. The approval or denial period shall be restarted at day one on receipt of the completed application.~~
- ~~E.F.~~ A licensee ~~Licenses~~ may, at any time during the license period, make a written request to amend the license ~~their licenses~~ to add or delete agents, to add or delete ~~or~~ premises, or to obtain authority to rehabilitate additional taxa of wildlife, ~~provided the requests. The request shall~~ meet the requirements of subsections (C)(4) and (D)(1) through (D)(3) ~~of this rule~~. The Department shall grant ~~approve~~ or deny a request within 60 calendar days of receipt. ~~by the procedures prescribed in subsection (E).~~
- ~~E.G.~~ A licensee ~~Licenses~~ may accept donations to defray expenses or to provide materials or facilities essential to the licensed activity. Only those activities allowed under a wildlife rehabilitation license, as identified in subsection (B), are permitted during the solicitation of donations.
- ~~E.H.~~ A licensee shall capture, remove, ~~Capture, removal,~~ transport, and release ~~of wildlife under pursuant to this Section rule~~ shall be accomplished in a manner that ~~which~~ is least likely to cause injury to the affected wildlife.
- ~~H.I.~~ A licensee authorized to rehabilitate big game mammals, golden eagles, Gila monsters, twin-spotted rattlesnakes, banded rock rattlesnakes, ~~or~~ endangered or threatened species, or threatened native wildlife as defined in R12-4-401 shall, within 24 hours of receiving the any such individual animal, contact the Department for instructions in handling that animal. While awaiting instructions, emergency veterinary care shall be provided as necessary.
- ~~I.J.~~ Except when the Department has authorized possession for a longer period, a licensee shall not possess a raptor ~~raptors~~ shall not be possessed longer than 180 days; or other wildlife shall not be possessed longer than 90 days. A licensee shall submit a written request to the Department ~~Any request to hold wildlife in excess of this period, shall be submitted to the Department in writing.~~ The Department may require the licensee to provide a typed, signed statement from a licensed veterinarian listing setting forth the medical reasons why for the such extension is necessary if there is a dispute between the Department and the licensee regarding the medical necessity for the requested extension. The Department shall grant or deny a request for extension within 10 ~~ten~~ days of receipt of the request or the veterinarian's statement. The licensee may continue to hold the specified wildlife while the Department considers the request. The Department shall deny a ~~A denial of request for extension shall be in writing and shall include in the written denial specific, time-dated directions on disposition of the animal.~~
- ~~J.K.~~ A licensee may hold wildlife ~~Wildlife may be held under pursuant to~~ a wildlife rehabilitation license after the wildlife reaches ~~reaching~~ a state of restored health only for the amount of time such time as is reasonably necessary to make humane disposition of the wildlife, but in no case for longer than has been authorized under pursuant to subsection (I) ~~(J)~~ ~~of this rule~~. Rehabilitated wildlife shall be released at an ecologically appropriate time of year and into a habitat suitable to sustain it:
1. In the same geographic area as the animal was originally obtained, except that birds may be released at any location statewide within the normal range of that species in ecologically suitable habitat; or
  2. In an ~~At such area as has been~~ designated by the Department; and
  3. Without immediate threat to the animal of injurious contact with humans.
- ~~K.~~ To permanently hold rehabilitated wildlife that is unsuitable for release, a licensee shall apply for a wildlife holding license under R12-4-417.

- L. Unless otherwise stipulated in the license, a licensee shall dispose of all wildlife that is euthanized or ~~that which~~ otherwise dies while held ~~under pursuant to license~~ shall within 30 days of death ~~be disposed of by burial or incineration~~, except that ~~the licensee shall transfer~~ all carcasses of endangered or threatened species, ~~or threatened native wildlife,~~ or golden eagles shall be transferred to the Department.
- M. A licensee shall ensure that a copy of the approved license and application ~~accompanies~~ shall accompany any shipment or transport of wildlife ~~under pursuant to this Section rule~~, and shall be ~~is~~ available for inspection at each of the premises authorized by the license.
- N. A licensee ~~Licensee~~ shall keep a current log ~~that shows~~ showing the date of acquisition, location, and disposition of all wildlife held ~~under pursuant to the their~~ license.
- O. ~~Before January 16 of~~ ~~On or before the 15th day of~~ January each year, a ~~each~~ licensee shall file a written report on activities ~~performed under pursuant to the~~ license for the previous calendar year. The licensee shall report ~~shall be made~~ on a form available from the Department. ~~The written report shall contain the following information shall be provided in the written report:~~
1. ~~The name~~ Name, address, and ~~telephone~~ phone number of the licensee and ~~of~~ all agents; ~~and~~
  2. The permit or license number of any federal permits or licenses that relate to any rehabilitative function performed by the licensee; and
  3. An itemized list of each animal held ~~under pursuant to the~~ license during the calendar year for which activity is being reported. For each animal held by the licensee or agent, the itemization shall include the: name of the species; condition that required rehabilitation; source, location, and date of acquisition; if reasonably determinable, age class at acquisition; status at disposition or end-of-year relative to the condition requiring rehabilitation; and method, place, and date of disposition. A copy of the rehabilitator's federal permit report of activities related to federally protected wildlife ~~satisfies~~ shall satisfy this reporting requirement for federally protected wildlife.
- P. A licensee ~~Licensees~~ shall participate in one of the following during the license period:
1. Eight hours or more of continuing education sessions on wildlife rehabilitation, offered by the Department at no fee. The Department shall provide each licensee ~~with~~ a minimum of 30 calendar days' notice of ~~the such~~ sessions.
  2. Eight hours or more of continuing education sessions on wildlife rehabilitation, offered by an accredited university or college; the National Wildlife Rehabilitators Association, R.R. 1, Box 125 E, Brighton, Illinois 62012; or the International Wildlife Rehabilitation Council, P.O. Box 3007, Walnut Creek, California 94598.
- Q. A licensee shall obtain ~~written~~ ~~Written~~ authorization ~~shall be obtained~~ from the Department ~~under pursuant to subsection subsections (D) or (E) (F)~~ before ~~designating~~ any agent ~~is designated~~. The agent shall have ~~the this~~ authorization in possession ~~and available for inspection~~ while in possession of wildlife. The licensee ~~is~~ shall be responsible for the acts of the agent ~~if insofar as~~ they fall within the framework of this ~~Section rule~~, ~~and~~ ~~The Department may suspend or revoke~~ the rehabilitation license ~~may be suspended or revoked by the Department~~ for violation of this ~~Section rule~~ by ~~an~~ the agent.
- R. A ~~wildlife~~ ~~Wildlife~~ rehabilitation license ~~expires~~ licenses expire on December 31 of the second year following the date of issuance of the license.
- S. A ~~wildlife~~ ~~Wildlife~~ rehabilitation license ~~is~~ licenses are subject to the provisions of R12-4-409 and R12-4-428.
- T. This rule is effective ~~July 1, 2001.~~ ~~January 1, 1995.~~

**R12-4-424. White Amur Stocking License**

- A. For ~~the purpose of~~ this rule:
1. "Closed aquatic system" means any body of water, ~~water system~~, canal system, series of lakes, canals, or ponds, ~~that constitutes a body of water~~ where triploid white amur are prevented from ingress or egress by any natural or man-made barrier, as determined by the Department.
  2. "Triploid" means a species ~~that which~~ has 3N chromosomes.
- B. A white amur stocking license ~~allows for~~ may allow the importation, transportation, stocking and possession of triploid white amur (*Ctenopharyngodon idellus*). The Department may make stipulations on what the license will allow, based on evaluation of the application. A white amur stocking license shall be obtained for each closed aquatic system, ~~or~~ for each separately managed portion ~~of a closed aquatic system thereof,~~ ~~or for multiple separate closed aquatic systems owned, controlled, or legally held by the same applicant~~ where stocking is to occur.
- C. In addition to the requirements in A.R.S. § 17-317, the following criteria are ~~prerequisites for~~ ~~requisite to~~ approval of a white amur stocking application:
1. The proposed stocking site ~~meets~~ shall meet the definition of a ~~for~~ "closed aquatic system".
  2. The purpose of the stocking ~~is~~ shall be: ~~to control of~~ aquatic weeds ~~that which~~ interfere with recreational, domestic, municipal, agricultural, or industrial use of water; ~~or control of aquatic weeds that which~~ impair water quality; or for sale from licensed fish farms.
  3. ~~If the Department determines during the substantive review time-frame for the special license identified in R12-4-106 and R12-4-409(A) that the stocking will~~ Applications for stocking determined by the Department to be in watersheds containing "threatened native wildlife" as defined in R12-4-401, ~~the applicant shall submit~~ shall be accompanied by a written proposal ~~that addresses the which shall address~~ biological ramifications of the introduction. A determination by the Department that negative impact on Arizona wildlife may result from issuance of the ~~license permit~~ is suffi-

Arizona Administrative Register

Notices of Final Rulemaking

~~cient shall be grounds for denying denial of a license permit. The Department shall notify the applicant within 30 calendar days of receipt of the application if the written proposal is required to process the application. The proposal shall include:~~

- a. The purpose of the introduction;
- b. Expected benefits;
- c. Possible negative impacts;
- d. ~~An evaluation~~ Evaluation of the ecology of "threatened native wildlife" species identified by the Department as the reason for requiring the proposal;
- e. ~~An evaluation~~ Evaluation of potential displacement of "threatened native wildlife" identified by the Department;
- f. ~~An evaluation~~ Evaluation of disease potential; and
- g. ~~A method~~ Method for post-introduction evaluation of status and impacts.

**D.** ~~An applicant~~ Application for a white amur stocking license shall ~~use a form~~ be made on forms provided by and available from any Department office. ~~When no written proposal pursuant to subsection (C)(3) of this rule is required, the Department shall issue the license or deny the application within 30 calendar days of receiving the application. When a written proposal is required pursuant to Subsection (C)(3) of this Rule, the Department shall issue the license or deny the application within 30 calendar days of receiving the proposal. The following information shall be provided by the applicant on the form: The applicant shall provide the following information on the form:~~

1. Name and address; -
2. Name and address of business and title of the position held by the applicant, if applicable; -
3. Name and address of suppliers; -
4. Name and legal description of the aquatic system to be stocked; -
5. Drainage; -
6. Purpose of stocking; -
7. Planned stocking date; -
8. Number and size of triploid white amur to be stocked; - and
9. Signature.

**E.** ~~A licensee shall report all~~ All restocking of white amur ~~shall be reported~~ to the Department on forms provided by the Department ~~before prior to~~ restocking. ~~The licensee shall provide the following information on the form: The following information shall be provided by the licensee on the form:~~

1. Name and address of the licensee as shown on the current white amur stocking license;-
2. Name and address of suppliers; -
3. Name and legal description of aquatic system to be restocked; -
4. Drainage; -
5. Purpose of restocking; -
6. Planned restocking date; -
7. Number and size of triploid white amur to be restocked; - and
8. Signature.

**F.** All shipments of white amur shall be accompanied by certification issued by the U.S. Fish and Wildlife Service verifying triploidy, and ~~a licensee shall provide a copy of the certificate shall be provided~~ to the Department ~~before prior to~~ stocking.

**G.** ~~A white~~ White amur stocking license is licenses are subject to the provisions of R12-4-409.

**H.** This rule is effective ~~July 1, 2001. January 1, 1995.~~

**NOTICE OF FINAL RULEMAKING**

**TITLE 17. TRANSPORTATION**

**CHAPTER 3. DEPARTMENT OF TRANSPORTATION**

**HIGHWAYS DIVISION**

**PREAMBLE**

**1. Sections Affected:**

R17-3-402

**Rulemaking Action:**

Repeal

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

Authorizing statute: A.R.S. § 28-366

Implementing statute: A.R.S. § 28-7045

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

**3. The effective date of the rules:**

June 7, 2001

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

Notice of Rulemaking Docket Opening: 7 A.A.R. 921, February 16, 2001

Notice of Proposed Rulemaking: 7 A.A.R. 972, February 23, 2001

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

Name: Wendy S. LeStarge, Rules Analyst

Address: Arizona Department of Transportation  
Administrative Rules Unit, Mail Drop 507M  
3737 N. 7th Street, Suite 160  
Phoenix, AZ 85014-5017

Telephone: (602) 712-6007

Fax: (602) 241-1624

E-Mail: wlestarge@dot.state.az.us

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters:  
[www.dot.state.az.us/about/rules](http://www.dot.state.az.us/about/rules).

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

This rulemaking deals with weight restrictions on State Highway 377. The agency seeks to repeal this rule because the weight restrictions are no longer necessary due to reengineering of the state highway. This rulemaking arises from proposed agency action in the five-year review report approved by the Governor's Regulatory Review Council on May 2, 2000 (F-00-0402).

**7. A reference to any study that the agency relied on its evaluation 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:**

The Department claims exemption under A.R.S. § 41-1055(D). The only foreseen economic impact of repealing R17-3-402 is clerical costs involved in formal rulemaking. Repeal of this unnecessary rule decreases agency monitoring and enforcing burdens required of effective administrative rules.

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

Not applicable

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

No comments were received.

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

*Arizona Administrative Register*  
Notices of Final Rulemaking

---

TITLE 17. TRANSPORTATION

CHAPTER 3. DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

ARTICLE 4. HIGHWAY LIMITATIONS (WEIGHT RESTRICTIONS AND TRAFFIC CONTROLS)

Section

R17-3-402. ~~Weight restrictions on State Highway 377~~ Repealed

ARTICLE 4. HIGHWAY LIMITATIONS (WEIGHT RESTRICTIONS AND TRAFFIC CONTROLS)

**R17-3-402. ~~Weight restrictions on State Highway 377~~ Repealed**

~~A maximum gross weight restriction of 40,000 pounds (20 tons) in total is imposed on that portion of State Highway 377 between Holbrook and Heber, described as follows:~~

- ~~1. Beginning on State Highway 377 from Milepost 0.00 at its intersection with State Highway 277 to Milepost 33.83 at its intersection with State Highway 77.~~

**NOTICE OF FINAL RULEMAKING**

TITLE 17. TRANSPORTATION

CHAPTER 3. DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

PREAMBLE

- 1. Sections Affected:**

R17-3-401 R17-3-404	<b><u>Rulemaking Action:</u></b> Repeal Repeal
------------------------	--
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 28-366  
Implementing statute: A.R.S. § 28-7045
- 3. The effective date of the rules:**

June 7, 2001
- 4. A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 7 A.A.R. 1261, March 16, 2001  
Notice of Proposed Rulemaking: 7 A.A.R. 1302, March 23, 2001
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Wendy S. LeStarge, Rules Analyst
Address:	Arizona Department of Transportation Administrative Rules Unit, Mail Drop 507M 3737 N. 7th Street, Suite 160 Phoenix, AZ 85014-5017
Telephone:	(602) 712-6007
Fax:	(602) 241-1624
E-Mail:	wlestage@dot.state.az.us

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters:  
[www.dot.state.az.us/about/rules](http://www.dot.state.az.us/about/rules).
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**

This rulemaking deals with weight restrictions on State Highway 67 and State Highway 260. The agency seeks to repeal these rules because the weight restrictions are no longer necessary due to reengineering of the state highways. This rulemaking arises from proposed agency action in the five-year review report approved by the Governor's Regulatory Review Council on May 2, 2000 (F-00-0402).

- 7. A reference to any study that the agency relied on its evaluation 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:**  
The Department claims exemption under A.R.S. § 41-1055(D). The only foreseen economic impact of repealing these rules is clerical costs involved in formal rulemaking. Repeal of these unnecessary rules decreases agency monitoring and enforcing burdens required of effective administrative rules.
- 10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**  
Not applicable
- 11. A summary of the principal comments and the agency response to them:**  
No comments were received.
- 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. The full text of the rules follows:**

TITLE 17. TRANSPORTATION

CHAPTER 3. DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION

ARTICLE 4. HIGHWAY LIMITATIONS (WEIGHT RESTRICTIONS AND TRAFFIC CONTROLS)

Section

R17-3-401. Weight restrictions on State Highway 67 Repealed

R17-3-404. Weight restrictions on State Highway 260 Repealed

ARTICLE 4. HIGHWAY LIMITATIONS (WEIGHT RESTRICTIONS AND TRAFFIC CONTROLS)

**R17-3-401. Weight restrictions on State Highway 67 Repealed**

**A.** A maximum gross weight restriction of 20,000 pounds (10 tons) is imposed on that portion of State Highway 67 between Jacobs Lake to the Park Boundary, being more particularly described as follows:

1. Beginning on State Route 67 from Milepost 579.36 at Jacobs Lake to the Park Boundary at Milepost 610.26 for the period November 15 until May 15 of each year.

**B.** A maximum gross weight restriction of 14,000 pounds per axle is imposed on that portion of State Highway 67 between Jacobs Lake to the Park Boundary, being more particularly described as follows:

1. Beginning on State Route 67 from Milepost 579.36 at Jacobs Lake to the Park Boundary at Milepost 610.26 for the period May 15 to June 15 of each year.

**R17-3-404. Weight restrictions on State Highway 260 Repealed**

**A.** The Director of the state Department of Transportation pursuant to A.R.S. § 28-1012(D) is authorized to impose restrictions as to the weight of vehicles operated upon any highway under the jurisdiction of the state Department of Transportation.

1. By virtue of said statutory provision, the Director of the state Department of Transportation recommends that such restriction be imposed on the following state route to assure against damage to the roadway which could lead to total disintegration of the roadway.

**B.** In the interest of public necessity, safety, and convenience, the Director of the state Department of Transportation recommends that a maximum gross weight restriction be imposed on State Highway 260, on a portion between Christopher Creek and Young Road, being more particularly described as follows:

Notices of Final Rulemaking

1. ~~Beginning on State Route 260 from Milepost 274.0 to Milepost 284.3 a vehicle maximum gross weight restriction of 20,000 pounds (10 tons) be established, effective March 31, 1983, with a greater limit being established as further engineering studies warrant, until the legal limit is again established.~~
2. ~~These weight limit restrictions will become effective with the posting of appropriate signs on said section of highway.~~
3. ~~The Arizona Department of Transportation, Highways Division, is authorized and directed to post appropriate signs of said restriction.~~

**NOTICE OF FINAL RULEMAKING**

**TITLE 17. TRANSPORTATION**

**CHAPTER 4. DEPARTMENT OF TRANSPORTATION  
MOTOR VEHICLE DIVISION**

**PREAMBLE**

1. **Sections Affected:**  
R17-4-205  
R17-4-207  
R17-4-207
- Rulemaking Action:**  
Amend  
Repeal  
New Section
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 28-366  
Implementing statutes: A.R.S. §§ 28-2051 and 28-2157
3. **The effective date of the rules:**  
June 8, 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. 3479, September 8, 2000  
Notice of Proposed Rulemaking: 7 A.A.R. 1304, March 23, 2001
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: George R. Pavia, Department Rules Supervisor  
Address: Arizona Department of Transportation  
Administrative Rules Unit, Mail Drop 507M  
3737 N. 7th Street, Suite 160  
Phoenix, AZ 85014-5017  
Telephone: (602) 712-8446  
Fax: (602) 241-1624  
E-Mail: gpavia@dot.state.az.us  
Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters:  
[www.dot.state.az.us/about/rules](http://www.dot.state.az.us/about/rules).
6. **An explanation of the rule, including the agency's reasons for initiating the rule:**  
This rulemaking action updates rule language to improve understandability, clarity, and conciseness. The revision also seeks to simplify the rule by eliminating unnecessary language. This rulemaking results from the five-year review report (F-98-0401) approved by the Governor's Regulatory Review Council on May 5, 1998.
7. **A reference to any study that the agency relied on its evaluation 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

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

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

The agency imposes no direct cost on any entity with these rules. Vehicle-owning businesses and consumers benefit with the assurance of legal vehicle ownership and right of survivorship. MVD-contracted competitive government third-party entities are issued materials at no cost to perform the functions required under these rules. In turn, third-parties profit from undisclosed, non-reportable service fees from customers. The MVD hearings subdivision also has a theoretical reduction in vehicle ownership contest cases. The Division recoups its costs through annual title and registration fees collected statewide.

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

At the recommendation of G.R.R.C. staff, the agency made global non-substantial changes in grammar, syntax, and word usage to improve understandability.

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

The agency received no comments in this 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:**

Not applicable

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

No

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

**TITLE 17. TRANSPORTATION**

**CHAPTER 4. DEPARTMENT OF TRANSPORTATION  
MOTOR VEHICLE DIVISION**

**ARTICLE 2. TITLES AND REGISTRATION**

Section

R17-4-205. ~~Application for Arizona Certificate of Title and Registration~~ Application

R17-4-207. ~~Vehicle titles — joint ownership rules~~ Co-ownership and Vehicle Title

**ARTICLE 2. TITLES AND REGISTRATION**

**R17-4-205. ~~Application for Arizona Certificate of Title and Registration~~ Application**

**~~A.~~** ~~The application for Arizona Certificate of Title and Registration shall contain space for the following:~~

- ~~1. Vehicle information — title number, license number, tab number and year of tab number, tab expiration date, the month and year first registered, make, year, body style, model, status, list price, gross vehicle weight, fuel type, Motor Vehicle Division Tax Account Number, Division index number, vehicle identification number, odometer reading, previous title number, state of previous title, previous title date, whether the vehicle was acquired new or used, name and address of person from whom procured, whether vehicle will be rented without a driver and whether the vehicle is specially constructed or reconstructed.~~
- ~~2. Applicant information — first, middle and last name, legal status of ownership, date of birth, driver's license or federal identification number, current street address, city, county, state, zip code number, and whether applicant's registration rights are under suspension.~~
- ~~3. Lienholder information — name and address of all lienholders, amount of each lien and date of each lien.~~
- ~~4. Mobile home information — name of mobile home manufacturer, site of physical location of mobile home.~~
- ~~5. Motor Vehicle Division information — information needed for in-house agency use.~~
- ~~6. Joint tenancy information — whether the applicants intend to hold the title as joint tenants with rights of survivorship.~~
- ~~7. Duplicate title information — whether the original title was lost, destroyed, mutilated or has become illegible and certifying that the title has not been assigned or surrendered.~~
- ~~8. Certification — applicant certification that applicant is the owner of the vehicle, has listed all liens and encumbrances and acknowledges the odometer reading as qualified by the seller and has met mandatory insurance requirements.~~
- ~~9. Signature and verification — signatures of applicants and a notary public or Motor Vehicle Division agent.~~
- ~~10. Joint ownership instructions — printed information defining joint ownership conditions shown by "or" — "and" — "and/or".~~
- ~~11. Odometer — printed information explaining odometer reading codes.~~

*Arizona Administrative Register*

**Notices of Final Rulemaking**

---

- B.** ~~Except as provided for in subsection (C), no Application for Arizona Certificate of Title and Registration will be processed and no certificate of title or registration will be issued unless all information required on the application has been provided by the applicant.~~
- C.** ~~The applicant may provide the following information on a voluntary basis:~~
- ~~1. Applicant's date of birth.~~
  - ~~2. Applicant's driver's license number.~~
  - ~~3. Applicant's federal employer identification number, if the applicant is an organization taking title as a sole proprietor partnership, corporation or other legal entity.~~
- A.** In addition to the requirements of A.R.S. §§ 28-2051 and 28-2157, a person applying for an Arizona motor vehicle title certificate and registration shall complete a form supplied by the Motor Vehicle Division that contains the following information:
1. Vehicle information:
    - a. Tab number;
    - b. Initial registration month and year;
    - c. Vehicle make, model, year, and body style;
    - d. Mechanical or structural status indicating whether the vehicle is:
      - i. Dismantled,
      - ii. Reconstructed,
      - iii. Salvaged, or
      - iv. Specially constructed;
    - e. Gross vehicle weight;
    - f. Fuel type;
    - g. Odometer information;
    - h. Current title number and titling state.
  2. An owner's or lessee's legal ownership status.
  3. Lienholder information:
    - a. Lienholder names and addresses, and
    - b. Lien amount and date incurred.
  4. If a mobile home, the physical site.
  5. Co-ownership information:
    - a. A statement of whether any survivorship rights in the vehicle exist; and
    - b. A statement providing co-ownership legal status prescribed in R17-4-207(B).
  6. Owner certification information verifying:
    - a. Ownership,
    - b. Inclusion of all liens and encumbrances, and
    - c. Seller-verified odometer reading.
  7. Applicant signatures.
  8. An acknowledgement that:
    - a. The applicant agrees or disagrees to the Division's release of the applicant's name on a commercial mailing list; and
    - b. The applicant has read a printed explanation of odometer reading codes.
  9. Other information required by the Division for internal processing and recordkeeping.
- B.** An applicant may voluntarily provide the following information on the form:
1. Applicant's birth date;
  2. Applicant's driver license number; and
  3. Applicant's federal employer identification number, if the applicant is taking title as a sole proprietor, partnership, corporation, or other legal business entity.

**R17-4-207. Vehicle titles — joint ownership rules Co-ownership and Vehicle Title**

Rules prescribing method of indicating type of ownership to a motor vehicle:

- ~~1. The Motor Vehicle Division receives application for certificates of title to vehicles with the ownership being in more than one name, and~~
- ~~2. The application and title form do not have sufficient space on which may be indicated at length the nature of the tenancy, and~~
- ~~3. It is desirable that there be a uniform and brief method of indicating on the certificate the nature of the tenancy.~~
- ~~4. That when the ownership of a vehicle is to be in more than one name, the application for the certificate of title must indicate in the owner's name section the nature of the tenancy by use of one of the three methods given below.~~
- ~~5. That the vehicle division will transfer the ownership of a vehicle or encumber the same when there is more than one owner, only upon compliance with the requirements set forth below in connection with the method under which the title has been issued.~~

- a. ~~Where ownership is a joint tenancy with right of survivorship, the owner's name on the title shall be shown as follows:~~

~~John Doe and/or Joe Roe~~

~~To transfer ownership of the vehicle or to encumber the vehicle, signatures of the two parties will be required if both are living. Upon satisfactory proof of the death of either party, the living party may transfer ownership of the vehicle by his or her signature alone.~~

- b. ~~Where ownership is a tenancy in common, the owner's name on the title shall be shown as follows:~~

~~John Doe and Joe Roe~~

~~To transfer ownership of the vehicle or to encumber the vehicle, signature of the two parties will be required. In the event of the death of either party the interest of the deceased party must be handled through probate proceedings.~~

- c. ~~Where the ownership is a joint tenancy, with an expressed intent that either of the owners have full authority to transfer ownership of the vehicle or to encumber the same, the owner's name on the title will be shown as follows:~~

~~John Doe or Joe Roe~~

~~As a condition of issuing a title showing the ownership as just indicated above, the two owners will be required to sign a form to be furnished by the department, such document to authorize their party to transfer or encumber the vehicle by his or her signature alone.~~

**A.** In this Section, unless the context otherwise requires:

1. "Division" means the Arizona Department of Transportation, Motor Vehicle Division.
2. "Encumbrance" means an obligation stated as a lien on a vehicle title that is released upon payment or cancellation of the obligation.
3. "Joint tenancy with right of survivorship" means ownership by two or more people with a surviving joint tenant's right to become sole owner.
4. "Tenancy in common" means vehicle ownership by two or more people without the right of survivorship.

**B.** A title certificate application shall specify the form of co-ownership and names of a vehicle's co-owners as follows.

1. If co-ownership is a joint tenancy with right of survivorship in which all owners must sign to transfer or encumber the vehicle, the applicant shall provide the name of each owner separated by "and/or".
2. If co-ownership is a joint tenancy that allows one owner to transfer or encumber the vehicle title, the applicant shall provide:
  - a. The name of each co-owner separated by "or", and
  - b. A form, signed by each co-owner authorizing title transfer or encumbrance on the signature of any co-owner.
3. If co-ownership is a tenancy in common, the applicant shall provide the name of each owner separated by "and".

**C.** Before a surviving joint tenant under subsection (B)(1) obtains a title certificate as sole owner or transfers or encumbers the vehicle title, the surviving joint tenant shall present to the Division a death certificate for each deceased joint tenant.

**D.** After the death of a tenant in common, the Division shall issue a new title certificate only as directed by:

1. A certified probate court order, or
2. A successor's affidavit under A.R.S. § 14-3971(B).

## NOTICE OF FINAL RULEMAKING

### TITLE 17. TRANSPORTATION

#### CHAPTER 4. DEPARTMENT OF TRANSPORTATION MOTOR VEHICLE DIVISION

##### PREAMBLE

**1. Sections Affected:**

R17-4-209  
R17-4-209

**Rulemaking Action:**

Repeal  
New Section

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

Authorizing statute: A.R.S. § 28-366

Implementing statute: A.R.S. § 28-2052

**3. The effective date of the rules:**

June 8, 2001

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

Notice of Rulemaking Docket Opening: 5 A.A.R. 3278, September 24, 1999 (expired)

Notice of Rulemaking Docket Opening: 5 A.A.R. 4324, November 12, 1999

Notice of Proposed Rulemaking: 6 A.A.R. 4089, October 27, 2000

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

Name: George R. Pavia, Department Rules Supervisor

Address: Arizona Department of Transportation  
Administrative Rules Unit, Mail Drop 507M  
3737 N. 7th Street, Suite 160  
Phoenix, AZ 85014-5017

Telephone: (602) 712-8446

Fax: (602) 241-1624

E-Mail: gpavia@dot.state.az.us

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

This rulemaking arises from a five-year review report (F-98-0401) approved by G.R.R.C. on May 5, 1998. The purpose of the rule is to prescribe additional titling standards for motor vehicles not manufactured in compliance with United States safety and emission standards (commonly called "Gray-market Vehicles") to ensure compliance before the issuance of an Arizona title. In its current form, the rule is outdated. In this rulemaking, the Division updates language to current standards and incorporates revised provisions to bring the rule in line with current Division requirements.

**7. A reference to any study that the agency relied on its evaluation 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:**

The State of Arizona subscribes to prescribed federal safety and emission standards in this rulemaking and, notwithstanding, will allow the importation of foreign vehicles into the state. Any foreign-vehicle owner, business or individual, could incur expenses of greater than \$20,000 per imported vehicle to bring an import into federal compliance if it cannot be documented that the vehicle was manufactured according to U.S. standards. To maintain enforcement of these provisions, the Division annually inspects 400-500 imported vehicles, absorbing inspection costs with collected fees. Non-compliant vehicles may be brought into compliance through processing by registered importers (and their subcontracted entities). Registered importers and subcontractors can substantially profit from bringing an imported vehicle into compliance with federal standards.

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

No changes were made between proposed and final rule.

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

The agency received no comments in this 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:**

None

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

No

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

*Arizona Administrative Register*  
**Notices of Final Rulemaking**

---

**TITLE 17. TRANSPORTATION**

**CHAPTER 4. DEPARTMENT OF TRANSPORTATION  
MOTOR VEHICLE DIVISION**

**ARTICLE 2. TITLES AND REGISTRATION**

Section

R17-4-209. ~~Additional titling standards for vehicles not manufactured in compliance with United States Safety and Emission Standards~~ Additional Titling Standards for Vehicles Not Manufactured in Compliance with United States Safety and Emission Standards; “Gray-market Vehicles”

**R17-4-209. ~~Additional titling standards for vehicles not manufactured in compliance with United States Safety and Emission Standards~~ Additional Titling Standards for Vehicles Not Manufactured in Compliance with United States Safety and Emission Standards; “Gray-market Vehicles”**

**A. Definitions**

1. ~~“DOT” means the United States Department of Transportation.~~
2. ~~“EPA” means the Environmental Protection Agency of the United States.~~
3. ~~“NHTSA” means the National Highway Traffic Safety Administration.~~
4. ~~“U.S. Customs” means the United States Treasury Department, Customs Service.~~

**B. Documentation requirements for proof of compliance. The following documents and proofs of compliance shall be presented to the Motor Vehicle Division.**

1. ~~A copy of the letter of release from the Department of Transportation, National Highway Traffic Safety Administration, to the District Director of U.S. Customs, which states that the vehicle is in compliance with the equipment standards of NHTSA, and~~
2. ~~A copy of the letter of release from the Environmental Protection Agency to U.S. Customs which states that the vehicle is in conformity with federal emission equipment standards and a copy of the Arizona Motor Vehicle Emission Test Report form shall be included unless the vehicle qualifies for exemption from EPA and/or the Arizona Motor Vehicle Emission Test, or~~
3. ~~Other written documentation from NHTSA and EPA which states that the vehicle was previously determined to be in compliance with the standards of those agencies.~~

**A. Definitions.**

1. “Division” or “MVD” means Motor Vehicle Division of Arizona Department of Transportation.
2. “EPA standards” means Environmental Protection Agency standards as prescribed under 40 CFR 86.
3. “FMVSS” means Federal Motor Vehicle Safety Standards as prescribed under 49 CFR 571.
4. “GVWR” or “gross vehicle weight rating” has the meaning prescribed in A.R.S. § 28-3001(10).
5. “Multipurpose passenger vehicle” or “MPV” means a motor vehicle with motive power, except a low-speed vehicle or a trailer designed to carry 10 persons or fewer, constructed either on a truck chassis or with special features for occasional off-road operation.
6. “NHTSA” means National Highway Traffic Safety Administration.
7. “Registered importer” means a person who:
  - a. Is registered by the NHTSA Administrator as prescribed under 49 CFR 592.5;
  - b. Is licensed under A.R.S. Title 28, Chapter 10, Article 2; and
  - c. Performs duties as prescribed under 49 CFR 592.6.
8. “Valid titling documentation” means compliance with federal standards that is recorded on:
  - a. A registered importer’s certificate,
  - b. A manufacturer’s letter, or
  - c. A U.S. federal compliance label printed in English.

**B. Titling standards.**

1. The Division shall issue a title to a foreign-manufactured vehicle imported to the U.S. when an applicant presents the following:
  - a. A valid titling document defined under subsection (A)(8).
  - b. A completed MVD title and registration application as prescribed under R17-4-205.
  - c. A completed Vehicle Verification Form certifying that the vehicle passed the Division’s physical inspection.
  - d. A document stating that the vehicle passed an Arizona emissions inspection under A.R.S. § 49-542, and
  - e. A certificate that the vehicle was converted to meet:
    - i. EPA standards, and
    - ii. FMVSS.
2. A foreign-manufactured vehicle imported to the U.S. is exempt from subsection (B) if it is older than 25 years from its manufacture date.

3. A foreign-manufactured vehicle imported to the U.S. that is between 21 and 25 years from the manufacture date is exempt from EPA standards, but shall comply with subsection (B)(1)(e)(ii).
4. Titling standards for vehicles manufactured according to Canadian specifications.
  - a. The Division shall issue a title to a vehicle manufactured according to Canadian specifications if it:
    - i. Is not for resale;
    - ii. Has a GVWR of less than 10,000 pounds; and
    - iii. Is a passenger vehicle, motorcycle, or MPV.
  - b. Before titling a vehicle manufactured according to Canadian specifications, the owner shall submit to the Division manufacturer documentation verifying that the vehicle complies with FMVSS and EPA standards.
    - i. The Division shall waive the labeling location requirement for standard FMVSS and EPA vehicle labeling locations.
    - ii. If manufacturer documentation indicates that a vehicle's speedometer or headlights do not comply with FMVSS and EPA standards, the owner shall file additional documentation with the Division to verify completion of a modification to bring the vehicle into compliance.
  - c. A registered importer shall certify a vehicle manufactured according to Canadian specifications if:
    - i. The vehicle meets FMVSS standards except for occupant crash protection provisions prescribed under 49 CFR 571.208, or
    - ii. The owner did not submit manufacturer documentation as prescribed under subsection (B)(4)(b).
- C.** The Division shall require a registered importer's certification of a foreign-manufactured vehicle imported to the U.S. that:
  1. Is not exempt under subsections (B)(2) or (B)(3).
  2. Does not qualify under subsection (B)(4), or
  3. Does not have a valid titling document.