

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

PREAMBLE

1. Sections Affected

R12-4-401
R12-4-406
R12-4-407
R12-4-408
R12-4-409
R12-4-412
R12-4-413
R12-4-417
R12-4-420
R12-4-423
R12-4-430

Rulemaking Action

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

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

Authorizing statutes: A.R.S. § 17-101 for R12-4-401; A.R.S. §§ 17-231(B)(8) and 17-306 for R12-4-406 and R12-4-430; A.R.S. §§ 17-238 and 17-306 for R12-4-407, R12-4-408, R12-4-409, R12-4-412, R12-4-413, R12-4-417, and R12-4-423; A.R.S. § 17-238 for R12-4-413; A.R.S. §§ 17-231(B)(8), 17-238, and 17-306 for R12-4-420

Implementing statutes: A.R.S. §§ 17-101, 17-231, 17-238, 17-306, and 17-307

3. A list of all previous notices appearing in the Register addressing the proposed rules:

Notice of Rulemaking Docket Opening: 8 A.A.R. 2579, June 14, 2002

4. 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 W. Greenway
Phoenix, AZ 85023-4399
Telephone: (602) 789-3289
Fax: (602) 789-3677

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

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

The proposed rulemaking will impose regulations on cervids designated as restricted live wildlife in R12-4-406(B)(9)(b), including a ban on their importation into Arizona, to prevent the introduction of chronic wasting disease to free-ranging or captive wildlife in the state.

Chronic wasting disease (CWD) was first recognized by biologists in the 1960's as a disease syndrome of captive deer held in wildlife research facilities in Ft. Collins, Colorado, but was not recognized as a transmissible spongiform encephalopathy until the late 1970's. This disease was subsequently recognized in captive deer, and later in captive elk, from wildlife research facilities near Ft. Collins, Kremmling, and Meeker, Colorado, and Wheatland, Wyoming, as well as in at least two zoological collections. More recently, CWD has been diagnosed in privately-owned elk and closely-related red deer residing on game ranches in several Western states and provinces. Although CWD was first diagnosed in captive research cervids, the original source (or sources) of CWD in either captive cervids or free-ranging cervids is unknown; whether CWD in research animals really preceded CWD in the wild, or *vice versa*, is equally uncertain.

Much of the information on this disease comes from the endemic area of northeastern Colorado and southeastern Wyoming where it appears that, on average, CWD probably infects about 5-15 percent of the deer. Modeling of the impact of this disease indicates that this rate of infection is sufficient to suppress deer population levels in this area.

In addition to cases in captive research and free-ranging deer and elk, CWD has been diagnosed in privately-owned elk on game farms in several states beginning in 1996. Infection has been particularly severe in a group of interconnected facilities near Rapid City, South Dakota, that appear to be the original source of infection for other South Dakota game farms as well as the Saskatchewan epidemic. In contrast, infected elk in two of three Nebraska farms originated in Colorado, and infected elk in Oklahoma apparently originated in Montana; CWD has been confirmed in the Montana and Colorado source herds.

At this time, the detection of CWD in new areas is expanding rapidly as there have been detections in free-ranging deer in additional areas of Nebraska, Alberta, Wisconsin, New Mexico, and South Dakota during 2002. In addition to the problems associated with this disease on free-ranging populations, there is also a significant economic impact with the detection of the disease in both free-ranging and captive cervids. As an example, Saskatchewan has spent approximately \$30 million in attempts at eradicating the disease in infected game farms. In Wisconsin, where the disease was detected in Spring 2002, the cost of collections for additional detection of the disease and for information dissemination is approximately \$250,000, and the state of Wisconsin has estimated that it will need \$22.5 million over the next three years to fight the disease. In Colorado, a supplemental appropriation of \$300,143 was made in December 2001, and an additional appropriation of \$430,750 was requested for the fiscal year beginning on July 1, 2002.

One problem with this disease is that it is virtually impossible to eradicate once it enters into a jurisdiction. This conclusion is based on the fact that there is no live animal test for the disease, so an agency cannot implement testing and elimination of only infected animals. Second, there is a long incubation period associated with the disease. Some of the research that has been completed suggests that the incubation period may be up to 36 months, and perhaps even longer. Another problem is that epidemiological links from one positive herd to 38 other infected captive elk herds in Saskatchewan and the shipment of exposed elk from one infected captive elk operation in Colorado to facilities in 19 states indicate the potential for the spread of CWD via the captive cervid industry. This means that from a few herds, the disease has the potential to spread to many states. Finally, a significant issue with this disease is that one of the measures considered to control its spread is extreme reduction of animal density. This entails removal of a large number of deer that otherwise could be harvested by hunters, which in turn equates to a potential economic loss not only to the Department but also to local businesses, such as restaurants and hotels that are supported by hunters. As an example, Wisconsin is planning to remove up to 25,000 animals to aid in management of this disease. Hunters could otherwise harvest these animals. The projected loss to the rural economy is estimated at several million dollars.

In summary, there is a lot of information needed to better understand the disease. At this time, however, the most effective management approach has to be to take measures to ensure, to the greatest extent possible, that the disease does not enter into Arizona. If it does, there will be substantial financial impact to the Department, captive cervid breeders, and the rural economy that is supported, in part, by hunting. At this time, the only groups that are affected by the proposed rulemaking are those maintaining cervids under the auspice of a game farm permit, a wildlife holding permit, or a zoo permit issued by the Department. This is a very small number of permittees. In addition, anyone holding a non-native cervid would be required to inform the Department of the type and number of cervids they possess. In considering the potential adverse impact to a multitude of businesses through loss of hunting related revenue, this approach is clearly a benefit to the state's economy.

The proposed new rule will include the following specific requirements related to chronic wasting disease (CWD) in cervids:

1. An individual, including special license holders, shall not import a live cervid (defined as a member of the deer family found anywhere in the world) into Arizona unless the individual has a Zoo License as allowed in

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- subsection (K) of new Section R12-4-430. The individual shall quarantine the cervid for 30 days after import, and shall procure the cervid from a facility that complies with all of the following requirements:
- i. The exporting facility has no history of chronic wasting disease or other diseases that pose a serious health risk to wildlife or humans, and there is accompanying documentation from the facility certifying such history;
 - ii. The cervid is accompanied by a health certificate issued by a licensed veterinarian in the jurisdiction of origin within 30 days of import; and
 - iii. The cervid is accompanied by evidence of lawful possession as defined in R12-4-401(8).
2. An individual shall not transport a live cervid within Arizona except to:
- i. Export the live cervid from Arizona for a lawful purpose;
 - ii. Transport the live cervid to a facility for the purpose of slaughter, when the slaughter will take place within five days of the date of transport;
 - iii. Transport the live cervids to or from a licensed veterinarian for medical care; or
 - iv. Transport the live cervid to a new holding facility owned by, or under the control of, the cervid owner, when all of the following apply:
 - a. The current holding facility has been sold or closed;
 - b. Ownership, possession, custody, or control of the cervid will not be transferred to another individual; and
 - c. The owner of the cervid has prior written approval from the Director of the Arizona Game and Fish Department.
3. A licensee in possession of any native cervid in Arizona under the authority of a Department issued Wildlife Holding, Game Farm, or Zoo License shall permanently mark each cervid with either a tattoo or a microchip within 30 days of the effective date of this rule.
4. A Wildlife Holding, Game Farm, and Zoo licensee in possession of any native cervid shall submit the head of each native cervid that dies to the Arizona Vet Diagnostic Lab for CWD analysis. The Department shall pay for the testing.
5. A licensee that maintains any cervid at a facility under a Wildlife Holding, Game Farm, or Zoo License shall keep a record of each cervid moved onto or off of the facility and provide these records to the Department upon request.
6. Any individual that holds a cervid not listed as a native cervid in R12-4-430 shall provide the Department with a report that lists the number and species of cervids held. The number of people impacted by this portion of the proposed rule is unknown, as there is no requirement to notify the Department of these animals at this time. Although the number of animals is unknown, the Department estimates that the number of animals held is less than 500.

R12-4-401.	Live Wildlife Definitions
R12-4-406.	Restricted Live Wildlife
R12-4-407.	Exemptions from Special License Requirements for Restricted Live Wildlife
R12-4-408.	Holding wildlife for the Department
R12-4-409.	General Provisions and Penalties for Special Licenses
R12-4-412.	Tuberculosis and Brucellosis Procedures for Cervidae Possessed by Special License Repealed
R12-4-413.	Private Game Farm License
R12-4-417.	Wildlife Holding License
R12-4-420.	Zoo License

R12-4-423. Wildlife Rehabilitation License

Rule changes proposed for R12-4-401, R12-4-406, R12-4-407, R12-4-408, R12-4-409, R12-4-412 (which is being repealed and replaced by provisions in R12-4-430), R12-4-413, R12-4-417, R12-4-420, and R12-4-423 are administrative in nature, made necessary by proposed new rule R12-4-430, which is designed to prevent the introduction of chronic wasting disease to free-ranging or captive wildlife in the state. The proposed rulemaking also makes technical corrections and drafting style changes to make the rule language consistent with the current requirements for rule-making language and style. The only costs of the proposed changes are those associated with the rulemaking process itself. The Department will benefit from consistent implementation of associated rule changes, while the public will benefit from having improved rules that are clear, concise, and more easily understandable.

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

None

7. 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

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

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

This rule would directly impact individuals or organizations that import cervids (animals of the deer family) under either a zoo or game farm license issued by the Arizona Game and Fish Department and those who currently maintain cervids that are not listed as native cervids in R12-4-430. Currently, there are very few of these permits issued (33 game farm and 16 zoo). The number of people impacted that maintain non-native cervids is unknown as there is no requirement to notify the Department of these animals at this time. Although the number of animals is unknown, we estimate that the number of animals held is less than 500.

It is difficult to assess the actual cost of this proposed rule because it does not preclude continued operations of existing programs, such as breeding cervids held at the time of enactment of this rule, or marketing of live animals or animal parts. Conversely, if chronic wasting disease (CWD) were to be established in Arizona, the cost would be high and the number of people adversely impacted would be high. One of the primary groups that would be adversely impacted if the disease were detected in Arizona are licensees who hold cervids under the auspice of a special license as it will be much more difficult to market the animals if the disease is detected in Arizona.

That CWD is being spread through game-farmed cervids is indisputable. There is a question about the mechanism by which CWD is spread between animals; however, there is ample evidence that indicates that the spread is horizontal (from one animal to another of similar type) and there is thus a risk posed to the native deer and elk in Arizona if CWD is inadvertently introduced into the state. If CWD is introduced into the state and be spread to wild native cervids, hundreds of thousands of hunters in the state would be adversely affected. Further, hotels, restaurants, gas stations, sporting good stores, and other businesses that draw economic benefit from hunting would also be adversely impacted. Finally, the cost to the state would be high if CWD is introduced. Management of CWD in Saskatchewan has cost approximately \$30,000,000. A recent detection in Wisconsin has cost the state wildlife agency approximately \$250,000 in the first month and the costs continue to rise, with the state estimating that it will need \$22.5 million over the next three years to fight the disease. In Colorado, management of the disease required an additional appropriation from the state Legislature of approximately \$350,000. A National Plan for management of chronic wasting disease has been developed to aid state, federal, and tribal organizations in dealing with issues related to this disease. Full implementation of the plan exceeds 100 million dollars and this amount does not reflect loss of revenue from decreased hunter interest in harvesting wildlife. Simply put, management of this disease is a tremendously expensive proposition for the state, and measures must be taken to prevent its introduction into Arizona. It is important to point out that the costs are not entirely economic. There has been considerable outcry from those interested in animal rights and agencies have lost credibility with the public due to the slaughter of several thousand deer as part of the management of CWD in free-ranging wildlife.

While there is no known connection between CWD and human disease, because of the similarity of this disease to "mad cow disease" there is natural concern from hunters who harvest native cervids. If CWD becomes established in Arizona, there would be a loss of interest in obtaining permits to harvest deer and elk. There would also be a significant loss to local (and mostly rural) economies, if fewer hunters travel to these regions of the state to harvest wildlife.

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In addition to the loss of revenue, the Department would be required to expend hundreds of thousands of dollars in increased surveillance and other management issues associated with this disease. This is not a budgeted item and would result in the loss of many of the existing programs the Department maintains. This rule is supported by the Arizona Department of Agriculture because of concerns that this disease may have the capability to “jump” species and infect domestic livestock. Based upon the currently available research on the disease, species jump is not likely, but one of the problems with the disease is dealing with public perception of a disease that is 100% fatal to animals that develop clinical signs.

There will be no additional costs to any political subdivision, as enforcement will be done by the Department, and there is no direct impact to employment in the sector directly regulated by the proposed rule. Given the very small number of individuals that hold special licenses and currently maintain captive non-native cervids, the Department anticipates that very little enforcement or administrative effort will be required by implementation of the rule. There will be positive impacts to the Arizona Departments of Agriculture, Game and Fish, and Health Services as the rule greatly reduces the risk of importing animals that are infected with CWD. Health Services and Agriculture will directly benefit from not having to dedicate staff time to provide information to the public and livestock operators regarding the risk of this disease. The Game and Fish Department will directly benefit as the resources that we are charged to manage will be better protected, and we will not have to expend additional resources responding to the introduction of this disease.

In evaluating the most efficient method to provide protection to the state’s valued wildlife resources, the Department examined several options to preclude, to the extent possible, the introduction of CWD to Arizona. One of the options evaluated is to restrict importation of cervids to Arizona unless an animal originates from a herd that has a history of testing for CWD and is found to be disease free for a minimum of 60 months. While this affords a measure of protection to Arizona’s wildlife, the Department has concluded that this approach does not provide adequate protection to wildlife or humans. This conclusion is based on the fact that a long incubation period exists for the disease, and the inadvertent introduction of one infected animal into the source herd that is infected with CWD will expose the herd as long as 36 months later. The option of restricting imports from any state or province with animals that test positive for CWD was also evaluated, but again, the Department has concluded that this approach is flawed because there is no live animal test and the chances of an inadvertent introduction of the disease is still possible. It is important to point out that in Wisconsin, the state wildlife management agency has announced plans to eliminate up to 25,000 white-tailed deer to reduce the population density in the area where the disease was detected. This has created an unexpected problem for Wisconsin as the population reduction effort, planned for summer 2002, created tremendous conflict with the public that wanted to recreate in the Wisconsin back country but were unwilling to do so when deer were being killed to manage the disease. The loss of summer recreation revenue to the rural communities has been tremendous. The same will likely occur in Arizona if the Department is forced into a summer reduction hunt because of the inadvertent introduction of CWD.

In Colorado, agents of the federal agency, Wildlife Services, were contracted to kill mule deer to aid in management of CWD. Both of these herd reduction actions will result in unplanned density reductions of valued wildlife resources without the typical economic benefits to the state’s economy due to hunting-related expenditure of funds. In fact, not only will there be loss of hunting-related revenue, but there may be a loss of revenue because campers, backpackers, anglers, and other summer recreationists avoid areas where herd reductions are occurring. Further, the herd reduction actions have caused considerable public controversy. Animal rights advocates oppose killing large numbers of animals that may not be infected (again, there is no live animal test, so all animals must be killed before testing). Given the great economic and social risk of this disease being spread to Arizona, the proposed rule balances the cost of effective disease management with the cost to small businesses. The proposed rulemaking can therefore be seen as the only economically viable tool to accomplish the goal of protecting both wild and captive cervids from this fatal disease.

CWD was once thought to be a problem for the three states (Colorado, Wyoming, and Nebraska) where the disease is endemic. It is now understood to be an emerging crisis in the wildlife health field and any delay in protecting the wild and game-farmed cervids of the state poses an unacceptable risk to both. It is important to note that there is no live animal test for this disease and, therefore, no way to prevent its import into the state except by precluding importation of live cervids to the state. It is also important to act quickly as one infected animal has the potential to infect an entire herd of game-farmed animals and spread to the wild animals surrounding the area of infection.

After careful evaluation, the Department has determined that the benefits of the proposed rulemaking outweigh the costs.

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- R12-4-401. **Live Wildlife Definitions**
- R12-4-406. **Restricted Live Wildlife**
- R12-4-407. **Exemptions from Special License Requirements for Restricted Live Wildlife**
- R12-4-408. **Holding wildlife for the Department**
- R12-4-409. **General Provisions and Penalties for Special Licenses**
- R12-4-412. **~~Tuberculosis and Brucellosis Procedures for Cervidae Possessed by Special License~~ Repealed**
- R12-4-413. **Private Game Farm License**
- R12-4-417. **Wildlife Holding License**
- R12-4-420. **Zoo License**
- R12-4-423. **Wildlife Rehabilitation License**

Rule changes proposed for R12-4-401, R12-4-406, R12-4-407, R12-4-408, R12-4-409, R12-4-412 (which is being repealed and replaced by provisions in R12-4-430), R12-4-413, R12-4-417, R12-4-420, and R12-4-423 are administrative in nature, made necessary by proposed new rule R12-4-430, which is designed to prevent the introduction of chronic wasting disease to free-ranging or captive wildlife in the state. The only costs of the proposed changes are those associated with the rulemaking process itself. The Department will benefit from consistent implementation of associated rule changes, while the public will benefit from having improved rules that are clear, concise, and understandable. There will not be any added costs to the persons, agencies, or political subdivisions of this state directly affected by the implementation and enforcement of the proposed rulemaking, and there will not be any additional costs or reduction in revenues to businesses resulting from these rule amendments. There is no anticipated effect on the revenues or payroll expenditures of employers in the state as a consequence of the proposed rulemaking. Similarly, no impact to small businesses is anticipated as a result of the proposed rule changes. The Department has determined that the benefits of the proposed rulemaking outweigh any costs.

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

Name: Jim deVos
Address: Arizona Game and Fish Department WMRS
 2221 W. Greenway
 Phoenix, AZ 85023-4399
Telephone: (602) 789-3247
Fax: (602) 789-3918
E-mail: jdevos@gf.state.az.us

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

The Arizona Game and Fish Commission will hold a public hearing and may take action to amend the rules on:

Date: Friday, January 17, 2003
Time: To be announced. The Commission Meeting Agenda will be available to the public on December 27, 2002. Copies of the Commission Meeting Agenda may be obtained by contacting the following person:

 Mark E. Naugle, Manager, Rules and Risk Management
 Arizona Game and Fish Department DORR
 2221 W. Greenway
 Phoenix, AZ 85023-4399
Telephone: (602) 789-3289
Fax: (602) 789-3677

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Location: Wildlife Building, Arizona State Fairgrounds
1826 W. McDowell
Phoenix, Arizona

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, or this document in an alternative format, by contacting the AGFD Deputy Director, 2221 W. Greenway, Phoenix, AZ 85023, (602) 789-3290. Requests should be made as early as possible to allow sufficient time to arrange for accommodation.

The Arizona Game and Fish Department (AGFD) prohibits discrimination on the basis of race, color, sex, national origin, age, or disability in its programs and activities. If anyone believes that they have been discriminated against in any of the AGFD's programs or activities, including its employment practices, the individual may file a complaint alleging discrimination directly with the AGFD Deputy Director, 2221 W. Greenway, Phoenix, AZ 85023, (602) 789-3290, or the U.S. Fish and Wildlife Service, 4040 N. Fairfax Dr., Ste. 130, Arlington, VA 22203.

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

Not applicable

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

None

13. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 4. LIVE WILDLIFE

Section

R12-4-401.	Live Wildlife Definitions
R12-4-406.	Restricted Live Wildlife
R12-4-407.	Exemptions from Special License Requirements for Restricted Live Wildlife
R12-4-408.	Holding wildlife <u>Wildlife</u> for the Department
R12-4-409.	General Provisions and Penalties for Special Licenses
R12-4-412.	Tuberculosis and Brucellosis Procedures for Cervidae Possessed by Special License <u>Repealed</u>
R12-4-413.	Private Game Farm License
R12-4-417.	Wildlife Holding License
R12-4-420.	Zoo License
R12-4-423.	Wildlife Rehabilitation License
R12-4-430.	Reserved <u>Importation, Handling, and Possession of Cervids</u>

ARTICLE 4. LIVE WILDLIFE

R12-4-401. Live Wildlife Definitions

In addition to definitions given in A.R.S. § 17-101, and for the purposes of Article 4, the following definitions apply.

1. "Aquarium trade" means the commercial industry lawfully trading in aquatic wildlife ~~which that~~ is not restricted live wildlife, and the customers of that industry, when all aquatic wildlife is held for pet or ornamental uses only, in aquaria or in enclosed ponds with no opportunity for ingress or egress.
2. "Captive wildlife" means live wildlife physically restrained, confined, or impaired so that it is prevented from unobstructed return to or movement in the wild.
3. "Cervid" means a mammal classified as a member of the Cervidae family as defined in the taxonomic classification from Volumes I and II of Walker's Mammals of the World, Fifth Edition, 1991, and not including any later edition. A copy is available for inspection at any Department office.
- ~~3-4.~~ "Circus" means a scheduled event where a variety of entertainment is the principal business, primary purpose and attraction. "Circus" does not include animal displays or exhibits held as an attraction for a secondary commercial endeavor.
- ~~4-5.~~ "Collect" means to take under the provisions of a Scientific Collecting Permit.
- ~~5-6.~~ "Educational display" means to display captive live wildlife to increase public understanding of wildlife biology, conservation, and management without requiring payment from the audience.
- ~~6-7.~~ "Endangered or threatened" means wildlife listed in 50 CFR 17.11, revised as of April 10, 1987, not including any later amendments or editions ~~of this list~~, which is incorporated by reference ~~herein~~. A copy of the list is on file with

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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, D.C. 20402.

- ~~7-8.~~ “Evidence of lawful possession” means any license or permit allowing possession of the specified live wildlife, or other documentation establishing lawful possession, including but not limited to: a statement of nonrequirement for a license or permit for the specified live wildlife, granted by the country or state of origin.
- ~~8-9.~~ “Exhibit” means to display captive live wildlife in public, or to allow photography of captive live wildlife, for any commercial purpose.
- ~~9-10.~~ “Fish farm” means a commercial operation designed and operated for propagating, rearing, or selling aquatic wildlife for any purpose except the aquarium trade.
- ~~10-11.~~ “Live baitfish” means any species of live freshwater fish designated by Commission order as lawful for use in taking aquatic wildlife ~~pursuant to~~ under R12-4-313.
- ~~11-12.~~ “Live bait” means live, aquatic wildlife used or intended for use in taking aquatic wildlife.
- ~~12-13.~~ “Propagate” means the generation of offspring from captive wildlife.
- ~~13-14.~~ “Rehabilitated wildlife” means injured, orphaned, sick, or otherwise debilitated wildlife ~~which~~ that is provided care to restore it to a healthy condition suitable for release to the wild or for lawful captive use.
- ~~14-15.~~ “Restricted live wildlife” means ~~that~~ wildlife ~~which~~ that the Commission has ~~been determined by the Commission to be determined is~~ an actual or potentially significant threat to indigenous wildlife by competition, disease or parasites, habitat degradation, predation, or impact on population management; or an actual or potentially significant threat to public safety by disease, physical threat, property damage, or nuisance. ~~“Restricted live wildlife” is listed in R12-4-406 and a special license or an exemption pursuant to Article 4, or compliance with R12-4-404 in the case of wildlife taken alive from the wild, is required in order to possess such wildlife or engage in any activity prohibited by A.R.S. § 17-306 or R12-4-402.~~
- ~~15-16.~~ “Shooting preserve” means any operation where live wildlife is released for the purpose of ~~being hunted~~ hunting.
- ~~16-17.~~ “Special license” means any permit or license issued ~~pursuant to~~ under 12 A.A.C. 4, Article 4, authorizing specific activities normally prohibited by A.R.S. § 17-306 and R12-4-402.
- ~~17-18.~~ “Stock” and “stocking” mean to release live aquatic wildlife into public or private waters other than the waters where taken.
- ~~18-19.~~ “Threatened native wildlife” means any species listed in “Threatened Native Wildlife in Arizona”, published by the Arizona Game and Fish Department, ~~revised 1988, not including any later amendment or editions of this list, which is incorporated by reference herein. A copy of the list is on file with the Office of the Secretary of State and is available from any Department office.~~

R12-4-406. Restricted Live Wildlife

A. ~~With the exception of all live cervids, which shall not be imported, transported, or possessed except as allowed under R12-4-430, a special license or an exemption under Article 4 is required to possess restricted live wildlife or to engage in any activity prohibited by A.R.S. § 17-306 or R12-4-402.~~

~~A-B.~~ Unless specified otherwise, mammals listed below are “restricted live wildlife” as defined in R12-4-401. The taxonomic classification from Volumes I and II of Walker’s Mammals of the World, Fifth Edition, 1991, and not including any later edition, ~~is incorporated by reference and~~ is the authority in the following designations; a copy is ~~on file with the Office of the Secretary of State and~~ is available for inspection at any Department office.

1. All species of the genus *Didelphis*. Common name: American opossums.
2. All species of the order Insectivora. Common names: Insectivores or shrews and moles.
3. All species of the order Chiroptera. Common name: bats.
4. All species of the family *Pongidae* of the order Primates. Common names: orangutans, chimpanzees, gorillas.
5. All species of the order Edentata. Common names: edentates; or sloths, anteaters, and armadillos.
6. All species of the order Lagomorpha. Common names: pikas, rabbits, hares. Genus *Oryctolagus*, containing domestic rabbits, is not wildlife.
7. All species of the following families of the order Rodentia. Common name: rodents.
 - a. The family Sciuridae. Common names: squirrels, chipmunks, marmots, woodchucks, and prairie dogs.
 - b. The family Geomyidae. Common name: pocket gophers.
 - c. The family Castoridae. Common name: beavers.
 - d. The family Erethizontidae. Common name: New World porcupines.
 - e. The family Capromyidae. Common names: hutias, coypus, or nutrias.
8. All species of the order Carnivora. Common name: carnivores. *Canis familiaris*, domestic dogs; *Felis catus*, domestic cats; and *Mustela putorius furo*, domestic ferrets, are not wildlife.
9. All species of the following families of the order Artiodactyla. Common name: even-toed ungulates.
 - a. The family Tayassuidae. Common name: peccaries.
 - b. ~~The following genera of family Cervidae:~~ Common name: cervid or deer family (including deer, elk, moose, and red deer).

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- ~~i.~~ The genus *Alces*. Common name: moose.
- ~~ii.~~ The genus *Odocoileus*. Common name: white-tailed and mule deer.
- ~~iii.~~ The genus *Cervus*. Common name: red deer and wapiti, except that the species *Cervus nippon*, Nippon deer, is not restricted.
- c. The family Antilocapridae. Common name: pronghorn.
- d. The family Bovidae. Common names: cattle, buffalo, bison, oxen, duikers, antelopes, gazelles, goats, and sheep, except that the following are not restricted:
 - i. The genus *Bubalus*. Common name: water buffalo.
 - ii. The genus *Bison*. Common name: bison; American bison or buffalo.
 - iii. *Capra hircus*, domestic goats; *Ovis aries*, domestic sheep; and *Bos taurus*, domestic cattle, are not wildlife.

~~B-C.~~ Birds listed below are “restricted live wildlife” as defined in R12-4-401.

1. The following species within the family Phasianidae. Common names: partridges, grouse, turkeys, quail, and pheasants.
 - a. *Alectoris chukar*. Common name: chukar.
 - b. *Callipepla californica*. Common name: California or valley quail.
 - c. *Callipepla gambelii*. Common name: Gambel’s quail.
 - d. *Callipepla squamata*. Common name: scaled quail.
 - e. *Colinus virginianus*. Common name: northern bobwhite. Restricted only in Units 34A, 36A, 36B, and 36C as prescribed in R12-4-108.
 - f. *Cyrtonyx montezumae*. Common name: Montezuma or Mearn’s quail.
 - g. *Dendragapus obscurus*. Common name: blue grouse.
 - h. *Phasianus colchicus*. Common names: ringneck and whitewing pheasants.
2. The species *Rhynchopsitta pachyrhyncha*. Common name: thick-billed parrot.

~~C-D.~~ Reptiles listed below are “restricted live wildlife” as defined in R12-4-401.

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

~~D-E.~~ Amphibians listed below are “restricted live wildlife” as defined in R12-4-401. The following species within the order Anura: ~~Common common~~ names: frogs and toads:

1. All species of the genus *Xenopus*. Common name: clawed frogs.
2. The species *Bufo horribilis*, *Bufo marinus*, *Bufo paracnemis*. Common names: giant or marine toads.

~~E-F.~~ Fish listed below are “restricted live wildlife” as defined in R12-4-401.

1. American grayling, the species *Thymallus arctius*.
2. Bass, all species of the family Serranidae.
3. Bighead carp, the species *Aristichthys nobilis*.
4. Bony tongue, the species *Arapaima gigas*.
5. Bowfin, the species *Amia calva*.
6. Catfish, all species of the family Ictaluridae.
7. Crucian carp, the species *Carassius carassius*.
8. Electric catfish, the species *Malapterurus electricus*.
9. Electric eel, the species *Electrophorus electricus*.
10. European whitefish or ide, the species *Leuciscus idus* and *Idus idus*.
11. Freshwater drum, the species *Aplodinotus grunniens*.
12. Freshwater stingray, all species of the family Potamotrygonidae.
13. Gars, all species of the family Lepisosteidae.
14. Goldeye, all species of the family Hiodontidae.
15. Herring, all species of the family Clupeidae.

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16. Indian carp, all of the species *Catla catla*, *Cirrhina mrigala*, and *Labeo rohita*.
17. Lampreys, all species of the family Petromyzontidae.
18. Mooneye, all species of the family Hiodontidae.
19. Nile perch, all species of the genus *Lates*.
20. Pike, all species of the family Esocidae.
21. Pike topminnow, the species *Belonesox belizanus*.
22. Piranha, all species of the genera *Serrasalmus*, *Serrasalmo*, *Phygocestrus*, *Teddyella*, *Rooseveltiella*, and *Pygopristis*.
23. Shad, all species of the family Clupeidae except threadfin shad, species *Dorosoma petenense*.
24. Sharks, all species, both marine and freshwater, of the orders Hexanchiformes, Heterodontiformes, Squaliformes, Pristiophoriformes, Squatiniformes, Orectolobiformes, Lamniformes, and Carcharhiniformes.
25. Silver carp, the species *Hypophthalmichthys molitrix*.
26. Snakehead, all species of the family Ophicephalidae.
27. South American parasitic catfish, all species of the family Trichomycteridae and Cetopsidae.
28. Sunfish, all species of the family Centrarchidae.
29. Tetras, all species of the genus *Astyanax*.
30. Tiger fish, the species *Hoplias malabaricus*.
31. Trout, all species of the family Salmonidae.
32. White amur, the species *Ctenopharyngodon idellus*.
33. Walking catfish, all species of the family Clariidae.
34. Walleye, the species *Stizostedion vitreum*.
35. White perch, the species *Morone americanus*.
36. Yellow perch, the species *Perca flavescens*.
37. Rudd, the species *Scardinius erythrophthalmus*.

F.G. Crustaceans listed below are “restricted live wildlife” as defined in R12-4-401.

1. Asiatic mitten crab, the species *Eriocheir sinensis*.
2. Australian crayfish and all freshwater species within the families Astacidae, Cambaridae, and Parastacidae.

G.H. Mollusks listed below are “restricted live wildlife” as defined in R12-4-401.

1. Zebra mussel, the species *Dreissena polymorpha*.

H. ~~This rule is effective May 25, 2001.~~

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

A. The Commission waives the requirement that a person obtain a special license for lawfully possessed restricted live wildlife as follows:

1. Desert tortoises *Xerobates (Gopherus) agassizii* possessed without a special license before April 28, 1989, may be possessed, transported, and given away. Desert tortoises possessed under this Section may be propagated, and progeny may be held in captivity for 24 months from the date of hatching, if they are disposed of by gift or as directed by the Department. The person receiving a desert tortoise given away under this Section is also exempt from special license requirements.
2. A licensed veterinarian may possess the wildlife while furnishing medical care and may release rehabilitated wildlife as directed by the Department, if:
 - a. Records of restricted live wildlife that are kept under the requirements of the Veterinary Medical Examining Board are subject to inspection by Department game rangers; and
 - b. The Commission or Department assumes no financial responsibility for any care provided, except care authorized by the Department.
3. Wildlife may be imported, possessed, and exported if the wildlife is transported through the state within 72 continuous hours, the transportation is accomplished by one person without transfer or sale, and the wildlife is accompanied by evidence of lawful possession as defined in R12-4-401.
4. With the exception of all live cervids, which shall not be imported, transported, or possessed except as allowed under R12-4-430, Wildlife wildlife may be imported, transported, possessed, exhibited, and exported for a government-authorized state or county fair, or by a circus, or imported, possessed, transported and exported for the purpose of filming for television, movies, or commercials, if the wildlife:
 - a. Is accompanied by evidence of lawful possession, as defined in R12-4-401;
 - b. Is not in the state for more than 60 consecutive days;
 - c. Is maintained under complete control and prevented from coming into contact with the public.
5. With the exception of all live cervids, which shall not be imported, transported, or possessed except as allowed under R12-4-430, Wildlife wildlife may be imported, transported, possessed, and displayed for advertising purposes other than filming, and exported, if the wildlife:
 - a. Is accompanied by evidence of lawful possession, as defined in R12-4-401;
 - b. Is not in the state for more than 10 consecutive days, and the public is not charged a fee to view the wildlife;

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- c. Is maintained under complete control and prevented from coming into contact with the public.
- 6. Game fish may be imported and transported to restaurants or markets licensed to sell food to the public, if the game fish being sold are killed before transport from the restaurant or market. While in the possession of the restaurant or market, the fish may be displayed for sale, offered for sale, and sold.
- 7. Wildlife is taken alive under and is possessed in compliance with R12-4-404 or R12-4-427.
- 8. An Arizona falconer license is not required for a visiting nonresident falconer hunting on a valid Arizona hunting license if the falconer is licensed in the falconer's state of residency.
- 9. Wildlife may be imported, purchased, possessed, transported, traded, given away, propagated, killed, and exported by medical or scientific research facilities registered by the United States Department of Agriculture under 9 CFR Subchapter A, Animal Welfare, revised January 2000, not including any later amendments or editions, which is incorporated by reference in this Section. 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 United States Department of Agriculture, Marketing and Regulatory Programs, Animal and Plant Health Inspection Service, Animal Care, Western Region, 9580 Micron Avenue Suite J, Sacramento, CA 95827-2623, 916-857-6205.
- 10. Crayfish may be imported and transported to restaurants or markets licensed to sell food to the public, if the crayfish being sold are killed before transport from the restaurant or market. While in the possession of the restaurant or market, the live crayfish may be displayed for sale, offered for sale, and sold.
- 11. Freshwater crayfish (families Astacidae, Cambaridae, and Parastacidae) possessed before January 1, 2001, may be possessed alive, propagated, and their progeny held without special license. Live freshwater crayfish may not be transported, sold, offered for sale, given away, or released, except under this Section and R12-4-316.
- B. An exemption granted by this Section is not valid for any wildlife protected by federal law or rule unless supported by federal permission or documentation rendering the exemption lawful.
- ~~C. This rule is effective May 25, 2001.~~

R12-4-408. Holding ~~wildlife~~ Wildlife for the Department

- A. A ~~game ranger~~ Game Ranger may authorize an individual to possess and transport live wildlife on behalf of the Department ~~when if the wildlife is~~ needed as evidence in a pending civil or criminal proceeding.
- B. ~~A~~ With the exception of live cervids, a Department employee ~~may has the authority to~~ authorize an individual to possess and transport captive live wildlife on a temporary basis not to exceed 72 hours.
- C. The Director has the authority to authorize an individual to hold a live cervid for the Department.

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

- A. The Department shall issue special licenses as defined in R12-4-401, if 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 special license is not valid for any wildlife protected by federal law or regulation unless supported by 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 the expired license is unlawfully possessed and is subject to seizure by the Department. If application for a new special license is made on or before the expiration date, the existing license remains valid 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. 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.
- 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.

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- E. Special license holders or licensees shall keep records and submit reports as required by the rule governing their special license. The licensee shall exhibit the records to any Department game ranger upon reasonable request.
- 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 reasonable if the game ranger has inspected another facility holding wildlife of the same class within the previous 72 hours and the game ranger has had contact with the wildlife or there is reason to believe disease may have been present at the other facility.
- G. If a disease, ~~as determined by a person with relevant expertise~~, or other emergency condition exists that poses an immediate threat to the welfare of wildlife, including the wildlife held under a special license, or the public, as determined by a person with relevant expertise, the Department shall immediately order a cessation of operation under the special license and, if necessary, humane disposition or quarantine of any contaminated or threatened wildlife. The licensee shall perform disease testing, submit biological samples to the Department or its designee, quarantine the wildlife, or destroy the wildlife as directed by the Department. The licensee shall ensure that any disease giving rise to an emergency condition under this subsection is diagnosed by a person or persons professionally certified to make the diagnosis. Once operation has ceased and an emergency no longer exists, subsection (H) applies.
- H. If a condition exists, including disease or any violation of this Article, that poses a threat to the welfare of wildlife, including the wildlife held, or the public, but the 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 a reasonable 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 a violation under subsection (I). If a licensee receives three notices under this subsection for the same condition within a two-year period, the Department shall treat the third notice as a failure to cure.
- 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. This rule is effective July 1, 2001.~~

R12-4-412. ~~Tuberculosis and Brucellosis Procedures for Cervidae Possessed by Special License Repealed~~

- ~~A. Procedures for tuberculosis control and eradication for cervidae listed as restricted live wildlife in R12-4-406 shall be as prescribed in the USDA publication "Tuberculosis Eradication in Cervidae — Uniform Methods and Rules," U.S.D.A., A.P.H.I.S. 91-45-005, effective May 15, 1994, including 1995 amendments. This material is incorporated by reference, does not include any later amendments or editions of incorporated matter, and is on file with the Secretary of State. In addition, a copy may be ordered from the U.S.D.A., A.P.H.I.S. Veterinary Services, Cattle Diseases and Surveillance Staff, P.O. Box 96464, Washington, D.C. 20090-6464.~~
- ~~B. Procedures for the prevention, control, and eradication of Brucellosis in Cervidae listed as restricted live wildlife in R12-4-406 shall be as prescribed in the United States Department of Agriculture publication "Brucellosis in Cervidae: Uniform Methods and Rules," U.S.D.A., A.P.H.I.S. 91-45-12, effective September 30, 1998, revised effective May 14, 1999. This material is incorporated by reference, does not include any later amendments or editions of incorporated matter, and is on file with the Secretary of State. In addition, a copy may be ordered from the U.S.D.A., A.P.H.I.S. Veterinary Services, Cattle Diseases and Surveillance Staff, P.O. Box 96464, Washington, D.C. 20090-6464.~~

R12-4-413. Private Game Farm License

- A. A private game farm license allows any or all of the following: ~~offer~~ offering for 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 wildlife may be killed or slaughtered but ~~shall not be hunted~~ a person shall not kill the wildlife by hunting or in a manner that could be perceived as hunting or recreational sport harvest, or by a person who pays a fee for killing the wildlife.
- B. The following criteria are prerequisites for approval of a private game farm license:
 - 1. Escape of the proposed species will not create a threat to indigenous wildlife.
 - 2. An applicant shall provide, with the application required by subsection (C), 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.

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3. The Department may issue a license for only the following pen-reared game birds:
 - a. *Alectoris chukar*, chukar;
 - b. *Callipepla californica*, California or valley quail;
 - c. *Callipepla gambelii*, Gambel's quail;
 - d. *Callipepla squamata*, scaled quail;
 - e. *Colinus virginianus*, northern bobwhite. License is required only Units 34A, 36A, 36B, and 36C, as prescribed in R12-4-108;
 - f. *Cyrtonyx montezumae*, Montezuma or Mearn's quail;
 - g. *Dendragapus obscurus*, blue grouse; and
 - h. *Phasianus colchicus*, ringneck and whitewing pheasant.
4. The Department may issue a license for fox or mink if a prior inspection of the holding facilities or the plans for those facilities by the Department proves escape is unlikely.
5. With the exception of live cervids, which shall not be imported, transported, or possessed except as allowed under R12-4-430. ~~The~~ the Department may issue a license for other mammals listed as restricted live wildlife only if:
 - a. The same species does not exist in the wild in Arizona;
 - b. The wildlife is disposed of only by export from Arizona, to game farms licensed under this rule, to zoos licensed under R12-4-420, or to medical or scientific research facilities with an exemption under R12-4-407;
 - c. The application required in subsection (C) is accompanied by proof of current licensing by the United States Department of Agriculture under 9 CFR Subchapter A., Animal Welfare; and
 - d. The application required in subsection (C) is accompanied by a typed proposal explaining the species to be possessed, the purpose of possession, the purpose of propagation if applicable, the planned disposition of wildlife including progeny, and how the licensee will prevent escape, threat to native wildlife, and threat to public safety.
6. The Department may issue a license for any other restricted live wildlife not addressed in subsections (B)(3), (B)(4), or (B)(5), only if the wildlife was held under a private game farm license issued before April 28, 1989.
7. An applicant shall submit a separate application for each location.
- C. An applicant shall use an application form available from any Department office. The applicant shall provide the following information on the form:
 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 are currently in captivity; and
 4. Signature of applicant.
- D. A licensee shall ensure that each shipment of live wildlife imported into the state is accompanied by a certificate of health issued by a licensed veterinarian.
- E. A licensee shall maintain records for three years that 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 to each person transporting dead wildlife from the site of the game farm. The receipt shall include the date of purchase, barter, or gift; the name of the game farm; and the number, by species, of transported wildlife.
- G. A licensee shall ensure that shipments of wildlife made by the game farm are 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, 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 subject to R12-4-409, ~~and R12-4-428,~~ and R12-4-430.
- I. ~~This rule is effective July 1, 2001.~~

R12-4-417. Wildlife Holding License

- A. With the exception of all live cervids, which shall not be imported, transported, or possessed except as allowed under R12-4-430. ~~The~~ the Department shall issue wildlife holding licenses to qualified individuals for the purposes provided in this Section. The wildlife holding license authorizes the person holding the license to engage in specific activities with the specific live wildlife listed on the license. The activities shall be listed on the license to be authorized and may include but not be limited to any of the following: possession, transportation, importation, educational display, exhibit, purchase, propagation, export, give away, or kill. The Department's evaluation of the applicant's proposal and qualifications and the purpose of the license will determine if the Department will issue or deny the permit and the activities the license authorizes.
- B. The Department shall not issue a license to any applicant whose privilege to take or possess wildlife is under current suspension or revocation by the government of any state or the United States.

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- C.** The Department shall issue a wildlife holding license only for the primary purposes following, when the purpose 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:
1. Wildlife management: gathering information valuable to maintenance of wild populations;
 2. Education;
 3. The advancement of science, or promotion of the public health or welfare;
 4. When humane treatment by a person is necessary to safeguard and protect the interests of an animal unable to meet its own needs in the wild, when it has been abandoned, or permanently disabled, or is no longer useful for any previously-existing licensed purpose.
- D.** The Department shall issue a wildlife holding license for the sole purpose of exhibiting live wildlife already possessed under the authority of R12-4-404 or already possessed under R12-4-417, when the wildlife may be exhibited without posing a threat to wildlife or the public and will not adversely impact other affected wildlife in Arizona.
- E.** Applicants for a wildlife holding license shall obtain from and submit to the Department a form providing the following information:
1. The applicant's name, mailing address, and telephone number.
 2. If applicable, the name, address, and telephone number of the educational, scientific, or other institutional affiliation of the applicant.
 3. The species, or higher taxa, if appropriate, of wildlife proposed for an allowable activity.
 4. The applicant's signature.
- F.** Applicants for a wildlife holding license shall also submit the following with their application form:
1. If the wildlife is currently in possession, submit evidence of lawful possession as defined in R12-4-401. If the wildlife is not yet in possession, submit proof of application for evidence of lawful possession. If the application is for exhibit of wildlife possessed under the authority of R12-4-404, provide an affidavit that the wildlife was lawfully taken under authority of a hunting or fishing license in accordance with Commission order or is the progeny of wildlife lawfully taken.
 2. The street address or legal description of the location where the wildlife is to be held and a detailed diagram of the facilities where the wildlife is to be held.
 3. A detailed description of the procedures that will be used to meet the requirements of R12-4-428.
 4. A statement of the applicant's experience in handling and providing care for the wildlife to be held or of other experience that may be relevant to handling or providing care for wildlife.
 5. The dates proposed to begin and end holding the wildlife.
 6. A statement of the planned disposition and method of disposition of the wildlife at the conclusion of the proposed activities.
 7. If the purpose of the license is for wildlife management, education, the advancement of science, or the promotion of the public health or welfare, submit a detailed description of the proposed management, educational, or scientific activity.
 8. If the purpose of the license is for humane treatment, submit a written statement explaining why the wildlife is unable to meet its own needs in the wild, whether it has been abandoned, or permanently disabled, or is no longer useful for any previously existing licensed purpose. The statement shall also specify where the wildlife is currently possessed and who possesses it.
 9. If the purpose of the license is to exhibit live wildlife already possessed under the authority of R12-4-404 or already possessed under R12-4-417, submit a detailed description of the proposed exhibit activity.
- G.** The Department may require that wildlife used for lawful activities under the authority of the wildlife holding license be permanently marked for identification purposes, when the Department determines this is necessary for the best interest of the public and the wildlife. If this is a requirement, it will be specified on the license.
- H.** The licensee shall ensure that a copy of the license accompanies any shipment of wildlife made under the authority of the license.
- I.** The licensee shall annually obtain from and submit to the Department a report form providing the following information within 30 days after the license expires:
1. The licensee's name, address, and phone number;
 2. A listing of each animal held during the year, by species, including the source and date of acquisition and the place and date of disposition for each animal.
- J.** The licensee shall comply with R12-4-409, ~~and R12-4-428,~~ and R12-4-430.
- K.** Wildlife holding licenses expire on December 31 of the year of issuance, or, if the licensee is a representative of an institution, organization, or agency, upon termination of affiliation with that entity, whichever comes first.
- ~~**L.** This rule is effective January 1, 2000.~~

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R12-4-420. Zoo License

- A. With the exception of all live cervids, which shall not be imported, transported, or possessed except as allowed under R12-4-430, A zoo license allows all of the following: exhibit, educational display, import, purchase, export, possession, propagation, euthanization, transport, giving away, offering 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 wildlife possessed in the facilities specified on the license except when the wildlife is transported to or from temporary exhibits. Temporary exhibits shall not exceed 20 consecutive days at any one location.
 2. A licensee shall only dispose of restricted live wildlife within Arizona to another zoo licensed under this Section, to a game farm licensed under R12-4-413, to a medical or scientific research facility exempted under R12-4-407, or as directed by the Department.
 3. A licensee shall not accept any wildlife donations, or purchase or otherwise obtain wildlife without accompanying evidence of lawful possession.
 4. A licensee may dispose of all wildlife obtained under a scientific collecting permit or wildlife that has been loaned to the zoo by the Department only as directed by the Department.
- B. The following criteria are prerequisites for approval of a zoo license:
1. The Department shall ensure that the operation meets the definition of “zoo” at A.R.S. § 17-101(A)(23).
 2. An applicant shall submit with the application proof of current licensing by the United States Department of Agriculture under 9 CFR Subchapter A, Animal Welfare.
 3. The Department shall ensure that the issuance of a license is for a purpose in the best interest of the wildlife or species to be held, does 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 a form available from any Department office. 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 is not for renewal of a previously granted license, 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 shall maintain a record of each animal obtained under subsection (A)(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 subject to R12-4-409 and R12-4-430.
- ~~F. This rule is effective July 1, 2001.~~

R12-4-423. Wildlife Rehabilitation License

- A. For the purposes of this Section, the following definitions apply:
1. “Agent” means a person designated on a 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.
 2. “Assistant” means a person not designated as an agent who assists a licensee under direct supervision at the premises described on the license.
 3. “License” means a form issued by the Department, and an application form submitted by an 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, not including any later amendments or editions, which is incorporated by reference in this Section. 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 with common characteristics that establish relatively similar requirements for habitat, food, and other ecological or behavioral factors pertinent to establishing standards of housing, care, or rehabilitation as follows:
 - a. Amphibians: all amphibians.
 - b. Reptiles: all reptiles.
 - c. Birds:
 - i. Non-passerines, birds in any Order other than those named below;
 - ii. Raptors, birds in the Orders Falconiformes or Strigiformes;
 - iii. Quail, birds in the Order Galliformes;
 - iv. Doves, birds in the Order Columbiformes;
 - v. Hummingbirds, birds in the Order Trochiliformes; and

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- vi. Passerines, birds in the Order Passeriformes.
 - d. Mammals:
 - i. Nongame mammals;
 - ii. Bats: all bats;
 - iii. Big game mammals other than cervids: bighorn sheep, bison, black bear, ~~deer, elk,~~ javelina, mountain lion, and pronghorn; and
 - iv. 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 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 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 release and euthanasia of the injured, diseased, disabled, orphaned, or otherwise debilitated live wildlife specified on the license. The license 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 subject to Department evaluation of, and stipulations to, applications submitted in compliance with subsections (D) or (E). The Department may deny a license or limit a license based upon the training and experience of the applicant. The Department shall issue wildlife rehabilitation licenses subject to the following conditions:
- 1. The Department shall issue a wildlife rehabilitation license only for the purpose of restoring wildlife to the wild through rehabilitative activities. All wildlife held under the license remains the property of the state and shall be returned to the Department upon request;
 - 2. The Department shall issue a wildlife rehabilitation license to provide a public service. The names and telephone numbers of all licensees are subject to public disclosure by the Department, and a licensee shall not charge a fee or other compensation for the wildlife rehabilitation functions performed;
 - 3. The Department shall issue a wildlife rehabilitation license to an individual who is solely responsible for all expenses incurred and all actions taken under 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 only for the premises described on the license.
- C.** The following criteria are prerequisites for 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 to rehabilitate migratory birds only to persons 18 years of age or older. A minor's parent or legal guardian shall cosign the application of a minor to rehabilitate any other species and shall ensure that the application is notarized before submittal. See subsection (B)(3).
 - 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 under 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 provide documentation that, within the last five years, the applicant has answered correctly at least 80% of the questions on a written or tape-recorded examination, supervised and administered by the Department, related to: wildlife rehabilitation; handling, transport, humane treatment, and nutritional, behavioral, developmental, ecological, and habitat requirements of wildlife; captivity standards established under R12-4-428; human and wildlife safety considerations; this Section; and R12-4-409.
 - a. The Department shall administer the examination by appointment at any Department office during normal working hours.
 - b. The Department shall mail the written score of the examination to the applicant within 30 calendar days of the examination date.
 - c. The Department shall consider only those sections of the examination that are applicable to the taxa of wildlife for which the license is sought in establishing the qualifications of the applicant; and
 - 5. Any licensee who, before the expiration of a Department license to rehabilitate wildlife, applies to continue without change the authorized activities for the authorized species and for no others is exempt from the written examination required by subsection (C)(4), unless written reports filed under subsection (Q) show that no rehabilitative functions were performed during the license period preceding the one for which the application is submitted.

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- D.** An applicant shall use a form available from any Department office to apply for a wildlife rehabilitation license. Applications and licenses issued under this Section shall reference the taxa defined in subsection (A) or shall specify 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.
 2. The applicant shall include with the form 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 shall also include with the form 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 application concerns rehabilitation of taxa not currently authorized by the Department, a statement of the applicant's training and experience in handling, capturing, rehabilitating, and caring for, the taxa for which the application is submitted;
 - 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, materials, location relative to buildings and fences, and relevant information about 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, including cleaning methods; food and water supply; shelter; bedding; and mechanisms for prevention of escape by wildlife and, for potentially dangerous animals, protection of human safety.
 4. If required by subsection (C), the application shall include documentation of a passing score on the examination prescribed in subsection (C)(4).
 5. The applicant shall submit one or more of the following with the application:
 - a. A typed, signed statement that the applicant is a licensed, practicing veterinarian;
 - b. A typed, signed statement from the Department's Adobe Mountain Wildlife Center Coordinator that the Center will assist the applicant in providing rehabilitative treatment for the wildlife to be held under the license; or
 - c. A typed, signed statement from a licensed, practicing veterinarian that the veterinarian is reasonably available to give veterinary services requested by the licensee as necessary to facilitate rehabilitation of wildlife. The licensee shall be responsible for any veterinary expenses.
 6. A licensee seeking renewal of a wildlife rehabilitation license without change of species, location, or design of facilities may reference supportive materials submitted previously, rather than submitting copies of the materials with the application for renewal.
- E.** A licensee may, at any time during the license period, make a written request to amend the license to add or delete agents, to add or delete premises, or to obtain authority to rehabilitate additional taxa of wildlife. The request shall meet the requirements of subsections (C)(4) and (D)(1) through (D)(3). The Department shall grant or deny a request within 60 calendar days of receipt.
- F.** A licensee 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.
- G.** A licensee shall capture, remove, transport, and release wildlife under this Section in a manner that is least likely to cause injury to the affected wildlife.
- H.** A licensee authorized to rehabilitate big game mammals, golden eagles, Gila monsters, twin-spotted rattlesnakes, banded rock rattlesnakes, endangered or threatened species, or threatened native wildlife as defined in R12-4-401 shall, within 24 hours of receiving the individual animal, contact the Department for instructions in handling that animal. While awaiting instructions, emergency veterinary care shall be provided as necessary.
- I.** Except when the Department has authorized possession for a longer period, a licensee shall not possess a raptor longer than 180 days; or other wildlife longer than 90 days. A licensee shall submit a written request to the Department to hold wildlife in excess of this period. The Department may require the licensee to provide a typed, signed statement from a licensed veterinarian listing the medical reasons for the extension 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 days of receipt of the request or the veterinarian's statement. The licensee may continue to hold the

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specified wildlife while the Department considers the request. The Department shall deny a request for extension in writing and shall include in the written denial specific, time-dated directions on disposition of the animal.

- J.** A licensee may hold wildlife under a wildlife rehabilitation license after the wildlife reaches a state of restored health only for the amount of time reasonably necessary to make humane disposition of the wildlife, but in no case for longer than has been authorized under subsection (I). 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 area 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 otherwise dies while held under license within 30 days of death by burial or incineration, except that the licensee shall transfer all carcasses of endangered or threatened species, threatened native wildlife, ~~or golden eagles,~~ or any cervids to the Department.
- M.** A licensee shall ensure that a copy of the approved license and application accompanies any shipment or transport of wildlife under this Section, and is available for inspection at each of the premises authorized by the license.
- N.** A licensee shall keep a current log that shows the date of acquisition, location, and disposition of all wildlife held under the license.
- O.** Before January 16 of each year, a licensee shall file a written report on activities performed under the license for the previous calendar year. The licensee shall report on a form available from the Department. The written report shall contain the following information:
1. The name, address, and telephone number of the licensee and all agents;
 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 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 this reporting requirement for federally protected wildlife.
- P.** A licensee 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 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 authorization from the Department under subsections (D) or (E) before designating any agent. The agent shall have the authorization in possession and available for inspection while in possession of wildlife. The licensee is responsible for acts of the agent if they fall within the framework of this Section. The Department may suspend or revoke the rehabilitation license for violation of this Section by an agent.
- R.** A wildlife rehabilitation license expires on December 31 of the second year following the date of issuance of the license.
- S.** A wildlife rehabilitation license is subject to R12-4-409 and R12-4-428.
- T.** ~~This rule is effective July 1, 2001.~~

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

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

1. "Cervid" means a mammal classified as a Cervidae or member of the deer family found anywhere in the world, as defined in the taxonomic classification from Volumes I and II of Walker's Mammals of the World, Fifth Edition, 1991, and not including any later edition. A copy is available for inspection at any Department office.
2. "Native cervid" means any member of the deer family in the genus Alces, common name moose; the genus Odocoileus, common name white-tailed and mule deer; or the genus Cervus, common name red deer, wapiti, and elk.
3. "Private game farm" means any facility licensed by the Arizona Game and Fish Department under R12-4-413.
4. "Zoo" means any facility licensed by the Arizona Game and Fish Department under R12-4-420.
5. "Zoonotic" means a disease that can be transmitted to humans from vertebrate animals.
6. "Wildlife disease" means a disease that poses a health risk to wildlife in Arizona.

B. Except as provided in R12-4-418, upon the effective date of this Section, no new special licenses will be issued for live cervids.

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- C.** An individual, including any special license holder, shall not import a live cervid into Arizona except as allowed in subsection (K).
- D.** An individual shall not transport a live cervid within Arizona except to:
1. Export the live cervid from Arizona for a lawful purpose;
 2. Transport the live cervid to a facility for the purpose of slaughter, when the slaughter will take place within five days of the date of transport;
 3. Transport the live cervid to or from a licensed veterinarian for medical care; or
 4. Transport the live cervid to a new holding facility owned by, or under the control of, the cervid owner, when all of the following apply:
 - a. The current holding facility has been sold or closed;
 - b. Ownership, possession, custody, or control of the cervid will not be transferred to another individual; and
 - c. The owner of the cervid has prior written approval from the Director of the Arizona Game and Fish Department.
- E.** An individual who lawfully possesses a live cervid held in captivity on the effective date of this Section, except any cervid held under a private game farm, wildlife holding, or zoo license, shall, within 30 days of the effective date of this Section, provide the Department with a written report that contains the following:
1. Name, address, and telephone number of the person possessing the live cervid;
 2. Number, genus, and species of any live cervid held; and
 3. Location where the live cervid is held.
- F.** An individual who lawfully possesses a live cervid held in captivity on the effective date of this Section, except any cervid held under a private game farm, wildlife holding, or zoo license, may continue to possess the live cervid and shall only dispose of the live cervid by the following methods:
1. Exportation,
 2. Euthanasia, or
 3. As otherwise directed by the Department.
- G.** An individual who lawfully possesses a live cervid under a private game farm, wildlife holding, or zoo license shall not move, or allow another to move, the cervid from the premises of the game farm, wildlife holding facility, or zoo except to:
1. Export the live cervid from Arizona for a lawful purpose,
 2. Transport the live cervid to a facility for the purpose of slaughter, or
 3. Transport the live cervid to or from a licensed veterinarian for medical care.
- H.** In addition to the recordkeeping requirements of R12-4-413, R12-4-417, and R12-4-420, an individual who possesses a live native cervid under a private game farm, wildlife holding, or zoo license on the effective date of this Section, and subsequent to the effective date of this Section for progeny, shall:
1. Permanently mark each live native cervid with either an individually identifiable microchip or tattoo within 30 days of the effective date of this Section;
 2. Permanently mark the progeny of each live native cervid with either an individually identifiable microchip or tattoo; and
 3. Within 30 days of the effective date of this Section, and annually by December 15, provide the Department with a report listing the following for each live native cervid in the licensee's possession:
 - a. Name of the license holder,
 - b. License holder's address and telephone number,
 - c. Number and species of live native cervids held,
 - d. The microchip or tattoo number of each live native cervid held, and
 - e. The disposition of all native cervids that were moved or that died in the six months before the effective date of this Section or during the current reporting period.
- I.** The holder of a private game farm, wildlife holding, or zoo license shall ensure that the head of a native cervid that dies while held under the special licenses (except a native cervid that is slaughtered as allowed under this Section, R12-4-413, R12-4-417, and R12-4-420) is submitted within 72 hours of the time of death to the University of Arizona Veterinary Diagnostic Laboratory for chronic wasting disease analysis. The licensee shall ensure that the shipment of the deceased animal's head is made by a common, private, or contract carrier that utilizes a tracking number system to track the shipment. The Arizona Game and Fish Department shall pay for the cost of the laboratory analysis. The holder of a private game farm, wildlife holding, or zoo license shall include the following information with the shipment of the deceased animal's head:
1. Name of the license holder,
 2. License holder's address, and
 3. License holder's telephone number.
- J.** If a zoonotic or wildlife disease, as determined by a person with relevant wildlife disease expertise, exists in any facility or on property holding cervids, and the zoonotic or wildlife disease poses an immediate threat to wildlife or humans, including those animals held under special license, the Arizona Game and Fish Department's Director shall order the immediate quarantine of all wildlife held at the facility or on the property. The Director may suspend the provisions of any applicable

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special license and order the humane disposition of any affected animal based on an assessment of the threat to public or wildlife health, safety, or welfare. An individual who possesses a cervid where an identified zoonotic or wildlife health risk exists shall, as ordered by the Director, quarantine the wildlife, test the wildlife for disease, submit a biological sample to the Department or its designee, and, if necessary, destroy and dispose of the wildlife as directed by the Department.

- K.** A holder of a zoo license may import any live cervid except for a native cervid for exhibit, educational display, or propagation only if the cervid is quarantined for 30 days upon arrival, and the cervid is procured from a facility that complies with the following requirements:
1. The exporting facility has no history of chronic wasting disease or other diseases that pose a serious health risk to wildlife or humans, and there is accompanying documentation from the facility certifying that there is no history of disease at the facility;
 2. The cervid is accompanied by a health certificate issued by a licensed veterinarian in the jurisdiction of origin, and the health certificate is issued within 30 days of import; and
 3. The cervid is accompanied by evidence of lawful possession as defined in R12-4-401.
- L.** An individual who imports a cervid shall comply with all procedures for tuberculosis control and eradication for cervids prescribed in the USDA publication “Tuberculosis Eradication in Cervidae – Uniform Methods and Rules,” USDA APHIS 91-45-005, effective May 15, 1994, including 1995 amendments. This material is incorporated by reference in this Section but does not include any later amendments or editions. A copy is on file with the Secretary of State and is available from any Department office, or it may be ordered from the USDA APHIS Veterinary Services, Cattle Disease and Surveillance Staff, P. O. Box 96464, Washington D. C., 20090-6464.
- M.** An individual who imports a cervid shall comply with the procedures for the prevention, control, and eradication of Brucellosis in cervids as prescribed in the United States Department of Agriculture publication “Brucellosis in Cervidae: Uniform Methods and Rules” U.S.D.A. A.P.H.I.S. 91-45-12, effective September 30, 1998, revised effective May 14, 1999. This material is incorporated by reference in this Section but does not include any later amendments or editions. A copy is on file with the Secretary of State and is available from any Department office, or it may be ordered from the USDA APHIS Veterinary Services, Cattle Disease and Surveillance Staff, P. O. Box 96464, Washington D. C., 20090-6464.
- N.** The Department has the authority to seize, destroy, and dispose of, at the owner’s expense, any cervid possessed in violation of this Section.

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 3. DEPARTMENT OF TRANSPORTATION – HIGHWAYS

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R17-3-902 | Amend |
| R17-3-903 | New Section |
| Appendix A | Repeal |
| Appendix B | 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. § 28-7311(C)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
- Notice of Rulemaking Docket Opening: 8 A.A.R. 4593, 2002
- 4. 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 85014-5079
- Telephone: (602) 712-6007

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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 at www.dot.state.az.us/ABOUT/rules/index.htm.

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

Arizona prohibits a traffic sign or signal from bearing any commercial advertising. A.R.S. § 28-648(B). The logo sign program, created under A.R.S. § 28-7311, is an exception to this general prohibition. Logo signs (or specific service information signs) provide motorists with service information, such as gas, food, lodging, and camping that are within a specified distance of a state highway.

The Arizona Department of Transportation ("ADOT") has two logo sign programs: the interstate logo program for interstate highways, and the rural logo program for all other state highways. The reason for the distinction is that the technical specifications for a traffic sign are different on an interstate highway due to the design and speed differences of an interstate highway from most other highways. ADOT has chosen to contract all functions of the two logo sign programs to a private contractor, as allowed under A.R.S. § 28-7311. ADOT's function is of administrative oversight. Under the logo sign programs, the contractor markets the program to eligible businesses, and leases space on a specific service information sign to a business for its logo. The contractor is responsible for marketing, furnishing, installing, maintaining, and replacing specific service information signs. Under the current programs, the contractor sub-contracts manufacturing and installation of logo and specific service information signs to a sub-contractor.

A.R.S. § 28-7311(C) requires ADOT to institute rulemaking for the logo sign program. The rule establishes the eligibility criteria for businesses, such as the services a business must provide and its proximity to a state highway. The rule also establishes certain restrictions and criteria for placing specific service information signs, many of which are technical standards as to the category, size, location and placement of logo signs as contained in the Manual of Uniform Traffic Control Devices ("MUTCD"). The MUTCD is a national standard for the design and application of signing, published by the U.S. Department of Transportation, Federal Highway Administration. ADOT uses the MUTCD as the standard for signing on Arizona streets and highways to comply with A.R.S. § 28-641.

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). ADOT is amending the current rule's language so that it is clear, concise, and understandable, and complies with the Secretary of State's rulemaking standards. The proposed rule includes the following changes:

- Distinguishes the special requirements of the rural logo sign program.
- Updates and clarifies definitions.
- Deletes references regarding ADOT's involvement with lease administration, since the contractor is responsible for program implementation and administration.
- Creates a provision for a community logo plan for the rural logo sign program, which allows local input for sign placement.
- Liberalizes the qualifying criteria for some specific services, allowing more businesses to qualify. Some of the changes include allowing all the food service businesses in a shopping mall food court to qualify as a food business, and requiring fewer hours of service, fewer meals, and less seating capacity for a food service business.
- Allows ADOT to approve exceptions to the MUTCD standards.
- Establishes a clear ranking system for when the number of businesses wanting to lease space for a logo sign exceed the number of available logo sign spaces on a specific service information sign.
- Establishes additional administrative requirements for businesses that come under the more liberalized criteria, such as a limited lease, and posting the distance or days and hours of operation on the specific service information sign.
- Increases the urbanized area boundaries for Phoenix and Tucson, due to population growth.
- Allows for "Services" sign on rural highways, which creates a general sign for three or more categories of specific services.
- Clarifies the use of the term "logo sign" to the more technically correct term of "specific service information sign".

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- Deletes appendices and replaces them with illustrations.
- Allows for trailblazing signs. Trailblazing signs usually duplicate the specific service information sign and provide directional information. The trailblazing sign may be placed along a state highway or along a road under the control of a political subdivision. To be effective to the motoring public, a trailblazing sign must be installed before the specific service information sign or logo sign is installed on the state highway.
- Creates a new section to allow for an exception to place a specific service information sign in an urban area when ADOT eliminates an exit ramp or interchange from the state highway system.

6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, 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

7. 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

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

Businesses advertising by logo sign will have minimal to moderate costs for purchasing the sign and paying monthly lease payments. Although more businesses can qualify for a logo sign, the amendments create administrative costs which are necessary to better inform and serve the motoring public. Businesses should benefit by increased revenue due to advertising by logo signs, especially those businesses in urban areas where an exit ramp was eliminated. The private contractor incurs moderate to substantial costs for program management of the logo sign programs. Changes in the urbanized area boundaries may decrease the contractor's available customer base. The contractor should be able to earn profits, depending on what the management costs are. More liberalized criteria for businesses may increase the contractor's available customer base. The new category for a "Services" sign is more cost effective for the contractor, because the contractor can install one specific service information sign with logos signs from different specific services instead of leaving empty logo sign spaces for low demand areas. A sign sub-contractor incurs production and employee costs for manufacturing and installing signs. Any profits will depend on the sub-contractor's production and employee costs.

ADOT's costs and benefits are not readily quantifiable. ADOT provides administrative oversight for the logo sign program, so its costs include the salaries for those employees overseeing the logo sign program or installation of signs as part of their duties. Logo signs provide an informational benefit to the motoring public, and an advertising benefit to businesses that cannot purchase outdoor advertising along a state highway. The motoring public benefits through increased convenience and reduced travel time for locating a participating business. Services may cost more due to the advertising costs passed onto the motoring public consumer. The Arizona Department of Revenue should benefit through increased tax revenue due to increased sales from participating businesses.

A political subdivision that allows trailblazing signs along streets within its jurisdiction to a business will incur minimal costs for administrative oversight. A political subdivision may recoup its costs through a permit fee. It may receive a benefit of motoring public good will.

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

Name: Wendy S. LeStarge, Rules Analyst
Address: Arizona Department of Transportation
Administrative Rules Unit, Mail Drop 507M
3737 N. 7th Street, Suite 160
Phoenix, AZ 85014-5079
Telephone: (602) 712-6007
Fax: (602) 241-1624
E-mail: wlestarge@dot.state.az.us

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

No oral proceeding is scheduled for this rulemaking. Written, faxed, e-mail comments, or requests for an oral proceeding may be made by contacting the analyst listed in item #4 between 8:00 a.m. and 4:30 p.m., Monday through Friday. If no oral proceeding is requested, the public comment period shall continue for 30 days from this notice's publication date. This rulemaking's public record will close at 4:30 p.m. on December 17, 2002.

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

Not applicable

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

Not applicable

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 3. DEPARTMENT OF TRANSPORTATION – HIGHWAYS

ARTICLE 9. HIGHWAY TRAFFIC CONTROL DEVICES

Section

- R17-3-902. Logo Sign Program
R17-3-903. ~~Repealed~~ Special Exception Waiver for Logo Sign Program
Appendix A. Typical Signing for Single Exit Interchanges ~~Repealed~~
Appendix B. Typical Signing for Intersections ~~Repealed~~

ARTICLE 9. HIGHWAY TRAFFIC CONTROL DEVICES

R17-3-902. Logo Sign Program

A. Definitions. In this rule, unless the context otherwise requires:

1. ~~“Calendar day” means any day shown on the calendar beginning at midnight extending for a 24-hour period and ending at midnight.~~
2. ~~“Contract” means the written agreement between the Department and the contractor setting forth the obligation of the parties thereunder.~~
3. ~~“Contractor” means a person or entity who contracts with the Department for the purpose of operating a logo sign program and is authorized to sign a lease agreement with a lessee to install, maintain, and administer specific service sign in accordance with these rules.~~
4. ~~“Department” means the Arizona Department of Transportation.~~
5. ~~“Director” means the Director of the Department of Transportation.~~
6. ~~“Exit gore” means the area immediately beyond the bifurcation of the through roadway and the exit ramp, bounded by the edges of these roadways.~~
7. ~~“Exit ramp” means an interconnecting roadway of a traffic interchange or any connection between highways at different levels on which vehicles may exit a designated roadway.~~
8. ~~“Freeway” means a divided arterial highway for through traffic with full control of access and with grade separations at major intersections.~~
9. ~~“Illegal outdoor advertising sign” means a sign which was erected or maintained or erected and maintained in violation of state law or R17-3-701 or in violation of both state law and R17-3-701.~~
10. ~~“Intersection” means the general area where two or more highways join or cross, within which are included the roadway and roadside facilities for traffic movements in that area.~~
11. ~~“Interstate highway” means the routes comprising the National System of Interstate and Defense Highways.~~
12. ~~“Interstate logo sign program” means a program to install and maintain specific services information signs, also known as logo signs, on certain portions of the completed Interstate Highway System as provided in A.R.S. § 28-1875(A).~~
13. ~~“Lease agreement” means the written contract between the contractor and the responsible operator.~~
14. ~~“Lessee” means the owner or responsible operator of a motorist service business, or any person or entity who has authority to act on behalf of the owner or responsible operator who has signed a lease agreement for a logo sign.~~
15. ~~“Logo sign” means a separately attached business sign mounted on a rectangular sign panel to show the brand, symbol, trademark, name, or combination of these, for a motorist service available on a crossroad near its intersection with an interstate highway or a rural state highway.~~

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16. ~~“Ramp terminal” means the general area where a ramp connects with another roadway.~~
17. ~~“Responsible operator” means a person or entity who owns or operates a motorist service business, and who has authority to enter into agreements relevant to matters covered by these rules.~~
18. ~~“Rural logo sign program” means a program to install and maintain specific services information signs, also known as logo signs, on any class of state highway, other than a segment of the Interstate Highway System, located outside of an urbanized area with a population of 100,000 or more persons as provided in A.R.S. § 28-1875(B).~~
19. ~~“Rural state highway” means any class of state highway, other than a segment of the Interstate Highway System, located outside of an urbanized area with a population of 100,000 or more persons.~~
20. ~~“Specific service sign” means a rectangular sign panel with:~~
 - a. ~~The words “GAS”, “FOOD”, “LODGING”, or “CAMPING”;~~
 - b. ~~Directional information; and~~
 - c. ~~One or more logo signs.~~
21. ~~“Traffic interchange” means a system of interconnecting roadways in conjunction with one or more grade separations, providing for the interchange of traffic between two or more roadways or highways on different levels.~~
22. ~~“Urbanized area” means an area as defined in A.R.S. § 28-1875(D).~~

B. Selection of responsible operator:

1. ~~A responsible operator will be eligible for the placement of a logo sign if it meets the conditions as set forth in this subsection and subsections (C) and (D).~~
2. ~~Each lessee identified on a specific service sign shall have furnished written and notarized certification to the Department, through the contractor, of its conformity with all applicable federal, state and local laws, ordinances, rules and regulations and shall not be in breach of that certification. Such certification shall be provided before the lease is approved.~~
3. ~~Eligible responsible operators for logo signs shall be selected by a first-come, first-served rule until the maximum number of permissible logo signs is reached.~~
4. ~~Eligible responsible operators which have been selected for logo signs shall be permitted to display their logos signs for the period covered by the lease agreement.~~

C. Location:

1. ~~Logo signs are for use on interstate highways in areas which are rural in character and on rural state highways. Logo signs shall be excluded from urbanized areas which includes the following:~~
 - a. ~~Phoenix:~~
 - ~~I-10, Litchfield Road to Chandler Blvd.~~
 - ~~I-17, Happy Valley Road to Jet. I-10~~
 - ~~SR 51, I-10 to SR 101L~~
 - ~~US 60, Dysart Road to Goldfield Road~~
 - ~~SR 85, 191st Avenue to 7th Avenue~~
 - ~~SR 87, Pinal County Line to West Bates Road~~
 - ~~SR 88, SR 360 to Lost Dutchman Boulevard~~
 - ~~SR 101L~~
 - ~~SR 143~~
 - ~~SR 202L~~
 - ~~SR 303L~~
 - ~~SR 360, I-10 to Ellsworth Road~~
 - b. ~~Tucson:~~
 - ~~I-10, Ina Road to Wilmot Road~~
 - ~~I-19, Valencia Road to Jet. I-10~~
 - ~~SR 86, Palo Verde Trail to US 89~~
 - ~~US 89, Pima Mine Road to Milepost 79.5~~
 - c. ~~Any other area with a population of 100,000 persons or more.~~
2. ~~Sign sequence and spacing. In the direction of travel, successive specific service signs shall be in Appendix A and Appendix B unless physical conditions or terrain preclude compliance, in which event the Department may authorize sign sequences which meet the logo sign objectives and which do not create a threat to highway safety as determined by the Department.~~
3. ~~Number of signs permitted. The number of specific service signs permitted shall be limited to one for each type of service along an approach to an intersection or interchange exit. Each specific service sign may have up to six logos. A maximum of two different types of services may be combined on the same sign.~~
4. ~~The location of regulatory, warning and guide signs shall not be preempted by specific service signs.~~
5. ~~Specific service signs shall not be located so as to obscure or detract from warning, regulatory and guide signs.~~
6. ~~Specific service signs on rural state highways shall be located a minimum of 300 feet in advance of the intersection from which the services are available as determined on the basis of an engineering study.~~

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7. ~~The spacing between specific services signs on rural state highways shall be determined on the basis of an engineering study; however, the minimum spacing shall be 200 feet.~~
 8. ~~Logo signs shall not be displayed on rural state highways for services that are visible from a point on the highway 300 feet from the intersection or on an interstate exit ramp 300 feet from the ramp terminal.~~
- D.** ~~Criteria for logo signing. Types of services:~~
1. ~~Gas.~~
 - a. ~~A gasoline service facility shall be located within three miles of an intersection or exit ramp terminal; if a qualifying responsible operator does not exist within the first three miles, the distance may be extended in 3-mile increments until a maximum of 15 miles is reached.~~
 - b. ~~A gasoline service facility shall provide the following:~~
 - i. ~~Gasoline, oil, lubrication, and water for public purchase or use.~~
 - ii. ~~Restroom facilities and drinking water.~~
 - iii. ~~Be in continuous operation at least 12 hours per day, seven days per week. However, facilities which are in continuous operation ten hours per day, five consecutive days per week may be considered for signing where no other facilities are within 15 miles of the intersection or freeway exit ramp. Where facilities with reduced operations are approved, the hours and days of operation shall be displayed on the face of the logo signs.~~
 - iv. ~~A telephone available for use by the public 24 hours per day.~~
 - e. ~~Telephone.~~
 2. ~~Food. A restaurant or other food facility shall:~~
 - a. ~~Be located within three miles of an intersection or exit ramp terminal; if a qualifying responsible operator does not exist within the first three miles, the distance may be extended in 3-mile increments until a maximum of 15 miles is reached.~~
 - b. ~~Be in continuous operation to serve three meals per day, seven days per week. However, facilities which are in continuous operation to serve three meals per day, five consecutive days per week will be considered for signing where no other facilities are within 15 miles. Where facilities with reduced operations are approved, the hours and days of operation shall be displayed on the face of the logo signs.~~
 - e. ~~Provide minimum indoor seating capacity of 20.~~
 - d. ~~Provide restroom facilities.~~
 - e. ~~Provide a telephone available to the public during hours of operation.~~
 3. ~~Lodging. A facility providing lodging shall:~~
 - a. ~~Be located within three miles of an intersection or exit ramp terminal; if a qualifying responsible operator does not exist within the first three miles, the distance may be extended in 3-mile increments until a maximum of 15 miles is reached.~~
 - b. ~~Provide five or more units of sleeping accommodations are available.~~
 - e. ~~Provide a telephone for public use 24 hours a day.~~
 4. ~~Camping. A facility providing camping sites shall:~~
 - a. ~~Be located within five miles of an intersection or exit ramp terminal; if a qualifying responsible operator does not exist within the first five miles, the distance may be extended in 5-mile increments until a maximum of 15 miles is reached.~~
 - b. ~~Be accessible to and capable of handling all common types of travel trailers and recreational vehicles.~~
 - e. ~~Be equipped to handle a minimum of 15 vehicles.~~
 - d. ~~Be available the year around unless camping in the general area is of a seasonal nature in which case the facilities in question must be open to the public the entire season. The facilities must be open to the public 24 hours per day, seven days per week during this period.~~
 - e. ~~Provide drinking water and sewer hook-up or dump station.~~
- E.** ~~Lease administration:~~
1. ~~There is an interstate logo sign program and a rural logo sign program; the Department may contract separately for each program.~~
 2. ~~The Department shall approve the form and content of any lease agreement between the contractor and the responsible operator.~~
 3. ~~Before approving the lease agreement, the contractor shall review the responsible operator's qualifications for compliance with the criteria established in subsections (B), (C) and (D) and shall not approve the lease agreement if the criteria are not met.~~
 4. ~~Upon approval of the lease agreement, the contractor shall transmit the signed lease agreement to the lessee. The lessee shall deliver the logo sign to the contractor for installation, or contract with the contractor to fabricate the logo sign to the lessee's specifications.~~
 5. ~~Logo sign lease agreements shall be valid for a period not to exceed five full years, beginning on the first day of the month following the installation of the lessee's logo sign.~~

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- ~~6. When a lessee meets the requirements established by subsections (B), (C) and (D) and the required fees have been paid, the contractor shall install the logo sign within 30 calendar days if the specific service sign has already been installed or within 120 calendar days of receipt of the logo sign if the specific service sign has yet to be installed.~~
- ~~7. The lessee or legal successor shall have the right during the term of the agreement to change the advertising copy so long as the copy conforms to this rule. Cost of such changes in the copy or legend of the logo sign shall be at the expense of the lessee. The lessee may be charged an additional fee for each sign removed and remounted by the contractor at the request of the lessee.~~
- ~~8. For businesses operated on a seasonal basis, logo signs shall be covered or removed during the off season. This work shall be done by the contractor. An additional fee shall be paid for this work. It shall be the responsibility of the lessee to notify the contractor of the dates of nonavailability of a motorist service 30 calendar days prior to closure or non-availability of services.~~
- ~~9. Upon expiration of the logo sign lease agreement and failure to renew the agreement prior to expiration, the contractor shall remove the logo sign and shall inform the lessee in writing by certified U.S. mail how to obtain possession of the logo sign.~~
- ~~10. When it is determined by the Department or the contractor that a previously qualified lessee becomes subsequently ineligible for logo signs under this rule, or a motorist service is no longer available, the contractor shall notify the lessee by certified U.S. mail that its logo sign is to be removed and the reasons for the removal. The lessee shall have ten calendar days to provide information in support of the continued display of the logo sign. If the lessee fails to reply within ten calendar days the contractor shall remove the logo sign within 20 calendar days of the original notice to the lessee.~~
- ~~11. If for reasons caused by the Department or the contractor the lessee's logo sign is not erected, the fee shall be returned.~~

F. ~~Elimination from the logo sign program. The logo sign of a lessee shall be removed from a specific service sign if the following circumstances occur:~~

- ~~1. The maximum number of responsible operators have signed lease agreements to display logo signs on the same specific service sign and are closer to the interchange or the intersection than the lessee's business; and~~
- ~~2. At least one year has elapsed since the lessee's logo sign was installed; or~~
- ~~3. The lessee's initial lease has expired.~~

G. ~~Sign panels, supports, and materials. All sign panels, supports, and materials shall conform to the Department design standards and specifications as provided in the contract.~~

H. ~~Termination of the logo signing program. If the logo sign program is terminated, or the boundaries of an urbanized area, as identified in a subsequent decennial census, are relocated resulting in the circumstance where an intersection is no longer eligible for the rural logo sign program, the following actions shall be taken:~~

- ~~1. Each lessee shall be notified by certified U.S. mail of the termination and the location where they may claim their logo sign.~~
- ~~2. The specific service sign panels and supports shall be removed.~~
- ~~3. Fees shall be refunded on a pro-rated basis.~~

A. Definitions.

"Business" means:

A commercial enterprise that provides a specific service for the general public, and
Is located on a roadway near the intersection with an interstate or rural state highway.

"Community logo plan" means a project aspect of the rural logo sign program, agreed to by the Department, the contractor, and a municipality to place specific service information signs on a rural state highway for any municipality outside an urbanized area.

"Contract" means a written agreement between the Department and a contractor to operate a logo sign program that describes the obligations and rights of both parties.

"Contractor" means a person or entity who enters into an agreement with the Department to operate a logo sign program and who is responsible for marketing, furnishing, installing, maintaining, and replacing specific service information signs.

"Department" means the Arizona Department of Transportation.

"Director" means the Director of the Arizona Department of Transportation or the Director's designee.

"Exit ramp" means a sloping roadway that connects two highways at a traffic interchange or at different levels, by which a vehicle may leave a highway that has full control of access and grade separations at major intersections.

"Food court" means a collective food facility existing in one contiguous area and contains a minimum of three separate food service businesses.

"Highway" has the same meaning as prescribed in A.R.S. § 28-101(48).

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“Interchange” means the point at which traffic on a system of interconnecting roadways that have one or more grade separations, moves from one roadway to another at a different level.

“Intersection” has the same meaning as prescribed in A.R.S. § 28-601(7).

“Interstate highway” has the same meaning as prescribed in A.R.S. § 28-7901(4).

“Interstate logo sign program” means a system to install and maintain specific service information signs on certain portions of an interstate highway as provided in A.R.S. § 28-7311(A).

“Lease agreement” means a written contract between a contractor and a responsible operator to lease space for a responsible operator’s logo sign on a contractor’s specific service information sign.

“Logo sign” means:

Part of a specific service information sign, consisting of a lettered board that is attached to a separate rectangular panel; and

Displaying an identification brand, symbol, trademark, name, or a combination of these, for a responsible operator.

“Major decision point” means a location at or before the point at which a rural state highway intersects with another rural state highway or a local roadway, that is within a municipality (except an urbanized area), and that the Department determines to be the point at which a driver must make a decision whether to stay on the highway or turn off onto the other highway or local roadway.

“Municipality” means an incorporated city or town.

“Ramp terminal” means the area where an exit ramp intersects with a roadway.

“Responsible operator” means a person or entity who:

Owns or operates a business,

Has authority to enter into a lease, and

Enters into a lease for a logo sign through the interstate or rural logo sign program.

“Rural logo sign program” means a system to install and maintain specific service information signs on a rural state highway outside of an urbanized area, as provided in A.R.S. § 28-7311(B).

“Rural state highway” means any class of state highway, other than an interstate highway, located outside of an urbanized area as provided in A.R.S. § 28-7311(B).

“Specific service” means gas, food, lodging, or camping services.

“Specific service information sign” means a rectangular sign panel that contains the following:

The words “GAS”, “FOOD”, “LODGING”, or “CAMPING”;

Directional information; and

One or more logo signs.

“Straight-ahead sign” means a specific service information sign that provides additional directional guidance to a location, route, or building located straight ahead on a roadway, and that is located before a junction which is a major decision point.

“Trailblazing sign” means a specific service information sign that provides additional directional guidance to a location, route, or building from another highway or roadway in the vicinity.

“Urbanized area” has the same meaning as prescribed in A.R.S. § 28-7311(D).

B. Logo Sign Program Administration.

1. As allowed under A.R.S. § 28-7311(A) and (B) there is an interstate and rural logo sign program. Under a logo sign program, the Department allows a third party contractor to operate a logo sign program.
 - a. The Department shall solicit offers, as provided in A.R.S. §§ 41-2501 through 41-2662, to select a contractor to operate a logo sign program.
 - b. The Department may contract separately for each program.
 - c. The contract shall specify the standards that a contractor must use, including but not limited to the following:
 - i. Manual on Uniform Traffic Control Devices for Streets and Highways, USDOT/FHWA, 1988 edition;
 - ii. Arizona Department of Transportation Traffic Control Supplement, 1996 edition; and
 - iii. Arizona Department of Transportation Standard Specifications, 2000 edition.
2. The Department shall approve the form and content of any lease agreement between the contractor and a responsible operator. The lease agreement shall include, by reference, the terms and conditions of the Department’s contract with the contractor under A.R.S. §§ 41-2501 through 41-2662.
3. The Department may require that a specific service information sign be moved due to construction or reconstruction of transportation facilities, or the placement of other signs or traffic control devices as required by the Manual on Uniform Traffic Control Devices.

C. Eligibility Criteria for Businesses.

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1. Gas Service Business. To be eligible to place a logo sign, a gas service business shall meet all of the following:
 - a. Be within 15 miles of an intersection or exit ramp terminal;
 - b. Provide fuel, oil, and water for public purchase or use;
 - c. Provide restroom facilities and drinking water;
 - d. Be in continuous operation to provide services eight hours per day, five consecutive days per week; and,
 - e. Provide a telephone available to the public during hours of operation.
2. Food Service Business. To be eligible to place a logo sign, a food service business shall meet all of the following:
 - a. Be within 15 miles of an intersection or exit ramp terminal;
 - b. Be in continuous operation to serve two meals per day (either breakfast and lunch, or lunch and dinner) for a minimum of five consecutive days per week;
 - c. Provide restroom facilities for customers;
 - d. Provide a telephone available to the public during hours of operation; and
 - e. If a food service business is part of a food court located within a shopping mall, the shopping mall may qualify as the responsible operator if the food court:
 - i. Meets the criteria of subsections (C)(2)(a) through (d), and
 - ii. Has clearly identifiable on-premise signing consistent with the logo sign and sufficient to guide motorists directly to the responsible operator's entrance to the food court.
3. Lodging Service Business. To be eligible to place a logo sign, a lodging service business shall:
 - a. Be within 15 miles of an intersection or exit ramp terminal,
 - b. Provide five or more units of sleeping accommodations, and
 - c. Provide a telephone available to the public during hours the lobby is open for registration.
4. Camping Service Business. To be eligible to place a logo sign, a business providing camping facilities shall:
 - a. Be within 15 miles of an intersection or exit ramp terminal,
 - b. Be able to accommodate all common types of travel trailers and recreational vehicles,
 - c. Be equipped to handle a minimum of 15 travel trailers or recreational vehicles,
 - d. Provide drinking water and a sewer hook-up or dump station, and
 - e. Be available on a year-round basis unless camping in the general area is of a seasonal nature in which case the facilities in question shall be open to the public 24 hours per day, seven days per week during the entire season.

D. Ranking.

1. When more than six eligible businesses providing the same specific service request lease space for a logo sign on one specific service information sign, the contractor shall use the following ranking criteria in determining which businesses shall be awarded a lease:
 - a. The business closest to an intersection or exit ramp terminal within 15 miles of the intersection or exit ramp terminal shall receive first priority.
 - b. A gas service business or a food service business that provides the most days and hours of service shall receive second priority.
 - c. A food service business that provides the most indoor seating capacity shall receive third priority.
 - d. A business that does not have an off-premise advertising sign to direct motorists to its business within five miles of where the specific service information sign is to be located shall receive fourth priority.
2. The contractor shall not renew the lease of a responsible operator if another eligible business with higher priority requests lease space for a logo sign.
3. The contractor shall not enter into a lease for more than a two-year term or renew a lease for more than a two-year term for any of the following:
 - a. A gas service business that provides service less than 12 hours per day, seven days per week;
 - b. A food service business that provides service less than three meals per day (breakfast, lunch and dinner), is open less than six days per week, or opens later than 7:00 a.m.;
 - c. A food service business that provides for a seating capacity of less than 20; or
 - d. A gas service business, a food service business, or a lodging business that is more than three miles but less than or equal to 15 miles of an intersection or exit ramp terminal.

E. Additional Sign Information.

1. The contractor shall display the following additional information on a specific service information sign, as space allows, based on the following ranking order:
 - a. Distance.
 - b. Days and hours of operation
 - c. Seasonal operation
2. The contractor shall display additional information as prescribed in subsection (E)(1) for the following responsible operators:
 - a. A gas service business, a food service business, or a lodging business that is more than three miles but less than or equal to 15 miles from an intersection or exit ramp terminal; or

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- b. A business providing camping facilities that is more than five miles but less than or equal to 15 miles from an intersection or exit ramp terminal.
- c. A gas service business that provides service less than 12 hours per day, seven days per week; or
- d. A food service business that provides service less than three meals per day (breakfast, lunch and dinner), is open less than six days per week, or opens later than 7:00 a.m.;
- 3. If a responsible operator operates on a seasonal basis, the contractor shall:
 - a. Remove or cover the logo sign during the off-season, or
 - b. Display the dates of operation, if additional information is not required under subsection (E)(1).
- 4. The contractor shall work with Department staff when requesting an encroachment permit under R17-3-702 to decide the best placement of a specific service information sign in order to provide information to the motoring public as prescribed in this subsection.

F. Contractor Responsibility.

- 1. The contractor shall follow all Department design standards and specifications for all sign panels, supports, and materials, as provided in the contract.
- 2. The contractor shall review a business' qualifications to ensure that it complies with all criteria established in this Section. The contractor shall not enter into a lease agreement or renew a lease agreement if the criteria are not met. If a responsible operator becomes ineligible for a logo sign, the contractor shall remove the logo sign within 20 days after notifying the responsible operator as provided in the lease.
- 3. The contractor shall require that a responsible operator certify in writing to the contractor that the responsible operator complies with all applicable federal, state, and local laws, ordinances, rules, and regulations.
- 4. The contractor shall not obstruct or detract from a traffic control device with a specific service information sign.
- 5. The contractor shall not displace or relocate an existing traffic control device to accommodate a specific service information sign without prior written approval by the Department, or a local authority under A.R.S. § 28-643.
- 6. The contractor shall transmit the signed lease agreement to the responsible operator. The responsible operator shall deliver the logo sign to the contractor for installation, or contract with the contractor to fabricate the logo sign to the responsible operator's and the Department's specifications.
- 7. The contractor shall return any pre-paid lease payments if the responsible operator's logo sign is not erected for reasons caused by the Department or the contractor.
- 8. The contractor shall obtain an encroachment permit under R17-3-702, before erecting a specific service information sign along a state highway.
- 9. If a logo sign program is terminated, the contractor shall:
 - a. Notify a responsible operator by certified U.S. mail of the termination and the location where the responsible operator may claim its logo sign.
 - b. Remove all sign panels and supports, and
 - c. Refund any lease payments on a pro rated basis to each responsible operator.

G. Sign Requirements.

- 1. Except as prescribed in subsections (I) and R17-3-903, the contractor shall not place a specific service information or directional sign on any highway in an urbanized area, which includes the following:
 - a. Phoenix:
 - Interstate 10, Agua Fria River Bridge to Gila River Indian Reservation Boundary (Milepost 161.68);
 - Interstate 17 Skunk Creek Bridge to Junction Interstate 10;
 - State Route 51;
 - US 60, Beardsley Canal to Ellsworth Road (Milepost 191.40);
 - State Route 85, 17th Avenue to 15th Avenue;
 - State Route 87, Chandler South City Limit (Milepost 162.82) to Salt River Bridge;
 - State Route 88, US 60 to 200 feet north of Tomahawk Road (Milepost 197.50);
 - State Route 101Loop;
 - State Route 143;
 - State Route 153;
 - State Route 202Loop; or
 - State Route 303Loop.
 - b. Tucson:
 - State Business 19, Milepost 59.00 (between Hughes Plant Road and Los Reales Road) to Junction Interstate 10;
 - Interstate 19, San Xavier Indian Reservation Boundary (Milepost 57.96) to Junction Interstate 10;
 - State Route 86, Milepost 167.83 (between Century Road and Old Ajo Way) to State Business 19;
 - State Route 77, Junction Interstate 10 to Oro Valley North City Limit (Milepost 84.16); or
 - State Route 210; or
 - c. Any other urbanized area with a population of 100,000 or more.

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2. Number of Signs Allowed. Only one specific service information sign for each category of specific service is allowed on an approach to an intersection, interchange, or exit ramp, as shown in Illustrations A and B. Each specific service information sign may contain a maximum of six logo signs.
 3. Sign Sequence and Spacing.
 - a. The contractor shall install successive specific service information signs in the direction of travel as shown in Illustrations A and B:
 - i. Camping.
 - ii. Lodging.
 - iii. Food, and
 - iv. Gas.
 - b. If an approach to an intersection, interchange, or exit ramp has insufficient space in a single direction for four specific service information signs, priority shall be in the following order, as shown in Illustration A:
 - i. Gas.
 - ii. Food.
 - iii. Lodging, and
 - iv. Camping.
 4. Combination Sign.
 - a. The contractor may combine two categories of specific services on a specific service information sign, as shown in Illustration C, if:
 - i. The contractor does not reasonably expect that more than three businesses for each service will request a logo sign within five years from the time of installing the combination sign, or
 - ii. An approach to an intersection, interchange, or exit ramp has insufficient space in a single direction for four specific service information signs.
 - b. A combination sign shall not contain more than six logo signs.
 - c. A combination sign shall contain at least one logo sign for each category of specific service displayed.
 - d. The contractor shall not display a logo sign on a combination sign if the specific service category advertised by the logo sign already exists on a specific service information sign on the approach to the intersection, interchange, or exit ramp.
 5. Trailblazing Signs.
 - a. The contractor shall install a trailblazing sign for a responsible operator along a highway if the responsible operator's business is not located on and is not visible from the crossroad as directed from the specific service information sign.
 - b. The contractor may locate a trailblazing sign near all intersections where the direction of the route changes or where a motorist may be uncertain as to which road to follow.
 - c. A trailblazing sign is limited to six logo signs.
 - d. The contractor shall obtain approval from the local governing authority to install and maintain a trailblazing sign along a highway that is not under the Department's maintenance jurisdiction.
 - e. The contractor shall not install a logo sign until all necessary trailblazing signs have been installed.
 - f. A trailblazing sign shall indicate by arrow the direction to the responsible operator's business.
 - g. A trailblazing sign may:
 - i. Duplicate the logo sign or specific service information sign, or both;
 - ii. Consist of two lines of text; or,
 - iii. Include the category of specific service and distance to the responsible operator's business.
 6. A logo sign shall comply with A.R.S. § 28-648. Descriptive advertising words, phrases, or slogans are prohibited on a logo sign, except:
 - a. If a responsible operator does not have an official trademark or logo, the responsible operator may display on its logo sign the name indicated in its partnership agreement, incorporation documents, or other documentation.
 - b. Words to identify alternative fuel availability, including but not limited to "diesel", "propane", "natural gas", and "alcohol" are allowed on a logo sign for a gas service business.
- H. Specific Requirements for Rural Logo Program.**
1. A business is ineligible for a logo sign if the business is visible and recognizable from a rural state highway at 300 feet from the intersection.
 2. The contractor shall not install a specific service information sign on a rural state highway less than 300 feet before an intersection from which the services are available.
 3. The spacing between specific service information signs on a rural state highway shall be at least 200 feet.
 4. Community Logo Sign Plan.
 - a. The contractor shall develop a community logo sign plan for a municipality that:
 - i. Is not in an urbanized area, and
 - ii. Agrees to the placement of logo signs.

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- b. A representative from the municipality's government or its designee, the contractor, and the Department shall meet, review, and agree to the plan before the contractor markets logo signs to any business.
- c. Either the representative from the municipality's government or the Department may request that the contractor conduct an engineering study to determine the placement of all existing and future specific services information signs.
- d. The municipality may accept the contractor's community logo sign plan without any change.
- e. The contractor shall not install a specific service information sign on a rural state highway within the boundaries of a municipality unless the municipality agrees in writing to the community logo plan.
- f. A community logo plan may choose to implement subsections (G)(5) and (G)(6).
- 5. Additional Directional Information.
 - a. A straight-ahead sign for a responsible operator's business is allowed if:
 - i. The community has two or more intersecting rural state highways, or
 - ii. A local road intersects with a rural state highway at a major decision point for motorists.
 - b. A specific service information sign may include the name or route number of the rural state highway, city street, or county road on which a responsible operator's business is located either beneath a vertical, left, or right directional arrow or at the top of the specific service information sign.
- 6. Services Signs.
 - a. The contractor may install a specific service information sign that combines three or more categories of specific services and displays the legend "SERVICES" at an approach to an intersection on a rural state highway, as shown in Illustration C, if:
 - i. The contractor reasonably expects three or more categories of specific services to lease a specific service information sign, and,
 - ii. The contractor reasonably expects the total number of logo signs to be leased will be at least three and not more than six.
 - b. The contractor shall install no more than one specific service information sign that displays the legend "SERVICES" on an approach to an intersection.
 - c. The contractor shall not display a logo sign on a specific service information sign that displays the legend "SERVICES" if the specific service category advertised by the logo sign already exists on a specific service information sign on the approach to the intersection.
- I. Boundary Changes. If the boundaries of an urbanized area, as identified in a subsequent decennial census, are relocated so that an intersection, interchange, or exit ramp is no longer eligible for the logo sign program, the Department shall allow the logo signs within the revised urbanized boundaries to remain until the lease obligations between the contractor and a responsible operator have been fulfilled.
- J. Any changes to this Section shall not affect a responsible operator's existing lease before the lease expires.

R17-3-903. ~~Repeated~~ Special Exception Waiver for Logo Sign Program

For purposes of the logo sign program as described in R17-3-902, the Department shall allow the contractor to install and maintain a specific service information sign on an interstate highway within an urbanized area, as follows:

- 1. The Department eliminates an exit ramp or interchange from the state highway system, within an urbanized area, as defined in R17-3-902(G)(1).
- 2. The Department shall allow the contractor to install and maintain a specific service information sign at an exit ramp or interchange directly preceding the exit ramp or interchange that will be eliminated.
- 3. The spacing provisions for a specific service information sign shall be maintained regardless of the space available or the number of businesses.
- 4. A business may request a logo sign by contacting in writing the District Engineer for the Department's District office where the exit ramp or interchange is located.
- 5. A business shall meet all eligibility criteria as prescribed in R17-3-902(C), except as to any distance requirement, a business must:
 - a. Be located directly off of the interstate highway, and
 - b. Have been routinely accessed from the eliminated exit ramp or interchange by having direct access from:
 - i. The crossroad at the eliminated exit ramp or interchange,
 - ii. The frontage road of the interstate at the eliminated exit ramp or interchange, within 1,000 feet of the crossroad, or
 - iii. The frontage road of the interstate at the eliminated exit ramp or interchange, within 1,000 feet of the crossroad, as the frontage road existed before the exit ramp or interchange was eliminated.
- 6. The business is responsible for fulfilling all other statutory, regulatory, and contractual requirements of the logo sign program.
- 7. The placement of a specific service information sign in an urban area shall last no more than three years.

Illustration A
TYPICAL SIGNING FOR SINGLE EXIT INTERCHANGES
(INTERSTATE PROGRAM)

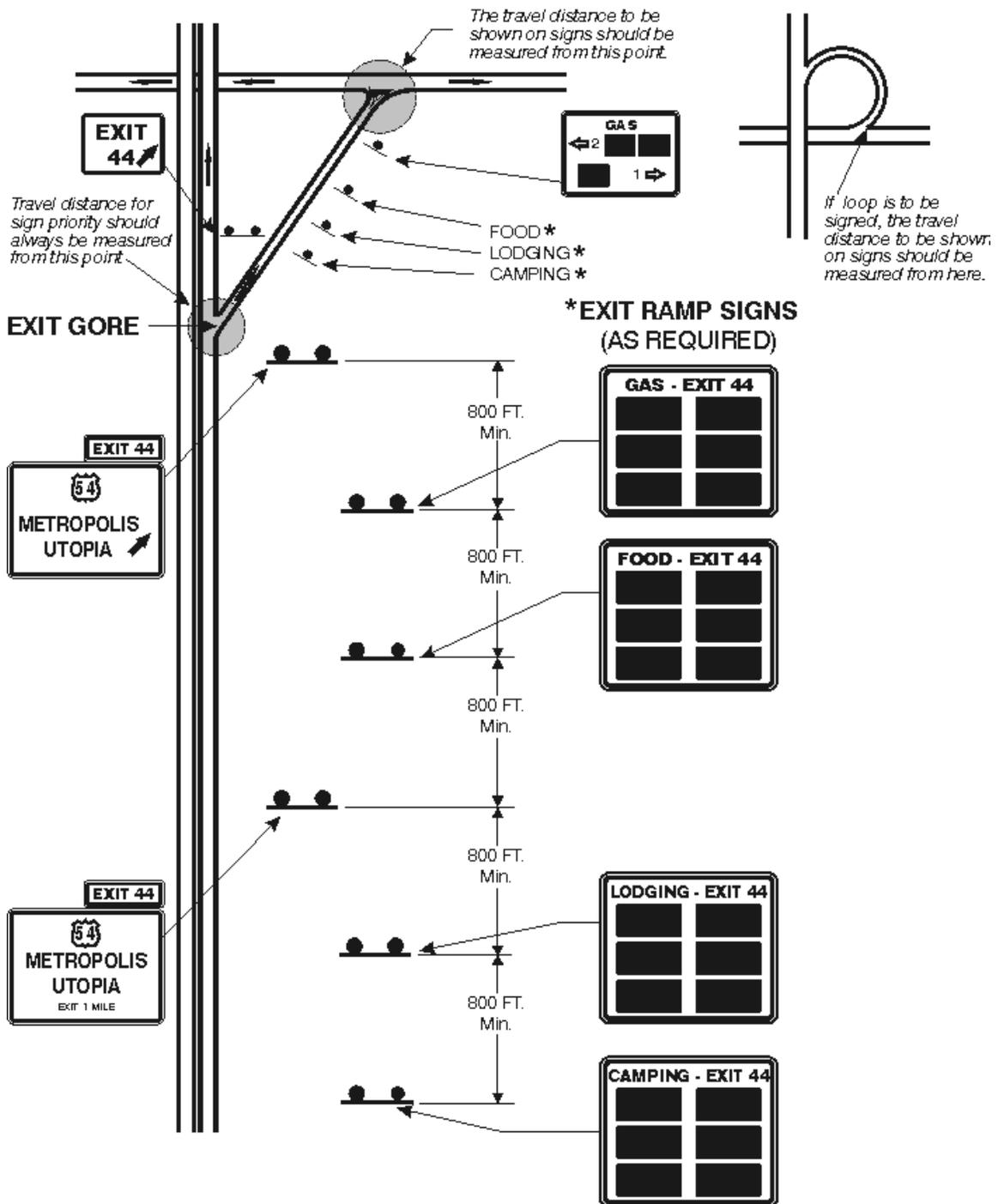


Illustration B
TYPICAL SIGNING FOR INTERSECTIONS
(RURAL PROGRAM)

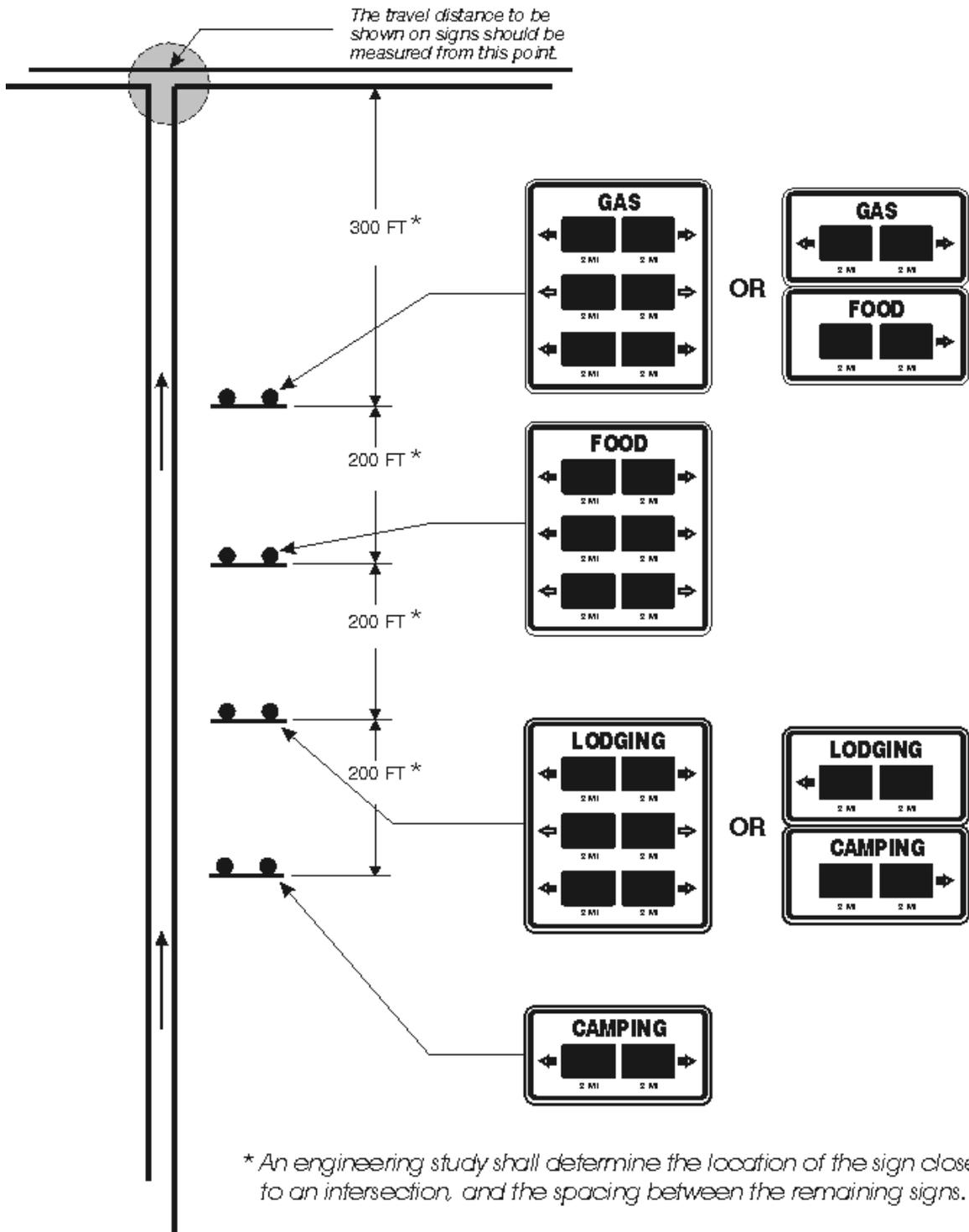
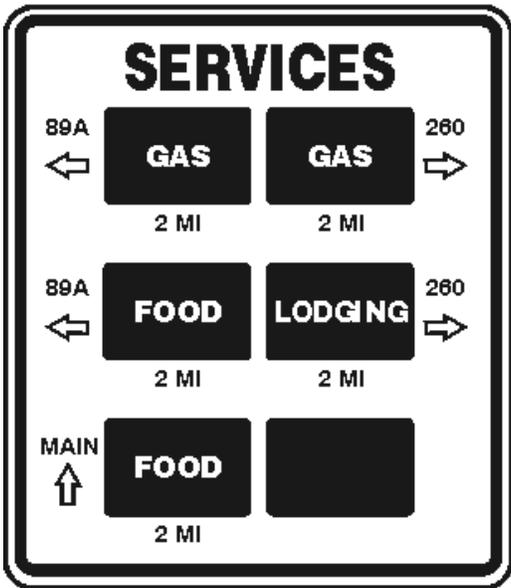
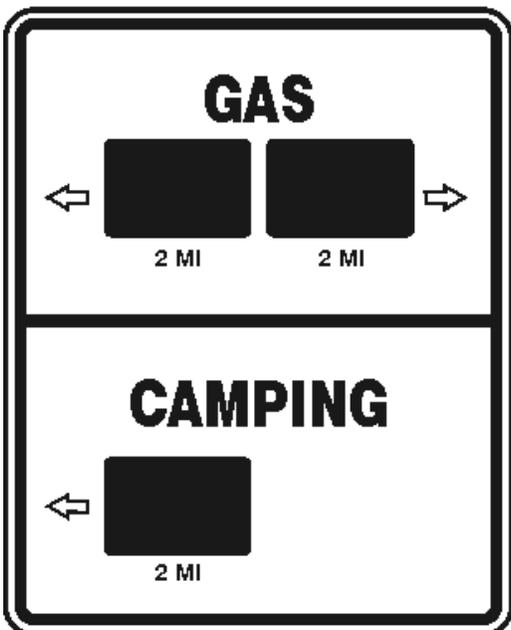


Illustration C

SERVICES SIGN

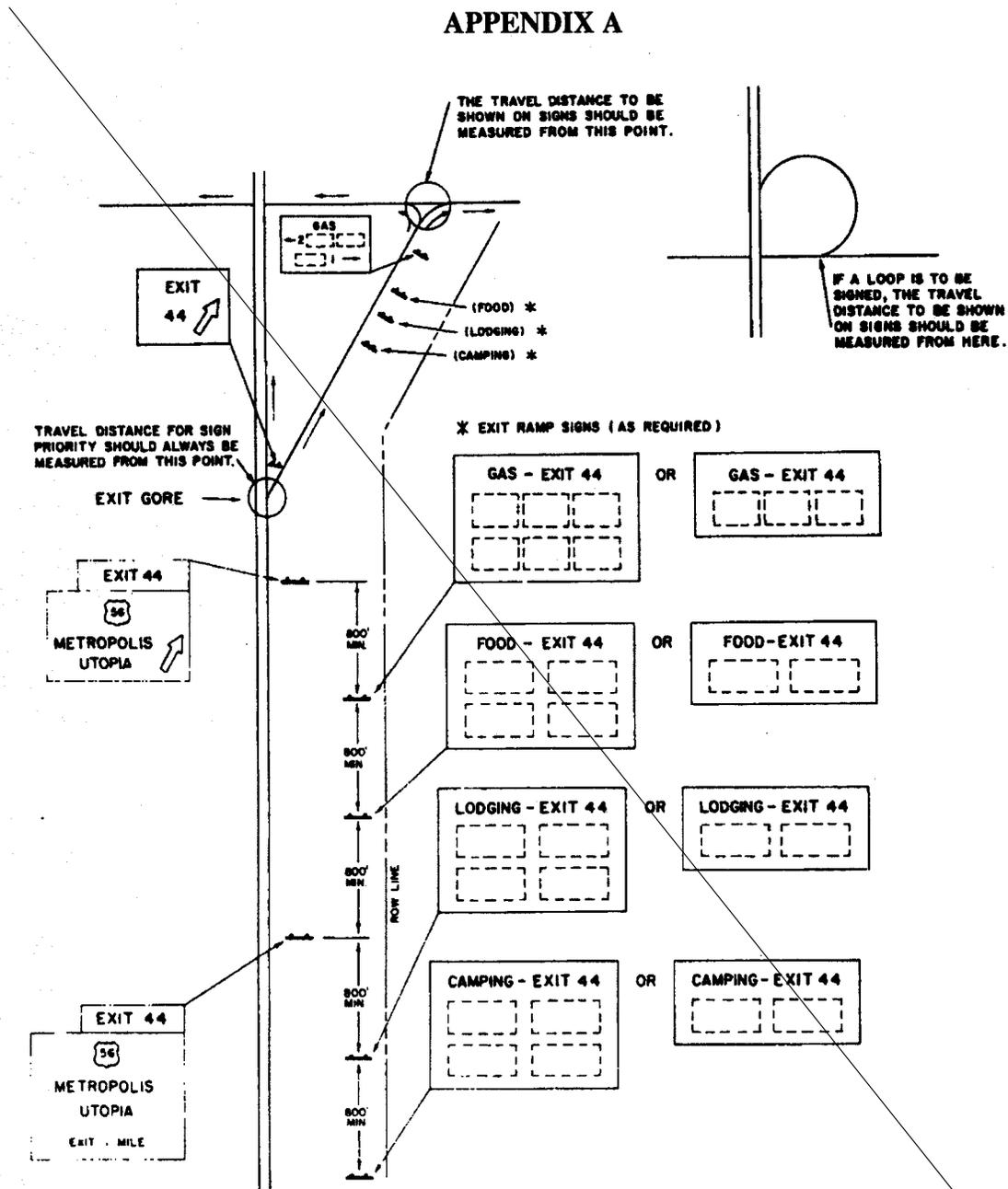


COMBINATION SIGN



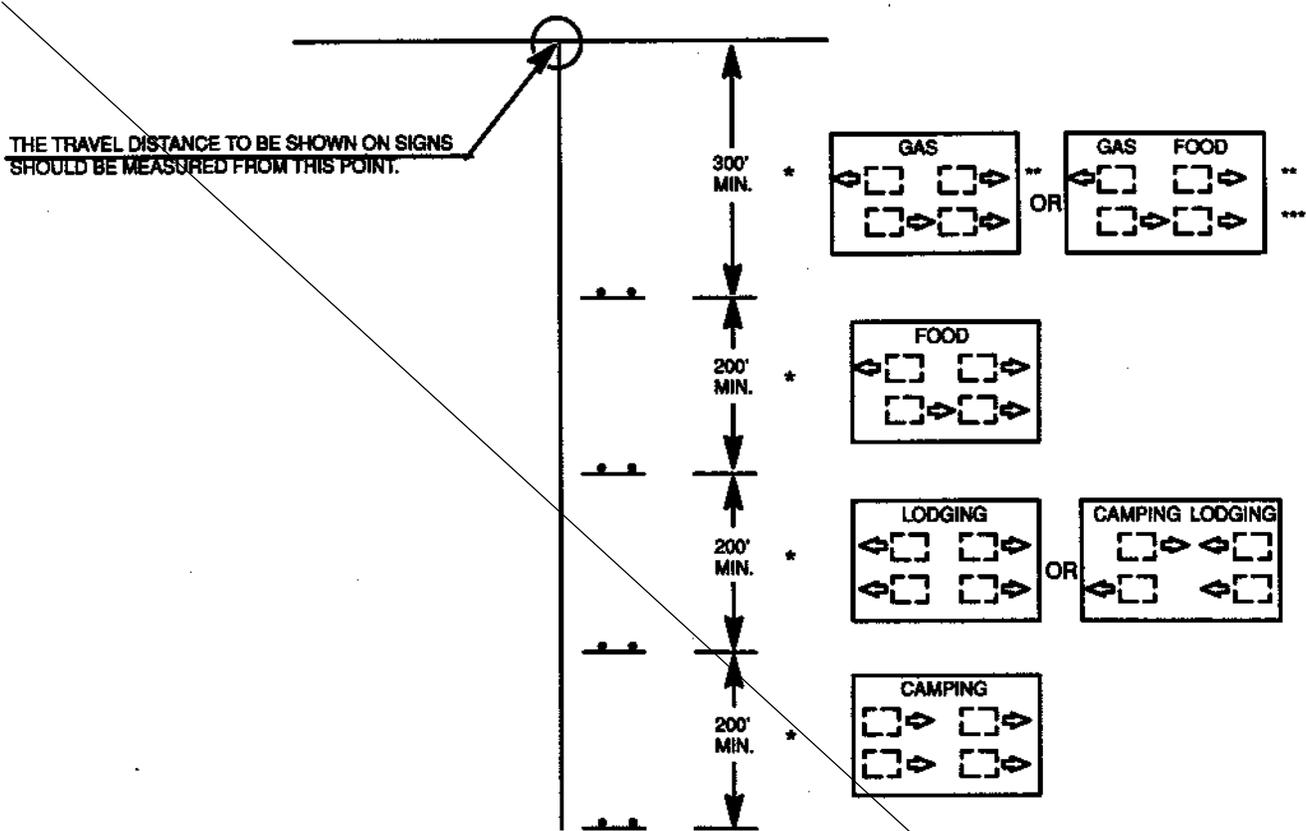
Appendix A. Typical Signing for Single Exit Interchanges Repealed

APPENDIX A



TYPICAL SIGNING FOR SINGLE EXIT INTERCHANGES

Appendix B. Typical Signing for Intersections Repealed



- * SPACING BETWEEN SIGNS AND LOCATION OF SIGN CLOSEST TO INTERSECTION SHALL BE DETERMINED ON THE BASIS OF AN ENGINEERING STUDY.
- ** LEFT AND RIGHT DIRECTIONAL ARROWS SHALL BE USED ON SIGNS AS REQUIRED. THE TRAVEL DISTANCE IN WHOLE MILES MAY BE DISPLAYED ON SIGNS WHEN THE SERVICE IS LOCATED MORE THAN ONE MILE FROM THE INTERSECTION.
- *** WHEN IT BECOMES NECESSARY TO DISPLAY A THIRD LOGO FOR A TYPE OF SERVICE DISPLAYED IN COMBINATION, THE LOGOS INVOLVED SHALL THEN BE DISPLAYED ON SEPARATE SPECIFIC SERVICE SIGNS.