

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 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION

[R05-320]

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|-----------------------------|--------------------------|
| Article 1 | Amend |
| R9-22-101 | Amend |
| R9-22-102 | Amend |
| R9-22-106 | Repeal |
| R9-22-114 | Repeal |
| R9-22-115 | Repeal |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 36-2903.01
Implementing statutes: A.R.S. §§ 36-2903.01 and 36-2907(F)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 11 A.A.R. 3182, August 19, 2005
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Linda Barry
Address: AHCCCS
Office of Legal Assistance
701 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034
Telephone: (602) 417-4484
Fax: (602) 253-9115
E-mail: AHCCCSRules@azahcccs.gov
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
The Administration is proposing amendments to the rules to revise and clarify the definitions for the Acute care program. The Administration is updating the definition rules to make them consistent with current practices and with changes to federal law as well as to make the rules clear, concise, and understandable.
- 6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not 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:**
The Administration did not review any study relevant to these rules.
- 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

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

It is anticipated that the contractors, members, providers, Department and the Administration will be minimally impacted by the changes to the definition rule language. The rules provide definitions for the AHCCCS acute care program. The Administration is proposing amendments to the rules to revise and clarify the definitions. The Administration is updating the existing rules to make them consistent with current practices and federal law changes and to make them clear, concise, and understandable.

It is anticipated that the private sector, including small businesses or political subdivisions, will be nominally impacted since the proposed rule language changes are intended to clarify and revise the existing rules. The Administration, contractors, providers, and members will benefit due to the increased clarity of the rules.

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: Linda Barry
Address: AHCCCS
Office of Legal Assistance
701 E. Jefferson, Mail Drop 6200
Phoenix, AZ 85034
Telephone: (602) 417-4484
Fax: (602) 253-9115
E-mail: AHCCCSRules@azahcccs.gov

Proposed rule language is anticipated to be available on the AHCCCS web site (www.azahcccs.gov) the week of August 22, 2005. Please send written comments to the above address by 5:00 p.m., October 18, 2005.

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:

Date: October 18, 2005
Time: 10:00 a.m.
Location: AHCCCS
701 E. Jefferson
Phoenix, AZ 85034
Nature: Public Hearing

Date: October 18, 2005
Time: 10:00 a.m.
Location: ALTCS: Arizona Long-term Care System
110 S. Church, Suite 1360
Tucson, AZ 85701
Nature: Public Hearing

Date: October 18, 2005
Time: 10:00 a.m.
Location: ALTCS: Arizona Long-term Care System
3480 E. Route 66
Flagstaff, AZ 86004
Nature: Public Hearing

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

None

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

None

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM
ADMINISTRATION**

ARTICLE 1. DEFINITIONS

Section

- R9-22-101. Location of Definitions
- R9-22-102. Scope of Services Related Definitions
- R9-22-106. ~~Request for Proposals (RFP) Related Definitions Repealed~~
- R9-22-114. ~~AHCCCS Medical Coverage for Families and Individuals Related Definitions Repealed~~
- R9-22-115. ~~AHCCCS Medical Coverage for People Who Are Aged, Blind, or Disabled Related Definitions Repealed~~

ARTICLE 1. DEFINITIONS

R9-22-101. Location of Definitions

- A.** Location of definitions. Definitions applicable to this Chapter are found in the following:

Definition	Section or Citation
“Accommodation”	R9-22-107 <u>R9-22-701</u>
“Act”	R9-22-114 <u>R9-22-101</u>
“Active case”	R9-22-109
“ADHS”	R9-22-112 <u>R9-22-102</u>
“Administration”	A.R.S. § 36-2901
“Administrative law judge”	R9-22-108
“Administrative review”	R9-22-108
“Advanced Life Support” or “ALS”	R9-25-101
“Adverse action”	R9-22-114 <u>R9-22-101</u>
“Affiliated corporate organization”	R9-22-106 <u>R9-22-101</u>
“Aged” 42 U.S.C. 1382c(a)(1)(A) and	R9-22-115 <u>R9-22-1501</u>
“Aggregate”	R9-22-107 <u>R9-22-701</u>
“AHCCCS”	R9-22-101
“AHCCCS inpatient hospital day or days of care”	R9-22-107 <u>R9-22-701</u>
“AHCCCS registered provider”	R9-22-101
“Ambulance”	A.R.S. § 36-2201
“Ancillary department”	R9-22-107 <u>R9-22-701</u>
“Annual assessment period”	R9-22-109
“Annual assessment period report”	R9-22-109
“Annual enrollment choice”	R9-22-117
<u>“APC”</u>	<u>R9-22-701</u>
“Appellant”	R9-22-114 <u>R9-22-101</u>
“Applicant”	R9-22-101
“Application”	R9-22-101
“Assignment”	R9-22-101
“Attending physician”	R9-22-101
“Authorized representative”	R9-22-114 <u>R9-22-101</u>
“Auto-assignment algorithm”	R9-22-117
“Baby Arizona”	R9-22-114 <u>R9-22-1401</u>
“Basic Life Support” or “BLS”	R9-25-101
“Behavior management services”	R9-22-112
“Behavioral health evaluation”	R9-22-112
“Behavioral health medical practitioner”	R9-22-112
“Behavioral health professional”	R9-20-101

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“Behavioral health recipient”	<u>R9-22-102</u>
“Behavioral health service”	<u>R9-22-112</u>
“Behavioral health technician”	<u>R9-20-101</u>
“Behavior management services”	<u>R9-22-112</u>
“BHS”	R9-22-114 <u>R9-22-1401</u>
“Billed charges”	R9-22-107 <u>R9-22-701</u>
“Blind”	R9-22-115 <u>R9-22-1501</u>
“Board-eligible for psychiatry”	<u>R9-22-112</u>
“Burial plot”	R9-22-114 <u>R9-22-1401</u>
“Capital costs”	R9-22-107 <u>R9-22-701</u>
“Capped fee-for-service”	<u>R9-22-101</u>
“Caretaker relative”	R9-22-114 <u>R9-22-1401</u>
“Case”	<u>R9-22-109</u>
“Case record”	<u>R9-22-109</u>
“Case review”	<u>R9-22-109</u>
“Cash assistance”	R9-22-114 <u>R9-22-1401</u>
“Categorically-eligible”	<u>R9-22-101</u>
“Certified psychiatric nurse practitioner”	<u>R9-22-112</u>
“Children’s Rehabilitative Services” or “CRS”	<u>R9-22-102</u>
“Clean claim”	A.R.S. § 36-2904
“Clinical supervision”	<u>R9-22-112</u>
“CMDP”	<u>R9-22-117</u>
“CMS”	<u>R9-22-101</u>
“Complainant”	R9-22-108
“Continuous stay”	<u>R9-22-101</u>
“Contract”	<u>R9-22-101</u>
“Contractor”	A.R.S. § 36-2901
“Copayment”	R9-22-107 <u>R9-22-701</u>
“Corrective action plan”	<u>R9-22-109</u>
“Cost-to-charge ratio”	R9-22-107 <u>R9-22-701</u>
“Covered charges”	R9-22-107 <u>R9-22-701</u>
“Covered services”	<u>R9-22-102</u>
“CPT”	R9-22-107 <u>R9-22-701</u>
“Critical Access Hospitals”	<u>R9-22-701</u>
“CRS”	R9-22-114
“Cryotherapy”	<u>R9-22-120</u>
“Date of eligibility posting”	R9-22-107 <u>R9-22-701</u>
“Date of notice”	<u>R9-22-108</u>
“Day”	<u>R9-22-101</u>
“DBHS”	<u>R9-22-102</u>
“DCSE”	R9-22-114 <u>R9-22-1401</u>
“De novo hearing”	42 CFR 431.201
“Dentures”	<u>R9-22-102</u>
“Department”	A.R.S. § 36-2901
“Dependent child”	A.R.S. § 46-101
“DES”	<u>R9-22-101</u>
“Diagnostic services”	<u>R9-22-102</u>
“Director”	<u>R9-22-101</u>
“Disabled”	R9-22-115 <u>R9-22-1501</u>
“Discussions”	R9-22-106 <u>R9-22-101</u>
“Disenrollment”	<u>R9-22-117</u>
“District”	<u>R9-22-109</u>
“DME”	<u>R9-22-102</u>
“DRI inflation factor”	R9-22-107 <u>R9-22-701</u>
“E.P.S.D.T. services”	42 CFR 441 Subpart B
“Eligible person”	A.R.S. § 36-2901
“Emergency behavioral health condition for the non-FES member”	<u>R9-22-102</u>

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“Emergency behavioral services for the non-FES member”		<u>R9-22-102</u>
“Emergency medical condition for the non-FES member”	42 U.S.C. 1396b(v)(3)	<u>R9-22-102</u>
“Emergency medical services for the non-FES member”		<u>R9-22-102</u>
“Emergency services costs”	A.R.S. § 36-2903.07	
“Encounter”	R9-22-107	<u>R9-22-701</u>
“Enrollment”		<u>R9-22-117</u>
“Enumeration”		<u>R9-22-101</u>
“Equity”		<u>R9-22-101</u>
“Error”		<u>R9-22-109</u>
“Experimental services”		<u>R9-22-101</u>
“Existing outpatient services”		<u>R9-22-701</u>
“Error”		R9-22-109
“FAA”	R9-22-114	<u>R9-22-1401</u>
“Facility”		<u>R9-22-101</u>
“Factor”	42 CFR 447.10	
“FBR”		<u>R9-22-101</u>
“Fee-For-Service” or “FFS”	R9-28-101	<u>R9-22-102</u>
“FES member”		<u>R9-22-102</u>
“FESP”		<u>R9-22-101</u>
“Finding”		<u>R9-22-109</u>
“First-party liability”	R9-22-110	<u>R9-22-1001</u>
“Foster care maintenance payment”	42 U.S.C. 675(4)(A)	
“Federal poverty level” (“FPL”)		
or “FPL”	A.R.S. § 1-215	<u>A.R.S. § 36-2981</u>
“FQHC”		<u>R9-22-101</u>
“Free Standing Children Hospital”		<u>R9-22-701</u>
“Global Insights Prospective Hospital Market Basket”		<u>R9-22-701</u>
“Grievance”	R9-22-108	<u>R9-34-202</u>
“GSA”		<u>R9-22-101</u>
“Health care practitioner”		<u>R9-22-112</u>
“Hearing”		R9-22-108
“Hearing aid”		<u>R9-22-102</u>
“HCPCS”		<u>R9-22-701</u>
“HIPAA”		<u>R9-22-701</u>
“Home health services”		<u>R9-22-102</u>
“Homebound”	R9-22-114	<u>R9-22-1401</u>
“Hospital”		<u>R9-22-101</u>
“Intermediate Care Facility for the Mentally Retarded” or “ICF-MR”	42 CFR 483 Subpart I	
“ICU”	R9-22-107	<u>R9-22-701</u>
“IHS”		<u>R9-22-117</u>
“IMD” or “Institution for Mental Diseases”	42 CFR 435.1009 and	<u>R9-22-112</u>
“Income”	R9-22-114	<u>R9-22-1401</u>
“Inmate of a public institution”	42 CFR 435.1009	
“Interested party”	R9-22-106	<u>R9-22-101</u>
“LEEP”		<u>R9-22-120</u>
“Legal representative”		<u>R9-22-101</u>
“Level I trauma center”		<u>R9-22-2101</u>
“License” or “licensure”		<u>R9-22-101</u>
“Liquid assets”		<u>R9-22-1401</u>
“Mailing date”	R9-22-114	<u>R9-22-101</u>
“Management evaluation review”		<u>R9-22-109</u>
“Medical education costs”	R9-22-107	<u>R9-22-701</u>
“Medical expense deduction”	R9-22-114	<u>R9-22-1401</u>

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“Medical record”	R9-22-101
“Medical review”	R9-22-107 <u>R9-22-701</u>
“Medical services”	A.R.S. § 36-401
“Medical supplies”	R9-22-102
“Medical support”	R9-22-114 <u>R9-22-1401</u>
“Medically necessary”	R9-22-101
“Medicare claim”	R9-22-107 <u>R9-22-701</u>
“Medicare HMO”	R9-22-101
“Member”	A.R.S. § 36-2901
“Mental disorder”	A.R.S. § 36-501
“National Standard code sets”	<u>R9-22-701</u>
“New hospital”	R9-22-107 <u>R9-22-701</u>
“Nursing facility” or “NF”	42 U.S.C. 1396r(a)
“NICU”	R9-22-107 <u>R9-22-701</u>
“Non-IHS Acute Hospital”	<u>R9-22-701</u>
“Non-FES member”	<u>R9-22-102</u>
“Noncontracting provider”	A.R.S. § 36-2901
“Nonparent caretaker relative”	R9-22-114 <u>R9-22-1401</u>
“Notice of Findings”	R9-22-109
“ OAH ”	R9-22-108
“Occupational therapy”	R9-22-102
“Offeror”	R9-22-106 <u>R9-22-101</u>
“Ownership interest”	42 CFR 455.101
“Operating costs”	R9-22-107 <u>R9-22-701</u>
“Outlier”	R9-22-107 <u>R9-22-701</u>
“Outpatient hospital service”	R9-22-107 <u>R9-22-701</u>
“Ownership change”	R9-22-107 <u>R9-22-701</u>
“Partial Care”	R9-22-112
“ Party ”	R9-22-108
“Peer group”	R9-22-107 <u>R9-22-701</u>
“Performance measures”	R9-22-109
“Pharmaceutical service”	R9-22-102
“Physical therapy”	R9-22-102
“Physician”	R9-22-102
“Prior period coverage” or “PPC”	R9-22-107 <u>R9-22-701</u>
“Post-stabilization care services”	42 CFR 422.113 <u>R9-22-102</u> or 42 CFR 422.114
“Practitioner”	R9-22-102
“Pre-enrollment process”	R9-22-114 <u>R9-22-1401</u>
“Preponderance of evidence”	R9-22-109
“Prescription”	R9-22-102
“Primary care provider (PCP)”	R9-22-102
“Primary care provider services”	R9-22-102
“Prior authorization”	R9-22-102
“ Private duty nursing services ”	R9-22-102
“ <u>Procedure Code</u> ”	<u>R9-22-701</u>
“Proposal”	R9-22-106 <u>R9-22-101</u>
“Prospective rates”	R9-22-107 <u>R9-22-701</u>
“Prospective rate year”	R9-22-107 <u>R9-22-701</u>
“Psychiatrist”	R9-22-112
“Psychologist”	R9-22-112
“Psychosocial rehabilitation services”	R9-22-112
“ <u>Public Hospital</u> ”	<u>R9-22-701</u>
“Qualified alien”	A.R.S. § 36-2903.03
“Quality management”	R9-22-105 <u>R9-22-501</u>
“Radiology”	R9-22-102
“Random sample”	R9-22-109
“RBHA” or “ <u>Regional Behavioral Health Authority</u> ”	R9-22-112

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“Rebasing” <u>“Rebase”</u>	R9-22-107 <u>R9-22-701</u>
“Referral”	R9-22-101
“Rehabilitation services”	R9-22-102
“Reinsurance”	R9-22-107 <u>R9-22-701</u>
“Remittance advice”	R9-22-107 <u>R9-22-701</u>
“Resources”	R9-22-114 <u>R9-22-1401</u>
“Respiratory therapy”	R9-22-102
“Respondent”	R9-22-108
“Responsible offeror”	R9-22-106 <u>R9-22-101</u>
“Responsive offeror”	R9-22-106 <u>R9-22-101</u>
<u>“Revenue Code”</u>	<u>R9-22-701</u>
“Review”	R9-22-114 <u>R9-22-101</u>
“Review period”	R9-22-109
“RFP”	R9-22-106 <u>R9-22-101</u>
“Scope of services”	R9-22-102
“SDAD”	R9-22-107
“Section 1115 Waiver”	A.R.S. § 36-2901
“Service location”	R9-22-101
“Service site”	R9-22-101
“S.O.B.R.A.”	R9-22-101
“Specialist”	R9-22-102
“Specified relative”	R9-22-114
“Speech therapy”	R9-22-102
“Spendthrift restriction”	R9-22-114 <u>R9-22-1401</u>
“Spouse”	R9-22-101
“SSA”	42 CFR 1000.10
“SSI”	42 CFR 435.4
“SSN”	R9-22-101
“Stabilize”	42 U.S.C. 1395dd
“Standard of care”	R9-22-101
“Sterilization”	R9-22-102
“Subcontract”	R9-22-101
“Submitted”	A.R.S. § 36-2904
“Summary report”	R9-22-109
“SVES”	R9-22-114 <u>R9-22-1401</u>
“Third-party”	R9-22-110 <u>R9-22-1001</u>
“Third-party liability”	R9-22-110 <u>R9-22-1001</u>
“Tier”	R9-22-107 <u>R9-22-701</u>
“Tiered per diem”	R9-22-107 <u>R9-22-701</u>
“Title IV-D”	R9-22-114 <u>R9-22-1401</u>
“Title IV-E”	R9-22-114 <u>R9-22-1401</u>
“Tolerance level”	R9-22-109
“Trauma and Emergency Services Fund”	A.R.S. § 36-2903.07
<u>“Tribal Facility”</u>	<u>R9-22-101</u>
“Unrecovered trauma readiness costs”	R9-22-2101
“Utilization management”	R9-22-105 <u>R9-22-501</u>
“WWHP”	R9-22-120

B. General definitions. In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

"Act" means the Social Security Act.

"Adverse action" means an action taken by the Department or Administration to deny, discontinue, or reduce medical assistance.

"Affiliated corporate organization" means any organization that has ownership or management interests as defined in 42 CFR 455.101, and includes a parent and subsidiary corporation relationships. 42 CFR 455.101, September 30, 1986, is incorporated by reference and on file with the Administration and the Secretary of State. This incorporation by reference contains no future editions or amendments.

"AHCCCS" means the Arizona Health Care Cost Containment System, which is composed of the Administration, con-

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tractors, and other arrangements through which health care services are provided to a member.

"AHCCCS registered provider" means a provider or noncontracting provider who:

Enters into a provider agreement with the Administration under R9-22-703(A); and

Meets license or certification requirements to provide AHCCCS covered services.

"Appellant" means an applicant or member who is appealing an adverse action by the Department or Administration.

"Applicant" means a person who submits or whose authorized representative submits, a written, signed, and dated application for AHCCCS benefits.

"Application" means an official request for AHCCCS medical coverage made under this Chapter.

"Assignment" means enrollment of a member with a contractor by the Administration.

"Attending physician" means a licensed allopathic or osteopathic doctor of medicine who has primary responsibility for providing or directing preventive and treatment services for a fee-for-service member.

"Authorized representative" means a person who is authorized to apply or act on behalf of another person.

"Capped fee-for-service" means the payment mechanism by which a provider of care is reimbursed upon submission of a valid claim for a specific AHCCCS-covered service or equipment provided to a member. A payment is made in accordance with an upper, or capped, limit established by the Director. This capped limit can be either a specific dollar amount or a percentage of billed charges.

"Categorically-eligible" means a person who is eligible under A.R.S. §§ 36-2901(6)(a)(i), (ii), or (iii) ~~and~~ or 36-2934.

"CMS" means the Centers for Medicare and Medicaid Services.

"Continuous stay" means ~~the~~ a period during which a member receives inpatient hospital services without interruption beginning with the date of admission and ending with the date of discharge or date of death.

"Contract" means a written agreement entered into between a person, an organization, or other entity and the Administration to provide health care services to a member under A.R.S. Title 36, Chapter 29, and this Chapter.

"Day" means a calendar day unless otherwise specified.

"DES" means the Department of Economic Security.

"Discussions" means an oral or written exchange of information or any form of negotiation.

"Director" means the Director of the Administration or the Director's designee.

"Eligible person" means ~~a person as defined in~~ the same as A.R.S. § 36-2901.

"Enumeration" means the assignment of a specific nine-digit identification number to a person by the Social Security Administration.

"Equity" means the county assessor full cash value or market value of a resource minus valid liens, encumbrances, or both.

~~"Experimental services" means services that are associated with treatment or diagnostic evaluation that meets one or more of the following criteria:~~

~~Is not generally and widely accepted as a standard of care in the practice of medicine in the United States;~~

~~Does not have evidence of safety and effectiveness documented in peer reviewed articles in medical journals published in the United States; or~~

~~Lacks authoritative evidence by the professional medical community of safety and effectiveness because the services are rarely used, novel, or relatively unknown in the professional medical community.~~

"Experimental services" means services that are associated with treatment or diagnostic evaluation and that are not generally and widely accepted as a standard of care in the practice of medicine in the United States unless:

The weight of the evidence in peer-reviewed articles in medical journals published in the United States supports the safety and effectiveness of the service; or

In the absence of such articles, for services that are rarely used, novel, or relatively unknown in the general professional medical community, the weight of opinions from specialists who provide the service attest to the safety and effectiveness of the service.

"Facility" means a building or portion of a building licensed or certified by the Arizona Department of Health Services as a health care institution; under A.R.S. Title 36, Chapter 4; to provide a medical service, a nursing service, or other health care or health-related service.

"FBR" means Federal Benefit Rate, the maximum monthly Supplemental Security Income payment rate for a member or a married couple.

"FESP" means a federal emergency services program covered under R9-22-217, to treat an emergency medical and behavioral health condition for a member who is determined eligible under A.R.S. § 36-2903.03(D).

"FQHC" means federally qualified health center.

"GSA" means a geographical service area designated by the Administration within which a contractor provides, directly or through a subcontract, a covered health care service to a member enrolled with that contractor.

"Hospital" means a health care institution that is licensed as a hospital by the Arizona Department of Health Services under A.R.S. Title 36, Chapter 4, Article 2, and certified as a provider under Title XVIII of the Social Security Act, as amended, or is currently determined, by the Arizona Department of Health Services as the CMS designee, to meet the requirements of certification.

"Interested party" means an actual or prospective offeror whose economic interest may be directly affected by the issuance of an RFP, the award of a contract, or by the failure to award a contract.

"Legal representative" means a custodial parent of a child under 18, a guardian, or a conservator.

"License" or "licensure" means a nontransferable authorization that is awarded based on established standards in law, is issued by a state or a county regulatory agency or board, and allows a health care provider to lawfully render a health care service.

"Mailing date" when used in reference to a document sent first class, postage prepaid, through the United States mail, means the date:

Shown on the postmark;

Shown on the postage meter mark of the envelope, if no postmark; or

Entered on the document as the date of its completion, if no legible postmark or postage meter mark or if the mark is illegible.

"Medical record" means ~~all a documents document~~ document that relate relates to medical ~~and~~ or behavioral health services provided to a member by a physician or other licensed practitioner of the healing arts and that ~~are~~ is kept at the site of the provider.

"Medically necessary" means a covered service is provided by a physician or other licensed practitioner of the healing arts within the scope of practice under state law to prevent disease, disability, or other adverse health conditions or their progression, or prolong life.

"Medicare HMO" means a health maintenance organization that has a current contract with Centers for Medicare and Medicaid Services for participation in the Medicare program under ~~42 CFR 417(L)~~ 42 CFR 417 Subpart L.

"Offeror" means a person or entity that submits a proposal to the Administration in response to an RFP.

"Proposal" means all documents, including best and final offers, submitted by an offeror in response to an RFP by the Administration.

"Referral" means the process by which a member is directed by a primary care provider or an attending physician to another appropriate provider or resource for diagnosis or treatment.

"Responsible offeror" means a person or entity who has the capability to perform the contract requirements and that ensures good faith performance.

"Responsive offeror" means a person or entity that submits a proposal that conforms in all material respects to an RFP

"Review" means a review of all factors affecting a member's eligibility.

"RFP" means Request for Proposals, including all documents, whether attached or incorporated by reference, that are used by the Administration for soliciting a proposal under 9 A.A.C. 22, Article 6.

"Service location" means a location at which a member obtains a covered ~~health care~~ service provided by a physician or other licensed practitioner of the healing arts under the terms of a contract.

"Service site" means a location designated by a contractor as the location at which a member is to receive covered ~~health care~~ services.

~~"S.O.B.R.A." means Section 9401 of the Sixth Omnibus Budget Reconciliation Act, 1986, amended by the Medicare Catastrophic Coverage Act of 1988, 42 U.S.C. 1396a(a)(10)(A)(i)(IV), 42 U.S.C. 1396a(a)(10)(A)(i)(VI), and 42 U.S.C. 1396a(a)(10)(A)(i)(VII).~~

"Spouse" means a person who has entered into a contract of marriage; recognized as valid by ~~Arizona~~ this state.

"SSN" means ~~social security number~~ Social Security number.

"Standard of care" means a medical procedure or process that is accepted as treatment for a specific illness; or injury, or medical condition through custom, peer review, or consensus by the professional medical community.

"Subcontract" means an agreement entered into by a contractor with any of the following:

A provider of health care services who agrees to furnish covered services to a member;

A marketing organization; or

Any other organization or person who agrees to perform any administrative function or service for a contractor specifically related to securing or fulfilling the a contractor's obligation to the Administration under the terms of a contract.

"Tribal Facility" means a facility that is operated by an Indian tribe and that is authorized to provide services pursuant to Public Law 93-638, as amended.

R9-22-102. Scope of Services Related Definitions

In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

"ADHS" means the Arizona Department of Health Services.

"Behavioral health recipient" means a Title XIX or Title XXI acute care member who is eligible for, and is receiving behavioral health services through ADHS/DBHS.

"Children's Rehabilitative Services" means the program within ADHS that provides covered medical services and covered support services in accordance with A.R.S. § 36-261.

"Covered services" means the health and medical services described in Articles 2 and 12 of this Chapter as being eligible for reimbursement by AHCCCS.

"DBHS" means the Division of Behavioral Health Services within the Arizona Department of Health Services.

"Dentures" means a partial or complete set of artificial teeth and services that are determined to be medically necessary and the primary treatment of choice, or an essential part of an overall treatment plan, designed to alleviate a medical condition as determined by the primary care provider in consultation with the dental service provider.

"Diagnostic services" means services provided for the purpose of determining the nature and cause of a condition, illness, or injury.

"DME" means durable medical equipment, which is an item or appliance that can withstand repeated use, is designed to serve a medical purpose, and is not generally useful to a person in the absence of a medical condition, illness, or injury.

"Emergency behavioral health condition for the non-FES member" means a condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

1. Placing the health of the person, including mental health, in serious jeopardy;
2. Serious impairment to bodily functions;
3. Serious dysfunction of any bodily organ or part; or
4. Serious physical harm to another person.

"Emergency behavioral health services for the non-FES member" means those behavioral health services provided for the treatment of an emergency behavioral health condition.

"Emergency medical condition for the non-FES member" means treatment for a medical condition, including labor and delivery, which manifests itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

1. Placing the member's health in serious jeopardy;
2. Serious impairment to bodily functions; or
3. Serious dysfunction of any bodily organ or part.

"Emergency medical services for the non-FES member" means services provided after for the treatment of an the sudden onset of a emergency medical condition, manifesting itself by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in:

- Placing the patient's health in serious jeopardy;
- Serious impairment to bodily functions; or
- Serious dysfunction of any bodily organ or part.

"FES member" means a person who is eligible to receive emergency medical and behavioral health services through the FES program under R9-22-217.

"Fee-For-Service" or "FFS" means a method of payment by the AHCCCS Administration for a person not enrolled with a contractor to registered providers on an amount per service basis.

"Hearing aid" means an instrument or device designed for, or represented by the supplier as aiding or compensating for impaired or defective human hearing, and any parts, attachments, or accessories of the instrument or device.

"Home health services" means the services that are provided by a home health agency that coordinates in-home intermittent services for curative, rehabilitative care. This includes home-health aide services, licensed nurse services, and medical supplies, equipment, and appliances.

"Medical supplies" means consumable items that are designed specifically to meet a medical purpose.

"Non-FES member" means a person who is AHCCCS eligible and is entitled to full AHCCCS services.

"Occupational therapy" means the medically prescribed treatment provided by or under the supervision of a licensed occupational therapist, to restore or improve an individual's ability to perform tasks required for independent functioning.

"Pharmaceutical service" means medically necessary medications that are prescribed by a physician, practitioner, or dentist under R9-22-209.

"Physical therapy" means treatment services to restore or improve muscle tone, joint mobility, or physical function provided by or under the supervision of a registered physical therapist.

"Physician" means a person licensed as an allopathic or osteopathic physician under A.R.S. Title 32, Chapter 13 or Chapter 17.

"Post-stabilization service" means a covered service related to an emergency medical or behavioral health condition provided after the condition is stabilized.

"Practitioner" means a physician assistant licensed under A.R.S. Title 32, Chapter 25, or a certified nurse practitioner licensed under A.R.S. Title 32, Chapter 15.

"Prescription" means an order to provide covered services, which is signed or transmitted by a provider authorized to prescribe or order services.

"Primary care provider" or "PCP" means an individual who meets the requirements of A.R.S. § 36-2901(12) and (13), and who is responsible for the management of a member's health care.

"Primary care provider services" means healthcare services provided by and within the scope of practice, as defined by law, of a licensed physician, certified nurse practitioner, or licensed physician assistant.

"Prior authorization" means the process by which the Administration or contractor, whichever is applicable, authorizes, in advance, the delivery of covered services contingent on the medical necessity of the services.

~~"Private duty nursing services" means nursing services provided to a member who requires more individual and continuous care than is available from a visiting nurse, or routinely provided by the nursing staff of a nursing facility or ICF-MR, and that are provided by a registered nurse or licensed practical nurse.~~

"Radiology" means professional and technical services rendered to provide medical imaging, radioisotope services, and radiation oncology.

"Rehabilitation services" means physical, occupational, and speech therapies, and items to assist in improving or restoring a person's functional level.

"Respiratory therapy" means treatment services to restore, maintain, or improve respiratory functions that are provided by, or under the supervision of, a respiratory therapist licensed according to A.R.S. Title 32, Chapter 35.

"Scope of services" means the covered, limited, and excluded services under Articles 2 and 12 of this Chapter.

"Specialist" means a Board eligible or certified physician who declares himself or herself as a specialist and practices a specific medical specialty. For the purposes of this definition, Board eligible means a physician who meets all the requirements for certification but has not tested for, or has not been issued certification.

"Speech therapy" means medically prescribed diagnostic and treatment services provided by, or under the supervision of, a certified speech therapist.

"Sterilization" means a medically necessary procedure, not for purpose of family planning, to render an eligible person or member barren in order to:

- Prevent the progression of disease, disability, or adverse health conditions; or
- Prolong life and promote physical health.

R9-22-106. Request for Proposals (RFP) Related Definitions Repealed

In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

"Affiliated corporate organization" means any organization that has ownership or management interests as defined in 42 CFR 455.101, and includes a parent and subsidiary corporation relationships. 42 CFR 455.101, September 30, 1986, is incorporated by reference and on file with the Administration and the Secretary of State. This incorporation by reference contains no future editions or amendments.

"Discussions" means an oral or written exchange of information or any form of negotiation.

"Interested party" means an actual or prospective offeror whose economic interest may be directly affected by the issuance of an RFP, the award of a contract, or by the failure to award a contract.

"Offeror" means a person or entity that submits a proposal to the Administration in response to an RFP.

"Proposal" means all documents, including best and final offers, submitted by an offeror in response to an RFP by the Administration.

"Responsible offeror" means a person or entity who has the capability to perform the contract requirements and that ensures good faith performance.

"Responsive offeror" means a person or entity that submits a proposal that conforms in all material respects to an RFP.

"RFP" means Request for Proposals, including all documents, whether attached or incorporated by reference, that are used by the Administration for soliciting a proposal under 9 A.A.C. 22, Article 6.

R9-22-114. AHCCCS Medical Coverage for Families and Individuals Related Definitions Repealed

In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

"Act" means the Social Security Act.

"Adverse action" means an action taken by the Department to deny, discontinue, or reduce medical assistance.

"Appellant" means an applicant or member who is appealing an adverse action by the Department.

"Authorized representative" means a person who is authorized to apply or act on behalf of another person.

"Baby Arizona" means the public or private partnership program that provides a pregnant woman an opportunity to apply for AHCCCS medical coverage at a Baby Arizona provider's office through a streamlined eligibility process.

"BHS" means Behavioral Health Services, Arizona Department of Health Services.

"Burial plot" means a space reserved in a cemetery, crypt, vault, or mausoleum for the remains of a deceased person.

"Caretaker relative" means a parent or other specified relative who maintains a family setting for a dependent child and who exercises responsibility for the day-to-day physical care, guidance, and support of that child.

"Cash assistance" means a program administered by the Department that provides assistance to needy families with dependent children under 42 U.S.C. 601 et seq.

"CRS" means ADHS Children's Rehabilitation Services.

"DCSE" means the Division of Child Support Enforcement, which is the division within the Department that administers the Title IV-D program and includes a contract agent operating a child support enforcement program on behalf of the Department.

"Dependent child" means a child defined in A.R.S. § 46-101.

"FAA" means the Family Assistance Administration, the administration within the Department's Division of Benefits and Medical Eligibility with responsibility for providing cash and food stamp assistance to a member and for determining eligibility for AHCCCS medical coverage.

"Foster care maintenance payment" means a monetary amount defined in 42 U.S.C. 675(4)(A).

"Homebound" means a person who is confined to home because of physical or mental incapacity.

"Income" means combined earned and unearned income.

"Mailing date," when used in reference to a document sent first class, postage prepaid, through the United States mail, means the date:

Shown on the postmark;

Shown on the postage meter mark of the envelope, if no postmark; or

Entered on the document as the date of its completion, if no legible postmark or postage meter mark or if the mark is illegible.

"Medical expense deduction" means the cost of:

~~A medical service or supply that would be covered if provided to an AHCCCS member of any age under 9 A.A.C. 22, Articles 2 and 12;~~

~~A medical service or supply that would be covered if provided to an ALTCS member under 9 A.A.C. 28, Articles 2 and 11;~~

~~Other necessary medical services provided by a licensed practitioner or physician;~~

~~Assistance with daily living provided the assistance is documented in an individual plan of care except when provided by the spouse of an applicant or the parent of a minor child;~~

~~Medical services provided in a licensed nursing home, supervisory care facility, adult foster home, or in another residential care facility licensed by the Arizona Department of Health Services;~~

~~Purchasing and maintaining animal guide or service animal for the assistance of the member of the MED family unit; or~~

~~Health insurance premiums, deductibles, and coinsurance, if the insured is a member of the MED family unit.~~

"Medical support" means an obligation of a natural or adoptive parent to provide health care coverage in the form of health insurance or court ordered payment for medical care.

"Nonparent caretaker relative" means a person, other than a parent, who is related by blood, marriage, or lawful adoption to the dependent child and who:

Maintains a family setting for the dependent child; and

Exercises responsibility for the day-to-day care of the dependent child.

"Pre-enrollment process" means the process that provides an applicant the opportunity to choose an AHCCCS health plan before the determination of eligibility is completed.

"Resources" means real and personal property, including liquid assets.

"Review" means a review of all factors affecting an unit's a family's eligibility.

"Specified relative" natural or adoptive parent or a stepparent and any other nonparent relative related by blood or adoption including a spouse of these persons even if death or divorce terminates the marriage. Specified relative may include:

~~Grandmother;~~

~~Grandfather;~~

~~Brother;~~

~~Sister;~~

~~Uncle;~~

~~Aunt;~~

~~First cousin;~~

~~Nephew;~~

~~Niece;~~

~~Persons of preceding generations as denoted by prefixes grand or great, or to the fifth degree grandparent; and~~

~~First cousins once removed.~~

"Spendthrift restriction" means a legal restriction on the use of a resource that prevents a payee or beneficiary from alienating the resource.

"SVES" means the State Verification and Exchange System, a system through which the Department exchanges income and benefit information with the Internal Revenue Service, Social Security Administration, State Wage, and Unemployment Insurance Benefit data files.

"Title IV-D" of the Social Security Act means 42 U.S.C. 651-669, the statutes establishing the child support enforcement and establishment of paternity program.

"Title IV-E" of the Social Security Act means 42 U.S.C. 670-679, the statutes establishing the foster care and adoption assistance programs.

R9-22-115. AHCCCS Medical Coverage for People Who Are Aged, Blind, or Disabled Related Definitions Repealed

In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:

"Aged" means a person who is 65 years of age or older, specified in 42 U.S.C. 1382e(a)(1)(A).

"Blind" means a person who has been determined blind by the Department of Economic Security, Disability Determination Services Administration, under 42 U.S.C. 1382e(a)(2).

"Disabled" means a person who has been determined disabled by the Department of Economic Security, Disability Determination Services Administration, under 42 U.S.C. 1382e(a)(3)(A) through (E).

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

[R05-325]

PREAMBLE

1. Sections Affected

R12-4-101
R12-4-102
R12-4-103
R12-4-104
R12-4-105
R12-4-106
R12-4-107
R12-4-108
R12-4-110
R12-4-111
R12-4-112
R12-4-113
R12-4-114
R12-4-115
R12-4-116
R12-4-117
R12-4-119
R12-4-120
R12-4-121
R12-4-122
R12-4-123

Rulemaking Action

Amend
Amend

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

Authorizing statute: A.R.S. § 17-231

Implementing statutes: A.R.S. § 17-231(A)(1) for R12-4-101; A.R.S. §§ 17-333 and 17-345 for R12-4-102; A.R.S. § 17-332(C) for R12-4-103; A.R.S. § 17-331 for R12-4-104; A.R.S. §§ 17-332, 17-334, and 17-333(A)(35) for R12-4-105; A.R.S. § 41-1073 for R12-4-106; A.R.S. § 17-231(A) for R12-4-107; A.R.S. §§ 17-231(B)(2) and 17-245 for R12-4-108; A.R.S. § 17-304 for R12-4-110; A.R.S. § 17-331 for R12-4-111; A.R.S. § 17-332 for R12-4-112; A.R.S. § 17-239 for R12-4-113; A.R.S. §§ 17-231(A)(2), 17-331, and 17-333 for R12-4-114; A.R.S. §§ 17-231(A)(2) and 17-332 for R12-4-115; A.R.S. §§ 17-240(A) and 17-315 for R12-4-116; A.R.S. § 17-331 and the Arizona Constitution for R12-4-117; A.R.S. § 17-214 for R12-4-119; A.R.S. § 17-346 for R12-4-120; A.R.S. § 17-332 (D) for R12-4-121; A.R.S. § 17-240(A) for R12-4-122; and A.R.S. § 17-231(A)(7) for R12-4-123

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

Notice of Rulemaking Docket Opening: 10 A.A.R. 1982, May 14, 2004

Notice of Public Meeting on Open Rulemaking Docket: 10 A.A.R. 4781, November 26, 2004

Second Notice of Rulemaking Docket Opening: 11 A.A.R. 2751, July 22, 2005

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

Name: Carlos Ramirez, Rule Writer

Address: Arizona Game and Fish Department
2221 W. Greenway Rd. DORR
Phoenix, AZ 85023-4399

Telephone: (602) 789-3288, ext. 206

Fax: (602) 789-3677

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

The Arizona Game and Fish Department is amending its rules following the 2004 five-year rule review of A.A.C. Title 12, Chapter 4, Article 1, Definitions and General Provisions. The review, as required by A.R.S. § 41-1056, established a course of action to amend the rules according to Council standards. Subsequent review of these recommendations evaluated their efficacy in practice and enforcement, resulting in the rulemaking as it is submitted in this Notice. In addition to the amendments promulgated by the five-year review, the Department is also making additional revisions to address new issues that have arisen after the review was approved by the Council. The Department has also revised the rule language where necessary to make it consistent with the current Administrative Procedures Act requirements for rulemaking language and style. The Department proposes to amend its Article 1 rules as follows:

R12-4-101. Definitions

The Department proposes to amend the definition of "crayfish net" to mean a net not to exceed 36 inches rather than 24. This is to make the definition consistent with industry standards. The Department will also add a new definition for "stamp" to encompass the different forms of Department-issued stamps, and to clarify their use for the general public. The Department proposes also to add a definition for "antlerless" to clearly state that wildlife that does not have an antler, antlers, or any part thereof erupted through the skin are indeed considered antlerless. It is not always clear to the Department's regulated community what the term means when it is used in Commission Orders. The Department also proposes to add a new definition for "designated" to mean the gender, age, or species of an animal or the specifically identified animal the Department authorizes to be taken and possessed under a valid tag. Again, this is a term that is used in Commission Orders that the general public does not always understand.

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

The Department proposes to amend the rule to add the Class I, resident family fishing license, as authorized by A.R.S. § 17-333(A)(12), and the license dealer's outlet license, as authorized by A.R.S. § 17-333(A)(35). The Department also proposes to amend the "state waterfowl stamp," "state migratory bird stamp," "trout stamp," "two-pole stamp," and "Unit 12A (North Kaibab) Habitat Management Stamp" listed in the "Stamps and Special Permit Fees" section to clearly state what wildlife may be taken under the authorization of those stamps. In addition, the "Unit 12A (North Kaibab) Habitat Management Stamp" will be amended to refer to new rule R12-4-204, which prescribes procedures for use of the stamp. The Department will propose the new rule R12-4-204 later this year. The fee for a "two-pole stamp" will also be raised from four dollars to five dollars. The Department increased the fees for licenses, tags, and stamps to their statutory maximum last year, but did not include the "two-pole stamp" at that time. The Department also proposes to amend the names of licenses listed under "Other License Fees" that are authorized under Article 4 for consistency, as they will be amended in that article later this year. In conjunction with the Article 4 rule revisions, the Department also proposes to amend the fee for a white amur license. Although most licenses are held by businesses, there are a few that are held by private individuals. Because a white amur license expires every year, a license holder must apply and pay \$200.00 annually to continue to lawfully possess white amur. The Department does not believe that eliminating the renewal fee for private individuals will significantly impact Department revenues.

During the regular rulemaking phase following the submission of the five-year rule review, the Commission provided direction to the Department, as part of a conscious decision, to not make all of the amendments stated in the review. Therefore, the Department will not reduce the fees for a Class B, Four-month fishing license; a non-resident mountain lion tag; or a trout stamp.

R12-4-103. Duplicate Tags and Licenses

The Department proposes to require that if an individual applies in person for a duplicate tag or license that the individual provide the length of residency if the individual is a resident; this is so that the Department's customer service representatives will be able to look up the applicant's eligibility more quickly, thus providing more efficient service. The Department will also amend the rule to make it consistent with proposed amendments to R12-4-112. The Department proposes to add subsection (A)(7), which will allow an individual to apply for a duplicate permit-tag if the individual attests that the original permit-tag was placed on a harvested animal that was subsequently condemned, and the carcass and all parts thereof were surrendered to the Department as required under R12-4-112(B) and (C).

R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Drawing and Purchase of Bonus Points

The Department proposes to amend subsection (A) to allow four individuals to apply as a group for bighorn sheep bonus points. Under the current definition of "group" this is not allowed. The rule will also be amended to add a new subsection (B) that will clearly state the qualifications an individual must meet in order to apply for a hunt permit-tag or to purchase a bonus point. The new subsection states that a qualified applicant shall be at least ten years old when the hunt they apply for starts; has completed a Department-approved hunter education course if under the age of fourteen to apply for a tag; and does not have their hunting privileges suspended or revoked in this state or any state participating in the Wildlife Violator Compact at the time of application. The Department is making this amendment to address situations where it has seemed to become necessary. In the past, individuals have submitted applications for low-draw odds hunts on behalf of their infant children in the hopes that their application will be unsuccessful and they

will earn a bonus point for that child; and by the time that the child is of age to hunt, that child will have better odds of being drawn for a hunt permit-tag. In the meantime, the applications made for those children are affecting draw odds for those hunts, and reducing the chances that a hunter who is of age will be drawn for a tag. The Department believes that this amendment will effectively prevent this from occurring. Additional criteria are being proposed under this subsection to clarify qualifications for applicants that are stated in statute, but not in rule. The Department is also preventing those who do not meet the proposed criteria from purchasing bonus points, because if they are not able to participate in the draw, there is no reason for them to participate in the bonus point system.

The Department is also proposing to amend subsection (C) to allow the Director to extend the application deadline for hunt permit-tags if problems occur that prevent the general public from submitting applications. In the past, the Department has had problems with its online application service, which has necessitated special action from the Commission to extend the application deadline date. This will allow the Department to resolve these issues, if they arise, without requiring direction from the Commission, and will allow the Department to resolve them more quickly.

The Department also proposes to amend subsection (E)(1) to clearly require an applicant to provide their own contact and address information when applying for a big game hunt permit-tag. Some hunters are choosing to apply through agents who they authorize to enter the draw for them by proxy. If the hunter is drawn, the hunt permit-tag is sent to the agent who holds it for the successful hunter instead of the hunter. The Department believes the proposed amendment will provide Department personnel with important information, such as the tag-holder's contact information, in case the Department needs to make direct contact.

The Department also proposes to amend subsection (M) to clearly state that taking the lifetime bag limit of one subspecies of sheep does not eliminate an individual from applying for the other subspecies.

The Department proposes to amend subsection (O) to state that the application fee for a hunt permit tag application will be retained by the Department. The Department proposes this in order to recover the administrative cost of processing the application. Also, the Department is proposing an amendment to subsection (Q) to allow the Department to use an outside agent to mail hunt permit-tags to successful applicants if the Department decides to outsource this service to an external vendor sometime in the future. The Department also proposes to amend subsection (R) to authorize the Department to take action if a Department error results in any of the following: 1) an individual submitting an invalid application for a hunt permit-tag, 2) an individual not being able to lawfully submit a valid application, 3) denial of a hunt permit-tag, or 4) an individual's bonus points not being applied to an application.

R12-4-105. License Dealer's License

The Department proposes to amend the definitions listed in this rule for clarity and understandability. The Department also proposes to amend the rule to delete subsections (B)(4) and (5), thereby removing the requirement that a license dealer outlet specialize in the sale of equipment for either hunting, fishing, or trapping; and removing the Department's requirement to assess the need for a license dealer in a particular area. Associated amendments will be made in subsection (D)(8). The Department also proposes to amend subsection (F) to clearly state that the Department shall provide license dealers with licenses to be made available to the public for sale, except for those dealers authorized to use their own license stock.

R12-4-106. Licensing Time-Frames

The Department will amend subsection (A) to add general information regarding issuance of licenses and licensing time-frames. This information is currently located in R12-4-409(A), but is being deleted and placed in this rule for clarity, conciseness, understandability, and appropriateness. Also, the Department is amending the rule to add "small game depredation permit" to the list of licenses and to delete the "tournament fishing license" for consistency. The small game depredation permit requires more than seven days to issue, and is not exempt from licensing time-frames under Title 41; and the authorizing statute to issue a tournament fishing license has been repealed. The Department also proposes to amend the rule to change the names of licenses found in Article 4 as they will be amended in that article. In addition, the Department proposes to amend subsection (B) to change the dates when the Department will accept proposals for special big game tags. Currently, proposals are made from July 1 to September 30; the Department proposes to amend the submission dates to March 1 to May 31 to extend the administrative review time-frame from five days to ten days and to shorten the substantive review time-frame from 115 to 110 days. The overall time-frame will not change. The Department is proposing this amendment in consideration of the supporting wildlife organizations that make proposals for these tags.

In reviewing the implementation of the revisions stated in the five-year rule review, the Department has determined that it is not in its best interest to delete subsection (B) and move it to R12-4-120. The Department has determined that there is no benefit to making this amendment. Therefore, the Department will not amend the rule as stated in the five-year rule review.

R12-4-107. Bonus Point System

The Department will amend the rule to add bear, javelina, and turkey to the list of species for which bonus points will be issued. Customer request coupled with increased applications for bear and turkey have prompted the Department to issue bonus points for these species; the Department is also adding javelina in anticipation that it will become more difficult to receive permit-tags for the species as applications and customer demand increase. The Department also

proposes to amend the rule to clearly state that an individual may still qualify and receive a loyalty bonus point if that individual submits an application at least once a year for the draw for a particular genus species or purchases a bonus point for a particular genus species within the required five-year period.

The Department is not proposing all of the amendments stated in the five-year rule review report, because any amendment prescribed in the report that is not contained in this Notice has already been made in a previous rulemaking.

R12-4-108. Game Management Units

The Department is amending the rule in general to remove outdated information and clarify the boundaries for game management units (GMU's). The Department is also amending the numbers of GMU's that encompass urbanized or otherwise densely populated areas to increase understanding among hunters. Certain GMU's are labeled with an "M" to designate them as metro units; special restrictions apply to those units because they are so close to towns and cities. However, some of those units have the same number as general hunt GMU's, for example Unit 7 and Unit 7M. Some hunters have been confused by this and have unwittingly conducted unlawful activities in a metro unit. Therefore, the Department proposes to amend metro GMU's to number them differently from any other GMU's to eliminate the confusion and promote public safety. Also, the Department is proposing a new GMU, 47M, which will encompass the metro Phoenix area, to increase the effectiveness of prescribed regulations and law enforcement. Currently, the metro Phoenix area is split between two GMU's, which makes it difficult to regulate hunting activities around Phoenix without impacting areas that do not require regulation; thus the Department is proposing a new GMU to resolve this situation.

R12-4-110. Posting and Access to State Land

The Department proposes to amend the definitions used in this rule to make them more clear and understandable, and to coordinate them with the definitions used by the State Land Department. This will ensure equal and uniform enforcement of regulations on the use of state land. The Department also proposes to amend subsection (F) to allow a state land lessee to file an objection to state land closures within 30 days after receipt of notice, rather than within 15 days. Because objections are handled by the State Land Department, the Game and Fish is amending the rule to make it consistent with the submission requirements prescribed by the State Land Department. The Department is also proposing an amendment to subsection (K) to require that if an individual opens a gate on state land while exercising their hunting, fishing, or trapping privileges, then that individual shall also close the gate. This is in response to state land lessees who have had problems in the past with hunters, fishers, and trappers who have entered state land and left gates open, which can result in lost livestock.

The Department will not amend the rule as stated in the five-year review report to prohibit trapping on state land. Trapping is a lawful activity, and is not prohibited by state law, though it is regulated.

R12-4-111. Identification Number

The Department proposes to amend the rule to make it consistent with current APA guidelines that dictate language, grammar, and style.

R12-4-112. ~~Diseased, or injured wildlife~~ Injured, or Chemically Immobilized Wildlife

The Department proposes to amend subsection (A) to authorize designated Department employees to condemn the carcasses of lawfully taken and possessed wildlife that have been chemically immobilized if requested by the individual that lawfully took the wildlife. The Department's objective is to provide people that unknowingly harvest an animal that had been recently tranquilized an opportunity to harvest another animal.

R12-4-113. Small Game Depredation Permit

The Department proposes to amend the rule as stated in the five-year rule review. The Department proposes to amend subsection (A) to replace "cropping" with the more accurate and inclusive "taking." The Department also proposes to delete the outdated reference to R12-4-309 in subsection (C). That rule has been repealed. The Department also proposes to make the rule consistent with Department rules and terms, and current APA guidelines that dictate language, grammar, and style.

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

The Department proposes to amend subsection (C)(2)(a) to make it consistent with amendments in R12-4-107 and to clearly state the species for which bonus points will be issued. The Department also proposes to amend the subsection to issue 20% of all hunt permit-tags for buffalo and bighorn sheep to bonus point holders instead of issuing 20% in each hunt number. Some hunt numbers for buffalo or bighorn sheep do not have 20% available to be reserved for bonus point holders; some have only two to four tags. By taking 20% from all tags available to be issued, the Department increases the number of tags that can be issued to bonus point holders.

The Department proposes to amend subsections (D) and (E) to impose limits on the number of hunt permit-tags available to nonresidents for bull elk, antlered deer, antelope, javelina, turkey, bighorn sheep and buffalo. The Commission previously amended this rule to remove any such cap or quota on certain elk and deer permit-tags in response to a court decision in *Montoya v. Shroufe* that held that the regulations were unconstitutional in violation of the dormant

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Commerce Clause. The proposed rule will re-instate these caps; add new caps to include all antlered deer, javelina, turkey, and antelope; and prescribe a number of tags to be made available to nonresidents if there are not enough tags in the hunt from which to take a percent cap.

Since the decision in *Montoya v. Shroufe*, Congress has enacted the Reaffirmation of State Regulation of Resident and Nonresident Hunting and Fishing Act of 2005, which removed any barrier under the Commerce Clause to any state hunting regulation that differentiates between residents and nonresidents. The Act expressly recognizes that States may continue to impose limits on the number of hunting permits available to nonresidents. The Act is consistent with the power of Congress under the Commerce Clause to authorize States to regulate in a manner that would otherwise be prohibited under the dormant Commerce Clause. See *Prudential Ins. Co. v. Benjamin*, 328 U.S. 408, 434-36 (1946). The dormant Commerce Clause is a restriction on States enacting laws that impose substantial burdens on commerce when Congress has remained silent. Here, Congress has ended its silence by renouncing its interest under the Commerce Clause, and thereby removing any Commerce Clause barrier to these types of regulations.

With the Commerce Clause removed as a constitutional limitation on regulations restricting the number of permits available to nonresidents, the Commission must simply demonstrate that such limits rationally relate to a legitimate state interest. Unlike the standard under the Commerce Clause that required the Commission to show that the regulations providing for a resident preference were the least restrictive means available to serve Arizona's legitimate interest, the Commission now must meet the less stringent rational basis standard. Under this standard, a court will not undertake an in-depth analysis as to whether the regulations reasonably serve the state's interests. See *Schutz v. Thorne*, --- F.3d --- (10th Cir. 2005) (upholding under the rational basis standard Wyoming's regulations that impose a cap on the number of permits available to nonresidents).

As for the Commission's interests that are served by limiting the number of nonresident permits, the Ninth Circuit has stated that Arizona has legitimate interests in maintaining resident hunting opportunity and conserving wildlife populations. See *Conservation Force, Inc. v. Manning*, 301 F.3d 985 (9th Cir. 2002). The proposed regulation will serve both interests. Capping the number of permit-tags available to nonresidents effectively maintains the level of resident hunting opportunity. Maintaining resident hunter opportunity encourages resident hunters to maintain their residency, and this serves the interest of wildlife conservation because resident hunters are more familiar with and involved in wildlife conservation efforts. The rule also has the added effect of assisting economically disadvantaged hunters who do not have the means to hunt out-of-state.

The proposed rule places a 10% cap on the number hunt-permits tags available to nonresidents for each hunt number for bull elk, antlered deer, javelina, turkey, and antelope, and for all hunt permit-tags issued during a draw for bighorn sheep and buffalo. Restricting nonresidents to no more than 10% of the available permits for certain species has a rational basis as it preserves resident hunting opportunity to a level that existed before nonresident permit applications became a significantly larger percentage of all big game applications. The increase in nonresident applications over the past 15-20 years reflects the growing popularity of big game hunting in Arizona. For instance, during this period, the nonresident application rate for bull elk and antlered deer hunts north of the Colorado River surpassed the 10% level. Although a cap limited the number of permits available to nonresidents to 10% during much of this period, had there been no cap, the application rate indicates that nonresidents would have received a progressively higher percentage of the big game permits. The effect of not having a cap is a reduction in the overall resident hunting opportunity. Therefore, the proposal to cap nonresident permits at 10% preserves resident hunting opportunity at a level that previously existed.

The proposed rule also expands the cap to include hunts not previously subject to any cap. The basis for adding all antlered deer and antelope to the rule is that nonresidents increasingly apply in greater percentages for these hunts, to the point that the percentage of certain whitetail deer and antelope permits issued to nonresidents exceeds 10%. The basis for adding javelina and turkey is to address the growing number of nonresident applications for these hunts, which the Department anticipates will soon surpass 10% if no cap is put in place. The purpose of the proposed rule is to preserve a resident preference for those hunts that have increased in popularity. For many less popular deer, turkey, javelina and antelope hunts, however, the cap will have no effect because nonresidents do not currently apply in a high enough percentage for a 10% cap to be a limitation. Despite this, imposing a cap on each antlered deer, javelina, turkey and antelope hunt is a logical approach as year-to-year increases in nonresident interest in all these hunts ensures that resident hunting opportunity is preserved.

The Department is also proposing to amend the rule to make hunt permit-tags available only to residents if there is only one tag in a hunt for antlered deer, bull elk, antelope, javelina, turkey, bighorn sheep, or buffalo. Under subsection (E), the Department shall make available no more than one hunt permit-tag in a hunt for these species if there are ten or fewer tags in the hunt. If the Department makes the tag in a single tag hunt available to nonresidents, both residents and nonresidents have equal chances to be drawn for that tag, which contradicts the intent of this rulemaking.

The Department also proposes to add a new subsection (F) to apply any caps under this Section to hunt permit-tags issued in a random draw; not to those that are issued as first-come, first-served.

R12-4-115. Supplemental Hunts and Hunter Pool

The Department proposes to add a new subsection (Q) to clearly state that an individual that participates in a supplemental hunt shall be removed from the supplemental hunter pool for the genus for which the individual participated;

and that an individual that participates in a supplemental hunt shall not reapply for the hunter pool for that genus until that hunter pool is renewed. The Department is proposing this to increase participation in these hunts by eliminating those individuals who have already participated.

R12-4-116. Reward Payments

The Department proposes to amend subsection (A)(1) through (5) to clearly state the qualifications an individual must meet in order to receive a reward. The Department is also amending subsection (B) to delete the reference to the Operation Game Thief (OGT) hotline phone number. The Department holds that by deleting this reference an individual will be able to report a wildlife violation to the Department and claim a reward even if they do not report it specifically through the OGT hotline. The Department also proposes to delete subsection (D)(3) from rule in order to eliminate references to values prescribed by A.R.S. § 17-314. Previously, the Department used these values in order to prescribe a fair reward for cases involving wildlife other than deer, antelope, lion, bear, turkey, javelina, or any endangered or threatened species that are also listed in the statute (beavers, geese, raptors, other eagles, ducks, small game animals, small game birds, nongame birds, and game fish). However, with inflation and other factors influencing monetary values, the Department does not believe that these reward values are sufficient anymore. The Department proposes to amend (D)(4), however, to apply the minimum reward of \$50 and the maximum reward of \$150 to any wildlife not mentioned in A.R.S. § 17-314, unless excepted by another part of this rule. The Department also proposes to amend subsection (D)(5) to clarify and establish new criteria that will determine additional reward value for the information received. The contents of this subsection will also be moved into subsection (C).

In reviewing the implementation of the revisions stated in the five-year rule review, the Department has determined that it is not feasible to amend subsection (D), formerly (E) to offer and pay a reward up to the minimum civil value of wildlife that is unlawfully taken as adjusted in relation to the current consumer price index (CPI) of the minimum civil value.

R12-4-117. Indian Reservations

The Department proposes to amend the rule to make it consistent with current APA guidelines for rulemaking language and style.

R12-4-119. Arizona Game and Fish Department Reserve

The Department proposes to clarify the duties of commissioned reserve officers and non-commissioned reserve volunteers by amending subsections (B) and (C). The Department proposes to amend subsection (B)(2) to allow commissioned reserve officers to assist with off-highway vehicle enforcement patrols. The Department also proposes to amend subsection (C)(2) to authorize non-commissioned reserve volunteers to perform any non-enforcement duties designated by the Director, such as wildlife presentations to public schools, for the purposes of conservation and education and also to maximize the effectiveness of the time paid staff is on duty.

R12-4-120. Issuance, Sale, and Transfer of Special Big Game License Tags

The Department proposes to amend subsection (A) of this rule to change the submission deadlines for proposals for special big game tags. Currently, submissions may be made from July 1 to September 30. The Department proposes to change those dates to March 1 to May 31 in response to comments from the regulated community. These tags are usually requested by organizations that operate from a particular calendar of events, of which the special big game tag is a significant part. The date change will allow these organizations to coordinate their activities in a timelier manner. The Department also proposes to amend subsection (A)(7) to clearly state the criteria for tax-exempt status. The Department anticipates this will help to ensure that those organizations that submit proposals are eligible to receive special tags. The Department also proposes to amend subsection (C)(2) to require that a successful applicant for a special big game tag transfer all proceeds from the sale of the tag to the Department within 90 days of the date that the applicant sells or awards the tag, and that the tag shall not be issued until the proceeds are received. The Department is proposing this requirement in order to receive funds that have heretofore been held by certain organizations that have sold the tags but have retained the fees. The Department also proposes to amend subsection (D) to state that the Department and the successful applicant shall coordinate on the use of funds rather than agree to these terms. The Department's objective is to gain greater flexibility in determining the use of these funds should circumstances dictate to avoid unlawful abrogation of authority for managing public funds. The Department is also proposing to amend subsection (F) to clearly state that a special big game license tag shall be valid only for the season dates on the tag. The Department has had problems with misunderstandings regarding this in the past.

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

The Department proposes to amend the rule in accordance with recent changes made by the Forty-Seventh Legislature to A.R.S. § 17-332. The Department proposes to add a new subsection to allow an individual that is issued a hunt permit-tag through the big game draw to donate the tag, or to allow the individual's legal representative to donate the tag if necessary, to a qualified non-profit organization under 501(c)(3) of the Internal Revenue Code. The Department also proposes to add a new subsection to establish a procedure for a qualified non-profit organization to lawfully transfer that tag to a minor child.

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R12-4-122. Handling, Transportation, Processing, and Storing of Game Meat Given to Public Institutions and Charitable Organizations

The Department proposes to amend subsection (A)(1) to delete javelina from the list of game meats that cannot be donated to an organization. Public perception of javelina meat has changed since the last making of the rule, and has made it more acceptable to be donated.

R12-4-123. Expenditure of Funds

The Department proposes to amend the rule according to the current APA guidelines for rulemaking language, grammar, and style.

6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not 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 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:

In general, the proposed rulemaking will create a significant impact to the Department, and to its regulated community. The rulemaking will benefit the Department by allowing it to meet costs that were previously unaddressed in rule; but overall, it will create costs that the agency will absorb to provide better service to the regulated community. The proposed rulemaking in general will benefit the regulated community by creating more opportunities for the use of wildlife resources, with few costs; and will maintain resident hunting opportunity. The proposed rulemaking may impact businesses, both large and small; however, the Department has determined that the impact will not be significant enough to impact revenues or payroll expenditures. The Department has determined that the proposed rulemaking will not impact public or private employment. The proposed rulemaking will not impact state revenues. Lastly, Department has determined that there are no alternative methods of achieving the objectives of the proposed rulemaking. The Department has determined that the benefits of the proposed rulemaking outweigh the 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: Brian Wakeling, Big Game Supervisor

Address: 2221 W. Greenway Rd., WMGM
Phoenix, AZ 85023

Telephone: (602) 789-3385

Fax: (602) 789-3929

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:

Written comments will be accepted at the above address until 30 days after this Notice is published. Public hearings to discuss this proposal will be held as follows:

Date: October 21-22, 2005

Time: TBA

Location: Avondale City Council Chambers
11465 W. Civic Center Dr.
Avondale, AZ 85323

Nature: Game and Fish Commission meeting

The Arizona Game and Fish Commission follows Title II of the Americans with Disabilities Act. The Commission does not discriminate against persons with disabilities who wish to make oral or written comments on proposed rulemaking or otherwise participate in the public comment process. Individuals with disabilities who need a reasonable accommodation (including auxiliary aids or services) to participate in the public comment process, or who require this information in an alternate form, may contact Carlos Ramirez at (602) 789-3288, ext. 206; 2412 W. Greenway Road, Phoenix, Arizona 85023-4399. Requests should be made as soon as possible so that the Arizona Game and Fish Department will have sufficient time to respond.

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 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

Section

- R12-4-101. Definitions
- R12-4-102. Fees for Licenses, Tags, Stamps, and Permits
- R12-4-103. Duplicate Tags and Licenses
- R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Drawing and Purchase of Bonus Points
- R12-4-105. License Dealer's License
- R12-4-106. Licensing Time-frames
- R12-4-107. Bonus Point System
- R12-4-108. Management Unit Boundaries
- R12-4-110. Posting and ~~access to state land~~ Access to State Land
- R12-4-111. Identification Number
- R12-4-112. ~~Diseased, or injured wildlife~~ Injured, or Chemically Immobilized Wildlife
- R12-4-113. ~~Small game depredation permit~~ Game Depredation Permit
- R12-4-114. Issuance of Nonpermit-tags and Hunt Permit-tags
- R12-4-115. Supplemental Hunts and Hunter Pool
- R12-4-116. ~~Reward payments~~ Payments
- R12-4-117. ~~Indian reservations~~ Reservations
- R12-4-119. Arizona Game and Fish Department Reserve
- R12-4-120. Issuance, ~~sale, and transfer of special big game license tags~~ Sale, and Transfer of Special Big Game License Tags
- R12-4-121. Big Game Permit or Tag Transfer
- R12-4-122. ~~Handling, transportation, processing and storing of game meat given to public institutions and charitable organizations~~ Transporting, Processing, and Storing of Game Meat Given to Public Institutions and Charitable Organizations
- R12-4-123. Expenditure of Funds

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

R12-4-101. Definitions

- A. In addition to the definitions provided in A.R.S. § 17-101, R12-4-401, and R12-4-501, the following definitions apply to this Chapter, unless the context otherwise requires:
1. "Artificial lures and flies" means man-made devices intended as visual attractants for fish and does not include living or dead organisms or edible parts of those organisms, natural or prepared food stuffs, artificial salmon eggs, artificial corn, or artificial marshmallows.
 2. "Bonus point" means a credit that authorizes the Department to issue an applicant an additional computer-generated random number.
 3. "Commission ~~order~~ Order" means a document adopted by the Commission that does any or all of the following: open, close, or alter seasons and open areas for taking wildlife; specify wildlife that may or may not be taken; set bag or possession limits for wildlife; or set the number of permits available for limited hunts.
 4. "Crayfish net" means a net ~~not exceeding 24~~ that does not exceed 36 inches on a side or in diameter ~~that~~ and is retrieved by means of a hand-held line.
 5. "Hunt area" means a game management unit, portion of a unit, or group of units opened to hunting by a particular hunt number.
 6. "Hunt number" means the number assigned by Commission ~~order~~ Order to any hunt area where a limited number of hunt permits is available.
 7. "Hunt permits" means the number of hunt permit-tags made available to the public as a result of a Commission ~~order~~ Order.

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8. "Hunt permit-tag" means a tag for a hunt for which a Commission ~~order~~ Order has assigned a hunt number.
 9. "Identification number" means a number assigned to each applicant or ~~licensee~~ license holder by the Department, as ~~described~~ prescribed in R12-4-111.
 10. "License dealer" means a business authorized to sell hunting, fishing, and other licenses ~~pursuant to~~ under R12-4-105.
 11. "Live baitfish" means any species of live freshwater fish designated by Commission ~~order~~ Order as lawful for use in taking aquatic wildlife ~~pursuant to R12-4-313~~ under R12-4-317.
 12. "Management unit" means an area established by the Commission for management purposes.
 13. "Minnow trap" means a trap with dimensions ~~not exceeding that do not exceed~~ 12 inches in depth, 12 inches in width, and 24 inches in length.
 14. "Muzzle-loading handgun" means a firearm intended to be fired from the hand, incapable of firing fixed ammunition, having a single barrel and single chamber, and loaded through the muzzle with black powder or synthetic black powder and a single projectile.
 15. "Muzzle-loading rifle" means a firearm intended to be fired from the shoulder, incapable of firing fixed ammunition, having a single barrel and single chamber, and loaded through the muzzle with black powder or synthetic black powder and a single projectile.
 16. "Nonpermit-tag" means a tag for a hunt for which a Commission ~~order~~ Order ~~has not assigned~~ does not assign a hunt number and the number of tags is not limited.
 17. "Restricted nonpermit-tag" means a tag issued for a supplemental hunt under R12-4-115.
 18. "Simultaneous fishing" means ~~the taking of~~ fish by using two lines and not more than two hooks or two artificial lures or flies per line.
 19. "Sink box" means a low floating device ~~having with~~ a depression ~~affording the~~ that affords a hunter a means of concealment beneath the surface of the water.
 20. "Stamp" means a form of authorization in addition to a license that allows the license holder to take wildlife specified by the stamp. The Department shall issue a stamp by one of the following methods:
 - a. Print the name of the stamp on the applicable license.
 - b. Print the name of the stamp on a separate license form that the license holder shall attach to or carry with the applicable license.
 - c. Provide an actual stamp with an adhesive backing that the license holder shall affix to the back of the applicable license and signs across the face of the stamp.
 21. "Tag" means the authorization that an individual is required to obtain from the Department under A.R.S. Title 17 and 12 A.A.C. 4 before taking certain wildlife.
 - ~~21-22.~~ "Waterdog" means the larval or metamorphosing stage of salamanders.
 - ~~22-23.~~ "Wildlife area" means an area established ~~pursuant to~~ under 12 A.A.C. 4, Article 8.
- B.** If the following terms are used in a Commission ~~order~~ Order, the following definitions apply:
1. "Antlered" means having an antler fully erupted through the skin and capable of being shed.
 2. "Antlerless" means not having an antler, antlers, or any part thereof erupted through the skin.
 3. "Bearded turkey" means a turkey with a beard that extends beyond the contour feathers of the breast.
 - ~~3~~ 4. "Buck antelope" means a male pronghorn antelope ~~with a horn longer than its ear.~~
 - ~~4~~ 5. "Bull elk" means an antlered elk.
 - ~~5~~ 6. "Designated" means the gender, age, or species of an animal or the specifically identified animal the Department authorizes to be taken and possessed with a valid tag.
 7. "Ram" means any male bighorn sheep, excluding male lambs.

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

~~Persons purchasing the licenses, tags, stamps, or permits~~ An individual who purchases a license, tag, stamp, or permit listed in this Section shall pay the prescribed all applicable fees at the time of application, or the pay fees as prescribed by the Director under R12-4-115.

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Hunting and Fishing License Fees	Fees Effective for Licenses, Tags, Stamps, and Permits to Be Used Until 2005	Fees Effective for Licenses, Tags, Stamps, and Permits to Be Used Beginning in 2005
Class A, General Fishing License		
· Resident	\$18.00	\$18.00
· Nonresident	\$51.50	\$51.50
<u>Pursuant to Under A.R.S. § 17-333(A)(1), the fee for this license issued in November or December of the year for which the license is valid is half price; that includes half of the surcharge prescribed as authorized by A.R.S. § 17-345.</u>		
Class B, Four-month Fishing License		
· Nonresident	\$37.50	\$37.50
Class C, Five-day Fishing License		
· Nonresident	\$26.00	\$26.00
Class D, One-day Fishing License		
· Resident or Nonresident	\$12.50	\$12.50
Class E, Colorado River Only Fishing License		
· Nonresident	\$42.50	\$42.50
Class F, Combination Hunting and Fishing License		
· Resident Adult	\$44.00	\$44.00
· Nonresident Adult	\$177.50	\$177.50
· Resident or Nonresident Youth. Fee applies before and through the calendar year of the applicant's 20th birthday.	\$25.50	\$25.50
Class G, General Hunting License		
· Resident	\$25.50	\$25.50
· Nonresident	\$113.50	\$113.50
Class H, Three-day Hunting License		
· Nonresident	\$51.50	\$51.50
· Resident Youth Group Two-day Fishing License	\$25.00	\$25.00
Class I, Resident Family Fishing License		
· For primary adult		\$28.50
· For one additional adult in the immediate family, as prescribed in A.R.S. § 17-333(A)(12)		+ \$22.80
· For any additional children in the immediate family, as prescribed in A.R.S. § 17-333(A)(12)		+ \$2.00 per child
Class U, Urban Fishing License		
· Resident or Nonresident	\$16.00	\$16.00
Hunt Permit-tag Fees		
Antelope		
· Resident	\$59.50	\$65.00
· Nonresident	\$299.50	\$325.00
Bear		
· Resident	\$13.00	\$14.50

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· Nonresident	\$183.00	\$200.00
Bighorn Sheep		
· Resident	\$179.50	\$195.00
· Nonresident	\$915.00	\$1,000.00
Buffalo		
· Adult Bulls or Any Buffalo		
· Resident	\$750.00	\$750.00
· Nonresident	\$3,750.00	\$3,750.00
· Adult Cows		
· Resident	\$450.00	\$450.00
· Nonresident	\$2,250.00	\$2,250.00
· Yearling		
· Resident	\$240.00	\$240.00
· Nonresident	\$1,200.00	\$1,200.00
· Yearling or Cow		
· Resident	\$450.00	\$450.00
· Nonresident	\$2,250.00	\$2,250.00
Deer and Archery Deer		
· Resident	\$17.50	\$19.50
· Nonresident	\$108.50	\$125.50
Elk		
· Resident	\$71.50	\$78.00
· Nonresident	\$366.00	\$400.00
Javelina and Archery Javelina		
· Resident	\$11.00	\$12.50
· Nonresident	\$63.00	\$70.00
Mountain Lion		
· Resident	\$13.00	\$10.00
· Nonresident	\$183.00	\$200.00
Turkey and Archery Turkey		
· Resident	\$10.00	\$11.00
· Nonresident	\$50.50	\$50.50
Sandhill Crane		
· Resident or Nonresident	\$5.00	\$5.00
Nonpermit-tag and Restricted Nonpermit-tag Fees		
Antelope		
· Resident	\$59.50	\$65.00
· Nonresident	\$299.50	\$325.00
Bear		
· Resident	\$13.00	\$14.50
· Nonresident	\$183.00	\$200.00
Bighorn Sheep		
· Resident	\$179.50	\$195.00
· Nonresident	\$915.00	\$1,000.00
Buffalo		
· Adult Bulls or Any Buffalo		

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· Resident	\$750.00	\$750.00
· Nonresident	\$3,750.00	\$3,750.00
· Adult Cows		
· Resident	\$450.00	\$450.00
· Nonresident	\$2,250.00	\$2,250.00
· Yearling		
· Resident	\$240.00	\$240.00
· Nonresident	\$1,200.00	\$1,200.00
· Yearling or Cow		
· Resident	\$450.00	\$450.00
· Nonresident	\$2,250.00	\$2,250.00
Deer and Archery Deer		
· Resident	\$17.50	\$19.50
· Nonresident	\$108.50	\$125.50
Elk		
· Resident	\$71.50	\$78.00
· Nonresident	\$366.00	\$400.00
Javelina and Archery Javelina		
· Resident	\$11.00	\$12.50
· Nonresident	\$63.00	\$70.00
Mountain Lion		
· Resident	\$13.00	\$10.00
· Nonresident	\$183.00	\$200.00
Turkey and Archery Turkey		
· Resident	\$10.00	\$11.00
· Nonresident	\$50.50	\$50.50
Sandhill Crane		
· Resident or Nonresident		\$5.00
Stamps and Special Use Permit Fees		
Arizona Colorado River Special Use Permit Stamp. For use by California fishing licensees license holders, resident or nonresident.	\$3.00	\$3.00
Arizona Colorado River Special Use Permit Stamp. For use by Nevada fishing licensees, resident or nonresident as prescribed by R12-4-312.	\$3.00	\$3.00
Arizona Lake Powell Stamp. For use by resident Utah licensees.	\$3.00	\$3.00
Bobcat Permit Tag. For resident or nonresident.	\$2.00	\$2.00
State Waterfowl Stamp. Validates a resident or nonresident Class F, G, or H Validates a hunting license for ducks, geese, and swans to allow the license holder to take waterfowl as prescribed in R12-4-203.	\$7.50	\$7.50
State Migratory Bird Stamp, as prescribed in A.R.S. § 17-333.03. Resident, resident or nonresident. Validates a hunting license to allow the license holder to take migratory game birds as prescribed in R12-4-203.	\$3.00	\$3.00
Trout Stamp. When affixed to the back of the license, validates Validates a Class A license to allow the license holder to take for trout.		
· Resident	\$10.50	\$10.50
· Nonresident	\$49.50	\$49.50

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Two-Pole Stamp, resident or nonresident. When affixed to the back of a Class A, B, C, D, E, F. Pioneer or Urban fishing license, allows simultaneous fishing as defined in R12-4-101. <u>Validates a fishing license to allow the license holder to engage in simultaneous fishing, as defined in R12-4-101.</u>	\$4.00	\$4.00 <u>\$5.00</u>
Unit 12A (North Kaibab) Habitat Management Stamp, resident or non-resident. Sikes Act stamp, validates a hunting license to allow the license holder to take deer in unit 12A as prescribed by R12-4-204.	\$15.00	\$15.00
Other License Fees		
Falconer License	\$75.00	\$75.00
Game Bird Field Trial License	\$5.00	\$5.00
Game Bird Hobby License		<u>\$5.00</u>
Game Bird Shooting Preserve License		\$100.00
Fur Dealer's License	\$100.00	\$100.00
Guide License		
· Resident or Nonresident	\$100.00	\$100.00
License Dealer's License	\$75.00	\$75.00
License Dealer's Outlet License		<u>\$25.00</u>
Minnow Live Bait Dealer's License	\$30.00	\$30.00
Private Game Farm License	\$40.00	\$40.00
Shooting Preserve License	\$100.00	\$100.00
Sport Falconry License (3-year license)		\$75.00
Taxidermist License	\$50.00	\$50.00
Trapping License		
· Resident	\$10.00	\$10.00
· Nonresident	\$50.00	\$50.00
· Resident Juvenile	\$10.00	\$10.00
White Amur Stocking <u>and Holding License</u>	\$100.00	\$200.00
· Non-business. Under R12-4-424, an individual that holds a non-business white amur stocking and holding license does not have to pay the required fee if renewing the license.		<u>\$200.00</u>
· Business		<u>\$200.00</u>
Wildlife Hobby License	\$5.00	\$5.00
Zoo License	\$100.00	\$100.00
Administrative Fees		
Duplicate Fee. Duplicates are not issued for Trout Stamps, Arizona Colorado River Special Use Permits, Arizona Colorado River Special Use Permit Stamps, Arizona Lake Powell Stamps, State Migratory Bird Stamps, or State Waterfowl Stamps.	\$3.00	\$3.00
Permit Application Fee.	\$5.00	\$5.00

R12-4-103. Duplicate Tags and Licenses

~~A. Pursuant to Under A.R.S. § 17-332(C), the Department and its license dealers shall issue a duplicate license or tag to an applicant who pays the fee set forth at prescribed by R12-4-102 for a duplicate license or tag, and who signs an affidavit affirming that includes and attests to the following:~~

1. The applicant's name and identification number, if previously issued to the applicant;
2. ~~The purchase of~~ The applicant purchased an original license or tag;
3. The resident status and class of the original license or tag. If the applicant is a resident, the applicant shall also attest to the length of residency;
4. The approximate date ~~it was~~ the applicant purchased the original license or tag;
5. The license dealer from whom ~~it was~~ the applicant purchased the original license or tag; and

6. ~~That the~~ The applicant that purchased the original tag for which a duplicate is being purchased was unused did not use the tag, and that the tag is lost, destroyed, mutilated, or otherwise unusable; or
 7. If applicable, the applicant placed the original tag on a harvested animal that was subsequently condemned and the carcass and all parts of the animal were surrendered to a Department employee under R12-4-112(B) and (C).
- ~~B.~~ This rule is effective January 1, 1996. If an applicant is applying for a duplicate tag under (A)(7), the application shall also submit a condemned meat duplicate tag authorization form issued by the Department.

R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Drawing and Purchase of Bonus Points

- ~~A.~~ For the purposes of this Section, "group" means all applications applicants who have placed their names on a single application form contained in a single envelope, or submitted electronically over the internet Internet as part of the same application. No more than four individuals may apply as a group except that no more than two individuals may apply as a group for bighorn sheep. Nonresidents, see subsection R12-4-114(E).
- ~~B.~~ An individual is eligible to apply:
1. For a hunt permit-tag if the individual:
 - a. Is at least ten years old at the start of the hunt for which the individual applies;
 - b. Has completed a Department-approved hunter education course by the start date of the hunt for which the individual applies, if the individual is under the age of fourteen; and
 - c. Does not have his or her license or license privileges to hunt in this state suspended or revoked at the time the individual submits an application, either as a result of an action under A.R.S. §§ 17-340 or 17-502.
 2. For a bonus point if the individual:
 - a. Is at least ten years old by the deadline to apply; and
 - b. Does not have his or her license or license privileges to hunt in this state suspended or revoked at the time the individual submits an application, either as a result of an action under A.R.S. §§ 17-340 or 17-502.
- ~~C.~~ An applicant for a hunt permit-tag or a bonus point shall apply using complete and submit a Hunt Permit-tag Application Form, available at from any Department offices office, the Department's internet Internet web site, and or a license dealers dealer. An applicant using the Hunt Permit-tag Application Form to apply for a hunt permit-tag or a bonus point shall apply at the times, and locations, and manner established by the hunt permit-tag application schedule that is published annually by the Department and available at any Department offices office, the Department's internet Internet web site, and or a license dealers dealer. Under A.R.S. § 17-231, the Commission shall set application deadlines for hunt permit-tag drawing applications. The Director has the authority to extend any draw deadline date if problems occur that prevent the public from submitting a hunt permit-tag application within the deadlines set by the Commission.
- ~~E D.~~ An applicant shall sign the Hunt Permit-tag Application Form, or provide permission to for another person individual to sign the application form for on behalf of the applicant. If applying electronically over the internet Internet, an applicant shall attest to, or provide permission to for another person individual to attest to, the information electronically provided.
- ~~D E.~~ An applicant shall provide the following information on the Hunt Permit-tag Application Form:
1. Applicant's The applicant's name, the applicant's home mailing address, the applicant's residency status, and the applicant's date of birth;
 2. The applicant's social security number, as required under A.R.S. §§ 25-320(N) and 25-502(K), and the applicant's Department identification number, if different from the social security number;
 3. If licensed to take wildlife in this state, the number of the applicant's license for the year the hunt will take place;
 4. If not licensed for the year in which the applicable hunt will take place, the applicant shall purchase a license by completing the License Application portion of the Hunt Permit-tag Application Form, providing the applicant's name, Department identification number, home mailing address, class of license for which application is made, residency status, length of Arizona residency (if applicable), date of birth, sex, weight, height, and color of hair and eyes; and
 5. An If an applicant is younger than age 14, and is applying for a hunt other than big game and, but is not required to have a license under A.R.S. § 17-335(B), the applicant shall indicate "juvenile" in the space provided for the license number on the Hunt Permit-tag Application Form.
- ~~E F.~~ An applicant shall include as part of the hunt permit-tag application, the following fees as set in as prescribed by R12-4-102 for the following:
1. The fee for the applicable hunt permit-tag, unless the application is submitted electronically over the internet Internet or telephone;
 2. The permit application fee; and
 3. The license fee if the applicant has not previously purchased a license for the year that corresponds with the applicable hunt number in which the hunt takes place.
- ~~F G.~~ An applicant shall enclose payment as part of the for a hunt permit-tag with a single hunt permit-tag application form, made payable in U.S. currency to the Arizona Game and Fish Department, by certified check, cashier's check, money order, or personal check. If applying electronically over the internet Internet or telephone, an applicant shall include payment by valid credit card as a part of the hunt permit-tag application.
- ~~G H.~~ An applicant shall apply for a specific hunt or a bonus point by the current hunt number. If all hunts selected by the appli-

cant are filled at the time the application is processed in the drawing, the Department shall deem the application unsuccessful, unless the application is for a bonus point.

- ~~H I.~~ An applicant shall make all hunt choices for the same genus within one application.
- ~~I J.~~ An applicant shall not include applications for different genera of wildlife in the same envelope.
- ~~J K.~~ All members of a group shall apply for the same hunt numbers and in the same order of preference. The Department shall not issue a hunt permit-tag to any group member unless sufficient hunt permit-tags are available for all group members.
- ~~K L.~~ An applicant shall submit only one valid application per genus of wildlife for any calendar year, except:
1. If the bag limit is one per calendar year, an unsuccessful applicant may re-apply for remaining hunt permit-tags in unfilled hunt areas, as specified in the hunt permit-tag application schedule published annually by the Department.
 2. For genera that have multiple ~~hunts draws~~ within a single calendar year, an individual who successfully draws a hunt permit-tag during an earlier season may apply for a later season for the same genus if the individual has not taken the bag limit for that genus during a preceding hunt in the same calendar year.
 3. If the bag limit is more than one per calendar year, an individual may apply as specified in the hunt permit-tag application schedule published annually by the Department for remaining hunt permit-tags in unfilled hunt areas.
- ~~L M.~~ An individual shall not apply for a bighorn sheep or buffalo hunt permit tag if the individual has ever taken the bag limit for that species. An individual shall not apply for a hunt permit-tag for Rocky Mountain bighorn sheep or desert bighorn sheep if that individual has met the lifetime bag limit for that sub-species. An individual shall not apply for a hunt permit-tag for buffalo if the individual has met the lifetime bag limit for that species.
- ~~M N.~~ To participate in the bonus point system, an applicant shall comply with R12-4-107.
- ~~N O.~~ Any Hunt Permit tag Application Form not prepared or submitted in accordance with this Section, or not prepared in a legible manner, is not valid and shall be rejected and all fees refunded. The Department shall reject as invalid a Hunt Permit-Tag Application Form not prepared or submitted in accordance with this Section or not prepared in a legible manner. If the Department rejects an application from any member of a group, the Department shall reject all applications from the group.
- ~~O P.~~ Any hunt permit-tag issued for an application that is subsequently found not to be in accordance with this Section is invalid.
- ~~P Q.~~ The Department or its authorized agent shall mail hunt permit-tags to successful applicants. The Department shall return application overpayments to the applicant designated "A" on the Hunt Permit-tag Application Form. Permit application fees ~~received with valid applications~~ shall not be refunded. License fees submitted with ~~an~~ a valid application for a bonus point shall not be refunded.
- ~~Q R.~~ If the Director determines that Department error ~~resulted in~~ caused an individual to submit an invalid application for a hunt permit-tag, prevented an individual from lawfully submitting an application, caused the rejection of an application for a hunt permit-tag, or caused the denial of a hunt permit-tag, the Director may authorize an additional hunt permit-tag or the awarding of a bonus point to correct the error, if the issuance of an additional hunt permit-tag will have no significant impact on the wildlife population to be hunted and the application for the hunt permit-tag would have otherwise been successful based on its random number. The Director may also authorize the awarding of a bonus point to correct the error if a hunt permit-tag is not issued. If the Director determines that Department error caused the failure to apply an applicant's bonus points to an application, the Director may authorize an additional hunt permit-tag to correct the error, if the issuance of an additional hunt permit-tag will have no significant impact on the wildlife population to be hunted. The Director may also authorize the awarding of a bonus point to correct the error if a hunt permit-tag is not issued. An applicant individual who is denied a hunt permit-tag or a bonus point under this procedure may appeal to the Commission as provided under A.R.S. Title 41, Chapter 6, Article 10.

R12-4-105. License Dealer's License

- A. For the purposes of this ~~rule~~ Section, unless the context otherwise requires:
1. "Dealer outlet" means an individual location authorized to sell licenses by a license dealer's license "Dealer number" means a number assigned by the Department to each dealer outlet.
 2. "Dealer number" means a number assigned by the Department to each dealer outlet "Dealer outlet" means a specified location authorized to sell licenses under a license dealer's license.
 3. "License" means any hunting or fishing license, stamp, tag, or permit ~~which that~~ may be sold by a dealer or dealer outlet pursuant to under this rule Section.
 4. "License dealer" means a business licensed by the Department to sell licenses from one or more dealer outlets.
- B. The Department shall issue a license dealer's license ~~when if~~ the following criteria are met:
1. The applicant has not had the privilege to sell licenses for the Department revoked or canceled ~~pursuant to under~~ A.R.S. §§ 17-334, 17-338, or 17-339 within the past two calendar years;
 2. The applicant's credit record or assets assure the Department that the value of the licenses shall be adequately protected;
 3. The applicant agrees to assume financial responsibility for licenses provided to dealers and dealer outlets by the Department at the maximum value established in R12-4-102, less the dealer commission allowed by A.R.S. § 17-

- 338(B); and,
4. Each dealer outlet specializes in the sale of, or has a department specializing in the sale of, equipment intended for hunting, trapping, or fishing; or
 5. The Department shall assess the need for a license dealer outlet not meeting the criterion set forth at subsection (B)(4) by determining whether a particular outlet is necessary to provide service to the public. The Department shall base its determination on:
 - a. The location and size of the community and the outlet's physical location within the community;
 - b. The outlet's proximity to currently existing dealer outlets; and
 - c. The days and hours the license dealer outlet is open for business to sell hunting and fishing licenses, tags, and stamps.
- C. Upon denial of a license dealer's license by the Department, the applicant may appeal to the Commission pursuant to R12-4-608 as provided under A.R.S. Title 41, Chapter 6, Article 10.
- D. An applicant for a license dealer's license shall obtain from and submit to the Department an application form an application form from the Department and submit it to any Department office. The Department shall issue the license or deny the application within 30 calendar days of receiving the application. The applicant shall provide all of the following on the form:
1. Principal business or corporation name, address, and ~~phone~~ telephone number;
 2. If not a corporation, the full name, address, and ~~phone~~ telephone number of ~~all owners~~ each owner;
 3. Name, business address, and business ~~phone~~ telephone number of ~~the person~~ an individual designated by the applicant ~~as responsible for~~ to ensure compliance with this rule Section;
 4. Whether the applicant has previously sold licenses pursuant to ~~under~~ A.R.S. § 17-334;
 5. Whether ~~application the applicant~~ is for seeking renewal of a ~~currently an~~ existing license dealer's license;
 6. Credit references and a statement of assets and liabilities; and
 7. The name, address, and ~~phone~~ telephone number of each dealer outlet, and the name of a person responsible for the sale of licenses at each dealer outlet; and
 8. For each outlet, whether the outlet specializes in the sale of hunting, trapping or fishing equipment; if not, the reason ~~the outlet should be approved pursuant to subsection (B)(5) of this rule.~~
- E. A license dealer may request to add dealer outlets to ~~a the~~ license dealer's license during a license year ~~shall be made on an amended by submitting the~~ application form containing the information required ~~in~~ by subsection (D).
- F. The Department shall provide to the license dealer all licenses that the license dealer will make available to the public for sale, except license dealers that are authorized to use their own license stock.
- G. A license dealer shall maintain at each outlet an inventory of licenses for sale to the public. A license dealer may request that the Department provide additional ~~inventory of~~ licenses for sale. ~~The request may be made~~ in writing or verbally. The request shall include the name of the license dealer, the assigned dealer number, a list of the items needed, and the name of the individual making the request. Within 10 calendar days from receipt of a request from a license dealer, the Department shall provide to an outlet the licenses requested unless licenses previously provided to the outlet have not been acknowledged pursuant to under subsection (H) or the outlet is not in compliance with applicable statutes and rules.
- H. Upon receipt of licenses from the Department, the license dealer shall ~~cause~~ verify that the licenses received ~~to be verified as the are those~~ licenses identified on the shipment inventory provided by the Department with the shipment. The individual performing the verification shall clearly designate any discrepancies on the shipment inventory, sign and date the shipping inventory, and return it to the Department within five working days from receipt of the shipment. The Department shall verify any discrepancies identified by the license dealer and credit or debit the license dealer's inventory ~~for a particular outlet~~ accordingly.
- I. A license dealer shall submit ~~the a~~ monthly report, as required by A.R.S. § 17-338, on forms obtained from the Department, regardless of whether the license dealer ~~made~~ makes a sale during the month. The license dealer shall include in the monthly report all of the following information for each outlet:
1. Name of ~~the dealer outlet~~ and the assigned dealer number;
 2. Reporting period;
 3. Number of sales and dollar amount of sales for reporting period, by type of license sold;
 4. Dollar amount of commission;
 5. Debit and credit adjustments for previous reporting periods, if any;
 6. ~~Affidavits~~ Number of affidavits received ~~and~~ for which a duplicate license was issued pursuant to under R12-4-103. A license dealer who fails to submit an affidavit for an issued duplicate shall remit to the Department the face value of the original license replaced;
 7. List of lost or missing licenses; and
 8. Signature of the preparer.
- J. The Department shall ~~give~~ provide written notice of suspension and demand ~~to return of~~ all inventory within five calendar days ~~to from~~ any license dealer who:
1. Fails to remit monies due the Department pursuant to under A.R.S. § 17-338; or

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- 2. Issues to the Department more than one check with insufficient funds during a calendar year; or
- 3. ~~Fails~~ Otherwise fails to comply with any part of this rule this Section.
- K.** The value of licenses not returned to the Department ~~pursuant to~~ in accordance with A.R.S. § 17-339, ~~or, not returned~~ upon termination of business by a license dealer outlet; ~~or which are~~ reported by a dealer outlet or discovered by the Department to be lost, missing, stolen, or destroyed for any reason, ~~shall be~~ is due and payable to the Department within 15 working days ~~of from~~ the date the Department provides written notice to the licensed dealer.
- L.** In addition to those ~~causes~~ violations that may result in revocation or suspension of a license dealer's license, provided ~~at~~ under A.R.S. §§ 17-334, 17-338 and 17-339, the Commission may revoke a license dealer's license ~~when if~~ the licensed dealer or an employee of the licensed dealer is convicted of counseling, aiding, or attempting to aid any person in obtaining a fraudulent license.
- ~~**M.** This rule is effective January 1, 1996.~~

R12-4-106. Licensing Time-frames

- A.** As required by A.R.S. § 41-1072 et seq., the Department shall either grant or deny the following licenses within the listed time-frames. 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 Section governing the specific license. The Department shall issue a written notice that accompanies each returned application listing the information that the applicant failed to provide. The administrative completeness review time-frame and the overall time-frame for the applicable license in this Section 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, except 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 applicable license in this Section are suspended from the date on the request until the date that the Department receives the additional information from the applicant. All periods listed are calendar days, and all are maximum time periods. Licenses may be reviewed and issued or denied in less time.

Name of License	Governing Rule	Administrative Completeness Review Time-frame	Substantive Review Time-frame	Overall Time-frame
Aquatic Wildlife Stocking Permit	R12-4-410	10 days	170 days	180 days
Challenged Hunter Access/Mobility Permit	R12-4-217	1 day	29 days	30 days
Crossbow Permit	R12-4-216	1 day	29 days	30 days
Disabled Veteran's License	R12-4-202	1 day	29 days	30 days
Falconer License	R12-4-422	10 days	20 days	30 days
Field Trial License	R12-4-415	10 days	20 days	30 days
Field Trial Training Permit	R12-4-416	10 days	20 days	30 days
Fishing Permits	R12-4-310	10 days	20 days	30 days
Game Bird Field Training Permit	<u>R12-4-416</u>	<u>10 days</u>	<u>20 days</u>	<u>30 days</u>
Game Bird Field Trial License	<u>R12-4-415</u>	<u>10 days</u>	<u>20 days</u>	<u>30 days</u>
Game Bird Hobby License	<u>R12-4-419</u>	<u>10 days</u>	<u>20 days</u>	<u>30 days</u>
Game Bird Shooting Preserve License	<u>R12-4-414</u>	<u>10 days</u>	<u>20 days</u>	<u>30 days</u>
Guide License	R12-4-208	10 days	20 days	30 days
License Dealer's License	R12-4-105	10 days	20 days	30 days

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Minnow Live Bait Dealer's License	R12-4-411	10 days	20 days	30 days
Pioneer License	R12-4-201	1 day	29 days	30 days
Private Game Farm License	R12-4-413	10 days	20 days	30 days
Scientific Collecting Permit	R12-4-418	10 days	20 days	30 days
Shooting Preserve License	R12-4-414	10 days	20 days	30 days
<u>Small Game Depredation Permit</u>	<u>R12-4-113</u>	<u>10 days</u>	<u>20 days</u>	<u>30 days</u>
<u>Sport Falconry License</u>	<u>R12-4-422</u>	<u>10 days</u>	<u>20 days</u>	<u>30 days</u>
Tournament Fishing Permit	R12-4-215	10 days	20 days	30 days
Watercraft Agents	R12-4-509	10 days	20 days	30 days
White Amur Stocking License	R12-4-424	10 days	20 days	30 days
Wildlife Hobby License	R12-4-419	10 days	20 days	30 days
Wildlife Holding Permit License	R12-4-417	10 days	20 days	30 days
Wildlife Rehabilitation License	R12-4-423	10 days	50 days	60 days
Wildlife Service License	R12-4-421	10 days	50 days	60 days
Zoo License	R12-4-420	10 days	20 days	30 days

B. Issuance of Special License Tags is governed by R12-4-120. Proposals are accepted between ~~July 1 and September 30~~ March 1 to May 31 of each year. Administrative review is completed by the Department within ~~five~~ ten days. The Game and Fish Commission makes its decision on issuance or denial in an open meeting within 30 days after the closing date for proposals. The substantive review time-frame is ~~45~~ 110 days and the overall time-frame is 120 days.

R12-4-107. Bonus Point System

- A.** For the purpose of this Section, the following definitions apply:
1. "Bonus point hunt number" means the hunt number assigned by the Commission in a Commission Order for use by an applicant applying only for a bonus point for a genus identified in this Section; and
 2. "Loyalty bonus point" means a bonus point awarded to an individual who has ~~applied~~ submitted a valid application for a hunt permit-tag or a bonus point for a specific genus identified in subsection (B) ~~consecutively at least once annually~~ for a consecutive five-year period.
- B.** The bonus point system grants an individual one entry in each drawing for antelope, bear, bighorn sheep, buffalo, deer, ~~or~~ elk, javelina, or turkey for each bonus point that individual has accumulated under this Section. Each bonus point entry is in addition to the entry normally granted by R12-4-104. When processing "group" applications, as defined in R12-4-104, the Department shall use the average number of bonus points accumulated by the ~~persons~~ individuals in the group, rounded to the nearest whole number. If the average is equal to or greater than .5, the total will be rounded to the next higher number.
- C.** The Department shall award one bonus point to an applicant who submits a valid Hunt Permit-tag Application Form if all of the following apply:
1. The application is unsuccessful in the drawing or the application is for a bonus point only;
 2. The application is not for a hunt permit-tag left over after the drawing and available on a first-come, first-served basis as prescribed in R12-4-114; and
 3. The applicant, before the drawing, purchases a hunting license valid for the year in which the hunt takes place. The

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applicant shall either provide the hunting license number on the application, or submit an application and fees for the license with the Hunt Permit-tag Application Form.

- D. An applicant who purchases a bonus point only shall:
1. Submit a valid Hunt Permit-tag Application Form, as prescribed in R12-4-104, with the Commission-assigned bonus point hunt number for the particular genus as the first choice hunt number on the application. Placing the bonus point only hunt number as a choice other than the first choice or including any other hunt number on the application ~~invalidates~~ will result in rejection of the application;
 2. Include with the application, payment for the hunt permit-tag application fee and a fee for a hunting license if the applicant does not already possess a license valid for the year for which the draw is conducted (If an applicant who purchases a bonus point has not already purchased a license for the year for which the applicant is applying, the applicant shall also submit all applicable information designated under R12-4-104~~(D)~~(E)(4). If an applicant who purchases a bonus point has already purchased a license for the year for which the applicant is applying, the applicant shall also submit the number of the applicant's license); and
 3. Submit only one Hunt Permit-tag Application Form for the same genus for each season that bonus points are issued for that genus.
- E. With the exception of the hunter education bonus point, each bonus point accumulated is valid only for the genus designated on the Hunt Permit-tag Application Form.
- F. Except for a permanent bonus point awarded for hunter education or loyalty bonus points that are accrued and forfeited as prescribed in subsection (K), all of ~~a person's~~ an individual's accumulated bonus points for a genus are forfeited if:
1. The individual is issued a hunt permit-tag for that genus in a computer drawing; or
 2. The individual fails to submit a Hunt Permit-tag Application Form for that genus for five consecutive years.
- G. An applicant issued a first-come, first-served hunt permit-tag under R12-4-114(C)(2)(d) after the computer drawing does not lose bonus points for that genus, and a valid but unsuccessful applicant for a first-come, first-served hunt permit-tag remaining after the computer drawing does not gain a bonus point.
- H. The Department shall award one permanent bonus point for each genus upon an individual's first graduation from the Department's Arizona Hunter Education Course or for serving as a Department hunter education instructor.
1. The Department shall credit an individual who graduated after January 1, 1980, but before January 1, 1991, or an individual certified by the Department as an active hunter education instructor after January 1, 1980, with one permanent bonus point for each genus if the individual provides the following information on a form available from the Department: Department identification number; name; address; residency status, and length of Arizona residency, if applicable; date of birth; sex; weight; height; color of hair and eyes; and, for an individual other than an instructor, the month and year of graduation from the Department's Arizona Hunter Education Course.
 2. An instructor or an individual who has graduated from the Department's Arizona Hunter Education Course shall submit the required form 30 days before a drawing's application deadline, as specified in the hunt permit-tag application schedule, in order for the bonus point to be counted by the Department in that drawing.
- I. The Department shall make an applicant's total number of accumulated bonus points available on the Department's application web site or IVR telephone system. If the applicant disagrees with the total, the applicant ~~shall provide previous notices or~~ may request from the Department proof of compliance with this Section to prove Department error. In the event of an error, the Department shall correct the applicant's record.
- J. The Department shall credit bonus points under an applicant's Department identification number for the genus on the application. The Department shall not transfer bonus points between individuals or genera.
- K. The following provisions apply to the loyalty bonus point program:
1. The Department shall award a loyalty bonus point if an applicant ~~applies~~ submits a valid application at least once a year for a hunt permit-tag or a bonus point for a specific genus consecutively for a five-year period, ~~and purchases a hunting license or combination hunting and fishing license for each of the five consecutive years.~~
 2. An applicant retains a loyalty bonus point once accrued as long as the applicant ~~applies~~ submits a valid application annually for a hunt permit-tag or a bonus point for the genus for which the loyalty bonus point was accrued.
 3. If an applicant who has accrued a loyalty bonus point fails to apply in any calendar year for a hunt permit-tag for the genus for which the loyalty bonus point was accrued, the applicant's loyalty bonus point for that genus is forfeited.
 4. For the purposes of the loyalty bonus point program, year one of the calculation of consecutive application years is 2001, and the Department shall award a loyalty bonus point to an applicant who qualifies for the loyalty bonus point on or after the effective date of this Section.
 5. A loyalty bonus point is accrued in addition to all other bonus points.
- L. The Department shall reinstate any bonus points forfeited for a successful hunt permit-tag application for military personnel, military reserve personnel, national guard personnel, or public agency employees who are unable to use the hunt permit-tag due to mobilization, activation, or required duty in response to a declared national or state emergency, or required duty in response to an action by the President, Congress, or a governor of the United States or its territories. Under A.R.S. § 17-332(E), no refunds for a license or hunt permit-tag will be issued to an applicant who applies for reinstatement of bonus points under this subsection. To request that forfeited bonus points be reinstated under these circumstances, an

applicant shall submit all of the following to the Arizona Game and Fish Department, Draw Section, ~~2222~~ 2221 W. Greenway Rd., Phoenix, AZ 85023:

1. A letter from the applicant requesting reinstatement of bonus points;
2. The hunt number for which the hunt permit-tag is valid;
3. Evidence of mobilization or duty status, such as a letter from the public agency or official orders;
4. An official declaration of a state of emergency from the public agency or authority making the declaration of emergency, if applicable; and
5. The valid, unused hunt permit-tag, which must be received before the beginning date of the hunt for which the hunt permit-tag is valid, or evidence of mobilization or activation that precluded the applicant from submitting the tag before the beginning date of the hunt.

R12-4-108. Management Unit Boundaries

A. For the purpose of this ~~rule~~ Section, parentheses mean “also known as,” and the following definitions shall apply:

1. “FH” means “forest highway,” a paved road.
2. “FR” means “forest road,” an unpaved road.
3. “Hwy” means “Highway.”
4. “mp” means “milepost.”

B. The state of Arizona ~~shall be~~ is divided into units for the purpose of managing wildlife. Each unit ~~shall be~~ is identified by a number, or a number and letter. For the purpose of this ~~rule~~ Section, Indian reservation land contained within any management ~~units~~ unit is not under the jurisdiction of the Arizona Game and Fish Commission or the Arizona Game and Fish Department. See R12-4-117.

C. Management unit descriptions are as follows:

Unit 1 -- Beginning at the New Mexico state line and U.S. Hwy 60; west on U.S. Hwy 60 to Vernon Junction; southerly on the Vernon-McNary ~~road~~ Rd. (FR 224) to the Fort Apache Indian Reservation boundary; east and south along the reservation boundary to Black River; east and north along Black River to the east fork of Black River; north along the east fork to Three Forks; and continuing north and east on the Three Forks-Williams Valley-Alpine ~~road~~ Rd. (FR 249) to U.S. Hwy 180; east on U.S. Hwy 180 to the New Mexico state line; north along the state line to U.S. Hwy 60.

Unit 2A -- Beginning at St. Johns on U.S. Hwy 191 (AZ Hwy 61); north on U.S. Hwy 191 (AZ Hwy 61) to the Navajo Indian Reservation boundary; westerly along the reservation boundary to AZ Hwy 77; south on AZ Hwy 77 to Exit 292 on I-40; west on the westbound lane of I-40 to Exit 286; south on AZ Hwy 77 to U.S. Hwy 180; southeast on U.S. Hwy 180 to AZ Hwy 180A; south on AZ Hwy 180A to AZ Hwy 61; east on AZ Hwy 61 to U.S. Hwy 180 (AZ Hwy 61); east to U.S. Hwy 191 at St. Johns; except those portions that are sovereign tribal lands of the Zuni Tribe.

Unit 2B -- Beginning at Springerville; east on U.S. Hwy 60 to the New Mexico state line; north along the state line to the Navajo Indian Reservation boundary; westerly along the reservation boundary to U.S. Hwy 191 (AZ Hwy 61); south on U.S. Hwy 191 (U.S. Hwy 180) to Springerville.

Unit 2C -- Beginning at St. Johns on U.S. Hwy 191 (AZ Hwy 61); west on U.S. Hwy 180 (AZ Hwy 61) to Concho; southwest on AZ Hwy 61 to U.S. Hwy 60; east on U.S. Hwy 60 to U.S. Hwy 191 (U.S. Hwy 180); north on U.S. Hwy 191 (U.S. Hwy 180) to St. Johns.

Unit 3A -- Beginning at the junction of U.S. Hwy 180 and AZ Hwy 77; south on AZ Hwy 77 to AZ Hwy 377; southwesterly on AZ Hwy 377 to AZ Hwy 277; easterly on AZ Hwy 277 to Snowflake; easterly on the Snowflake-Concho ~~road~~ Rd. to U.S. Hwy 180A; north on U.S. Hwy 180A to U.S. Hwy 180; northwesterly on U.S. Hwy 180 to AZ Hwy 77.

Unit 3B -- Beginning at Snowflake; southerly along AZ Hwy 77 to U.S. Hwy 60; southwesterly along U.S. Hwy 60 to the Fort Apache Indian Reservation boundary; easterly along the reservation boundary to the Vernon-McNary ~~road~~ Rd. (FR 224); northerly along ~~this road~~ the Vernon-McNary Rd. to U.S. Hwy 60; west on U.S. Hwy 60 to AZ Hwy 61; northeasterly on AZ Hwy 61 to AZ Hwy 180A; northerly on AZ Hwy 180A to Concho-Snowflake ~~road~~ Rd.; westerly on the Concho- Snowflake ~~road~~ Rd. to Snowflake.

Unit 3C -- Beginning at Snowflake; westerly on AZ Hwy 277 to AZ Hwy 260; westerly on AZ Hwy 260 to the Sitgreaves National Forest boundary with the Tonto National Forest; easterly along the Apache-Sitgreaves National Forest boundary to U.S. Hwy 60 (AZ Hwy 77); northeasterly on U.S. Hwy 60 (AZ Hwy 77) to Showlow; northerly along AZ Hwy 77 to Snowflake.

Unit 4A -- Beginning on the boundary of the Apache-Sitgreaves National Forest with the Coconino National Forest at the Mogollon Rim; north along this boundary (Leonard Canyon) to East Clear Creek; northerly along East Clear Creek to the ~~Little Colorado River~~; easterly along the Little Colorado River Highway 99; north on Highway 99 to Highway 87; north on Highway 87 to Central Street; west on Central to BVD Blvd.; BVD Blvd. to Industrial Spur; Industrial Spur to Hipkoe Dr.; Hipkoe Dr. to I-40; east on I-40 to Milepost 221; due north to the southwest corner of

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the Navajo Indian Reservation Boundary; east along the Navajo Indian Reservation Boundary to the Little Colorado River; southerly along the Little Colorado River to Chevelon Creek; southerly along Chevelon Creek to Woods Canyon; westerly along Woods Canyon to Woods Canyon Lake ~~road Rd.~~; southeasterly along the Woods Canyon Lake ~~road Rd.~~ to the Mogollon Rim; westerly along the Mogollon Rim to the boundary of the Apache-Sitgreaves National Forest with the Coconino National Forest.

Unit 4B -- Beginning at AZ Hwy 260 and the Sitgreaves National Forest boundary with the Tonto National Forest; northeasterly on AZ Hwy 260 to AZ Hwy 277; northeasterly on AZ Hwy 277 to Hwy 377; northeasterly on AZ Hwy 377 to AZ Hwy 77; northeasterly on AZ Hwy 77 to I-40 Exit 286; northeasterly along the westbound lane of I-40 to Exit 292; north on AZ Hwy 77 to the Navajo Indian Reservation boundary; west along the reservation boundary to the Little Colorado River; southerly along the Little Colorado River to Chevelon Creek; southerly along Chevelon Creek to Woods Canyon; westerly along Woods Canyon to Woods Canyon Lake ~~road Rd.~~; southerly along the Woods Canyon Lake ~~road Rd.~~ to the Mogollon Rim; easterly along the Mogollon Rim to AZ Hwy 260.

Unit 5A -- Beginning at the junction of the Sitgreaves National Forest boundary with the Coconino National Forest boundary at the Mogollon Rim; northerly along this boundary (Leonard Canyon) to East Clear Creek; northeasterly along East Clear Creek to ~~the Little Colorado River; northerly along the Little Colorado River to the Navajo Indian Reservation boundary; west along the reservation boundary to I-40; southeasterly on I-40~~ the Highway 99; north on AZ Hwy 99 to AZ Hwy 87; north on AZ Hwy 87 to Central St.; west on Central to BVD Blvd.; BVD Blvd. To Industrial Spur; Industrial Spur to Hipkoe Dr.; north on Hipkoe Dr. to I-40; west on I-40 to the Meteor Crater ~~road Rd.~~ (Exit 233); southerly on the Meteor Crater-Chavez Pass-Jack's Canyon ~~road Rd.~~ (FR 69) to AZ Hwy 87; southwesterly along AZ Hwy 87 to the Coconino-Tonto National Forest boundary; easterly along the Coconino-Tonto National Forest boundary (Mogollon Rim) to the Sitgreaves National Forest boundary with the Coconino National Forest.

Unit 5B -- Beginning at Lake Mary-Clint's Well ~~road Rd.~~ (FH3) and the south rim of Walnut Canyon (mp 337.5 on FH3); southeasterly on FH3 to AZ Hwy 87; northeasterly on AZ Hwy 87 to FR 69; westerly and northerly on FR 69 to I-40 (Exit 233); west on I-40 to the bottom of Walnut Canyon (mp 210.2 on I-40); southwesterly along Walnut Canyon to Walnut Canyon National Monument; southwesterly along the northern boundary of the Walnut Canyon National Monument to the south rim of Walnut Canyon; southwesterly along the south rim of Walnut Canyon to FH3.

Unit 6A -- Beginning at the junction of U.S. Hwy 89A and FR 237; southwesterly on U.S. Hwy 89A to the Verde River; southeasterly along the Verde River to Childs; easterly on the Childs-Strawberry ~~road Rd.~~ to the Tonto-Coconino National Forest boundary; easterly along this boundary to AZ Hwy 87; northeasterly on AZ Hwy 87 to Lake Mary-Clint's Well ~~road Rd.~~ (FH3); northwesterly on FH3 to FR 132; southwesterly on FR 132 to FR 296; southwesterly on FR 296 to FR 296A; southwesterly on FR 296A to FR 132; northwesterly on FR 132 to FR 235; westerly on FR 235 to FR 235A; westerly on FR 235A to FR 235; southerly on FR 235 to FR 235K; northwesterly on FR 235K to FR 700; northerly on FR 700 to Mountainaire ~~Road Rd.~~; west on Mountainaire ~~Road Rd.~~ to FR 237; westerly on FR 237 to U.S. Hwy 89A except those portions that are sovereign tribal lands of the Yavapai-Apache Nation.

Unit 6B -- Beginning at mp 188.5 on I-40 at a point just north of the east boundary of Camp Navajo; south along the eastern boundary of Camp Navajo to the southeastern corner of Camp Navajo; southeast approximately 1/3 mile through the forest to the forest road in section 33; southeast ~~on that the~~ the forest road to FR 231 (Woody Mountain ~~Road Rd.~~); easterly on FR 231 to FR 533; southerly on FR 533 to U.S. Hwy 89A; southerly on U.S. Hwy 89A to the Verde River; northerly along the Verde River to Sycamore Creek; northeasterly along Sycamore Creek and Volunteer Canyon to the southwest corner of the Camp Navajo boundary; northerly along the western boundary of Camp Navajo to the northwest corner of Camp Navajo; continuing north to I-40 (mp 180.0); easterly along I-40 to mp 188.5.

Unit 7 -- Beginning at the junction of AZ Hwy 64 and I-40 (in Williams); easterly on I-40 to FR 171 (mp 187.4 on I-40); northerly on FR 171 to the Transwestern Gas Pipeline; easterly along the Transwestern Gas Pipeline to FR 420 (Schultz Pass ~~Road Rd.~~); northeasterly on FR 420 to U.S. Hwy 89; north on U.S. Hwy 89 to FR 545; east on FR 545 to the Sunset Crater National Monument; easterly along the southern boundary of the Sunset Crater National Monument to FR 545; east on FR 545 to the 345 KV transmission lines 1 and 2; southeasterly along the power lines to I-40 (mp 212 on I-40); east on I-40 to the southwest corner of the Navajo Indian Reservation boundary; northerly and westerly along the reservation boundary to the Four Corners Gas Line; southwesterly along the Four Corners Gas Line to U.S. Hwy 180; west on U.S. Hwy 180 to AZ Hwy 64; south on AZ Hwy 64 to I-40.

Unit 7M -- Beginning at the junction of Lake Mary-Clint's Well road (FH3) and Walnut Canyon (mp 337.5 on FH3); northeasterly along the south rim of Walnut Canyon to the Walnut Canyon National Monument boundary; northeasterly along the northern boundary of the Walnut Canyon National Monument to Walnut Canyon; northeasterly along the bottom of Walnut Canyon to I-40 (mp 210.2); east on I-40 to the 345 KV transmission lines 1 and 2 (mp 212 on I-40); north and northeasterly along the power line to FR 545 (Sunset Crater Road); west along FR 545 to the Sunset Crater National Monument boundary; westerly along the southern boundary of the Sunset Crater National Monument to FR 545; west on FR 545 to U.S. Hwy 89; south on U.S. Hwy 89 to FR 420 (Schultz Pass Road); southwesterly on

FR 420 to the Transwestern Gas Pipeline; westerly along the Transwestern Gas Pipeline to FR 171; south on FR 171 to I-40 (mp 184.4 on I-40); east on I-40 to a point just north of the eastern boundary of Camp Navajo (mp 188.5 on I-40); south along the eastern boundary of Camp Navajo to the southeast corner of Camp Navajo; southeast approximately 1/3 mile to forest road in section 33; southeasterly along that forest road to FR 231 (Woody Mountain Road); easterly on FR 231 to FR 533; southerly on FR 533 to U.S. Hwy 89A; southerly on U.S. Hwy 89A to FR 237; northeasterly on FR 237 to Mountaineer Road; easterly on Mountaineer Road to FR 700; southerly on FR 700 to FR 235K; southeasterly on FR 235K to FR 235; northerly on FR 235 to FR 235A; easterly on FR 235A to FR 235; easterly on FR 235 to FR 132; southeasterly on FR 132 to FR 296A; northeasterly on FR 296A to FR 296; northeasterly on FR 296 to FR 132; northeasterly on FR 132 to FH3; southeasterly on FH3 to the south rim of Walnut Canyon (mp 337.5 on FH3).

Unit 8 -- Beginning at the junction of I-40 and U.S. Hwy 89 (in Ash Fork, Exit 146); south on U.S. Hwy 89 to the Verde River; easterly along the Verde River to Sycamore Creek; northerly along Sycamore Creek to Volunteer Canyon; northeasterly along Volunteer Canyon to the west boundary of Camp Navajo; north along the boundary to a point directly north of I-40; west on I-40 to U.S. Hwy 89.

Unit 9 -- Beginning at the junction of Havasu Creek and the Colorado River; easterly along the Colorado River to Shinumo Wash; southeasterly along Shinumo Wash to the Navajo Indian Reservation boundary; southerly along the reservation boundary to the Four Corners Gas Line; southwesterly along the Four Corners Gas Line to U.S. Hwy 180; westerly on the Flagstaff-Valle-Cataract Creek road Rd. to Cataract Creek at Island Tank; northwesterly along Cataract Creek to the Havasupai Reservation boundary; northerly, east, north, then west along the reservation boundary to Havasu Creek; northwesterly along Havasu Creek to the Colorado River; ~~except those portions that are sovereign tribal lands of the Havasupai Tribe.~~

Unit 10 -- Beginning at the junction of AZ Hwy 64 and I-40; westerly on I-40 to Crookton Road Rd. (AZ Hwy 66, Exit 139); westerly on AZ Hwy 66 to the Hualapai Indian Reservation boundary; northeasterly, ~~easterly, southerly, and easterly~~ along the reservation boundary to the Colorado River; easterly along the Colorado River to Havasu Creek in Cataract Creek in Cataract Canyon; southeasterly along Havasu Creek and Cataract Creek in Cataract Canyon to Island Tank; easterly on the Island Tank-Valle road Rd. to AZ Hwy 64; south on AZ Hwy 64 to I-40; except those portions that are sovereign tribal lands of the Havasupai Tribe.

Unit 11M -- Beginning at the junction of Lake Mary-Clint's Well Rd. (FH3) and Walnut Canyon (mp 337.5 on FH3); northeasterly along the south rim of Walnut Canyon to the Walnut Canyon National Monument boundary; northeasterly along the northern boundary of the Walnut Canyon National Monument to Walnut Canyon; northeasterly along the bottom of Walnut Canyon to I-40 (mp 210.2); east on I-40 to the 345 KV transmission lines 1 and 2 (mp 212 on I-40); north and northeasterly along the power line to FR 545 (Sunset Crater Rd.); west along FR 545 to the Sunset Crater National Monument boundary; westerly along the southern boundary of the Sunset Crater National Monument to FR 545; west on FR 545 to U.S. Hwy 89; south on U.S. Hwy 89 to FR 420 (Schultz Pass Rd.); southwest on FR 420 to the Transwestern Gas Pipeline; westerly along the Transwestern Gas Pipeline to FR 171; south on FR 171 to I-40 (mp 184.4 on I-40); east on I-40 to a point just north of the eastern boundary of Camp Navajo (mp 188.5 on I-40); south along the eastern boundary of Camp Navajo to the southeast corner of Camp Navajo; southeast approximately 1/3 mile to the forest road in section 33; southeasterly along the forest road to FR 231 (Woody Mountain Rd.); easterly on FR 231 to FR 533; southerly on FR 533 to U.S. Hwy 89A; southerly on U.S. Hwy 89A to FR 237; northeasterly on FR 237 to Mountaineer Rd.; easterly on Mountaineer Rd. to FR 700; southerly on FR 700 to FR 235K; southeasterly on FR 235K to FR 235; northerly on FR 235 to FR 235A; easterly on FR 235A to FR 235; easterly on FR 235 to FR 132; southeasterly on FR 132 to FR 296A; northeasterly on FR 296A to FR 296; northeasterly on FR 296 to FR 132; northeasterly on FR 132 to FH3; southeasterly on FH3 to the south rim of Walnut Canyon (mp 337.5 on FH3).

Unit 12A -- Beginning at the confluence of the Colorado River and South Canyon; southerly and westerly along the Colorado River to Kanab Creek; northerly along Kanab Creek to Snake Gulch; northerly, easterly and southerly around the Kaibab National Forest boundary to South Canyon; northeasterly along South Canyon to the Colorado River.

Unit 12B -- Beginning at Shinumo Wash and the Navajo Indian Reservation boundary; northeasterly on the reservation boundary to the Arizona-Utah state line; westerly along the state line to Kanab Creek; southerly along Kanab Creek to the Kaibab National Forest boundary; northerly, easterly, and southerly along this boundary to South Canyon; down South Canyon to the Colorado River; northerly along the Colorado River to Shinumo Wash; southeasterly along Shinumo Wash to the Navajo Indian Reservation boundary; except those portions that are sovereign tribal lands of the Kaibab Band of Paiute Indians.

Unit 13A -- Beginning on the western edge of the Hurricane Rim at the Utah state line; ~~southerly along the western edge of the Hurricane Rim to the Mt. Trumbull road; westerly along the Mt. Trumbull road to the town of Mt. Trumbull (Bundyville); southerly along Main Street from the town Mt. Trumbull (Bundyville) to Whitmore Canyon;~~

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southeasterly along the bottom of Whitmore Canyon to the Colorado River; southerly along the western edge of the Hurricane Rim to Mohave County Rd. 5 (the Mt. Trumbull Rd.); west along Mohave County Rd. 5 to the town of Mt. Trumbull (Bundyville); south from the town of Mt. Trumbull (Bundyville) on Mohave County Rd. 257 to BLM Rd. 1045; south on BLM Rd. 1045 to Cold Spring Wash; south along the bottom of Cold Spring Wash to Whitmore Wash; southerly along the bottom of Whitmore Wash to the Colorado River; easterly along the Colorado River to Kanab Creek; northerly along Kanab Creek to the Utah state line; west along the Utah state line to the western edge of the Hurricane Rim; except those portions that are sovereign tribal lands of the Kaibab Band of Paiute Indians.

Unit 13B -- Beginning on the western edge of the Hurricane Rim at the Utah state line; ~~southerly along the western edge of the Hurricane Rim to the Mt. Trumbull road; west along the Mt. Trumbull road to the town of Mt. Trumbull (Bundyville); south along Main Street from the town of Mt. Trumbull (Bundyville) to Whitmore Canyon, and south-east along the bottom of Whitmore Canyon to the Colorado River; southerly along the western edge of the Hurricane Rim to Mohave County Rd. 5 (the Mt. Trumbull Rd.); west along Mohave County Rd. 5 to the town of Mt. Trumbull (Bundyville) on Mohave County Rd. 257 to BLM Rd. 1045; south on BLM Rd. 1045 to Cold Spring Wash; south along the bottom of Cold Spring Wash to Whitmore Wash; southerly along the bottom of Whitmore Wash to the Colorado River;~~ westerly along the Colorado River to the Nevada state line; north along the Nevada state line to the Utah state line; east along the Utah state line to the western edge of the Hurricane Rim.

Unit 15A -- Beginning at Pearce Ferry on the Colorado River; southerly on the Pearce Ferry ~~road Rd.~~ to Antares ~~road Rd.~~; southeasterly on Antares ~~road Rd.~~ to AZ Hwy 66; easterly on AZ Hwy 66 to the Hualapai Indian Reservation; west and north along the west boundary of the reservation to the Colorado River; westerly along the Colorado River to Pearce Ferry; except those portions that are sovereign tribal lands of the Hualapai Indian Tribe.

Unit 15B -- Beginning at Kingman on I-40 (Exit 48); northwesterly on U.S. Hwy 93 to Hoover Dam; north and east along the Colorado River to Pearce Ferry; southerly on the Pearce Ferry ~~road Rd.~~ to Antares ~~road Rd.~~; southeasterly on Antares ~~road Rd.~~ to AZ Hwy 66; easterly on AZ Hwy 66 to Hackberry; southerly on the Hackberry ~~road Rd.~~ to its junction with U.S. Hwy 93; north and west on U.S. Hwy 93 and I-40 (Exit 71) to Kingman.

Unit 15C -- Beginning at Hoover Dam; southerly along the Colorado River to AZ Hwy 68 and Davis Dam; easterly on AZ Hwy 68 to U.S. Hwy 93; northwesterly on U.S. Hwy 93 to Hoover Dam.

Unit 15D -- Beginning at AZ Hwy 68 and Davis Dam; southerly along the Colorado River to I-40; east and north on I-40 to Kingman (Exit 48); northwest on U.S. Hwy 93 to AZ Hwy 68; west on AZ Hwy 68 to Davis Dam; except those portions that are sovereign tribal lands of the Fort Mohave Indian Tribe.

Unit 16A -- Beginning at Kingman Exit 48 on I-40; south and west on I-40 to AZ Hwy 95 (Exit 9); southerly on AZ Hwy 95 to the Bill Williams River; Rd. (milepost 161.4); easterly along the Bill Williams River Rd. to Mineral Wash Rd.; continuing easterly along the Bill Williams and Santa Maria rivers to U.S. Hwy 93; north and west on U.S. Hwy 93 and I-40 to Kingman (Exit 48).

Unit 16B -- Beginning at I-40 on the Colorado River; southerly along the Arizona-California state line to the Bill Williams River; east along the Bill Williams River to AZ Hwy 95; north on AZ Hwy 95 to I-40 (Exit 9); west on I-40 to the Colorado River.

Unit 17A -- Beginning at the junction of the ~~Seligman-Prescott road (FR-6)~~ Williamson Valley Rd. (County Road 5) and the Camp Wood ~~road Rd.~~ (FR 21); westerly on the Camp Wood road to the west boundary of the Prescott National Forest; north along this boundary to the Baca Grant; east, north and west around the grant to the west boundary of the Prescott National Forest; north and east along this boundary to the ~~Seligman-Prescott road~~ Williamson Valley Rd. (County road 5); southerly on ~~this road~~ Williamson Valley Rd. (County Rd. 5) to the Camp Wood ~~road Rd.~~

Unit 17B -- Beginning in Prescott; at the junction of Iron Springs ~~road Rd.~~ and Williamson Valley ~~road Rd.~~ westerly on the Prescott-Skull Valley-Hillside-Bagdad ~~road Rd.~~ to Bagdad; northeast on the Bagdad-Camp Wood ~~road Rd.~~ (FR 21) to the ~~Seligman-Prescott road (FR-6, Williamson Valley Road)~~ Williamson Valley Rd. (County Rd. 5); south on ~~this road~~ the Williamson Valley Rd. (Country Rd. 5) to the Iron Springs ~~road Rd.~~

Unit 18A -- Beginning at Seligman; westerly on AZ Hwy 66 to the Hualapai Indian Reservation; southwest and west along the reservation boundary to AZ Hwy 66; southwest on AZ Hwy 66 to the Hackberry ~~road Rd.~~; south on the Hackberry ~~road Rd.~~ to U.S. Hwy 93; south on U.S. Hwy 93 to Cane Springs Wash; easterly along Cane Springs Wash to the Big Sandy River; northerly along the Big Sandy River to Trout Creek; northeast along Trout Creek to the Davis Dam-Prescott power line; southeasterly along the power line to the west boundary of the Prescott National Forest; north and east along the forest boundary to the Seligman-Prescott ~~road Rd.~~ (FR 6); northerly on ~~this road~~ the Seligman-Prescott Rd. (FR 6) to Seligman and AZ Hwy 66; except those portions that are sovereign tribal lands of the Hualapai Indian Tribe.

Unit 18B -- Beginning at Bagdad; southeast on AZ Hwy 96 to the Santa Maria River; southwest along the Santa Maria River to U.S. Hwy 93; northerly on U.S. Hwy 93 to Cane Springs Wash; easterly along Cane Springs Wash to the Big Sandy River; northerly along the Big Sandy River to Trout Creek; northeasterly along Trout Creek to the

Davis Dam-Prescott power line; southeasterly along the power line to the west boundary of the Prescott National Forest; south along the forest boundary to the Baca Grant; east, south and west along the joint Baca Grant Prescott Forest Boundary. Continuing south along the west boundary of the Prescott National Forest; to the Camp Wood-Bagdad ~~road Rd.~~; southwesterly on ~~this road~~ the Camp Wood-Bagdad Rd. to Bagdad; except those portions that are sovereign tribal lands of the Hualapai Indian Tribe.

Unit 19A -- Beginning at AZ Hwy 69 and U.S. Hwy 89 (in Prescott); northerly on U.S. Hwy 89 to the Verde River; easterly along the Verde River to I-17; southwesterly on the southbound lane of I-17 to AZ Hwy 69; northwesterly on AZ Hwy 69 to U.S. Hwy 89; except those portions that are sovereign tribal lands of the Yavapai-Prescott Tribe and the Yavapai-Apache Nation.

Unit 19B -- Beginning at the intersection of U.S. Hwy 89 and AZ Hwy 69 northwesterly through Prescott to the junction of Williamson Valley ~~Road Rd.~~ and Iron Springs ~~road Rd.~~; northerly on the Williamson Valley-Prescott-Seligman ~~road Rd.~~ FR 6, Williamson Valley ~~Road Rd.~~ to AZ Hwy 66 at Seligman; east on Crookton ~~Road Rd.~~ (AZ Hwy 66) to I-40 (Exit 139); east on I-40 to U.S. Hwy 89; south on U.S. Hwy 89 to the junction with AZ Hwy 69; except those portions that are sovereign tribal lands of the Yavapai-Prescott Tribe.

Unit 20A -- Beginning at the intersection of U.S. Hwy 89 and AZ Hwy 69; northwest to Iron Springs ~~road Rd.~~, west and south on the Iron Springs-Skull Valley-Kirkland Junction ~~road Rd.~~ to U.S. Hwy 89; continue south and easterly on the Kirkland Junction-Wagoner-Crown King-Cordes ~~road Rd.~~ to Cordes, from Cordes southeast to I-17 (Exit 259); north on the southbound lane of I-17 to AZ Hwy 69; northwest on AZ Hwy 69 to junction of U.S. Hwy 89 at Prescott; except those portions that are sovereign tribal lands of the Yavapai-Prescott Tribe.

Unit 20B -- Beginning at the Hassayampa River and U.S. Hwy 93 (in Wickenburg); northeasterly along the Hassayampa River to the Kirkland Junction-Wagoner-Crown King-Cordes road (at Walnut Grove); southerly and northeasterly along ~~this road~~ the Kirkland Junction-Wagoner-Crown King-Cordes Rd. (at Walnut Grove) to I-17 (Exit 259); south on the southbound lane of I-17 to the New River Road (Exit 232); west on the New River Road to State Highway 74; west on AZ Hwy 74 to the junction of AZ Hwy 74 and U.S. Hwy 93; northwesterly on U.S. Hwy 93 to the Hassayampa River.

Unit 20C -- Beginning at U.S. Hwy 93 and the Santa Maria River; northeasterly along the Santa Maria River to AZ Hwy 96; easterly on AZ Hwy 96 to Kirkland Junction; southeasterly along the Kirkland Junction-Wagoner-Crown King-Cordes road to the Hassayampa River (at Walnut Grove); southwesterly along the Hassayampa River to U.S. Hwy 93; northwesterly on U.S. Hwy 93 to the Santa Maria River.

Unit 21 -- Beginning on I-17 at the Verde River; southerly on the southbound lane of I-17 to the New River Road (Exit 232); east on New River Road to Fig Springs Road; northeasterly on Fig Springs Road to the Tonto National Forest boundary; southeasterly along this boundary to the Verde River; north along the Verde River to I-17.

Unit 22 -- Beginning at the junction of the Salt and Verde Rivers; north along the Verde River to Childs; easterly on the Childs-Strawberry ~~road Rd.~~ to the Tonto-Coconino National Forest boundary along the Mogollon Rim; easterly along this boundary to the Tonto-Sitgreaves National Forest boundary; easterly along this boundary to Tonto Creek; southerly along the east fork of Tonto Creek to the spring box, north of the Tonto Creek Hatchery, and continuing southerly along Tonto Creek to the Salt River; westerly along the Salt River to the Verde River; except those portions that are sovereign tribal lands of the Tonto Apache Tribe and the Fort McDowell Mohave-Apache Community.

Unit 23 -- Beginning at the confluence of Tonto Creek and the Salt River; northerly along Tonto Creek to the spring box, north of the Tonto Creek Hatchery, on Tonto Creek; northeasterly along the east fork of Tonto Creek to the Tonto-Sitgreaves National Forest boundary along the Mogollon Rim; east along this boundary to the Fort Apache Indian Reservation boundary; southerly along the reservation boundary to the Salt River; westerly along the Salt River to Tonto Creek.

Unit 24A -- Beginning on AZ Hwy 177 in Superior; southeasterly on AZ Hwy 177 to the Gila River; northeasterly along the Gila River to the San Carlos Indian Reservation boundary; easterly, westerly and northerly along the reservation boundary to the Salt River; southwesterly along the Salt River to AZ Hwy 288; southerly on AZ Hwys 288 and 88 to U.S. Hwy 60; southwesterly on U.S. Hwy 60 to AZ Hwy 177.

Unit 24B -- Beginning on U.S. Hwy 60 in Superior; northeasterly on U.S. Hwy 60 to AZ Hwy 88; northerly on AZ Hwys 88 and 288 to the Salt River; westerly along the Salt River to Bush Hwy at the Blue Point Bridge; westerly on Bush Hwy to the Usery Pass ~~road Rd.~~ (Ellsworth ~~Road Rd.~~); southerly on the Usery Pass ~~road Rd.~~ to the Tonto National Forest Boundary; southeasterly along Forest boundary to Forest Route 77 (Peralta Rd.); southwesterly on Forest Rd. 77 (Peralta Rd.) to U.S. Hwy 60; easterly on U.S. Hwy 60 to Superior.

Unit 25M -- Beginning at 115th Ave. and the Gila River; easterly to the western boundary of the Gila Indian Reservation; southeasterly along the reservation boundary to AZ Hwy 347 (Maricopa Rd.); south on AZ Hwy 347 (Maricopa Rd.) to AZ Hwy 84; east on AZ Hwy 84 to Stanfield; south on the Stanfield-Cocklebur Rd. to the Tohono O'odham (Papago) Indian Reservation; easterly along the reservation boundary to Battaglia Rd.; east on Battaglia Rd. to I-10

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(Exit 203); southeasterly on I-10 to AZ Hwy 87 (Exit 211); north on AZ Hwy 87 to AZ Hwy 287 north of Coolidge; east on AZ Hwy 287 to AZ Hwy 79; north on AZ Hwy 79 to U.S. Hwy 60; northwesterly on U.S. Hwy 60 to the Meridian Extension (Maricopa-Pinal County Line); south on the Meridian Extension (Maricopa-Pinal County Line) to Empire Blvd.; west on Empire Blvd. To the Gila Indian Reservation boundary; north and west along the Gila River Indian Reservation boundary to 115th Ave.; except those portions that are sovereign tribal lands of the Gila River Indian Community and the Ak-Chin Indian Community.

Unit 26M -- Beginning at the junction of I-17 and New River Rd. (Exit 232); west on New River Rd. to AZ Hwy 74; west on AZ Hwy 74 to the junction with U.S. Hwy 93; southeasterly on U.S. Hwy 93 to the Beardsley Canal; southwesterly along the Beardsley Canal to Indian School Rd.; west on Indian School Rd. to Jackrabbit Trail; south on Jackrabbit Trail to I-10 (Exit 121); west on I-10 to Oglesby Rd. (Exit 112); south on Oglesby Rd. to AZ Hwy 85; south on AZ Hwy 85 to the Gila River; east along the Gila River to 115th Ave.; north on 115th Ave. to I-10; west along I-10 to Litchfield Rd.; north on Litchfield Rd. to Bell Rd. East on Bell Rd. to the New River; north along the New River to the Carefree Hwy; east along Carefree Hwy to Cave Creek Rd.; northeast along Cave Creek Rd. to Pima Rd.; south along Pima Rd. to the Salt River; easterly along the Salt River to the Tonto National Forest boundary; southeasterly to Usery Pass Rd.; north on Usery Pass Rd. to Bush Hwy; easterly on Bush Hwy to the Salt River at the Blue Point Bridge; westerly along the Salt River to the Verde River; northerly along the Verde River to the Tonto National Forest boundary; northwesterly along this boundary to Fig Springs Rd.; southwest on Fig Springs Rd.; west on New River Rd. to I-17 (Exit 232); except those portions that are sovereign tribal lands of the Salt River Pima-Maricopa Indian Community and the Fort McDowell Mohave-Apache Community.

Unit 27 -- Beginning at the New Mexico state line and AZ Hwy 78; southwest on AZ Hwy 78 to U.S. Hwy 191; north on U.S. Hwy 191 to ~~the~~ San Carlos-Morenci-Clifton ~~road~~ Rd.; west on ~~the~~ San Carlos-Morenci-Clifton ~~road~~ Rd. to Eagle Creek; north along Eagle Creek to the San Carlos Apache Indian Reservation boundary; north along the San Carlos Apache Indian Reservation boundary to Black River; northeast along Black River to the East Fork of Black River; northeast along the East Fork of Black River to ~~the~~ Three Forks-Williams Valley-Alpine ~~road~~ Rd. (FR 249); easterly along ~~the~~ Three Forks-Williams Valley-Alpine ~~road~~ Rd. to U.S. Hwy 180; southeast on U.S. Hwy 180 to the New Mexico state line; south along the New Mexico state line to AZ Hwy 78.

Unit 28 -- Beginning at I-10 and the New Mexico state line; north along the state line to AZ Hwy 78; southwest on AZ Hwy 78 to U.S. Hwy 191; northwest on U.S. Hwy 191 to Clifton; westerly on the Clifton-Morenci-San Carlos ~~road~~ Rd. to Eagle Creek; northerly along Eagle Creek to the San Carlos Indian Reservation boundary; southerly and west along the reservation boundary to U.S. Hwy 70; southeast on U.S. Hwy 70 to U.S. Hwy 191; south on U.S. Hwy 191 to I-10 Exit 352; easterly on I-10 to the New Mexico state line.

Unit 29 -- Beginning on I-10 at the New Mexico state line; westerly on I-10 to the Bowie-Apache Pass ~~road~~ Rd.; southerly on the Bowie-Apache Pass ~~road~~ Rd. to AZ Hwy 186; southeast on AZ Hwy 186 to AZ Hwy 181; south on AZ Hwy 181 to the ~~Rucker-Turkey Creek~~ West Turkey Creek-Kuykendall cutoff road; southerly on the Kuykendall cutoff road to Rucker Canyon ~~road~~ Rd.; easterly on ~~this road~~ the Rucker Canyon Rd. to ~~the~~ Tex Canyon road Rd.; southerly on ~~this road~~ Tex Canyon Rd. to U.S. Hwy 80; northeast on U.S. Hwy 80 to the New Mexico state line; north along the state line to I-10.

Unit 30A -- Beginning at the junction of the New Mexico state line and U.S. Hwy 80; south along the state line to the U.S.-Mexico border; west along the border to U.S. Hwy 191; northerly on U.S. Hwy 191 to I-10 Exit 331; northeasterly on I-10 to the Bowie-Apache Pass ~~road~~ Rd.; southerly on the Bowie-Apache Pass ~~road~~ Rd. to AZ Hwy 186; southeasterly on AZ Hwy 186 to AZ Hwy 181; south on AZ Hwy 181 to the Rucker-Turkey Creek cutoff road; southerly on the cutoff road to Rucker Canyon ~~road~~ Rd.; easterly on ~~this road~~ Rucker Canyon Rd. to ~~the~~ Tex Canyon road Rd.; southerly on ~~this road~~ Tex Canyon Rd. to U.S. Hwy 80; northeast on U.S. Hwy 80 to the New Mexico state line.

Unit 30B -- Beginning at U.S. Hwy 191 and the U.S.-Mexico border; west along the border to the San Pedro River; north along the San Pedro River to I-10 ~~Exit 331~~; northeasterly on I-10 to U.S. Hwy 191; southerly on U.S. Hwy 191 to the U.S.-Mexico border.

Unit 31 -- Beginning at Willcox Exit 340 on I-10; north on ~~the Willcox-Bonita-Klondyke road~~ Fort Grant Rd. to Brookerson Rd.; north on Brookerson Rd. to Ash Creek Rd.; west on Ash Creek Rd. to Fort Grant Rd.; north on Fort Grant Rd. to Bonita; northerly on the Bonita-Klondyke Rd. to the junction with Aravaipa Creek; west along Aravaipa Creek to AZ Hwy 77; northerly along AZ Hwy 77 to the Gila River; northeast along the Gila River to the San Carlos Indian Reservation boundary; south then east and north along the reservation boundary to U.S. Hwy 70; southeast on U.S. Hwy 70 to U.S. Hwy 191; south on U.S. Hwy 191 to the 352 exit on I-10; southwest on I-10 to Exit 340.

Unit 32 -- Beginning at Willcox Exit 340 on I-10; ~~southwest on I-10 to the San Pedro River; northerly along the San Pedro River to U.S. Hwy 77; northerly along U.S. Hwy 77 to Aravaipa Creek; easterly along Aravaipa Creek to the Klondyke-Bonita-Willcox road; southerly on this road north on Fort Grant Rd. to Brookerson Rd.; north on Brookerson Rd. to Ash Creek Rd.; west on Ash Creek Rd. to Fort Grant Rd.; north on Fort Grant Rd. to Bonita; northerly on~~

the Bonita-Klondyke Rd. to the junction with Aravaipa Creek; west along Aravaipa Creek to AZ Hwy 77; southerly along AZ Hwy 77 to the San Pedro River; southerly along the San Pedro River to I-10; northeast on I-10 to Willcox Exit 340 on I-10.

Unit 33 -- Beginning at Tangerine ~~road Rd.~~ and AZ Hwy 77; north and northeast on AZ Hwy 77 to the San Pedro River; southeast along the San Pedro River to I-10 at Benson; west on I-10 to Marsh Station ~~road Rd.~~ (Exit 289); northwest on the Marsh Station ~~road Rd.~~ to the Agua Verde ~~road Rd.~~; north on the Agua Verde ~~road Rd.~~ to its terminus then north 1/2 mile to the Coronado National Forest boundary; north and west along the National Forest boundary; then west, north, and east along the Saguaro National Park boundary; continuing north and west along the Coronado National Forest boundary to the southern boundary of Catalina State Park; west along the southern boundary of Catalina State Park to AZ Hwy 77; north on AZ Hwy 77 to Tangerine ~~road Rd.~~

Unit 34A -- Beginning on the U.S.-Mexico border in Nogales at I-19 and Grand Avenue ~~in Nogales~~ (U.S. Highway 89); northeast on Grand Avenue (U.S. Hwy. 89) to AZ Hwy 82; northeast on AZ Hwy 82 to AZ Hwy 83; northerly on AZ Hwy 83 to the Sahuarita road alignment; west along the Sahuarita road alignment to I-19 Exit 75; south on I-19 to Grand Avenue (U.S. Hwy 89) on the U.S. Mexico-border.

Unit 34B -- Beginning at AZ Hwy 83 and I-10 Exit 281; easterly on I-10 to the San Pedro River; south along the San Pedro River to AZ Hwy 82; westerly on AZ Hwy 82 to AZ Hwy 83; northerly on AZ Hwy 83 to I-10 Exit 281.

Unit 35A -- Beginning on the U.S.-Mexico border at the San Pedro River; west along the border to the Lochiel-Canelo Pass-Elgin ~~road Rd.~~; north on ~~this road~~ the Lochiel-Canelo Pass-Elgin Rd. to AZ Hwy 82; easterly on AZ Hwy 82 to the San Pedro River; south along the San Pedro River to the U.S.-Mexico border.

Unit 35B -- Beginning at Grand Avenue (U.S. Hwy 89) at the U.S.-Mexico border in Nogales; east along the U.S.-Mexico border to the Lochiel-Canelo Pass-Elgin ~~road Rd.~~; north on ~~this road~~ the Lochiel-Canelo Pass-Elgin Rd. to AZ Hwy 82; southwest on AZ Hwy 82 to Grand Avenue; southwest on Grand Avenue to the U.S.-Mexico border.

Unit 36A -- Beginning at the junction of Sandario ~~road Rd.~~ and AZ Hwy 86; southwesterly on AZ Hwy 86 to AZ Hwy 286; southerly on AZ Hwy 286 to the Arivaca ~~road Rd.~~; easterly on the Arivaca ~~road Rd.~~ to I-19; north on I-19 to the southern boundary of the San Xavier Indian Reservation boundary; westerly and northerly along the reservation boundary to the Sandario road alignment; north on Sandario ~~road Rd.~~ and AZ Hwy 86.

Unit 36B -- Beginning at I-19 and Grand Avenue (U.S. Hwy 89) in Nogales; southwest on Grand Avenue to the U.S.-Mexico border; west along the U.S.-Mexico border to AZ Hwy 286; north on AZ Hwy 286 to the Arivaca ~~road Rd.~~; east on the Arivaca ~~road Rd.~~ to I-19; south on I-19 to Grand Avenue (U.S. Hwy 89).

Unit 36C -- Beginning at the junction of AZ Hwy 86 and AZ Hwy 286; southerly on AZ Hwy 286 to the U.S.-Mexico border; westerly along the border to the east boundary of the Tohono O'odham (Papago) Indian Reservation; northerly along the reservation boundary to AZ Hwy 86; easterly on AZ Hwy 86 to AZ Hwy 286.

Unit 37A -- Beginning at the junction of I-10 and Tangerine ~~road Rd.~~ (Exit 240); southeast on I-10 to Avra Valley ~~road Rd.~~ (Exit 242); west on Avra Valley ~~road Rd.~~ to Sandario ~~road Rd.~~; south on Sandario ~~road Rd.~~ to AZ Hwy 86; southwest on AZ Hwy 86 to the Tohono O'odham (Papago) Indian Reservation boundary; north, east, and west along the reservation boundary to Battaglia ~~road Rd.~~; east on Battaglia ~~road Rd.~~ to I-10 (Exit 203); southeast on I-10 to AZ Hwy 87 (Exit 211); north on AZ Hwy 87 to AZ Hwy 287; east on AZ Hwy 287 to AZ Hwy 79 at Florence; southeast on AZ Hwy 79 to its junction with AZ Hwy 77; south on AZ Hwy 77 to Tangerine ~~road Rd.~~; west on Tangerine ~~road Rd.~~ to I-10.

Unit 37B -- Beginning at the junction of AZ Hwy 79 and AZ Hwy 77; northwest on AZ Hwy 79 to U.S. Hwy 60; east on U.S. Hwy 60 to AZ Hwy 177; southeast on AZ Hwy 177 to AZ Hwy 77; southeast and southwest on AZ Hwy 77 to AZ Hwy 79.

Unit ~~37M~~ 38M -- Beginning at the junction of I-10 and Tangerine ~~road Rd.~~ (Exit 240); southeast on I-10 to Avra Valley ~~road Rd.~~ (Exit 242); west on Avra Valley ~~road Rd.~~ to Sandario ~~road Rd.~~; south on Sandario ~~road Rd.~~ to the San Xavier Indian Reservation boundary; south and east along the reservation boundary to I-19; south on I-19 to Sahuarita ~~road Rd.~~ (Exit 75); east on Sahuarita ~~road Rd.~~ to AZ Hwy 83; north on AZ Hwy 83 to I-10 (Exit 281); east on I-10 to Marsh Station ~~road Rd.~~ (Exit 289); northwest on Marsh Station ~~road Rd.~~ to the Agua Verde ~~road Rd.~~; north on the Agua Verde ~~road Rd.~~ to its terminus, then north 1/2 mile to the Coronado National Forest boundary; north and west along the National Forest boundary, then west, north, and east along the Saguaro National Park boundary; continuing north and west along the Coronado National Forest boundary to the southern boundary of Catalina State Park; west along the southern boundary of Catalina State Park to AZ Hwy 77; north on AZ Hwy 77 to Tangerine ~~road Rd.~~; west on Tangerine ~~road Rd.~~ to I-10.

Unit 39 -- Beginning at AZ Hwy 85 and the Gila River; east along the Gila River to the western boundary of the Gila River Indian Reservation; southeasterly along the reservation boundary to ~~Maricopa road~~ AZ Hwy 347 (Maricopa Rd.); south on ~~this road~~ AZ Hwy 347 (Maricopa Rd.) to AZ Hwy 84; east on AZ Hwy 84 to Stanfield; south on the

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Stanfield-Cocklebur road ~~Rd.~~ to I-8; westerly on I-8 to Exit 87; north on the ~~Sentinel-Sundad road~~ Agua Caliente Rd. to the Hyder Rd.; northeasterly on Hyder Rd. to 555th Ave.; north on 555th Ave. to Lahman Rd.; east on Lahman Rd., which becomes Agua Caliente Rd.; northeasterly on Agua Caliente Rd. to Old Hwy 80; northeasterly on Old Hwy 80 to Arizona Hwy 85; to the Cotton Center-Palo Verde road; northeasterly on the Cotton Center-Palo Verde road to AZ Hwy 85; southerly on AZ Hwy 85 to the Gila River; except those portions that are sovereign tribal lands of the Tohono O'odham Nation and the Ak-Chin Indian Community.

Unit 39M -- Beginning at I-10 and the Salt River; westerly along the Salt River to the Gila River; westerly along the Gila River to the western boundary of the Gila Indian Reservation; southeasterly along the reservation boundary to Maricopa road; south on Maricopa road to AZ Hwy 84; east on AZ Hwy 84 to Stanfield; south on the Stanfield-Cocklebur road to the Tohono O'odham (Papago) Indian Reservation; easterly along the reservation boundary to Battaglia road; east on this road to I-10 (Exit 203); southeasterly on I-10 to AZ Hwy 87 (Exit 211); north on AZ Hwy 87 to AZ Hwy 287 north of Coolidge; east on AZ Hwy 287 to AZ Hwy 79; north on AZ Hwy 79 to U.S. Hwy 60; westerly on U.S. Hwy 60 to I-10; westerly on I-10 to the Salt River; except those portions that are sovereign tribal lands of the Gila River Indian Community and the Ak-Chin Indian Community.

Unit 40A -- Beginning at Ajo; southeasterly on AZ Hwy 85 to Why; southeasterly on AZ Hwy 86 to the Tohono O'odham (Papago) Indian Reservation; northerly and easterly along the reservation boundary to the Cocklebur-Stanfield road ~~Rd.~~; north on this road the Cocklebur-Stanfield Rd. to I-8; westerly on I-8 to AZ Hwy 85; southerly on AZ Hwy 85 to Ajo.

Unit 40B -- Beginning at Gila Bend; westerly on I-8 to the Colorado River; southerly along the Colorado River to the Mexican border at San Luis; southeasterly along the border to the Cabeza Prieta National Wildlife Refuge; northerly, easterly and southerly around the refuge boundary to the Mexican border; southeast along the border to the Tohono O'odham (Papago) Indian Reservation; northerly along the reservation boundary to AZ Hwy 86; northwesterly on AZ Hwy 86 to AZ Hwy 85; north on AZ Hwy 85 to Gila Bend; except those portions that are sovereign tribal lands of the Cocopah Tribe.

Unit 41 -- Beginning at I-8 and AZ Hwy 95 (in Yuma); easterly on I-8 to exit 87; northerly on the ~~Sentinel-Sundad road~~ to the Cotton Center-Palo Verde road; northerly and easterly on the Cotton Center-Palo Verde road to AZ Hwy 85 Agua Caliente Rd. to the Hyder Rd.; northeasterly on Hyder Rd. to 555th Ave.; north on 555th Ave. to Lahman Rd.; east on Lahman Rd., which becomes Agua Caliente Rd.; northeasterly on Agua Caliente Rd. to Old Hwy 80; northeasterly on Old Hwy 80 to Arizona Hwy 85; northerly on AZ Hwy 85 to Oglesby road ~~Rd.~~; north on Oglesby road ~~Rd.~~ to I-10; westerly on I-10 to Exit 45; southerly on Vicksburg-Kofa National Wildlife Refuge road ~~Rd.~~ to the Refuge boundary; easterly, southerly, westerly, and northerly along the boundary to the Castle Dome road ~~Rd.~~; southwesterly on the Castle Dome road ~~Rd.~~ to U.S. Hwy 95; southerly on U.S. Hwy 95 to I-8.

Unit 42 -- Beginning at the junction of the Beardsley Canal and U.S. Hwy 93 (U.S. 89, U.S. 60); northwesterly on U.S. Hwy 93 to AZ Hwy 71; southwestly on AZ Hwy 71 to U.S. Hwy 60; westerly on U.S. Hwy 60 to Aguila; south on the Eagle Eye road ~~Rd.~~ to the Salome-Hassayampa road ~~Rd.~~; southeasterly on this road the Salome-Hassayampa Rd. to I-10 (Exit 81); easterly on I-10 to Jackrabbit Trail (Exit 121); north along this road Jackrabbit Trail to the Indian School road; east along Indian School road ~~Rd.~~ to the Beardsley Canal; northeasterly along the Beardsley Canal to U.S. Hwy 93.

Unit 42M -- Beginning at the junction of I-17 and the New River Road (Exit 232); west on New River Road to AZ Hwy 74; west on AZ Hwy 74 to the junction with U.S. Hwy 93; southeasterly on U.S. Hwy 93 to the Beardsley Canal; southwestly along the Beardsley Canal to Indian School road; west on Indian School road to Jackrabbit Trail; south on Jackrabbit Trail to I-10 (Exit 121); west on I-10 to Oglesby Road (Exit 112); south on Oglesby road to AZ Hwy 85; south on AZ Hwy 85 to the Gila River; east along the Gila River to the Salt River; east along the Salt River to I-10; easterly on I-10 to U.S. Hwy 60; east on U.S. Hwy 60 to the Usery Pass road (Ellsworth Road); north on the Usery Pass road to Bush Hwy; easterly on Bush Hwy to the Salt River at the Blue Point Bridge; westerly along the Salt River to the Verde River; northerly along the Verde River to the Tonto National Forest boundary; northwestly along this boundary to the Fig Springs Road; southwestly on Fig Springs Road; west on New River Road to I-17 (Exit 232); except those portions that are sovereign tribal lands of the Salt River-Pima-Maricopa Indian Community and the Fort McDowell Mohave-Apache Community.

Unit 43A -- Beginning at AZ Hwy 95 and the Bill Williams River; west along the Bill Williams River to the Arizona-California state line; southerly to the south end of Cibola Lake; northerly and easterly on the Cibola Lake road ~~Rd.~~ to U.S. Hwy 95; south on U.S. Hwy 95 to the Stone Cabin-King Valley road ~~Rd.~~; east along the Stone Cabin-King Valley road ~~Rd.~~ to the west boundary of the Kofa National Wildlife Refuge; northerly along the refuge boundary to the Crystal Hill road ~~Rd.~~; northwesterly on this road the Crystal Hill Rd. to U.S. Hwy 95; northerly on U.S. Hwy 95 to the Bill Williams River; except those portions that are sovereign tribal lands of the Colorado River Indian Tribes.

Unit 43B -- Beginning at the south end of Cibola Lake; southerly along the Arizona-California state line to I-8; south-

easterly on I-8 to U.S. Hwy 95; easterly and northerly on U.S. Hwy 95 to the Castle Dome road; northeast on ~~this road~~ the Castle Dome Rd. to the Kofa National Wildlife Refuge boundary; north along the refuge boundary to the Stone Cabin-King Valley ~~road Rd.~~; west along ~~this road~~ the Stone Cabin-King Valley Rd. to U.S. Hwy 95; north on U.S. Hwy 95 to the Cibola Lake ~~road Rd.~~; west and south on ~~this road~~ the Cibola Lake Rd. to the south end of Cibola Lake; except those portions that are sovereign tribal lands of the Quechan Tribe.

Unit 44A -- Beginning at U.S. Hwy 95 and the Bill Williams River; south along U.S. Hwy 95 to AZ Hwy 72; south-easterly on AZ Hwy 72 to Vicksburg; south on the Vicksburg-Kofa National Wildlife Refuge ~~road Rd.~~ to I-10; easterly on I-10 to the Salome-Hassayampa ~~road Rd.~~ (Exit 81); northwesterly on ~~this road~~ the Salome-Hassayampa Rd. to Eagle Eye ~~road Rd.~~; northeasterly on Eagle Eye ~~road Rd.~~ to Aguila; east on U.S. Hwy 60 to AZ Hwy 71; northeasterly on AZ Hwy 71 to U.S. Hwy 93; northwesterly on U.S. Hwy 93 to the Santa Maria River; westerly along the Santa Maria and Bill Williams rivers to U.S. Hwy 95; except those portions that are sovereign tribal lands of the Colorado River Indian Tribes.

Unit 44B -- Beginning at Quartzite; south on U.S. Hwy 95 to the Crystal Hill ~~road Rd.~~; east on ~~this road~~ the Crystal Hill Rd. to the Kofa National Wildlife Refuge; north and east along the refuge boundary to the Vicksburg-Kofa National Wildlife Refuge ~~road Rd.~~; north on ~~this road~~ the Vicksburg-Kofa National Wildlife Refuge Rd. to AZ Hwy 72; northwest on AZ Hwy 72 to U.S. Hwy 95; south on U.S. Hwy 95 to Quartzite.

Unit 45A -- Beginning at the junction of the Stone Cabin-King Valley ~~road Rd.~~ and Kofa National Wildlife Refuge boundary; east on the Stone Cabin-King Valley ~~road Rd.~~ to O-O Junction; north from O-O Junction on the Kofa Mine ~~road Rd.~~ to the Evening Star Mine; north on a line over Polaris Mountain to Midwell; north on the Midwell-Alamo Spring-Kofa Cabin ~~road Rd.~~ to the El Paso Natural Gas Pipeline ~~road Rd.~~; north on a line from the junction to the north boundary of the Kofa National Wildlife Refuge; west and south on the boundary line to Stone Cabin-King Valley ~~Road Rd.~~

Unit 45B -- Beginning at O-O Junction; north from O-O Junction on the Kofa Mine ~~road Rd.~~ to the Evening Star Mine; north on a line over Polaris Mountain to Midwell; north on the Midwell-Alamo Spring-Kofa Cabin ~~road Rd.~~ to the El Paso Natural Gas Pipeline ~~road Rd.~~; north on a line from the junction to the north Kofa National Wildlife Refuge boundary; east to the east refuge boundary; south and west along the Kofa National Wildlife Refuge boundary to the Stone Cabin-King Valley ~~road Rd.~~; north and west on ~~this road~~ the Stone Cabin-King Valley Rd. to O-O Junction.

Unit 45C -- Beginning at the junction of the Stone Cabin-King Valley ~~road Rd.~~ and Kofa National Wildlife Refuge; south, east, and north along the refuge boundary to the Stone Cabin-King Valley ~~road Rd.~~; north and west on ~~this road~~ the Stone Cabin-King Valley Rd. to the junction of the Stone Cabin-King Valley ~~road Rd.~~ and Kofa National Wildlife Refuge boundary.

Unit 46A -- That portion of the Cabeza Prieta National Wildlife Refuge east of the Yuma-Pima County line.

Unit 46B -- That portion of the Cabeza Prieta National Wildlife Refuge west of the Yuma-Pima County line.

Unit 47M -- Beginning at the junction of I-17 and the Carefree Hwy; east along the Carefree Hwy to Cave Creek Rd.; northeast along Cave Creek Rd. to Pima Rd.; south along Pima Rd. to the Salt River; easterly along the Salt River to the Tonto National Forest boundary; northeasterly to the Tonto National Forest boundary; southeasterly along the Forest boundary to Forest Rd. 77 (Peralta Rd.); southwesterly on Forest Road 77 (Peralta Rd.) to U.S. Hwy 60; northwesterly on U.S. Hwy 60 to the Meridian Extension (Maricopa-Pinal County Line); south on the Meridian Extension (Maricopa-Pinal County Line) to Empire Blvd.; west on Empire Blvd. To the Gila River Indian Reservation boundary; north and west along the Gila River Indian Reservation boundary to the Gila River; west along the Gila River to 115th Ave.; north on 115th Ave. to I-10 to Litchfield Rd.; north on Litchfield Rd. to Bell Rd.; east on Bell Rd. to the New River; north along the New River to the Carefree Hwy; east along Carefree Hwy to I-17.

D. This rule is effective July 1, 2000 for all Units except Units 20B, 21, and 42M. The subsections governing Units 20B, 21, and 42M are effective July 1, 2001. This Section is effective July 1, 2006.

R12-4-110. Posting and ~~access to state land~~ Access to State Land

A. For the purpose of this ~~rule~~ Section:

1. "Corrals," "feed lots," or "holding pens" mean completely fenced areas used to contain livestock for purposes other than grazing, including feeding, roundup, branding, doctoring, and other related purposes.
2. "~~Road~~" includes "Existing road" means any maintained or unmaintained road, way, highway, trail or path that has been utilized by the public used for motorized vehicular travel and clearly shows or has a history of established vehicle use.
3. "State lands" means all land owned or held in trust by the state of Arizona ~~which that~~ is managed by the ~~Arizona~~ State Land Department and lands ~~which that~~ are owned or managed by the ~~Arizona~~ Game and Fish Commission.
4. "~~Trail~~" means a path that clearly shows or has a history of established use.

B. In addition to those prohibitions against posting in A.R.S. § 17-304, ~~no person~~ an individual shall not lock a gate, con-

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struct a fence, place an obstacle or otherwise commit an act ~~which that~~ denies legally available access to or use of any existing ~~trail or~~ road upon state lands by persons lawfully taking or retrieving wildlife. ~~Any person~~ An individual in violation of this ~~rule~~ Section shall be responsible for taking take immediate corrective action to remove any ~~locks, fences or other obstacles~~ lock, fence, or other obstacle that unlawfully blocking blocks access ~~upon~~ to state lands. If immediate corrective action is not taken, a representative of the Department may remove any unlawful posting and remove any ~~locks~~ lock, fences fence, or other ~~obstacles~~ obstacle that unlawfully blocking blocks access ~~upon~~ to state lands. In addition, the Department may take appropriate legal action to recover expenses incurred in the removal of any unlawful ~~postings or obstacles blocking posting or obstacle that blocks access upon~~ to state land.

- C. The provisions of this ~~rule shall not grant~~ Section do not allow any ~~person~~ the right individual to trespass upon private land to gain access to ~~any~~ state land.
- D. ~~State~~ An individual may post state lands within 1/4 mile of any occupied residence, cabin, lodge, or other building and lands within corrals, feed lots, or holding pens containing concentrations of livestock other than for grazing purposes, ~~may be posted against as closed to hunting, fishing, or trapping without further action of by~~ the Commission.
- E. ~~State~~ An individual may post state lands other than those referred to in subsection (D) ~~of this rule may be posted to prohibit as closed to hunting, fishing, or trapping only by if the individual has obtained a permit from the Commission if, and the Commission determines that the closing is necessary:~~
 - 1. Because the taking of wildlife ~~would constitute~~ constitutes an unusual hazard to permitted users;
 - 2. To prevent unreasonable destruction of plant life or habitat; or
 - 3. For proper ~~resources~~ resource conservation, ~~utilization and use, or~~ protection, including but not limited to high fire danger, excessive interference with mineral development, developed agricultural land, or timber or livestock operations.
- F. ~~Applications~~ An individual shall submit an application for posting state land to prohibit hunting, fishing, or trapping ~~pursuant to under~~ subsection (E), or to close a an existing road or trail pursuant to subsection (I) shall be submitted pursuant to under subsection (J), as required by R12-4-610. ~~When If~~ an application to close state land to hunting, fishing, and or trapping is made by a ~~person~~ an individual other than the state land lessee, the Department shall provide notice shall be given to the lessee and the State Land Commissioner prior to consideration of before the Commission considers the application by the Commission. The ~~lessee of the state land lessee or the State Land Commissioner shall have 15~~ file any objections in writing within 30 days after receipt of notice ~~within which to file objections in writing to the application,~~ after which the matter shall be submitted to the Commission for determination.
- G. ~~A person~~ An individual may utilize use a vehicle on or off a road to pick up ~~legally killed~~ lawfully taken big game animals.
- H. The closing of state land to hunting, fishing, or trapping shall not ~~be deemed to~~ restrict any other permitted use of the land.
- I. State trust land may be posted with signs that read "State Land No Trespassing" but such posting shall not prohibit access to such land by ~~persons~~ any individual lawfully taking or retrieving wildlife.
- J. ~~Permission~~ The Commission may grant permission to lock or obliterate a gate or ~~to close a road or trail providing that provides~~ legally available access to state lands for licensed hunters and fishermen ~~to state trust lands may be granted by the Commission when if~~ access to such lands is provided by a reasonable alternate route. ~~The Under R12-4-610, the Director may grant a permit for to a state land lessee of state trust lands to temporarily lock a gate or close a an existing road providing that provides~~ access ~~in an area of such to state lands where persons if the taking of wildlife would will~~ cause an unreasonable interference during a critical livestock or commercial operation. ~~Said This~~ This permit shall not exceed 30 days. Applications for permits ~~in excess of for more than~~ 30 days shall be submitted to the Commission for approval. ~~When If~~ a permit is issued granting to temporarily close a temporary road or gate closure, a copy of the permit shall be posted at the point of the closure during the period of the closure.
- K. ~~In~~ When exercising hunting, fishing and or trapping privileges on state land, ~~no licensee a license holder shall not:~~
 - 1. Break or remove any lock or cut any fence to gain access to state land;
 - 2. Open and not immediately close a gate;
 - 3. Intentionally or wantonly destroy, deface, injure, remove, or disturb any building, sign, equipment, marker, or other property;
 - 3 4. Harvest or remove any vegetative or mineral resources or object of ~~antiquity~~ archaeological, historic, or scientific interest;
 - 4 5. Appropriately, mutilate, deface, or destroy any natural feature, object ~~or of~~ of natural beauty, antiquity, or other public or private property;
 - 5 6. Dig, remove, or destroy any tree or shrub;
 - 6 7. Gather or collect renewable or non-renewable resources for the purpose of sale or barter unless specifically permitted or authorized by law; or
 - 7 8. Drive or operate motorized vehicles or otherwise conduct himself in a manner that may result in unnecessary frightening or chasing of domestic livestock or wildlife or that unnecessarily endangers the lives or the safety of others. Frighten or chase domestic livestock or wildlife, or endanger the lives or safety of others when using a motorized vehicle or other means.

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R12-4-111. Identification Number

- ~~A.~~ An applicant for a Department identification number may either:
1. Assign his or her own number by using his or her social security number; or
 2. Obtain a number from the Department by providing the Department with full name and any aliases, date of birth, and mailing address.
- ~~B.~~ This rule is effective January 1, 1995.

R12-4-112. ~~Diseased, or injured wildlife~~ Injured, or Chemically Immobilized Wildlife

- A. The Director may authorize Department employees to condemn, ~~upon request of a licensee,~~ the carcass of a lawfully taken and lawfully possessed diseased, ~~or injured, big game animal~~ or chemically immobilized wildlife taken under any permit tag that is, in the opinion of the employee, unfit for human consumption, if the individual who took the wildlife requests it and this condition was not created by the actions of the person individual who took the animal wildlife. A Department employee may condemn wildlife that is chemically immobilized if the wildlife was taken during the established withdrawal period of that immobilizing drug.
- B. ~~The entire big game animal so condemned shall be surrendered~~ The individual who took the wildlife shall surrender the entire condemned wildlife carcass and any parts thereof to the Department employee.
- C. After condemnation and surrender of the ~~big game wildlife,~~ the licensee ~~may be authorized in writing, by the Department employee,~~ Department employee shall provide written authorization to the individual who took the wildlife to purchase and use a duplicate tag. ~~Such tag may be purchased~~ The license holder may purchase the tag from any dealer where the tag is available. The license dealer shall forward the written authorization to the Department with the report of the tag sale.

R12-4-113. ~~Small game depredation permit~~ Game Depredation Permit

- A. ~~Pursuant to~~ Under A.R.S. § 17-239(D), the Commission ~~finds~~ determines that it is impractical to resolve property damage problems caused by small game by establishing special seasons or bag limits for the purpose of ~~cropping~~ taking small game by hunters. The Commission ~~does find it practical~~ finds it necessary to waive license fees, bag limits, and seasons for small game ~~depredation causing property damage.~~
- B. The Department ~~may therefore~~ shall issue a ~~nonfee complimentary~~ small game depredation permit to take small game to the a landowner, lessee, livestock operator, or municipality suffering property damage, ~~when if~~ the Department determines that all other remedies ~~to in~~ A.R.S. § 17-239(A), (B), and (C) have been exhausted and the take of ~~such the~~ small game is necessary to alleviate the damage ~~being caused.~~ A small game depredation permit is not valid for migratory birds ~~only when unless~~ the permittee permit holder obtains a federal special purpose permit pursuant to under 50 CFR 21.27, revised October 1, 1988, not including any later amendments or editions, which is incorporated by reference herein. A copy of the incorporated matter is on file with the Secretary of State and available for inspection at any Department office, or it may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.
- C. Notwithstanding the requirements of R12-4-304, ~~and~~ R12-4-318, ~~and~~ R12-4-309, persons individuals or municipalities issued a small game depredation permit pursuant to under this rule Section may take depredating small game by whatever safe and humane means are practical for the particular situation.

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

- A. In accordance with A.R.S. § 17-332 and the provisions of this Section, the Department shall annually provide numbered tags for sale to the public. The Department shall ensure that each tag includes a transportation and shipping permit as prescribed in A.R.S. §§ 17-332 and 17-371, and that each tag is made of tear-resistant material with an adhesive back covered by a detachable paper backing and clearly identifies the animal for which the tag is valid.
- B. If the Commission establishes a big game season for which a hunt number is not assigned, the Department or its authorized agent, or both, shall sell nonpermit-tags.
1. To obtain a nonpermit-tag, an applicant shall provide to a license dealer or Department office the applicant's name, home mailing address, and Department identification number.
 2. An applicant shall not apply for or obtain nonpermit-tags in excess of the bag limit prescribed by the Commission when it established the season for which the nonpermit-tags are valid.
- C. If the number of hunt permits for a species in a particular hunt area must be limited, a Commission ~~order~~ Order establishes a hunt number for that hunt area, and a hunt permit-tag is required to take the species in that hunt area.
1. To apply for a hunt permit-tag, an applicant shall submit an application under R12-4-104.
 2. The Department shall use the following procedure to determine whether a hunt permit-tag will be issued to an applicant:
 - a. The Department shall reserve a maximum of 20% of the hunt ~~permits~~ permit-tags for each hunt number for antelope, bear, deer, elk, javelina, and turkey to issue to individuals and groups that have bonus points. The Department shall reserve a maximum of 20% of the hunt permit-tags for all hunt numbers combined statewide for bighorn sheep and buffalo to issue to individuals and groups who that have bonus points that have been issued according to R12-4-107.

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- b. The Department shall issue the reserved hunt permit-tags for hunt numbers designated by eligible applicants as their first or second choices. The Department shall issue the reserved hunt permit-tags by random selection:
 - i. First, to eligible applicants with the ~~greatest~~ highest number of bonus points for that genus;
 - ii. Next, if there are reserved hunt permit-tags remaining, to eligible applicants with the next ~~greatest~~ highest number of bonus points for that genus; and
 - iii. If there are still tags remaining, to the next eligible applicants with the next ~~greatest~~ highest number of bonus points; continuing in the same manner until all of the reserved tags have been issued or until there are no more applicants for that hunt number who have bonus points.
 - c. The Department shall ensure that the first selection from all unreserved hunt permit-tags is by random drawing.
 - d. If the bag limit established by Commission ~~order~~ Order is more than one per calendar year, or if there are hunt permit-tags remaining unissued after the random drawings, the Department shall ensure that these hunt permit-tags are available on a set date on a first-come, first-served basis as specified in the hunt permit-tag application schedule published annually ~~by, and available from, the Department.~~
- D.** ~~The Department shall ensure that no~~ not make available more than one hunt permit-tag or 10% of the total available hunt permit-tags, whichever is greater, for bighorn sheep or buffalo hunt permit tags in any calendar year are issued draw to nonresidents and that no. ~~The Department shall not make available~~ more than 50% nor more than two bighorn sheep or buffalo hunt permit-tags of the total ~~available~~ in any hunt number ~~are issued~~ to nonresidents.
- E.** ~~The Department shall set aside 15% of the total available bighorn sheep hunt permit tags in any calendar year, rounded down to the nearest whole number, to be issued to nonresidents and shall ensure that no more than 50% nor more than two bighorn sheep hunt permit tags of the total available in any hunt number are issued to nonresidents. The Department shall not make available more than 10% of the total hunt permit-tags in any hunt number to nonresidents for antelope, antlered deer, bull elk, javelina, or turkey. If a hunt number for antelope, antlered deer, bull elk, javelina or turkey has ten hunt permit-tags or fewer, no more than one hunt permit-tag will be made available to a nonresident, except that if a hunt number has only one hunt permit-tag, that tag shall only be available to a resident.~~
- F.** Any cap established under this Section applies only to hunt permit-tags issued by random drawing under subsections (C)(2)(b) and (c).

R12-4-115. Supplemental Hunts and Hunter Pool

- A.** For the purposes of this Section, the following definitions apply:
- 1. “Management objectives” means goals, recommendations, or guidelines contained in Commission-approved wildlife management plans, which include hunt guidelines, operational plans, or hunt recommendations;
 - 2. “Hunter pool” means all individuals who have submitted an application for a supplemental hunt; and
 - 3. “Supplemental hunt” means a season established by the Commission for the following purposes:
 - a. Take of depredating wildlife under A.R.S. § 17-239;
 - b. Take of wildlife under an Emergency Season if the Commission adopts, amends, or repeals a Commission ~~order~~ Order for reasons constituting an immediate threat to the health, safety, or management of wildlife or its habitat or to public health or safety; or
 - c. Take of wildlife under a population management hunt if the Commission has prescribed restricted nonpermit-tags by Commission ~~order~~ Order for the purpose of meeting management objectives because regular seasons are not, have not been, or will not be sufficient or effective to achieve management objectives.
- B.** For the purposes of authorizing a population management hunt, the Commission through Commission ~~order~~ Order shall open a season or seasons and prescribe a maximum number of restricted nonpermit-tags that the Director may issue under this Section.
- C.** The Director shall implement a population management hunt under the open season or seasons prescribed in subsection (B) if the Director finds that:
- 1. Regular seasons have not met or will not meet management objectives;
 - 2. Take of wildlife is necessary to meet management objectives; and
 - 3. Issuance of a specific number of restricted nonpermit-tags is likely to meet management objectives.
- D.** To implement a population management hunt under subsection (B), the Director shall do the following:
- 1. Select season dates, within the range of dates prescribed by the Commission through Commission ~~order~~ Order;
 - 2. Select specific hunt areas, within the range of hunt areas prescribed by the Commission through Commission ~~order~~ Order;
 - 3. Select the legal animal that may be taken from the list of legal animals prescribed by the Commission through Commission ~~order~~ Order;
 - 4. Determine the number of restricted nonpermit-tags that will be issued from the maximum number of tags prescribed by the Commission through Commission ~~order~~ Order; and
 - 5. Reduce restricted nonpermit-tag fees up to 75% if the normal fee structure will not generate adequate participation from either the hunter pool or hunt permit-tag holders under subsection ~~(G)(J)~~.
- E.** The Director shall not issue more restricted nonpermit-tags than the maximum number prescribed by the Commission

through Commission ~~order~~ Order.

- F. To participate in a supplemental hunt, an individual shall obtain a restricted non-permit tag as prescribed by this Section. A restricted non-permit tag is valid only for the supplemental hunt for which it is issued.
- G. If the season dates and open areas of a supplemental hunt prescribed by the Commission through Commission Order exactly match the season dates and open areas of another big game animal for which a hunt number is assigned and hunt permit-tags are issued through the draw, the Department shall make the restricted nonpermit-tags available only to holders of the hunt permit-tags, and not the hunter pool.
- H. To obtain a restricted nonpermit-tag under subsection (G), an applicant shall provide to a Department office the applicant's name, address, Department identification number, and hunt permit-tag number on a form prescribed by the Department.
 - a. The applicant shall provide verification that the applicant legally obtained the hunt permit-tag for the hunt described under subsection (G) by presenting the hunt permit-tag to a Department office for verification.
 - b. The applicant shall not apply for or obtain a restricted nonpermit-tag to take wildlife in excess of the bag limit prescribed by the Commission.
- I. The Department or its authorized agent shall maintain a hunter pool for supplemental hunts and shall randomly select applicants from the hunter pool for participation in a supplemental hunt, if the season dates and open areas of the supplemental hunt do not exactly match the season dates and open areas of another big game animal for which a hunt number is assigned and hunt permit-tags are issued through the draw.
- J. When issuing restricted nonpermit-tags to the hunter pool, the Department or its authorized agent shall randomly select applicants from the hunter pool. The Department or its authorized agent shall attempt to contact each randomly-selected applicant by telephone at least three times during a 24-hour period. If an applicant cannot be contacted or cannot participate in the supplemental hunt, the Department or its authorized agent shall return the application to the hunter pool and draw another application. The Department or its authorized agent shall draw no more applications after the number of restricted nonpermit-tags prescribed in subsection (D)(4) has been issued.
- K. The Department shall purge and renew the hunter pool annually.
- L. An applicant for a supplemental hunt shall submit the following information on a form available from the Department or its authorized agent:
 - 1. Applicant's name, home mailing address, whether a resident or nonresident, and date of birth;
 - 2. Daytime and evening telephone numbers; and
 - 3. The species that the applicant would like to hunt if drawn; ~~and~~
 - 4. The number of the applicant's hunting license for the year that corresponds with the applicable supplemental hunt.
- M. Along with the application form, an applicant for a supplemental hunt shall submit the permit application fee prescribed in R12-4-102.
- N. The Department shall not accept group applications, as described in R12-4-104, for supplemental hunts.
- O. A hunter pool applicant who is drawn and who wishes to participate in a supplemental hunt shall submit the following to the Department to obtain a restricted nonpermit-tag:
 - 1. The fee for the tag as prescribed by R12-4-102, or as prescribed by subsection (D)(5) if the fee has been reduced, and
 - 2. The number of the applicant's hunting license, valid for the year of the supplemental hunt.
- P. The Department shall reserve a restricted nonpermit-tag for an applicant only for the period specified by the Department when contact is made with the applicant. ~~A~~ The Department shall issue a restricted nonpermit-tag not purchased within the specified period ~~shall be issued~~ to another applicant individual whose application is drawn from the hunter pool as prescribed by this Section. The Department or its authorized agent shall remove from the hunter pool the application of any successful applicant who does not purchase a tag after being contacted and agreeing to purchase the tag.
- Q. An individual who participates in a supplemental hunt through the hunter pool shall be removed from the supplemental hunter pool for the genus for which the individual participated. An individual who participates in a supplemental hunt shall not reapply for the hunter pool for that genus until that hunter pool is renewed.
- ~~Q R.~~ The provisions of R12-4-104, R12-4-107, R12-4-114, and R12-4-609 do not apply to supplemental hunts. A supplemental hunt application submitted in accordance with this Section does not invalidate any application for a hunt permit-tag. The issuance of a restricted nonpermit-tag does not authorize an individual to exceed the bag limit established by the Commission ~~for that calendar year.~~

R12-4-116. Reward ~~payments~~ Payments

- A. ~~Subject to the restrictions in A.R.S. § 17-315, any person may claim a reward for providing information to the Department and shall be eligible to receive a reward as prescribed in subsections (D) or (E) of this rule provided that~~ Subject to the restrictions in A.R.S. § 17-315, an individual may claim a reward from the Department if the individual provides information that leads to an arrest through the Operation Game Thief Program. The individual who reports the unlawful activity will then become eligible to receive a reward as prescribed in subsections (C) and (D), provided that:
 - 1. Funds are available in the wildlife theft prevention fund; ~~and~~
 - 2. ~~The claimant requests payment of the reward via the "operation game thief" telephone reporting system and provides~~

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~~the control number prescribed in subsection (B) of this rule. The individual who reported the violation provides the Operation Game Thief control number issued by Department law enforcement personnel, as prescribed in subsection (B); and~~

- ~~3. When more than one person provides information or evidence leading to an arrest for a single incident, the reward may be divided among the persons supplying information in amounts commensurate with the information or evidence supplied. Once the maximum amount has been paid on any case, no subsequent claim shall be paid. If more than one individual provides information or evidence that leads to an arrest for a violation, the Department may divide the reward payment among the individuals that provided the information if the total amount of the reward payment does not exceed the maximum amount of a monetary reward prescribed in subsections (C) or (D); and~~
 - ~~4. Rewards shall not be paid to individuals who provide information resulting in their own arrest. The information provided relates to a violation of any provisions of A.R.S. Title 17, A.A.C. Title 12, Chapter 4, or federal wildlife laws enforced by and under the jurisdiction of the Department, but not on Indian Reservations; and~~
 - ~~5. Rewards apply only to violations of A.R.S. Title 17 and the rules promulgated thereunder or to federal wildlife violations occurring within Arizona not including on Indian reservations. The individual that reports the violation is not the individual that made the violation, the individual did not provide information during a criminal investigation or judicial proceeding, or the individual is not a peace officer, a Department employee or an immediate family member of a Department employee.~~
- B.** ~~The Department shall advise all individuals providing information that rewards are available and the procedure for claiming a reward. The Department shall also provide each individual with the control number assigned to the reported incident. The Department shall inform an individual who provides information regarding a wildlife violation of the procedure for claiming a reward if the information results in an arrest. The Department shall also provide the individual with the control number assigned to the reported violation.~~
- C.** ~~The Department shall verify that the information provided did lead to an arrest before paying a reward. The following are the criteria for reward payments for information that results in an arrest of the reported violation:~~
- ~~1. For cases that involve bighorn sheep, buffalo, elk, or bald eagles, \$350;~~
 - ~~2. For cases that involve antelope, bear, deer, javelina, mountain lion, turkey, or endangered or threatened wildlife as defined in R12-4-401, \$250;~~
 - ~~3. For cases that involve wildlife that are not covered in subsections (C)(1) or (2), a minimum of \$50, not to exceed \$150, unless excepted under subsection (C)(4); and~~
 - ~~4. For cases that involve any wildlife, an additional \$1,000 may be made available based on:
 - ~~a. The value of the information;~~
 - ~~b. The unusual value of the wildlife;~~
 - ~~c. The number of individual animals taken;~~
 - ~~d. Whether or not the individual who committed the unlawful act was arrested for commercialization of wildlife; and~~
 - ~~e. Whether or not the individual who committed the unlawful act is a repeat offender.~~~~
- D.** ~~Following is the schedule of reward payments per case:~~
- ~~1. In cases involving bighorn sheep, buffalo, elk or bald eagles, \$350;~~
 - ~~2. In cases involving deer, antelope, lion, bear, turkey, javelina or endangered or threatened species as defined in R12-4-401, \$250; or~~
 - ~~3. One-half the minimum value established by A.R.S. § 17-314 up to \$150, but not less than \$50, in cases involving wildlife not listed in subsection (D)(1) or (D)(2) of this subsection; or~~
 - ~~4. In cases not covered in subsection (D)(1), or (D)(2), or (D)(3) of this subsection, \$50.~~
 - ~~5. In cases involving any big game animal or bald eagle, or endangered or threatened species, up to \$1,000 may be paid, based on the value of the information provided and:
 - ~~a. The unusual value of an animal; or~~
 - ~~b. The number of animals taken; or~~
 - ~~c. Arrest for commercialization of wildlife; or~~
 - ~~d. The arrest of a repeat offender.~~~~
- E.** ~~Subsection (D) of this rule notwithstanding. Notwithstanding subsection (C), the Department may offer and pay a reward up to the minimum civil value of the wildlife lost, unlawfully taken, as established by prescribed in A.R.S. § 17-314, when if a violation is discovered and the Department believes that a reward may result in sufficient information to make an arrest.~~

R12-4-117. Indian reservations Reservations

~~No~~ A state license, tag, or permit is not required to hunt or fish on any Indian Reservation reservation in this state. Wildlife lawfully taken on an Indian Reservation reservation may be transported or processed anywhere in the state ~~when~~ if it can be identified as to species and legality as provided in A.R.S. § 17-309(A)(20). All wildlife transported is subject to inspection under the provisions of A.R.S. § 17-211(~~D~~)(E)(4).

R12-4-119. Arizona Game and Fish Department Reserve

- A. The Commission shall establish an Arizona Game and Fish Department Reserve under A.R.S. § 17-214, consisting of commissioned reserve officers and noncommissioned reserve volunteers.
- B. Commissioned reserve officers shall:
 - 1. Meet and maintain the minimum qualifications and training requirements necessary for peace officer certification by the Arizona Peace Officer Standards and Training Board as prescribed in 13 A.A.C. 4, and
 - 2. Assist with wildlife enforcement patrols, boating enforcement patrols, off-highway vehicle enforcement patrols, special investigations, and other enforcement and related ~~nonenforcement~~ non-enforcement duties as designated by the Director.
- C. Noncommissioned reserve volunteers shall:
 - 1. Meet qualifications that the Director determines are related to the services to be performed by the volunteer and to the success or safety of the program mission, and
 - 2. Perform any non-enforcement duties as designated by the Director for the purposes of conservation and education to maximize paid staff time.

R12-4-120. ~~Issuance, sale, and transfer of special big game license tags~~ Sale, and Transfer of Special Big Game License Tags

- A. Proposals for special big game license tags pursuant to under A.R.S. § 17-346 shall be submitted to the Director of the Arizona Game and Fish Department ~~during the period between July 1 and September 30~~ from March 1 to May 31 preceding the year when the tags may be legally used. The proposal shall contain and identify:
 - 1. The name of the organization making the request proposal and the ~~names, addresses, and telephone numbers of those members~~ name, address, and telephone number of each member of the organization who ~~are~~ is coordinating the proposal-;
 - 2. The number of special big game license tags and the species requested ~~and the species for which each would be valid-;~~
 - 3. The purpose to be served by the issuance of these tags-;
 - 4. The method or methods by which the tags ~~would~~ will be sold and transferred-;
 - 5. The estimated amount of money to be raised and the rationale for that estimate-;
 - 6. Any special needs or particulars relevant to the proposal, including time-frame, limitations, or schedules-;
 - 7. Unless a current and correct copy is already on file with the Department, one copy of the organization's articles of incorporation ~~shall accompany the proposal with proof and evidence~~ that the organization has tax-exempt status under Section 501(c) of the Internal Revenue Code;
 - 8. The proposal or a letter accompanying the proposal shall include a statement that the ~~proposer~~ individual or organization that is submitting the proposal agrees to the conditions ~~set forth~~ in A.R.S. § 17-346 and this ~~rule Section~~ Section, ~~and The proposal or the letter accompanying the proposal~~ shall be signed and dated by the president and secretary-treasurer of the organization or their equivalent.
- B. The Director shall return to the applicant any application ~~which that~~ does not ~~conform~~ comply with the requirements of A.R.S. § 17-346 ~~or and this rule Section~~, but The Director shall submit all any timely and valid ~~applications~~ application to the Commission for consideration. In selecting an applicant, the Commission shall consider the written proposal, ~~and~~ the proposed uses for tag proceeds, the qualifications of the applicant as a fund raiser, the proposed fund raising plan, the applicant's previous involvement with wildlife management, and ~~its~~ the applicant's conservation objectives. The Commission may accept any proposal in whole or in part and may reject any proposal ~~when if~~ it is in the best interest of wildlife to do so. Commission approval and issuance of any special big game license tag is contingent upon compliance with ~~subsections (C) and (D) of this rule Section~~.
- C. ~~All~~ A successful ~~applicants~~ applicant shall agree in writing to all of the following:
 - 1. To underwrite all promotional and administrative costs to sell and transfer each special big game license tag;
 - 2. To transfer all proceeds to the Department ~~for the purposes of wildlife management~~ within 90 days of the date that the applicant sells or awards the tag. A special tag shall not be issued until the Department receives all proceeds;
 - 3. To sell and transfer each special big game license tag as described in the proposal; and
 - 4. To provide the Department with the name, address, and physical description of each individual to whom ~~each~~ a special big game license tag is transferred.
- D. The Department and the successful applicant shall ~~agree to~~ coordinate on:
 - 1. The specific projects or purposes identified in the proposal-;
 - 2. The arrangements for the deposit of the proceeds, the accounting procedures, and final audit-; and
 - 3. The dates when the wildlife project or purpose will be accomplished.
- E. ~~All~~ The Department shall dedicate all proceeds generated by the sale or transfer of a special big game license tag ~~shall be dedicated for use for to the management of the species for which the tag was issued and shall not be refunded. The Department shall not refund proceeds.~~
- F. A special big game license tag ~~shall be~~ is valid only for the individual named on the tag, for the season dates on the tag.

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and for the species for which the tag was issued, ~~and shall not require a hunting license~~ A hunting license is not required for the tag to be valid. Possession of a special big game license tag ~~shall does~~ not invalidate any other big game tag or application for any other big game tag. Wildlife taken under the authority of a special big game license tag ~~shall does~~ not count ~~in~~ towards the normal bag limit for that species.

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

- A. A parent or guardian to whom a big game ~~permit or tag~~ hunt permit-tag is issued may transfer the unused permit or tag to the parent's or guardian's minor child, if:
1. The minor child is from 10 to 17 years old on the date of transfer,
 2. The minor child has a valid ~~class F or G~~ hunting license on the date of transfer, and
 3. A minor child less than 14 years old ~~has satisfactorily completed~~ completes a Department-approved hunter education course by the beginning date of ~~transfer~~ the hunt.
- B. A parent or guardian may obtain a transfer, in person, at any Department office. To obtain a transfer, a parent or guardian shall provide the following:
1. Proof of ownership of the big game permit or tag to be transferred;
 2. The minor's ~~class F or G general or lifetime valid~~ hunting license, ~~and if the minor is less than 14 years old, proof of satisfactory completion of a Department-approved hunter education course;~~ and
 3. The unused big game permit or tag.
- C. ~~The Department shall issue a transfer permit or tag in the name of the minor child.~~ An individual to whom a hunt permit-tag is issued or the individual's legal representative may donate the unused tag to a non-profit organization if:
1. The organization is exempt from federal taxation under Section 501(c) of the Internal Revenue Code;
 2. The organization provides opportunities and experiences to children with life-threatening medical conditions; and
 3. The individual or legal representative that donates the tag provides the organization with some type of statement that indicates that the tag is voluntarily donated to that organization.
- D. ~~This rule is effective July 1, 2001.~~ A non-profit organization that receives a hunt permit-tag under subsection (C) may obtain a transfer by contacting any Department office. To obtain a transfer, an organization shall:
1. Provide proof of donation of the big game permit-tag to be transferred;
 2. Provide the unused big game permit or tag;
 3. Provide proof of the minor child's valid hunting license; and
 4. Transfer the tag to a minor child who meets the following criteria:
 - a. Has a life-threatening medical condition;
 - b. Is 10 to 17 years old by the date of the transfer;
 - c. Has a valid hunting license; and
 - d. If is less than 14 years old, satisfactorily completes a Department-approved hunter education course before the beginning date of the hunt.
- E. The Department shall issue a transfer permit or tag in the name of the minor child if it is lawfully submitted according to this Section.

R12-4-122. ~~Handling, transportation, processing and storing of game meat given to public institutions and charitable organizations~~ Transporting, Processing, and Storing of Game Meat Given to Public Institutions and Charitable Organizations

- A. ~~Pursuant to~~ Under A.R.S. § 17-240 and this ~~rule~~ Section, the Department may donate the following wildlife, except that the Department shall not donate any portion of an animal killed in a collision with a motor vehicle or ~~which has an animal that~~ died subsequent to immobilization by any chemical agent:
1. Big game, except bear; or mountain lion, and javelina;
 2. Upland game birds;
 3. Migratory game birds;
 4. Game fish.
- B. The Director shall not authorize ~~any~~ an employee to handle game meat for the purpose of this ~~rule~~ Section until the employee has satisfactorily completed a course designed to give the employee the expertise necessary to protect game meat recipients from diseased or unwholesome meat products. ~~The course shall be~~ A Department employee shall complete a course that is either conducted or approved by the State Veterinarian. A ~~The employee shall provide a copy of a certificate shall be provided to the employee to certify that demonstrates~~ satisfactory completion of the course to the Director.
- C. Only ~~employees~~ an employee authorized by the Director shall ~~handle game meat determined~~ determine if game meat is safe and appropriate for donation. Carcasses shall be inspected and field dressed prior to transport An authorized Department employee shall inspect and each donated carcass before transporting it. The game meat shall be in Department possession for the purpose of transport for a period not to exceed 48 continuous hours and shall be reinspected The Department shall not retain the game meat in storage for more than 48 continuous hours before transporting it, and shall

reinspect the game meat for wholesomeness ~~prior to~~ before final delivery to the recipient.

D. Final processing and storage ~~shall be~~ is the responsibility of the recipient.

R12-4-123. Expenditure of Funds

- A. The Director may expend funds ~~arising from~~ available through appropriations, licenses, gifts, or other sources, in compliance with applicable laws and rules, and:
1. For purposes designated by lawful Commission agreements and Department guidelines;
 2. In agreement with budgets approved by the Commission;
 3. In agreement with budgets appropriated by the legislature;
 4. With regard to a gift, for purposes designated by the donor, the Director shall expend undesignated donations for a public purpose in furtherance of the Department's responsibilities and duties.
- B. The Director shall ensure that the Department implements internal management controls to comply with subsection (A) and to deter unlawful use or expenditure of funds.

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

[R05-327]

PREAMBLE

1. Sections Affected

R12-4-201
R12-4-202
R12-4-203
R12-4-204
R12-4-208
R12-4-215
R12-4-216
R12-4-217

Rulemaking Action

Amend
Amend
Amend
New Section
Amend
Repeal
Amend
Amend

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

Authorizing statute: A.R.S. § 17-231

Implementing statutes: A.R.S. § 17-336(1) for R12-4-201; A.R.S. § 17-336(2) for R12-4-202; A.R.S. §§ 17-235, 17-333.01, and 17-333.03 for R12-4-203; A.R.S. § 17-231(B)(7) for R12-4-204; A.R.S. § 17-362 for R12-4-208; A.R.S. § 17-301 for R12-4-216; and A.R.S. § 17-301 for R12-4-217

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

Notice of Rulemaking Docket Opening: 10 A.A.R. 2890, July 16, 2004

Second Notice of Rulemaking Docket Opening: 11 A.A.R. 2752, July 22, 2005

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

Name: Carlos Ramirez, Rule Writer
Address: Arizona Game and Fish Department
2221 W. Greenway Rd., DORR
Phoenix, AZ 85023
Telephone: (602) 789-3288, ext. 206
Fax: (602) 789-3677

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

The Department is proposing to amend the rules principally as stated in the five-year rule review submitted to the Governor's Regulatory Review Council and approved at their December 2003 Meeting. The Department will amend the rules as follows:

R12-4-201. Pioneer License

The Department will amend the rule to add a new subsection to give notification to individuals whose application for a pioneer license has been denied. The rule will also be amended to refer to the appeals process for license denial in

Notices of Proposed Rulemaking

A.R.S. Title 41. The Department will also amend the rule, as necessary, to make it more clear, concise, and understandable.

R12-4-202. Disabled Veteran's License

The Department will amend the rule to add a new subsection (C) to give notification to individuals whose application for a disabled veteran's license has been denied. The rule will also be amended to refer to the appeals process for license denial in A.R.S. Title 41. The Department will also delete the requirement that an applicant for a disabled veteran's license submit certification of disability with an application within 90 days of receiving the certification. The Department does not find it reasonable to issue a deadline for submission of a document that asserts a permanent condition. In addition, the Department will remove the license renewal requirement for an individual that receives a disabled veteran's license under a 100% permanent disability rating that will not be reevaluated. The Department will also amend the rule, as necessary, to make it more clear, concise, and understandable.

R12-4-203. National Harvest Information Program

The Department will amend the rule to make it consistent with Department rules and terms, and current APA guidelines for rulemaking language and style.

R12-4-204. ~~Repealed Sikes Act Habitat Management Stamps~~

The Department will adopt a new rule to address issues regarding the use of wildlife habitat management stamps authorized by memoranda of understanding or other agreements between the Department and the federal government, specifically under the Sikes Act. This rule will prescribe procedures for use of the stamps. Currently, the only stamp authorized under such a federal agreement is the Unit 12A (North Kaibab) Habitat Management Stamp listed in R12-4-102.

R12-4-208. Guide Licenses

The Department will amend subsection (B) to expand the criteria that disqualify an individual from receiving a guide license. A new subsection (C) will also be added to give special consideration to those applicants for guide licenses who voluntarily report their own wildlife violation. The Department will also amend subsection (E), formerly (D), to allow an individual to take the guide license test on the first Monday of the month, and to give Department employees that administer the test greater flexibility in doing so relative to their current workload. The Department will amend new subsection (I) to clarify that when a guide and a client are hunting with the aid of dogs, the client shall be present during the pursuit of the wildlife. The Department is also adding a new subsection (J) to clearly state that the Department will hold guides criminally accountable for in any way assisting a client in committing a wildlife violation or not reporting a violation. New subsection (M), formerly (K), will be clarified to address the Commission's authority for revoking or suspending a guide's license. The Department will also amend the subsection to no longer require a fishing guide to retake a guide exam if the guide wishes to renew his license, but was convicted of a violation of A.R.S. Title 5 Chapter 3, Boating and Water Sports. The Department does not believe that violation of watercraft laws necessarily demonstrates ignorance of wildlife laws, which is the principle knowledge a guide is responsible to have. Also, because some guides provide their services as their primary source of income, the Department does not want to deprive a guide of a livelihood for a violation that is not related to wildlife. The Department will also amend the rule, as necessary, to make it more clear, concise, and understandable.

R12-4-215. Tournament Fishing License

The Department proposes to delete this rule, because there is no statutory authority to support it.

R12-4-216. Crossbow Permit

The Department will amend the rule to delete subsections (E) and (F). These subsections place requirements on the agency that are not generally extended to other licensing procedures, and prescribe practices that belong in Department policy. The Department does not believe that this will affect how crossbow permits are issued. The Department will also amend this rule to allow any doctor licensed by a state of the United States to issue a certification of disability. Non-resident hunters have had problems applying for crossbow permits because they are not reasonably able to receive the required disability certification from an Arizona-licensed doctor, even though they meet the disability criteria to apply. The Department will also amend the rule to make it consistent with Department rules and terms, and the current requirements for rulemaking language and style.

R12-4-217. Challenged Hunter Access/Mobility Permit

The Department will amend subsections (C)(2)(a),(b), and (c) to clarify what disabilities make an individual eligible to be issued a Challenged Hunter Access Mobility Permit (CHAMP). The Department will also amend this rule to allow any doctor licensed by a state of the United States to issue a certification of disability. Non-resident hunters have had problems applying for the CHAMP because they are not reasonably able to receive the required disability certification from an Arizona-licensed doctor, even though they meet the disability criteria to apply. The Department will amend the rule to delete subsections (E) and (F). These subsections place requirements on the agency that are not generally extended to other licensing procedures, and prescribe practices that belong in Department policy. The

Notices of Proposed Rulemaking

Department does not believe that this will affect how a CHAMP is issued. The Department will also amend the rule, as necessary, to make it more clear, concise, and understandable.

6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not 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:

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:

The proposed rulemaking will not result in any added costs to the Department. The rulemaking will also benefit licensed guides and their clients by clarifying what a guide may legally do while aiding or assisting a client in the taking of wildlife. Crossbow permit applicants will benefit from the clarification regarding disability certification requirements. Applicants for the CHAMP will also benefit from the clarification regarding disability certification requirements. The rulemaking will benefit applicants by making the overall language of the rule easier to understand. The rules create no additional costs to any political subdivisions of this state, or businesses. The rules do not impact private or public employment. Because the Department is not supported by the state general fund, the rules do not affect state revenues. The Department has determined there are no alternative methods of achieving the purpose of the rules.

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: Carlos Ramirez, Rulewriter
Address: 2221 W. Greenway Rd., DORR
Phoenix, AZ 85023
Telephone: (602) 789-3288, ext. 206

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:

Written comments will be accepted at the above address until 30 days after this Notice is published. Public hearings to discuss this proposal will be held as follows:

Date: October 21-22, 2005
Time: TBA
Location: Avondale City Council Chambers
11465 W. Civic Center Dr.
Avondale, AZ 85323
Nature: Game and Fish Commission meeting

The Arizona Game and Fish Commission follows Title II of the Americans with Disabilities Act. The Commission does not discriminate against persons with disabilities who wish to make oral or written comments on proposed rulemaking or otherwise participate in the public comment process. Individuals with disabilities who need a reasonable accommodation (including auxiliary aids or services) to participate in the public comment process, or who require this information in an alternate form, may contact Carlos Ramirez at (602)789-3288 ext. 206; 2412 W. Greenway Road, Phoenix, Arizona 85023-4399. Requests should be made as soon as possible so that the Arizona Game and Fish Department will have sufficient time to respond.

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 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 2. MISCELLANEOUS LICENSES AND PERMITS

Section

- R12-4-201. Pioneer ~~license~~ License
- R12-4-202. Disabled Veteran's License
- R12-4-203. National Harvest Information Program (HIP)
- R12-4-204. ~~Repealed~~ Sikes Act Habitat Management Stamps
- R12-4-208. Guide License
- R12-4-215. ~~Tournament Fishing Permit Regulations~~ Repealed
- R12-4-216. Crossbow Permit
- R12-4-217. Challenged Hunter Access/Mobility Permit (CHAMP)

ARTICLE 2. MISCELLANEOUS LICENSES AND PERMITS

R12-4-201. Pioneer ~~license~~ License

- A. In addition to urban fishing privileges granted in A.R.S. § 17-333(A)(9), a pioneer license ~~shall grant~~ grants all of the hunting and fishing privileges of a Class F combination hunting and fishing license.
- B. ~~Persons meeting~~ An individual who meets the criteria ~~set forth~~ in A.R.S. § 17-336(1) may apply for a pioneer license as follows:
 - 1. ~~Persons who have not previously been granted a pioneer license~~ An applicant for a pioneer license shall submit one of the following documents with ~~their~~ the application. ~~Original or certified copies shall be returned~~ The Department shall return to the applicant any original or certified copy after the Department has verified receipt on the application form.
 - a. ~~Passport; or~~ A passport;
 - b. ~~Original~~ An original or certified copy of the applicant's birth certificate; ~~or~~
 - c. ~~Original~~ An original or ~~photocopy~~ copy of a valid Arizona driver's license; or
 - d. ~~Original~~ An original or ~~photocopy~~ copy of a valid Arizona Motor Vehicle Division identification card.
 - 2. ~~Application shall be made on a~~ An applicant for a pioneer license shall apply on an application form available from any Department office. The form shall include an affidavit to be signed by the applicant ~~attesting~~ that affirms the applicant has been a resident of this state for 25 or more consecutive years immediately preceding application for the license. The applicant shall provide all of the following information on the application form:
 - a. ~~Full~~ The applicant's name, age, date of birth, Department identification number, and physical description;
 - b. Current residence address; or physical location of residence;
 - c. The year Arizona residency was established;
 - d. Current mailing address; ~~and~~
 - e. ~~Applicant's~~ The applicant's signature ~~shall be,~~ either witnessed by a Department employee or notarized.
- C. ~~Failure to comply with subsection (B) of this rule, or providing false information upon or with the application for a pioneer license, shall result in denial of the license~~ The Department shall deny a pioneer license if an applicant is not eligible for a pioneer license, fails to comply with the requirements of this Section, or provides false information during the application process. The Department shall provide written notice to the applicant if the application for a pioneer license is denied. The applicant may appeal the denial to the Commission as prescribed in A.R.S. Title 41, Chapter 6, Article 10.
- D. ~~The Department shall issue the license or deny the application within 30 calendar days of receipt of the documents prescribed in subsection (B).~~
- E. ~~The Department shall issue a duplicate pioneer license without charge upon written request from the licensee stating that the original license has been lost or destroyed, when Department records prove that the original pioneer license was issued to the licensee~~ A pioneer license holder may request a duplicate of their license if:
 - 1. The license has been lost or destroyed;
 - 2. The license holder submits a written request to the Department for a duplicate license; and
 - 3. The Department has a record that shows a pioneer license was previously issued to that individual.
- F. ~~This rule is effective January 1, 1995.~~

R12-4-202. Disabled Veteran's License

- A. A disabled veteran's license ~~shall grant grants~~ all of the hunting and fishing privileges of a Class F combination hunting and fishing license and an urban fishing license.
- B. ~~Persons meeting~~ An individual who meets the criteria ~~set~~ in A.R.S. § 17-336(2) may apply for a disabled veteran's license as follows. Eligibility for the license is based on 100% disability and not on the percentage of compensation.
1. An applicant for a disabled veteran's license shall apply on an application form available from any Department office. The applicant shall provide all of the following on the application form information on the application form:
 - a. ~~Full~~ The applicant's name and, date of birth, Department identification number, and physical description;
 - b. Current residence address; or physical location of residence;
 - c. Current mailing address;
 - d. If applicant has resided at the current residence or physical location of residence for less than one year, the ~~residence~~ address or physical location of each residence within the year immediately preceding application; and
 - e. ~~Applicant's~~ The applicant's signature, either witnessed by a Department employee or notarized.
 2. ~~The applicant shall submit, as part of the application, an original certification, issued within 90 days of application, from the Department of Veterans Affairs. The Department shall issue the license only if the Department of Veterans Affairs certification includes the following information~~ An applicant shall submit with the application form an original certification from the Department of Veterans' Services that includes the following information:
 - a. Full name and date of birth of the applicant;
 - b. Certification that the applicant is receiving compensation for permanent service-connected disabilities rated as 100% disabling;
 - c. Certification that the 100% rating is permanent and will not require reevaluation, or that the 100% rating is permanent but will be reevaluated in three years; and
 - d. Signature and title of an agent of the Department of ~~Veterans Affairs issuing or approving~~ Veterans' Services who issued or approved the certification.
- C. The Department shall deny a disabled veteran's license if ~~the an~~ an applicant is not eligible for the license, fails to comply with the requirements of this Section, or if the applicant provides false information upon or with during the application for a disabled veteran's license process. The Department shall provide written notice to the applicant if the application for a disabled veteran's license is denied. The applicant may appeal the denial to the Commission as prescribed in A.R.S. Title 41, Chapter 6, Article 10.
- D. ~~The Department shall issue a duplicate disabled veteran's license without charge upon written request from the licensee stating that the original license has been lost or destroyed, when Department records prove that the original disabled veteran's license was issued to the licensee~~ A disabled veteran's license holder may request a duplicate license if:
 1. The license has been lost or destroyed;
 2. The license holder submits a written request to the Department for a duplicate license; and
 3. The Department has a record that shows a disabled veteran's license was previously issued to that individual.
- E. ~~A~~ If the certification required in subsection (B) indicates that the applicant's disability rating of 100% is permanent and will be reevaluated, then a disabled veteran's license is valid for three years from the date of issuance. If the Department of Veterans Affairs Veterans' Services certifies that the applicant's disability rate rating of 100% is permanent and will not be reevaluated, a new certification is not required for renewal the license does not need to be renewed.

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

- A. An individual ~~taking who takes~~ ducks, geese, swans, doves, band-tailed pigeons, snipe, coots, common moorhen, or blue grouse in the state of Arizona shall participate in the National Harvest Information Program. ~~Participation requires:~~
1. ~~A person~~ If the individual is taking ducks, geese, or swans, the individual shall have in possession an Arizona possess a state waterfowl stamp, affixed to a Class F, G, or H, complimentary or lifetime license as prescribed in R12-4-101, that accompanies a valid hunting license. The stamp expires on June 30 of each year.
 2. ~~A person~~ If the individual is taking doves, band-tailed pigeons, snipe, coots, common moorhen, or blue grouse, the individual shall have in possession an Arizona possess a state migratory bird stamp, affixed to a Class F, G, or H, complimentary or lifetime license that accompanies a valid state hunting license as stated in R12-4-101(21). The stamp expires on June 30 of each year.
- B. The Department shall make state waterfowl stamps and state migratory bird stamps available annually ~~from July 1 through March 10.~~
1. To obtain a state waterfowl stamp or state migratory bird stamp, ~~a person an individual~~ shall pay the required fee ~~and complete~~ and submit a completed HIP registration form to ~~the a~~ license dealer or a Department office. The individual shall provide on the HIP registration form shall include the person's the individual's name, home mailing address, date of birth, and information on past and anticipated hunting activity.
 2. A license dealer shall submit HIP registration forms for all state waterfowl stamps and state migratory bird stamps sold with the monthly report required by A.R.S. § 17-338.
- ~~C. This rule is effective July 1, 2000.~~

R12-4-204. ~~Repealed Sikes Act Habitat Management Stamps~~

- A.** If the Department requires an individual to possess a habitat management stamp to take big game under an agreement between the Department and the United States Forest Service, in accordance with the Federal Sikes Act 16 U.S.C. 670, an individual shall purchase the applicable habitat management stamp for the fee prescribed in R12-4-102 and possess the stamp as prescribed in R12-4-101.
- B.** Applicable game management units and species for a habitat management stamp are prescribed by Commission Order.

R12-4-208. ~~Guide License~~

- A.** ~~A person~~ An individual shall not act as a guide, as defined in A.R.S. § 17-101, without a valid guide license. The Department shall issue the following guide licenses to eligible applicants:
1. A hunting guide license, ~~authorizing the licensee~~ which authorizes the license holder to act as a guide for taking wildlife, other than aquatic wildlife.
 2. A fishing guide license, ~~authorizing the licensee~~ which authorizes the license holder to act as a guide for taking aquatic wildlife only.
 3. A hunting and fishing guide license, ~~authorizing the licensee~~ which authorizes the license holder to act as a guide for taking all wildlife.
- B.** The Department shall not issue a guide license to an applicant if any of the following apply:
1. The applicant has been convicted, within five years preceding the date of application, of a felony violation of any ~~of the following federal laws: wildlife law;~~
 - a. ~~Lacey Act, 16 U.S.C. 3371-3378;~~
 - b. ~~Endangered Species Act, 16 U.S.C. 1531-1543;~~
 - e. ~~Bald Eagle Protection Act, 16 U.S.C. 668-668e;~~
 - d. ~~Airborne Hunting Act, 16 U.S.C. 742j-1;~~
 - e. ~~Migratory Bird Treaty Act, 16 U.S.C. 703-711.~~
 2. The applicant has been convicted, within five years preceding the date of application, of a violation of ~~the provisions of A.R.S. § 17-309(D);~~
 3. The applicant's privilege to take or possess wildlife or to guide or act as a guide is under current suspension or revocation ~~by the government of any state or of anywhere in the United States; for violation of a federal or state wildlife law; or~~
 4. The applicant has been convicted, as of 2006, of a violation of a federal or state wildlife law for which a license to take wildlife can be revoked or suspended within five years preceding application.
- C.** Unless the Commission is currently considering suspension or revocation of an applicant's license under A.R.S. § 17-340, the Department may issue a license to an applicant if:
1. The applicant otherwise meets the criteria prescribed by this Section; and
 2. The applicant has been convicted of a violation of any wildlife law stated in subsection (B) but the applicant voluntarily reported the violation immediately after committing it.
- CD.** The Department shall issue a guide license to an applicant who satisfies the requirements of A.R.S. § 17-362 and meets the following criteria:
1. An applicant for a hunting guide license shall:
 - a. Have a current Arizona hunting license; and
 - b. Answer correctly at least 80% of the questions in a written examination, supervised and administered by the Department, which covers:
 - i. A.R.S. Title 17, ~~Arizona Game and Fish Laws~~, and the Commission's rules on the taking and handling of terrestrial wildlife;
 - ii. Requirements for guiding on federal lands;
 - iii. Identification of wildlife, special state and federal laws ~~that cover~~ regarding certain species, and general knowledge of species habitat and wildlife that may occur in the same habitat; and
 - iv. General knowledge of the types of habitat within the state, and knowledge of special or concurrent jurisdictions within the state.
 2. An applicant for a fishing guide license shall:
 - a. Have a current Arizona fishing license; and
 - b. Answer correctly at least 80% of the questions in a written examination, supervised and administered by the Department, which covers:
 - i. A.R.S. Title 17, ~~Arizona Game and Fish Laws~~, and the Commission's rules on taking and handling of aquatic wildlife;
 - ii. A.R.S. Title 5, Chapter 3, ~~Arizona Boating and Watersport Laws~~ Water Sports, and the Commission's rules on boating;
 - iii. Identification of aquatic wildlife species, special state and federal laws regarding certain species, and general knowledge of species habitat and wildlife that may occur in the same habitat.

- iv. General knowledge of the types of habitat and special or concurrent jurisdictions upon bodies of water within the state.
3. An applicant for a hunting and fishing guide license shall:
 - a. Have a current Arizona hunting and fishing license; and
 - b. Answer correctly at least 80% of the questions in the written examination required in subsection ~~(C)~~(D)(1) and the written examination required in subsection ~~(C)~~(D)(2).
4. An applicant shall apply for a guide license according to subsections ~~(E)~~(F) and ~~(F)~~(G).
- ~~DE.~~ The Department shall give administer the examinations required in subsection ~~(C)~~ (D) quarterly (D) on the first Monday of the month at a any Department Office. ~~The Department shall provide exact dates for examinations by the first working day of each year. The written examination~~ The Department shall either provide the examination score after the exam is completed or mail the examination score shall be mailed to the applicant within seven working days of the examination date.
- ~~EE.~~ An applicant for a guide license shall obtain from and submit to the Department an application form providing apply on an application form available from any Department office. The applicant shall provide all of the following information on the application form:
 1. ~~Applicant's~~ The applicant's full name, home address, telephone number, residency status, date of birth, Department identification number, and physical description;
 2. Designation of guide license sought:
 - a. Hunting guide;
 - b. Fishing guide; or
 - c. Hunting and fishing guide;
 3. ~~Applicant's~~ The applicant's current Arizona hunting and fishing license numbers, as applicable;
 4. Responses to questions regarding applicant's eligibility for licensure under subsection (B)- and (C); and
 5. ~~Applicant's~~ The applicant's signature.
- ~~FG.~~ An applicant for a guide license shall ~~also~~ submit the following with the application form:
 1. ~~Applicant's~~ The applicant's original written examination score, dated within the past 12 months, for each examination required in by subsection ~~(C)~~ (D); and
 2. One of the following as proof of the applicant's ~~identification~~ identity. The Department shall return ~~an any~~ original or certified copy to the applicant after the Department has verified receipt on the application form:
 - a. ~~Passport~~ A passport;
 - b. ~~Original~~ An original or certified copy of the applicant's birth certificate;
 - c. ~~Original~~ An original or ~~photocopy of~~ copy of a valid Arizona driver's license; or
 - d. ~~Original~~ An original or ~~photocopy of~~ copy of a valid Arizona Motor Vehicle Division identification card.
- ~~GH.~~ The Department shall deny a guide license if ~~the an~~ applicant is not eligible for the license, fails to comply with the requirements of this Section, or if the applicant provides false information upon or with during the application process for a guide license. Any guide license so obtained is void and of no effect from the date of issuance. The Department shall provide written notice to an applicant whose application for a guide license is denied. The applicant may appeal the denial to the Commission as prescribed in A.R.S. Title 41, Chapter 6, Article 10.
- ~~HI.~~ ~~A person acting~~ An individual who acts as a guide, who may or may not be hunting with the aid of dogs, shall not pursue any wildlife or hold at bay any wildlife for a hunter unless the hunter is present during the pursuit to take the wildlife. The hunter shall be continuously present during the entire pursuit of that specific animal. ~~When~~ If dogs are ~~being~~ used, the hunter shall be present when the dogs are released on a specific target animal and shall be continuously present for the remainder of the pursuit. Any wildlife taken in violation of this subsection is unlawfully taken. ~~A person~~ An individual shall hold wildlife at bay only during daylight hours ~~except when, unless a Commission order~~ Order authorizes take of the species at night.
- ~~J.~~ An individual who acts as a guide shall not aid, counsel, agree to aid, or attempt to aid another individual in planning or engaging in conduct that results in a violation. An individual who acts as a guide shall report any violation committed by a client.
- ~~IK.~~ A licensed guide, when acting as a guide, When acting as a guide, a licensed guide shall carry an original or legible copy of the valid guide license and shall exhibit it upon request to any peace officer.
- ~~JL.~~ A guide license expires on December 31 of the year ~~of issuance~~ that it was issued. ~~And~~ An applicant may renew the license may be renewed for the new following license year:
 1. The Department shall accept an application for renewal of a guide license after December 1 of the year ~~preceding the new license year~~ it was issued, but shall not start the application administrative review process, required by A.R.S. § 41-1072 et seq., ~~prior to before~~ before January 10 of the ~~new following~~ license year unless the applicant's annual report, required by A.R.S. § 17-362, is received by the Department.
 2. The current guide license shall remain valid, pending Department action on the application for renewal, only if the application for renewal is made ~~prior to before~~ the guide license expiration date and the annual report required by A.R.S. § 17-362 is received by January 10 of the ~~new following~~ license year.
- ~~KM.~~ The Department shall renew a guide license only if the applicant continues to satisfy the requirements of A.R.S. § 17-362

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and meets all of the following criteria:

1. The applicant is not ~~ineligible~~ prohibited from being issued a license under subsection (B);
2. The applicant has a current valid Arizona hunting or fishing license ~~as required for the guide license sought. in accordance with subsection (D);~~
3. The applicant applies for ~~a~~ the guide license as required in subsection ~~(E); (F) and (G);~~
4. The applicant ~~has submitted~~ submits the annual report for the preceding license year as required by A.R.S. § 17-362;
5. The applicant takes or re-takes and passes each applicable written examination required in subsection ~~(C), only if required to do so because (D). An applicant is only required to do so if:~~
 - a. The applicant ~~is seeking~~ seeks to add a guiding authority to a current guide license;
 - b. The applicant for a hunting guide ~~authority~~ license has been convicted, within one year preceding the date of application, of a violation of A.R.S. Title 17, ~~Arizona Game and Fish Laws,~~ or the Commission's rules governing the taking and handling of terrestrial wildlife;
 - c. The applicant for a fishing guide ~~authority~~ license has been convicted, within one year preceding the date of application, of a violation of A.R.S. Title 17, ~~Arizona Game and Fish Laws,~~ or the Commission's rules governing the taking and handling of aquatic wildlife, A.R.S. Title 5, Chapter 3, ~~Arizona Boating Laws,~~ or the rules governing boating and water sports;
 - d. The applicant ~~failed~~ fails to submit ~~the~~ a renewal application ~~prior to~~ postmarked before the expiration date of the guide license; or
 - e. The applicant ~~failed to submit by January 10 of the new license year the annual report for the preceding license year required by A.R.S. § 17-362. The applicant fails to submit the annual report for the preceding license year, required by A.R.S. § 17-362, postmarked before January 10 of the following license year.~~

~~N.~~ The Commission may revoke a guide license issued to any person individual for conviction regarding of a violation of statute or rule, as provided in A.R.S. § 17-362(A), ~~for revocation or suspension of or revoke or suspend~~ any license held by the guide as provided in A.R.S. § 17-340, or revoke or suspend a guide license for conviction of a felony violation of the laws any law listed in subsection (B), or for revocation of the privilege to take wildlife by any government jurisdiction.

~~M.~~ This rule is effective January 1, 2000.

R12-4-215. ~~Tournament Fishing Permit Regulations Repealed~~

~~A.~~ Application for a tournament fishing permit pursuant to A.R.S. § 17-347 requires that the following information be provided by the tournament director to the Department:

1. Name of tournament director, date of birth, telephone number, and mailing address. The "tournament director" means the individual designated by the sponsor as the person responsible for compliance with this rule.
2. Tournament name and sponsor.
3. Location and dates.
4. Anticipated number of participants.

~~B.~~ A tournament fishing permit shall be available for inspection by Department personnel at the weigh-in sites.

~~C.~~ This rule is effective January 1, 1995.

R12-4-216. ~~Crossbow Permit~~

~~A.~~ "~~Crossbow~~ For the purposes of this Section, "crossbow permit" means a document issued by the Department that authorizes the ~~named hunter~~ permit holder to use a crossbow during an archery-only season, ~~established as prescribed~~ under R12-4-318.

~~B.~~ A crossbow permit is valid only when the ~~legal~~ designated animal for the archery-only season may otherwise be taken by crossbow under R12-4-304. Possession of a crossbow permit does not waive any other requirement ~~regarding for~~ method of take or licensing.

~~C.~~ An applicant for a crossbow permit shall apply on an application form available from any Department office. The applicant shall provide all of the following information on the application form:

1. ~~Applicant's~~ The applicant's name, identification number, mailing address, and telephone number; and
2. A statement from an M.D., doctor of medicine, ~~licensed under A.R.S. § 32-1421 et seq. with a valid license to practice issued by any state,~~ or a D.O., doctor of osteopathic medicine, ~~licensed under A.R.S. § 32-1821 et seq., attesting with a valid license to practice issued by any state,~~ that affirms the applicant has a permanent disability of at least 90% impairment of function of one arm and providing provides the physician's typed or printed name, business address, and signature.

~~D.~~ All information and documentation provided by an applicant for a crossbow permit is subject to verification by the Department.

~~E.~~ The Department shall return, without denial or approval, an incomplete application for a crossbow permit unless the Department is able to obtain the information needed to complete the application. The Department shall attach a letter to a returned application that explains why the application is returned.

~~F.~~ When an applicant is able to provide verbally the information that caused an application for a crossbow permit to be

~~incomplete, the Department shall add the information to the application, note where each change is made, date each change, and indicate the source of the added information.~~

~~G.~~ The Department shall provide written notice to an applicant whose application for a crossbow permit is denied. The applicant may appeal the denial to the Commission as prescribed in A.R.S. § 41-1092.02 through 41-1092.12 Title 41, Chapter 6, Article 10.

~~H.F.~~ A crossbow permit is valid as long as the criteria for obtaining the permit are met, unless the Commission revokes the permit.

~~I.G.~~ When acting under the authority of a crossbow permit, the crossbow ~~permittee shall be in possession of~~ permit holder shall possess the permit, and shall exhibit ~~the crossbow permit~~ it upon request ~~of a~~ to any peace officer.

~~J.H.~~ A crossbow ~~permittee~~ permit holder shall not transfer the permit to another individual or allow another individual to use the permit ~~issued to the crossbow permittee.~~

~~K.I.~~ After a hearing ~~and upon sufficient cause showing,~~ the Commission shall revoke the crossbow permit of a crossbow ~~per-~~ mittee permit holder who transfers the permit to another individual or allows another individual to use the permit. An individual whose crossbow permit is revoked by the Commission may petition the Commission for rehearing in accordance with R12-4-607.

~~L.~~ This rule is effective January 1, 2000.

R12-4-217. Challenged Hunter Access/Mobility Permit (CHAMP)

A. The Department shall issue to a qualified ~~individuals~~ individual a Challenged Hunter Access/Mobility Permit, ~~also known as a CHAMP, (CHAMP)~~ that allows the individual to perform the following activities ~~by the licensed hunter to whom the CHAMP is issued:~~

1. Discharge ~~of~~ a firearm or other legal hunting device from a motor vehicle ~~when if,~~ under existing conditions, the discharge is otherwise lawful ~~and,~~ the motor vehicle is motionless, it is not on any road as defined by A.R.S. § 17-101, and ~~has its~~ the engine is turned off;.
2. Discharge ~~of~~ a firearm or other legal hunting device from a watercraft (except a sinkbox), including ~~those~~ a watercraft propelled by a motor, sail and wind, or both; ~~when if~~ the motor has been shut off, the sail furled, or both; and progress has ceased. The watercraft may be drifting as a result of current or wind action, beached, moored, resting at anchor, or propelled by paddle, oars, or pole. A watercraft under power may be used to retrieve dead or wounded wildlife but ~~no~~ discharge of a firearm from a watercraft is permitted while prohibited if the watercraft is underway;.
3. ~~Access to~~ Use off-road locations in a motor vehicle ~~when the access if use~~ is not in conflict with other ~~law laws~~ and the motor vehicle is used as a place to wait for game. A motor vehicle shall not be used to chase or pursue game;.
4. Designation of an assistant to track and dispatch a wounded animal, and to retrieve the animal, in accordance with the requirements of this ~~rule~~ Section.

B. A qualified individual who possesses a CHAMP shall comply with all legal requirements governing method of take and licensing.

C. An applicant for a CHAMP shall apply on an application form available from any Department office. The applicant shall provide all of the following information on the application form:

1. ~~Applicant's~~ The applicant's full name, hunter identification number, mailing address, and telephone number.
2. A statement from an M.D., doctor of medicine, ~~licensed under A.R.S. § 32-1421 et seq. with a valid license to practice issued by any state,~~ or a D.O., doctor of osteopathic medicine, ~~licensed under A.R.S. § 32-1821 et seq. with a valid license to practice issued by any state,~~ that ~~includes~~ provides the physician's printed or typed name, business address, and signature, ~~attesting that and affirms~~ the applicant is permanently disabled as follows:
 - a. Has a disability or combination of disabilities ~~creating that creates~~ a minimum permanent impairment of function of or equivalent to no less than 90% loss of function in one leg; ~~or no more than 10% maximal functional use in one leg regardless of the functional level of the other leg;~~ or
 - b. Has a visual field of no more than 20% in the ~~better~~ applicant's best functioning eye; or
 - c. Has vision ~~in the better eye~~ of 20/200 or less after best correction in the applicant's best functioning eye.

D. All information and documentation provided by the applicant for the CHAMP is subject to verification by the Department.

~~E.~~ The Department shall ~~return, without denial or approval, an incomplete application for a CHAMP unless the Department is able to obtain the information needed to complete the application. The Department shall attach a letter to a returned application that explains why the application is returned.~~

~~F.~~ ~~When an applicant is able to provide verbally the information that caused an application for a CHAMP to be incomplete, the Department shall add the information to the application, note where each change is made, date each change, and indicate the source of the added information.~~

~~G.~~ The Department shall provide written notice to an applicant whose application for a CHAMP is denied. The applicant may appeal the denial to the Commission as prescribed in A.R.S. § 41-1092.02 through 41-1092.12 A.R.S. Title 41, Chapter 6, Article 10.

~~H.F.~~ While a motor vehicle or watercraft is in use under subsection (A), the CHAMP ~~permittee~~ holder shall display on the

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motor vehicle or watercraft the CHAMP vehicle placard issued by the Department that the Department issues with the CHAMP.

- ~~IG.~~ The Department shall provide a CHAMP ~~permitees holder~~ with a dispatch permit that allows the CHAMP ~~permitee holder may use~~ to designate a licensed hunter as an assistant to dispatch and retrieve ~~or to retrieve~~ an animal wounded by the CHAMP holder or retrieve wildlife killed by the CHAMP ~~permitee holder~~. The CHAMP ~~permitee holder~~ shall designate the assistant only after the animal is wounded or killed. The CHAMP ~~permitee holder~~ shall ensure that designation on the permit is in ink and includes a description of the animal, the assistant's name and hunting license number, and the date and time the animal was wounded or killed. The CHAMP ~~permitee holder~~ shall also ensure compliance with all of the following requirements:
 1. The site where the animal is wounded and the location from which tracking begins ~~is are~~ marked so ~~it they~~ can be identified later.
 2. The assistant possesses the dispatch permit while tracking and dispatching the wounded animal.
 3. The CHAMP ~~permitee holder~~ is in the field while the assistant is tracking and dispatching the wounded animal.
 4. The assistant does not transfer the dispatch permit to anyone except the CHAMP ~~permitee holder~~.
 5. Dispatch is made by a method that is lawful for the take of the particular animal in the particular season.
 6. The assistant attaches the dispatch permit to the carcass of the animal and returns the carcass to the CHAMP ~~permitee holder~~, and the tag of the CHAMP ~~permitee holder~~ is affixed to the carcass.
 7. If the assistant is unsuccessful in locating and dispatching the wounded animal, the assistant returns the dispatch permit to the CHAMP ~~permitee holder~~ who strikes the name and authorization of the assistant from the dispatch permit.
- ~~JH.~~ A dispatch permit is void ~~when if~~ all spaces for designation of an assistant are filled or the dispatch permit is attached to a carcass.
- ~~KI.~~ A CHAMP is valid as long as the criteria for obtaining the permit are met, unless the Commission revokes the permit.
- ~~LJ.~~ When acting under the authority of the CHAMP, the ~~permitee permit holder~~ shall ~~be in possession of possess~~ and exhibit the CHAMP, upon request, to a any peace officer.
- ~~MK.~~ A CHAMP ~~permitee holder~~ shall not transfer the permit to another individual or allow another individual to use the permit ~~issued to the CHAMP permitee~~.
- ~~NL.~~ After a hearing and upon sufficient cause showing, the Commission shall revoke the CHAMP of a ~~permitee permit holder~~ who transfers the permit to another individual or allows another individual to use the permit, ~~or upon conviction of for~~ violating A.R.S. § 17-312 or any other law governing that governs the take of wildlife, or for violation of this ~~rule Section~~. ~~An individual whose~~ If an individual's CHAMP permit is revoked by the Commission, the individual may petition the Commission for rehearing in accordance with R12-4-607.
- ~~O.~~ This rule is effective ~~January 1, 2000~~.

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 15. DEPARTMENT OF WATER RESOURCES

[R05-321]

PREAMBLE

<u>1. Sections Affected</u>	<u>Rulemaking Action</u>
Article 1	Amend
R12-15-151	Amend
R12-15-401	Amend
R12-15-811	Amend
R12-15-814	Amend
R12-15-904	Amend
R12-15-1001	Amend
R12-15-1003	Repeal
R12-15-1003	New
R12-15-1004	Amend
R12-15-1006	Amend
R12-15-1008	Amend
R12-15-1009	Amend
R12-15-1010	Amend
R12-15-1011	Amend
R12-15-1014	Amend
R12-15-1016	New Section

R12-15-1017
R12-15-1101

New Section
Amend

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

Authorizing statutes: A.R.S. §§ 41-1073, 45-105(B)(1), 45-113(A), 45-467(B), 45-594(A), 45-604(E), 45-633(B), 45-880.01(B), and 45-1061(B)

Implementing statutes: A.R.S. §§ 41-1073(A), 45-113, 45-203, 45-332, 45-437, 45-467, 45-468, 45-594, 45-604, 45-614, 45-632, 45-634, 45-635, 45-872.01, 45-874.01, 45-875.01, 45-876.01, 45-877.01, 45-878.01, 45-879.01, 45-880.01, 45-881.01, 45-882.01, 45-1004, 45-1061, 45-1062, and 45-1063

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

Notice of Rulemaking Docket Opening: 11 A.A.R. 2391, June 24, 2005

Notice of Rulemaking Docket Opening: 11 A.A.R. 3447, September 9, 2005

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

Name: Scott Deeny, Deputy Counsel

Address: 500 N. Third St.
Phoenix, AZ 85004

Telephone: (602) 417-2420

Fax: (602) 417-2415

E-mail: smdeeny@azwater.gov

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

This proposed rulemaking will make technical amendments to a number of rules previously adopted by the Arizona Department of Water Resources ("ADWR"). The majority of the amendments are editorial or conforming, and will improve the accuracy and consistency of existing rules and remove present sources of confusion to the public by conforming existing rules to statutory changes that have occurred since the rules were adopted, correcting typographical errors in existing rules, updating ADWR's address and making grammatical improvements. In addition, ADWR proposes to adopt two new sections: R12-15-1016, which will require water providers to report the quantities of spillwater delivered for irrigation and non-irrigation uses, and R12-15-1017, which will establish June 1 as the date when community water systems must file their annual reports under A.R.S. § 45-332. The following changes are proposed:

Article 1. Definitions, Fees, Procedural Rules for Hearings

The heading of Article 1 will be changed to "Fees" to accurately reflect the content of the article.

R12-15-151. Fee Schedule

R12-15-151(B)(7), which sets forth fees for adequate and assured water supply, will be deleted and replaced with language incorporating by reference the fees in Article 7, "Assured and Adequate Water Supply." When R12-15-714(B) and R12-15-725(B) were adopted, ADWR intended that the fees in those sections would replace the fees in R12-15-151(B)(7). However, R12-15-151(B)(7) was not amended at that time, resulting in an inconsistency between the fees in that section and the fees in R12-15-714(B) and R12-15-725(B). This amendment will correct that inconsistency.

R12-15-401. Licensing Time-frames

R12-15-401 will be amended in the following two ways:

1. In the introductory subsection, the citation for the statutory definition of "license" will be changed from "A.R.S. § 41-1001.11" to "A.R.S. 41-1001." After Rule R12-15-401 was adopted, the definition of "license" in A.R.S. § 41-1001 was renumbered from subsection 11 to subsection 10. This amendment will eliminate the reference to a subsection number, leaving a reference only to the section in which the definition appears.
2. R12-15-401(2) will be amended to change the language describing the action ADWR may take if an applicant with an incomplete application fails to timely complete the application after receiving notice from ADWR that the application is incomplete. The language currently states that the Department may "deem the application withdrawn and close the file." This language will be deleted and replaced with language stating that the Director may deny the application. ADWR has no authority to deem an application withdrawn. It must either grant or deny an application.

R12-15-811. Minimum well construction requirements

R12-15-811(A)(5) will be amended to update the addresses for ADWR and the American Society for Testing and Materials. The address for ADWR will be changed to the new address ADWR will have beginning in October 2005.

R12-15-814. Disinfection of wells

R12-15-814 will be amended to update ADWR's address. The address will be changed to the new address ADWR will have beginning in October 2005.

R12-15-904. Water Measuring Method Reporting Requirements

R12-15-904(B) will be amended to correct a cross-reference error. The reference to R12-15-909(C) will be changed to R12-15-909(B) and (D).

R12-15-1001. Definitions

R12-15-1001 will be amended in the following ways:

1. The definition of "annual report" in R12-15-1001(2) will be amended to include annual reports filed under the following statutes: (1) A.R.S. § 45-437, the statute requiring annual reports by persons withdrawing groundwater from non-exempt wells in irrigation non-expansion areas; (2) A.R.S. §§ 45-876.01, 45-877.01 and 45-878.01, the statutes requiring annual reports by replenishment districts; and (3) A.R.S. § 45-1004, the statute requiring annual reports by persons authorized to give or receive water pursuant to a water exchange. A.R.S. § 45-437 was inadvertently omitted when the rule was adopted, and A.R.S. §§ 45-876.01, 45-877.01, 45-878.01 and 45-1004 were enacted after the section was adopted. In addition, because A.R.S. §§ 45-655 and 45-815 have been repealed, the references to those statutes will be deleted and replaced with a reference to the statute that has replaced them, A.R.S. § 45-875.01.
2. The definition of "farm" in R12-15-1001(5) will be amended by changing the citation for the statutory definition of "farm" from A.R.S. § 45-402(9) to A.R.S. § 45-402. The reference to A.R.S. § 45-402(9) is no longer accurate because the definition of "farm" in A.R.S. § 45-402 has been renumbered to A.R.S. § 45-402(10). This amendment will eliminate the reference to a subsection number, leaving a reference only to the section in which the definition appears.
3. The definition of "normal flow" in R12-15-1001(7) and the definition of "responsible party" in R12-15-1001(9) will be amended by making non-substantive grammatical changes.
4. The definition of "spillwater" in R12-15-1001(10) will be amended to broaden the definition to include surface water, other than Colorado river water, released for beneficial use from diversion or distribution facilities to avoid spilling that would otherwise occur due to uncontrolled surface water inflows that exceed facility capacity. This will conform the definition to the current statutory language for spillwater. *See* A.R.S. §§ 45-467(D) and 45-561(11).

R12-15-1003. Filing of annual reports/accuracy

R12-15-1003 will be amended in the following ways:

1. R12-15-1003(A) will be deleted. The first sentence is outdated because it applies only to annual reports for calendar year 1984. The second sentence, which provides that subsequent annual reports shall be filed no later than March 31 of each year for the preceding calendar year, is not accurate with respect to annual reports filed under A.R.S. §§ 45-877.01 and 45-878.01. The sentence can be deleted because the deadline for filing annual reports is governed by statute.
2. R12-15-1003(B), which sets forth the accuracy requirements for annual reports, currently provides that from January 1, 2000 through December 31, 2009, a person shall not be found to be in violation of the reporting requirements in A.R.S. § 45-632 if the quantity of groundwater in fact withdrawn or used does not exceed the quantity measured, totalized and reported by more than 8 percent. This subsection will be amended to broaden its scope so that it applies to any water reported as having been withdrawn, delivered, received, transported, recharged, replenished, stored, recovered or used during a year. In addition, the accuracy requirement will be changed from 8 percent to 10 percent to conform to the accuracy requirement for approved measuring devices set forth in A.A.C. R12-15-905(A) and the accuracy requirement for measuring devices used for the reporting of tailwater deliveries set forth in A.A.C. R12-15-1010(A)(1)(a). Finally, several non-substantive grammatical changes will be made and language referring to accuracy requirements for the years 1983 through 1999 will be deleted.
3. The heading of the section will be changed to reflect the deletion of subsection (A).

R12-15-1004. Filing of an annual report required by A.R.S. § 45-467 or 45-632 on behalf of the responsible party

R12-15-1004 will be amended in the following ways:

1. R12-15-1004(a), which provides that a responsible party shall be liable for any fines, penalties or other sanctions resulting from the filing or contents of an annual report filed for the responsible party by another person, will be amended to make the rule applicable to all annual reports. The subsection currently applies only to annual reports required by A.R.S. §§ 45-467 and 45-632. Non-substantive grammatical changes will also be made to the subsection.

2. R12-15-1004(B), which provides that there will be a rebuttable presumption that an annual report filed on behalf of a responsible party was filed with the responsible party's knowledge, consent and authorization if the responsible party has not filed an annual report for the year, will be amended to make the subsection applicable to all annual reports. The subsection currently applies only to annual reports required by A.R.S. §§ 45-467 and 45-632.
3. The heading of the section will be changed by removing the references to A.R.S. §§ 45-467 and 45-632. This will reflect that the section applies to all annual reports, not just those required by A.R.S. §§ 45-467 and 45-632.

R12-15-1006. Reporting requirements for holders of recovery well permits

R12-15-1006 will be amended by replacing the reference to A.R.S. § 45-815(B) with a reference to A.R.S. § 45-875.01. A.R.S. § 45-815 was repealed by the Legislature and replaced with A.R.S. § 45-875.01. Several non-substantive grammatical changes will also be made to this subsection.

R12-15-1008. Information required to maintain an operating flexibility account

R12-15-1008 will be amended in the following ways:

1. R12-15-1008(A) and (B) will be amended to clarify that the reporting requirements for groundwater apply to in lieu water received pursuant to a groundwater savings facility permit issued pursuant to A.R.S. § 45-812.01. Although in lieu water is physically surface water or effluent used by a person in lieu of groundwater, A.R.S. § 45-873.01 provides that the water is deemed to be groundwater for all purposes of Title 45, Chapter 2, Arizona Revised Statutes and must be reported as groundwater. The amendments will be made to the introductory subsection in subsection (A) and in R12-15-1008(A)(3) and (4) and R12-15-1008(B)(1).
2. The introductory subsection in R12-15-1008(B) will be amended by replacing the reference to A.R.S. § 45-458 with a reference to A.R.S. § 45-468. This will correct a typographical error.
3. R12-15-1008(B), which requires water deliverers to report the quantities of specific types of water delivered to farms during the year, will be amended to add effluent to the list of the types of water that must be reported. A.R.S. § 45-468(B) requires the reporting of effluent, but effluent was inadvertently omitted from the list when R12-15-1008 was adopted.
4. Several non-substantive grammatical changes will be made to R12-15-1008(A) and (B).

R12-15-1009. Credits to operating flexibility account

R12-15-1009 will be amended in the following ways:

1. R12-15-1009(A), which describes the method for determining the amount of any credits that will be registered to a farm's operating flexibility account for a year, will be amended to provide that spillwater used by a farm will not be considered when determining whether the amount of water used by the farm during a year is less than the farm's maximum annual groundwater allotment for the year. This will conform the subsection to A.R.S. § 45-467(D), which excludes spillwater from consideration when determining credits to a farms' operating flexibility account.
2. R12-15-1009(B) will be amended by making several non-substantive grammatical changes.

R12-15-1010. Operating flexibility account; tailwater

R12-15-1010(A) and (B) will be amended by making several non-substantive grammatical changes.

R12-15-1011. Statement of operating flexibility account

R12-15-1011 will be amended in the following ways:

1. R12-15-1011(A), which provides that the operating flexibility account for each farm will be established with a balance of zero on the first day of the first year in which the person entitled to use groundwater on the farm is required to comply with the first irrigation water duty established by the director pursuant to Title 45, Chapter 2, article 9, will be deleted because the subsection is outdated. The operating flexibility accounts for all farms were established in the 1980's and all accounts now have either a positive or negative account balance.
2. R12-15-1011(B) and (C) will be re-lettered to (A) and (B), and non-substantive grammatical changes will be made to those subsections.
3. R12-15-1011(D), which provides that a statement of operating flexibility account or an amendment thereto may be appealed as provided in A.R.S. § 45-405, will be deleted because A.R.S. § 45-405 no longer sets forth a person's right to appeal a decision of the director. Rather than amending the subsection to include a reference to the statute that now governs appeals from decisions of the director, the subsection will be deleted because it is not necessary to describe a person's right to appeal in a rule.

R12-15-1014. Late filing or payment; extension and late payment of fees

R12-15-1014 will be amended as follows:

1. The heading of the section will be reworded to improve clarity. The new heading will be "Late filing or payment

of fees; extension; penalties.”

2. In R12-15-1014(B) and (C), the term “stored water recovery fees” will be changed to “long-term storage credit recovery fees” to reflect a change in the name of the fees in A.R.S. § 45-874.01.
3. In R12-15-1014(D) and (E), the references to March 31 will be changed to “the date the annual report or annual account is required to be filed under the applicable statute.” This change is necessary because although most annual reports are required to be filed by March 31 of the following year, annual reports under A.R.S. § 45-876.01 are required to be filed by May 15 of the following year and annual reports required by 45-877.01 and 45-858.01 are required to be filed by August 31 of the following year.
4. In R12-15-1014(D) and (E), references to statutes that have been repealed (A.R.S. §§ 45-655, 45-814, 45-815, 45-817 and 45-818) will be replaced with references to the statutes that have taken their place (A.R.S. §§ 45-874.01, 45-875.01 and 45-881.01). Also, references to the statutory provisions for imposing penalties for filing late annual reports under A.R.S. §§ 45-437 (irrigation non-expansion areas), A.R.S. §§ 45-876.01, 45-877.01 and 45-878.01 (replenishment districts) and A.R.S. § 45-1004 (water exchanges) will be added so that the provisions in R12-15-1014(D) and (E) that establish the date when late penalties begin to accrue and provide an opportunity to request an extension of time to file an annual report will be applicable to those annual reports.
5. In R12-15-1014(B) through (E), non-substantive grammatical changes will be made.

R12-15-1016. Spillwater reporting by water deliverers

A new section, R12-15-1016, will be added requiring water providers delivering spillwater during a year to include in their annual report for the year the quantity of spillwater delivered for non-irrigation use, the quantity of spillwater delivered for irrigation use and such other information as the director may reasonably require to determine whether the water qualifies as spillwater. This is consistent with ADWR’s current practice of requiring persons delivering spillwater during a year to report the quantities delivered for irrigation use and non-irrigation use.

R12-15-1017. Maintenance and filing of annual reports required by A.R.S. § 45-332

A.R.S. § 45-332, which was enacted into law in 2005, requires certain community water systems to file annual reports with ADWR. Community water systems subject to the reporting requirements are all community water systems outside of AMAs and those community water systems within AMAs that are exempt from filing annual reports under A.R.S. § 45-632. The statute specifies the information that must be included in an annual report and the actions the director must take if a community water system fails to timely file an annual report. However, the statute does not specify the date by which a community water system must file an annual report. A new section, R12-15-1017, will be added to Article 10 to provide that a community water system required to file an annual report under A.R.S. § 45-332 must maintain the report on an calendar year basis and file the report with ADWR no later than June 1 of each year for the preceding calendar year.

R12-15-1101. Inspections

R12-15-1101 will be amended as follows:

1. In R12-15-1101(A)(1), the references to repealed statutes A.R.S. §§ 45-655, 45-815 and 45-864 will be deleted and replaced with a reference to the statute that replaced them, A.R.S. § 45-879.01. In addition, a reference to A.R.S. § 45-1004 (recordkeeping requirements for parties to a water exchange) will be added in order to make the inspection rules applicable to inspections for the purposes of obtaining factual data or access to records kept under that statute.
2. R12-15-1101(A)(3) will be amended to conform the language in that subsection to statutory amendments relating to inspections of underground water storage projects and recovery wells, including the repeal of A.R.S. §§ 45-816 and 45-865 and the enactment of A.R.S. § 45-880.01.
3. A new subsection, R12-15-1101(A)(6), will be added to the definition of “inspection” so the definition will also include entry by the director at reasonable times onto private or public property to inspect facilities for the withdrawal, diversion or use of water pursuant to a water exchange contract or to ascertain compliance with Title 45, Chapter 4 (Water Exchanges).
4. R12-15-1101(I) will be added to provide that the director shall comply with the requirements of A.R.S. § 41-1009 when conducting inspections under this article. A.R.S. § 41-1009 sets forth procedures that an agency inspector or regulator must follow when conducting an inspection.

6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not 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 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:

Any economic, small business and consumer impacts (referred to hereafter as “economic impact(s)”) that may result from the proposed rulemaking are expected to be minor and are limited to changes in Article 10, “Reporting Requirements for Annual Reports, Annual Accounts, Operating Flexibility Accounts, and Conveyances of Groundwater Rights.” Minor economic impacts may be associated with the following Article 10 changes:

R12-15-1001. Definitions. The definition of “annual report” in R12-15-1001(2) will be amended to include annual reports filed under the following statutes: (1) A.R.S. § 45-437, the statute requiring annual reports by persons withdrawing groundwater from *non-exempt wells in irrigation non-expansion areas*; (2) A.R.S. §§ 45-876.01, 45-877.01 and 45-878.01, the statutes requiring annual reports by *replenishment districts*; and (3) A.R.S. § 45-1004, the statute requiring annual reports by persons authorized to give or receive water pursuant to a *water exchange*. Changing the definition of “annual report” in this way will subject persons filing these annual reports to the accuracy requirement in R12-15-1003, the provisions of R12-15-1004(A) regarding responsibility for fines, penalties or sanctions associated with the contents of an annual report when the report is filed by another person on behalf of the responsible party, the requirements in R12-15-1013 regarding records retention, and the provisions of R12-15-1014 that establish the date when late penalties begin to accrue and provide an opportunity to request an extension of time to file an annual report. While this amendment will subject new classes of persons to these provisions, it is expected to result in only a minor economic impact, if any. These persons are already required to file annual reports. This amendment will simply impose certain procedural requirements on the filing of the annual reports and make the annual reports subject to the same accuracy requirement imposed on all other annual reports and on water measuring devices.

R12-15-1003. Filing of annual reports/accuracy. This section will be amended to broaden the scope of the accuracy requirement for annual reports so that the requirement applies to any water reported as having been withdrawn, delivered, received, transported, recharged, replenished, stored, recovered or used during a year. Currently, the accuracy requirement applies only to the quantity of groundwater reported as being withdrawn or used. In addition, the accuracy requirement will be changed from 8 percent to 10 percent. ADWR expects minor economic impacts, if any, resulting from the proposed changes. Increasing the maximum allowable deviation between the amount of water reported and the amount actually withdrawn, used, delivered, etc., from 8 percent to 10 percent, will provide a minor benefit to persons required to file annual reports, primarily water providers and farmers. While the proposed language broadens the scope of the accuracy requirement to apply to the reporting of additional categories of water uses, this should not result in an economic impact to persons filing annual reports because the accuracy requirement will be identical to the accuracy requirement for water measuring devices in A.A.C. R12-15-905.

R12-15-1004. Filing of an annual report required by A.R.S. § 45-467 or 45-632 on behalf of the responsible party. The section will be amended in the following two ways: (1) to make all annual reports subject to the provision that the person required by statute to file an annual report shall be responsible for any fines, penalties, or other sanctions resulting from the filing or contents of the annual report when the report is filed on behalf of the person by an irrigation district or other person; and (2) to extend to all annual reports a rebuttable presumption that an annual report filed on behalf of a responsible party was filed with the responsible party’s knowledge, consent and authorization if the responsible party has not filed an annual report. The primary effect of these changes is to subject persons withdrawing groundwater from non-exempt wells in irrigation non-expansion areas and persons holding water storage permits, underground storage facility permits, recovery well permits and groundwater savings facility permits to the provisions in the section. ADWR expects minor economic impacts, if any, resulting from the proposed changes. Any economic impacts will be confined to individual cases. Annual reports are already filed by the newly affected classes of water users and permit holders. Regardless of whether the responsible party or another person files the annual report, filings are timely in most cases and contents are unusually accurate to ADWR’s knowledge, even if the responsible parties may not always see the reports before they are filed.

R12-15-1016. Spillwater reporting by water deliverers. This proposed new section will require water providers delivering spillwater during a year to include in their annual reports the quantity of spillwater delivered for non-irrigation use, the quantity of spillwater delivered for irrigation use and such other information as the director may reasonably require to determine whether the water qualifies as spillwater. Minor or no economic impacts are expected because ADWR already requires water providers to include these items in their annual accounts and annual reports.

R12-15-1017. Maintenance and filing of annual reports required by A.R.S. § 45-332. A.R.S. § 45-332 was enacted into law in 2005. It requires community water systems outside of AMAs and those community water systems within AMAs that are exempt from filing annual reports under A.R.S. § 45-632 to file annual reports with ADWR. The statute does not specify the date by which a community water system must file an annual report. This proposed new section will provide that the reports under A.R.S. § 45-332 are to be maintained on a calendar year basis and filed with ADWR no later than June 1 of each year for the preceding calendar year. The section adds a deadline, six months, to prepare and file the report. ADWR views the time-frame as reasonable, and anticipates minor or no economic impacts to result from the deadline.

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: Mike Hanrahan

Notices of Proposed Rulemaking

Address: 500 N. Third St.
Phoenix, AZ 85004
Telephone: (602) 417-2440
Fax: (602) 417-2415
E-mail: mshanrahan@azwater.gov

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:

A public hearing on this proposed rulemaking will be held on October 13, 2005, at 2:00 p.m., at the Wingate Inn, Cardinal Room, 2520 N. Central Ave., Phoenix, AZ 85003.

Written comments will be accepted until October 20, 2005, at 5:00 p.m. Written comments should be addressed to:

Name: Rose Mae Nokes, Docket Supervisor
Address: Arizona Department of Water Resources
500 N. 3rd St.
Phoenix, AZ 85004
Telephone: (602) 417-2420
Fax: (602) 427-2415
E-mail: rmnokes@azwater.gov

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

None

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

None

13. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 15. DEPARTMENT OF WATER RESOURCES

ARTICLE 1. ~~DEFINITIONS, FEES, PROCEDURAL RULES FOR HEARINGS~~

Section
R12-15-151. Fee Schedule

ARTICLE 4. LICENSING TIME-FRAMES

Section
R12-15-401. Licensing Time-frames

ARTICLE 8. WELL CONSTRUCTION AND LICENSING OF WELL DRILLERS

Section
R12-15-811. Minimum well construction requirements
R12-15-814. Disinfection of wells

ARTICLE 9. WATER MEASUREMENT

Section
R12-15-904. Water Measuring Method Reporting Requirements

ARTICLE 4. LICENSING TIME-FRAMES

R12-15-401. Licensing Time-frames

The following time-frames apply to licenses issued by the Department. In this Article, "license" has the meaning prescribed in A.R.S. § 41-1001(44). The licensing time-frames consist of an administrative completeness review time-frame, a substantive review time-frame, and an overall time-frame.

1. No change
 2. An applicant with an incomplete application shall supply the missing information within 60 days from the date of the notice, or within such further time as the Director may specify, unless another time limit is specified by statute or applicable rule. If the applicant fails to complete the application within the specified time period, the ~~Department may deem the application withdrawn and close the file. Closing a file~~ Director may deny the application. Denial of an application under this provision does not preclude the applicant from filing a new application.
 3. No change
 4. No change
 5. No change
 6. No change
 7. No change
- Table A. No change

ARTICLE 8. WELL CONSTRUCTION AND LICENSING OF WELL DRILLERS

R12-15-811. Minimum well construction requirements

- A. Well casing
1. No change
 2. No change
 3. No change
 4. No change
 5. Copies of The American Society for Testing and Materials standard specifications referred to in subsections (3) and (4) above may be obtained with these rules at the Office of the Secretary of State of the State of Arizona, State Capitol, West Wing, Phoenix, Arizona 85007; from the Department of Water Resources, ~~Operations Division, 15 South 15th Avenue, Phoenix, AZ 85007~~ 3550 N. Central Avenue, Phoenix, AZ 85012; and from the American Society for Testing and Materials, ~~1916 Race Street, Philadelphia, Pennsylvania 19103~~ 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959. This rule does not include any later amendments or editions of those standard specifications.
- B. No change
C. No change
D. No change
E. No change
F. No change
G. No change
H. No change
I. No change

R12-15-814. Disinfection of wells

All wells from which the water to be withdrawn is intended to be utilized for human consumption or culinary purposes without prior treatment shall be disinfected by the well drilling contractor before removing the drill rig from the well site in accordance with the requirements contained in Engineering Bulletin No. 8, "Disinfection of Water Systems", issued by the Arizona Department of Health Services in August 1978, and Engineering Bulletin No. 10, "Guidelines for the Construction of Water Systems", issued by the Arizona Department of Health Services in May 1978, both of which are incorporated herein by reference and are on file with the Office of the Secretary of State. Copies of the Engineering Bulletins referred to above may be obtained with these rules at the Office of the Secretary of State of the State of Arizona, State Capitol, West Wing, Phoenix, Arizona 85007, and from the Department of Water Resources, ~~Operations Division, 15 South 15th Avenue, Phoenix, Arizona 85007~~ 3550 N. Central Avenue, Phoenix, AZ 85012. This rule does not include any later amendments or editions of those Bulletins.

ARTICLE 9. WATER MEASUREMENT

R12-15-904. Water Measuring Method Reporting Requirements

- A. No change
- B. Except as provided in R12-15-904(B)(5) and R12-15-909~~(C)~~(B) and (D), a responsible party shall file with the annual

report the information required in subsection (A) of this Section and the following information on a form prescribed by the Director:

1. No change
2. No change
3. No change
4. No change
5. No change

C. No change

ARTICLE 10. REPORTING REQUIREMENTS FOR ANNUAL REPORTS, ANNUAL ACCOUNTS, OPERATING FLEXIBILITY ACCOUNTS, AND CONVEYANCES OF GROUNDWATER RIGHTS

R12-15-1001. Definitions

In addition to the definitions set forth in A.R.S. §§ 45-101 and 45-402, the following words and phrases in this Article shall have the following meanings, unless the context otherwise requires:

1. No change
2. "Annual report" means an annual report of water withdrawn, delivered, received, transported, recharged, stored, recovered, replenished or used as required by A.R.S. §§ 45-437, 45-467, 45-632, 45-655, or 45-815 45-875.01, 45-876.01, 45-877.01, 45-878.01 or 45-1004.
3. No change
4. No change
5. "Farm" means an area of irrigated land under the same ownership as defined in A.R.S. § 45-402(9), including the area of land described in a certificate of irrigation grandfathered right, as well as contiguous land ~~which~~ that the owner is legally entitled to irrigate only with decreed or appropriative surface water.
6. No change
7. "Normal flow" means water ~~which is~~ delivered or used pursuant to a right to appropriate an unstored, natural flow of surface water.
8. No change
9. "Responsible party" means a person ~~who is~~ required by law to file an annual account or annual report.
10. "~~Spill water~~ Spillwater" means surface water, other than Colorado River water, ~~which is released from a storage facility into a surface water distribution system either through a spillway or to avoid using a spillway, and which is released for beneficial use from storage, diversion or distribution facilities to avoid spilling that would otherwise occur due to uncontrolled surface water inflows that exceed facility capacity and to which one of the following applies:~~
 - a. ~~Pursuant to the dam operator's~~ The water is released from the facility under written criteria for releasing water to avoid spilling ~~which that~~ have been approved in writing by the Director; ~~or~~
 - b. ~~Because there is a risk, unacceptable to a reasonable person,~~ The water is released from the facility because an unreasonable risk exists that the storage capacity of the facility will be exceeded within the next 30 days because the facility is near capacity and either the inflow to the facility or the forecast runoff into the facility is equal to or greater than the quantity of water ordered from the facility; ~~or~~
 - c. ~~Because there is a risk, unacceptable to a reasonable person,~~ The water is released from the facility because an unreasonable risk exists that the storage capacity of the facility will be exceeded more than 30 days in the future because the forecast runoff into the facility exceeds current unused storage capacity and projected water demand during the forecast period, provided that the Director has made a written finding before the release that the forecast is reasonable.
11. No change
12. No change
13. No change

R12-15-1003. ~~Filing of annual reports/accuracy~~ Accuracy of annual reports

- ~~A.~~ Each person required to file an annual report of groundwater withdrawals, transportation and use pursuant to A.R.S. § 45-632 shall file a report no later than March 31, 1985, for the period from January 1, 1984, through December 31, 1984. Subsequent annual reports shall be filed no later than March 31st of each year for the preceding calendar year.
- ~~B.~~ A person shall not be found to be in violation of the reporting requirements of A.R.S. § 45-632 if the quantity of groundwater in fact withdrawn or used does not exceed the quantity measured, totalized, and reported by the person, by more than the following percentages, and the error is not the result of an intentional misrepresentation:
 - From 7/1/1983 through 12/31/1989 15%
 - From 1/1/1990 through 12/31/1999 10%
 - From 1/1/2000 through 12/31/2009 8%

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The quantity of water a responsible party reports in an annual report as having been withdrawn, delivered, received, transported, recharged, replenished, stored, recovered or used during a year shall not deviate from the quantity of water actually withdrawn, delivered, received, transported, recharged, replenished, stored, recovered or used by the responsible party during the year unless both of the following apply:

1. The deviation is 10 percent or less.
2. The deviation is not the result of an intentional act of misrepresentation by the responsible party.

R12-15-1004. ~~Filing of an annual report required by A.R.S. § 45-467 or 45-632~~ Annual reports filed on behalf of the a responsible party

- A. A responsible party shall be liable for any fines, penalties or other sanctions resulting from or attributable to the filing or ~~contents~~ content of an annual report ~~required by A.R.S. §§ 45-467 or 45-632, notwithstanding that the annual report was filed for on behalf of~~ the responsible party by an irrigation district pursuant to A.R.S. § 45-632~~(D)~~, or by another person in a form acceptable to the Director.
- B. If a responsible party has not filed an annual report ~~required by A.R.S. § 45-467 or 45-632~~ for a calendar year, and the Department receives an annual report for that calendar year purportedly filed on behalf of the responsible party by an irrigation district pursuant to A.R.S. § 45-632~~(D)~~, or by another person in a form acceptable to the Director, there shall be a rebuttable presumption that the annual report was filed with the responsible party's knowledge, consent, and authorization.

R12-15-1006. Reporting requirements for holders of recovery well permits

~~A person who holds~~ responsible party recovering water during a year pursuant to a recovery well permit shall include in the annual report required by A.R.S. § 45-815(B), ~~the following additional information:~~

- ~~The A.R.S. § 45-875.01~~ the names of any persons, other than non-irrigation customers of cities, towns, private water companies and irrigation districts, to whom the responsible party delivered the recovered water ~~was delivered~~ during the year; the quantity of recovered water delivered to each such person named; and the uses to which the recovered water was applied.
- ~~If the recovered and delivered water included commingled groundwater, decreed or appropriative surface water other than spill water spillwater, central Arizona project water, effluent or spill water spillwater, the responsible party shall include in the annual report an estimate of the quantity of each type of water ~~which was~~ delivered to each person named in the annual report or put to a specific use by the responsible party.~~

R12-15-1008. Information required to maintain an operating flexibility account

- A. A responsible party who withdraws, receives or uses groundwater during a calendar year pursuant to an irrigation grandfathered right, including any in lieu water received pursuant to a groundwater savings facility permit issued pursuant to A.R.S. § 45-812.01, shall include the following information for the calendar year in an annual report filed pursuant to A.R.S. § 45-467 or 45-632:
- The quantity of groundwater withdrawn from each well;.
 - The quantity of groundwater withdrawn and delivered to another person for irrigation purposes;.
 - The quantity of groundwater received from a city, town, private water company or irrigation district, including any in lieu water received pursuant to a groundwater savings facility permit issued pursuant to A.R.S. § 45-812.01;
 - The quantity of groundwater received from a person other than a city, town, private water company or irrigation district, including any in lieu water received pursuant to a groundwater savings facility permit issued pursuant to A.R.S. § 45-812.01;
 - The quantity of effluent received;.
 - The quantity of decreed or appropriative surface water received, other than normal flow and spill water spillwater;
 - The quantity of normal flow received;.
 - The quantity of spill water spillwater received;.
 - The quantity of tailwater used;.
 - The quantity of tailwater delivered in accordance with the provisions of R12-15-1010(A), and the farm or irrigation district to which the tailwater was delivered;.
 - The quantity of central Arizona project water received;.
 - The quantity of any ~~other~~ surface water received which has and not been accounted for pursuant to subsections (6) through (11) of this subsection;.
 - The number of surface water right acres in the farm to which the irrigation grandfathered right is appurtenant;.
 - The quantity of water used for the legal irrigation of acres in the farm to which irrigation grandfathered rights are not appurtenant, ~~except that~~ if the responsible party ~~may omit~~ omits this information, ~~and it shall be presumed the Director shall presume~~ that the total amount of water received or used for the irrigation of the farm was applied to acres to which irrigation grandfathered rights are appurtenant;.
 - Such other information as the Director may reasonably require to accomplish the management goals of the applicable active management area.

B. A water deliverer shall include the following information for an accounting period in an annual account filed pursuant to A.R.S. § 45-458 ~~A.R.S. § 45-468~~:

1. The quantity of groundwater delivered to each farm, including any in lieu water delivered pursuant to a groundwater savings facility permit issued pursuant to A.R.S. § 45-812.01.
 2. The quantity of normal flow delivered to each farm.
 3. The quantity of ~~spill water~~ spillwater delivered to each farm.
 4. The quantity of decreed or appropriative surface water, other than normal flow and ~~spill water~~ spillwater, delivered to each farm.
 5. The quantity of central Arizona project water delivered to each farm.
 6. The quantity of decreed or appropriative surface water, other than normal flow and ~~spill water~~ spillwater, delivered for use within the service area of the water deliverer, including all farm and non-farm deliveries.
 7. The number of surface water right acres within the service area of the water deliverer.
 8. The quantity of effluent delivered to each farm.
89. Such other information as the Director may reasonably require to accomplish the purposes of A.R.S. § 45-468.

R12-15-1009. Credits to operating flexibility account

- A. Except as provided in subsection (B) of this ~~rule section~~ and in R12-15-1010, if the total amount of water from all sources other than spillwater used by a farm for irrigation purposes in a calendar year is less than the farm's maximum annual groundwater allotment for the year, the difference shall be registered as a credit to the farm's operating flexibility account.
- B. If a farm is within the service area of a water deliverer, the Director shall reduce the credit as calculated pursuant to subsection (A) of this rule ~~shall be reduced~~ section by an amount equal to the difference between the farm's pro rata share of the total quantity of decreed or appropriative surface water, other than normal flow or ~~spill water~~ spillwater, delivered by the water deliverer during the year for use within its service area, and the quantity of such water actually received by the farm during the year. The Director shall determine the farm's pro rata share of such water ~~shall be determined~~ by dividing the number of surface water right acres in the farm that are within the service area of the water deliverer by the total number of surface water right acres within the service area of the water deliverer, and multiplying the quotient by the total ~~amount of such water~~ quantity of decreed or appropriative surface water, other than normal flow or spillwater, delivered by the water deliverer during the year for use within its service area.

R12-15-1010. Operating flexibility account; tailwater

- A. ~~For purposes of~~ When calculating credits or debits to ~~the a farm's~~ operating flexibility account; for a year, the Director shall exclude from the total amount of water used on the farm during that year the amount of any tailwater that originated on the farm and that was delivered by a person from the farm to another farm or to an irrigation district for irrigation purposes during a calendar ~~the year shall not be considered as having been used for the irrigation of the farm on which the tailwater originated, provided and to the extent that if all of the following apply:~~
1. ~~The Director has approved, prior~~ Prior to January 1 of the ~~calendar~~ year in which the deliveries of tailwater take place, the Director approves a written plan to measure and record the tailwater deliveries. The plan shall include:
 - a. ~~A~~ The installation and use of a totalizing water measuring device to be installed and used in such a manner as to enable a reporting of that will record tailwater deliveries with no greater than a ~~ten~~ 10 percent margin of error.
 - b. ~~The procedures by which~~ Procedures for keeping accurate records of the tailwater deliveries ~~will be kept.~~
 - c. ~~The manner in which~~ A description of how the tailwater deliveries will be made, and delivered.
 - d. ~~The~~ An identification of the farm or irrigation district to which the tailwater will be delivered.
 2. The person has measured, recorded, and delivered the tailwater in ~~full~~ accordance with the plan ~~as approved pursuant to subsection (1) of this~~ under subsection (A)(1) of this section.
 3. The tailwater was ~~directly~~ delivered directly from the farm on which it originated to:
 - a. A specified farm ~~and was that used~~ the tailwater for the legal irrigation of irrigation acres or surface water right acres on that farm, or
 - b. A specified irrigation district ~~and was used that delivered the tailwater~~ for the legal irrigation of irrigation acres or surface water right acres within that district.
- B. A person who delivers tailwater in accordance with subsection (A) of this ~~rule section~~, and a person who directly receives and uses ~~such the~~ tailwater pursuant to subsection (A)(3)(a) of this ~~rule section~~, shall account for and report the tailwater; ~~for reporting purposes,~~ as if it were comprised of a mixture of groundwater, decreed and appropriative surface water other than normal flow, central Arizona project water, ~~spill water~~ spillwater, other surface water, and effluent, as applicable, in the same proportions as ~~such water~~ those types of water comprise the total amount of water other than normal flow received or withdrawn for irrigation use during the calendar year on the farm on which the tailwater originated.
- C. A person who uses tailwater ~~which that~~ has not been delivered and accounted for as provided in subsections (A) and (B) of this ~~rule section~~ may credit against the person's use of groundwater in a calendar year the amount of ~~such the~~ tailwater used during the calendar year if the use of such tailwater would cause a debit to be incurred. The credit shall be applied only against the person's operating flexibility account debits ~~which that~~ otherwise would have been incurred that year and

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shall not be used to discharge debits from prior years or accumulate credits for future years. For purposes of calculating credits to the person's operating flexibility account, ~~such~~ the tailwater shall be treated as groundwater, unless reported otherwise according to its source.

D. No change

R12-15-1011. Statement of operating flexibility account

~~A.~~ The operating flexibility account for each farm shall be established with a balance of zero on the first day of the first year in which the person entitled to use groundwater pursuant to the irrigation grandfathered right is required to comply with the first irrigation water duty established by the Director pursuant to A.R.S. Title 45, Chapter 2, Article 9.

~~B.A.~~ The Director shall annually issue ~~annually~~ to ~~the~~ each owner or user of an irrigation grandfathered right for which a current annual report has been filed a statement of the operating flexibility account setting forth the status of the operating flexibility account for the farm, based on the information submitted in the annual report filed for the right.

~~C.B.~~ Upon a motion or on the initiative of the Director, the Director may amend a statement of operating flexibility account at any time to correct clerical mistakes or to adjust the balance of the account based on information submitted in an amended or late annual report. The Director shall give written notice of any amendments made pursuant to this subsection to the person to whom the statement of operating flexibility account was issued.

~~D.~~ A statement of operating flexibility account or an amendment to a statement of operating flexibility account may be appealed as provided by A.R.S. § 45-405.

R12-15-1014. Late filing or payment of fees; extension ~~and late payment of fees;~~ penalties

A. No change

B. Except as provided in subsection (C) of this ~~rule~~ section, groundwater withdrawal fees and ~~stored water~~ long-term storage credit recovery fees shall be deemed to be paid at the time the fees are hand-delivered to any Department office, or at the time the envelope in which they are mailed is postmarked.

C. If any groundwater withdrawal fees or ~~stored water~~ long-term storage credit recovery fees are ~~not paid in cash in the first instance and the~~ with a negotiable instrument by which they are paid that is not honored and paid upon the Department's initial demand ~~by the Department~~, the fees shall be deemed to be paid at the time the Department actually receives the fees in cash or ~~when the negotiable instrument by which they are paid is subsequently~~ is honored and paid to the Department.

D. If an annual account or an annual report ~~which is~~ filed on or before ~~March 31~~ the date required by the applicable statute is found by the Director to be incomplete, the Director shall notify the responsible party of the inadequacies and give allow the responsible party 30 days from the date of the notice to provide the missing information in a form prescribed by the Director. If the ~~necessary~~ responsible party does not provide the missing information ~~is not timely provided~~ within 30 days from the date of the notice, late penalties ~~as provided in~~ under A.R.S. §§ 45-437, 45-632(K), 45-655(C), ~~or 45-815(D)~~ 45-875.01, 45-876.01, 45-877.01, 45-878.01 or 45-1004 shall begin to accrue on the 31st day following the ~~notice of inadequacy and the date of the notice~~ notice of inadequacy. The Director shall not recommend to a court, pursuant to A.R.S. §§ 45-634(C), 45-635, 45-817(6), ~~and 45-818~~ 45-881.01, 45-882.01, 45-1062 or 45-1063, that civil penalties be imposed through the first 30 days following the date of the notice of inadequacy. However, if the inadequacy included the failure to pay all groundwater withdrawal fees due or all ~~stored water~~ long-term storage credit recovery fees due, ~~the late penalties as provided in~~ under A.R.S. §§ 45-614(E) or 45-814(D) ~~45-874.01~~ shall, ~~except as provided in subsection (E) of this rule~~, begin to accrue on April 1, except as provided in subsection (E) of this section.

E. A ~~person~~ responsible party required to file an annual account or annual report for a year may request a 30-day extension of the first day of accrual of the late penalties ~~provided in~~ under A.R.S. §§ 45-437, 45-614(E), 45-632(K), 45-655(C), ~~45-814(D), and 45-815(D)~~ 45-874.01, 45-875.01, 45-876.01, 45-877.01, 45-878.01 or 45-1004 and of the civil penalties that the Director may recommend that a court impose pursuant to A.R.S. §§ 45-634(C), 45-635, 45-817(C) ~~and 45-818~~ 45-881.01, 45-882.01, 45-1062 or 45-1063. The request shall be filed no later than ~~March 31~~ the date the annual account or annual report is required to be filed under the applicable statute. The Director ~~may~~ shall grant a request for a 30-day extension if good cause is shown. ~~If the Director grants the request is granted, and the person making the request is not subsequently found to have presented false or misleading information to the Director~~, the late penalties and civil penalties shall begin to accrue on ~~May 1~~ the first day after the 30-day extension period, ~~except that if the Director finds that the person making the request presented false or misleading information to the Director and the Director relied on that information in granting the request, the late penalties and civil penalties shall begin to accrue as if the request was not granted~~. The Director shall not grant an extension to a person responsible party who, ~~in the preceding calendar year~~, was granted an extension in the preceding calendar year and who subsequently failed to file a complete annual account or annual report and pay all groundwater withdrawal fees due and all ~~stored water~~ long-term storage credit recovery fees due within the 30-day extension period.

R12-15-1016. Spillwater reporting by water deliverers

A water deliverer that delivers spillwater during a year shall include the following information in the annual account or annual report submitted by the water deliverer for that year:

1. The total quantity of spillwater delivered for non-irrigation uses during the year.

2. The total quantity of spillwater delivered for irrigation uses during the year.
3. Such information as the Director may reasonably require to determine whether the water qualifies as spillwater under R12-15-1001(10).

R12-15-1017. Maintenance and filing of annual reports required by A.R.S. § 45-332

A community water system required to file an annual report under A.R.S. § 45-332 shall maintain the report on a calendar year basis and shall file the report with Director no later than June 1 of each year for the preceding calendar year.

ARTICLE 11. INSPECTIONS AND AUDITS

R12-15-1101. Inspections

- A. For the purpose of this rule, "inspection" means an entry by the Director at reasonable times onto private or public property for any of the following purposes:
1. To obtain factual data or access to records required to be kept under A.R.S. §§ 45-632, 45-655, 45-815, or 45-864; or 45-879.01 or 45-1004.
 2. To inspect a well or another facility for the withdrawal, transportation, use, measurement or recharge of groundwater under A.R.S. § 45-633; or
 3. To inspect an underground or indirect storage and recovery project, a well, or another facility for the recovery or use of stored water under A.R.S. §§ 45-816 or 45-865; or a facility that is used for the purpose of water storage, stored water recovery or stored water use under A.R.S. § 45-880.01(A).
 4. To inspect a body of water under A.R.S. § 45-135 or to ascertain compliance with A.R.S. Title 45, Chapter 1, Article 3; or
 5. To inspect or to obtain factual data or access to records pursuant to any Section of A.R.S. Title 45 that requires the Director to adopt rules for conducting inspections, examining records, and obtaining warrants.
 6. To inspect facilities used for the withdrawal, diversion or use of water pursuant to a water exchange under A.R.S. § 45-1061.
- B. No change
C. No change
D. No change
E. No change
F. No change
G. No change
H. No change
I. The Director shall comply with the requirements of A.R.S. § 41-1009 when conducting inspections under this section.

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

**CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS**

[R05-323]

PREAMBLE

- | | |
|---|---|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R17-5-408 | New Section |
| <u>2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):</u> | |
| Authorizing statute: A.R.S. § 28-366 | |
| Implementing statute: A.R.S. § 28-4422 | |
| <u>3. A list of all previous notices appearing in the Register addressing the proposed rule:</u> | |
| Notice of Rulemaking Docket Opening: 11 A.A.R. 3318, September 2, 2005 | |
| <u>4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:</u> | |
| Name: | Janette M. Quiroz |
| Address | Administrative Rules Unit
Arizona Department of Transportation, Mail Drop 530M |

Notices of Proposed Rulemaking

1801 W. Jefferson, Room 415
Phoenix, AZ 85007

Telephone: (602) 712-8996
Fax: (602) 712-3081
E-mail: jmquiroz@azdot.gov

Please visit the Motor Vehicle Division web site to track progress of this rule and any other agency rulemaking matters at www.azdot.gov/mvd/mvdrules/rules.asp.

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

Effective August 12, 2005, Laws 2005, Chapter 122 (HB2125) permits a new motor vehicle dealer to resell a vehicle as new under certain conditions. As part of those conditions, a new motor vehicle dealer must provide to the retail consumer written notice that the vehicle was delivered to a previous purchaser, have the retail consumer sign an acknowledgement to that effect, and the dealer must retain a copy of the signed acknowledgement.

6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not 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:

The Division did not rely upon any study relative to this rulemaking.

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:

The economic impact of this rulemaking is minimal to both the new motor vehicle dealers and the Division. The new motor vehicle dealers will experience a slight cost associated with producing a form to be signed by retail consumers impacted by this rulemaking. The only economic impact to the Division as a result of these rules will be the resources necessary for rulemaking. There is no estimated economic impact on any other parties.

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: Janette M. Quiroz
Address: Administrative Rules Unit
Arizona Department of Transportation, Mail Drop 530M
1801 W. Jefferson, Room 415
Phoenix, AZ 85007
Telephone: (602) 712-8996
Fax: (602) 712-3081
E-mail: jmquiroz@azdot.gov

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:

An oral proceeding is not scheduled for these proposed rules. To request an oral proceeding or to submit written, faxed, or e-mail comments, please contact the rules analyst listed in item #4 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except legal holidays. If no request for an oral proceeding is made, the public record in this rulemaking will close on October 11, 2005, at 5:00 p.m.

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

None

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

None

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

**CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS**

ARTICLE 4. DEALERS

Section
R17-5-408. Resale of a New Motor Vehicle

ARTICLE 4. DEALERS

R17-5-408. Resale of a New Motor Vehicle

- A.** A new motor vehicle dealer, as defined under A.R.S. § 28-4301, shall provide written notice to a retail consumer that the new motor vehicle was delivered to a previous purchaser.
- B.** The Notice requirement under A.R.S. § 28-4422, shall be prepared by the dealer on a form containing the following information:
1. The name of the dealership;
 2. The vehicle description to include year, make, and vehicle identification number (VIN);
 3. The statement that the new purchaser has received written notice from the new motor vehicle dealer that the vehicle was delivered to a previous purchaser;
 4. The printed name of the new purchaser; and
 5. The signature of the new purchaser (initials are not acceptable).
- C.** The new motor vehicle dealer shall:
1. Provide a copy of the Notice to the retail consumer.
 2. Keep a copy of the signed Notice at the new motor vehicle dealer's established place of business for a period of not less than three years.
- D.** The new motor vehicle dealer is not required to submit to the Division the Notice provided for in subsection (A), unless otherwise required by state or federal law.
- E.** A new motor vehicle dealer shall not add additional language to the Notice that would conflict with, or alter, the intent of the provisions contained within this Section.

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

**CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS**

[R05-322]

PREAMBLE

1. Sections Affected

Article 7
R17-5-701
R17-5-702
R17-5-703
R17-5-704
R17-5-705
R17-5-706

Rulemaking Action

Repeal
Repeal
Repeal
Repeal
Repeal
Repeal
Repeal

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

Authorizing statutes: A.R.S. §§ 28-366 and 28-363

Notices of Proposed Rulemaking

Implementing statute: A.R.S. § 28-5101

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

Notice of Rulemaking Docket Opening: 11 A.A.R. 815, February 18, 2005

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

Name: Janette M. Quiroz
Address: Administrative Rules Unit
Arizona Department of Transportation
Motor Vehicle Division, Mail Drop 530M
1801 W. Jefferson
Phoenix, AZ 85007
Telephone: (602) 712-8996
Fax: (602) 712-3373
E-mail: jmquiroz@azdot.gov

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at <http://www.azdot.gov/mvd/mvdrules/rules.asp>.

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

Currently third party program provisions are contained within 17 A.A.C. 5, Article 7 and 17 A.A.C. 7, Articles 1 through 4. This rulemaking action will repeal the rules within 17 A.A.C. 5, Article 7 and consolidate all third party rules into one Chapter: 17 A.A.C. 7, Articles 1 through 8.

6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not 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:

The Division did not rely on any study for this rulemaking.

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:

There is no economic impact resulting from the repeal of these rules other than the resources necessary for rulemaking.

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:

An interested party may communicate with the Agency official listed in item #4 concerning the economic impact statement.

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:

An oral proceeding is not scheduled for the repeal of these rules. To request an oral proceeding or to submit written, faxed, or e-mail comments, please contact the rules analyst listed in item #4 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except legal holidays. If no request for an oral proceeding is made, the public record in this rulemaking will close on October 11, 2005, at 5:00 p.m.

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 17. TRANSPORTATION

**CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS**

ARTICLE 7. ~~THIRD PARTY PROGRAMS~~ Repealed

Section

- R17-5-701. ~~Definitions~~ Repealed
R17-5-702. ~~Third party tester/Contract agent~~ Repealed
R17-5-703. ~~Fees~~ Repealed
R17-5-704. ~~Audit~~ Repealed
R17-5-705. ~~Panel review~~ Repealed
R17-5-706. ~~Third party Driver License Processor and Tester~~ Repealed

ARTICLE 7. ~~THIRD PARTY PROGRAMS~~ Repealed

R17-5-701. ~~Definitions~~ Repealed

The following definitions are applicable to Article 8, unless otherwise stated in statute or a specific rule:

1. "Business entity" means an independent commercial establishment engaged in the professional use of commercial motor vehicles.
2. "Contract agent" means a political subdivision, business entity or nonprofit organization engaged in the professional use of commercial motor vehicles who are authorized by the Division to employ third party testers.
3. "Demonstration test" means a driving examination in a commercial motor vehicle that includes: a pretrip inspection, a basic skills test and a road test as referenced in the Division Examiner's Manual.
4. "Director" means the Division Director, Motor Vehicle Division, Arizona Department of Transportation.
5. "Division" means the Motor Vehicle Division, Arizona Department of Transportation.
6. "Employee" means a person who is currently employed or under contract or working as a volunteer as a commercial motor vehicle driver.
7. "Manual" means the Division's approved examiner's text for the demonstration test which contains instruction for test methods and procedures.
8. "Nonprofit organization" means a group united with a common interest, not seeking profit.
9. "Revocation" means termination of a certification for a maximum period of one year for noncompliance with requirements set forth by the Division.
10. "Third party tester" means a person who is certified by the Division to conduct demonstration tests to drivers of commercial motor vehicles.

R17-5-702. ~~Third party tester/Contract agent~~ Repealed

A. ~~Certification requirements.~~

1. A third party tester shall:
 - a. Be employed or under contract for an employer certified as a contract agent.
 - b. Have five years of driving experience, and/or five years training experience, or a five year combination of both, pertaining to the operation of commercial motor vehicles.
 - c. Possess a current license for the operation of a commercial motor vehicle representative of the vehicle in which the demonstration test is to be given.
 - d. Have no driver's license suspensions, revocations, cancellations, disqualifications or convictions related to driving under the influence within three years prior to the date of application.
 - e. Successfully complete the Division's approved third party tester training course.
2. The contract agent shall:
 - a. Employ or contract at least one person recommended to be a third party tester.
 - b. Maintain a regularly occupied structure.
 - c. Provide an office for the third party tester that shows a clear separation between that office and the normal operation.
 - d. Provide an adequate, safe area to accommodate the related demonstration test.
 - e. Own, lease or rent at least one vehicle representative of the type of vehicle or group of vehicles which may be used for testing.
 - i. Vehicles shall be maintained in a safe operating condition.

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- ii. Vehicles shall be in compliance with registration and insurance requirements set forth in Title 28, Arizona Transportation Laws.
 - f. Maintain driver qualification files, for a minimum of three years, for each employed driver.
 - g. Possess a copy of the third party tester's certificate.
 - h. Retain records of demonstration tests administered to include:
 - i. Name, date of birth, driver's license number and social security number of those tested.
 - ii. The date administered.
 - iii. The class of vehicle used.
 - iv. A copy of the score sheet indicating the results of the demonstration test.
 - v. Name and certification number of the third party tester who administered the test.
 - i. Maintain financial records for the testing program to include: the terms of pavement for every driver applicant tested, records of receipts and written contracts, if applicable, with any person(s) being tested.
3. Applicants who do not meet requirements as set forth in this administrative rule shall be denied certification.

B. Application.

- 1. The Division shall provide forms, as set forth in this rule in Appendix A (Third party Tester) and B (Contract agent). The forms shall be submitted to: Motor Vehicle Division, Commercial Driver License Section, 1801 West Jefferson Street, Phoenix, Arizona 85007.
- 2. The Division may request a certified copy of the third party tester applicant's motor vehicle, a record that shall be attached to the application.
- 3. In cases of discrepancies on an application an applicant shall be given 30 working days from the date of application to meet requirements or the application shall be canceled.

C. Certificates.

- 1. The Division shall issue certificates as set forth in this rule in Appendix C (Third party tester) and D (Contract agent). The certificates shall be numbered and shall be valid for one year.
- 2. Contract agent and third party tester certificates shall be prominently displayed in an area readily visible and accessible to test applicants and to agents of the Division.
- 3. The Division shall issue a duplicate certificate if the original is lost, stolen or mutilated when the certified person submits a written request and an appropriate fee to the Division.
- 4. A duplicate certificate shall be dated, marked DUPLICATE and maintain the expiration date of the original certificate.
- 5. The Division shall provide a certificate of competency form as set forth in Appendix E of this rule. The third party tester shall issue a certificate of competency to an applicant who successfully completes the demonstration test. The certificate of competency shall be valid for 30 calendar days from the date of the demonstration test.

D. Third party tester duties.

- 1. Verify that the driver applicant has one of the following:
 - a. A Division instruction permit for a class A, B or C driver's license.
 - b. A current chauffeur's license, acceptable only until April 01, 1992.
- 2. Require an applicant to display a photo identification prior to the demonstration test.
- 3. Conduct demonstration tests in accordance with instructions provided in the Division manual. If at any point of the demonstration test the third party tester determines it to be hazardous or unsafe to continue, the test shall be terminated and the score sheet marked accordingly.
- 4. Complete and sign the demonstration test score sheet.
- 5. Witness the driver applicant's signature on the demonstration test score sheet.
- 6. Complete, sign and issue a certificate of competency to an applicant who successfully passes the demonstration test. The Division shall furnish this certificate, as set forth in Appendix E of this rule.
- 7. Maintain copies of demonstration test score sheet and certificate of driver competency.
- 8. Submit to random onsite check rides. Division agents shall administer check rides that demonstrate the third party tester's continued ability to render the demonstration test.
- 9. Attend ongoing Division training.
- 10. Give written notice immediately to the Division and the contract agent when their commercial driver's license is suspended, revoked, canceled or disqualified.
- 11. Give written notice to the Division and the contract agent of changes in the demonstration test route and include a map, drawing or written description of the new route.

E. Enforcement.

- 1. Eligibility information shall be subject to inspection(s) prior to a certificate being issued.
- 2. Within 10 working days a third party tester or contract agent shall submit written notification to the Division when there is a change in certification requirements.
- 3. The Division shall investigate complaints submitted concerning any act which would compromise the integrity of the program. The Division may require a written report, from any involved party, be submitted within 10 working days

from receipt of a request.

4. The contract agent or third-party tester shall not use advertisements which imply:
 - a. A certificate of competency guarantees the issuance of a commercial driver's license.
 - b. The third-party tester program will influence the Division in any manner in the issuance of a commercial driver's license.
 - c. Preferential or advantageous treatment from the Division.

F. Penalty. An immediate revocation notice shall result for:

1. False and/or fraudulent records.
2. Second or subsequent violations for not maintaining requirements and responsibilities as set forth in this rule.
3. Misuse of advertisements as referenced in Section E-4 of this rule.
4. Failure to allow or cooperate in an audit.

R17-5-703. Fees Repealed

Fees are payable at the time of application and shall not be prorated or refunded. Checks and money orders shall be made payable to: Motor Vehicle Division, Arizona Department of Transportation.

1. Employer certification:
 - a. Certificate, 12-month period, \$50.00.
 - b. Duplicate certificate, \$25.00.
2. Contract agent:
 - a. Certificate, \$50.00 annually.
 - b. Duplicate certificate, \$25.00.
3. Third-party tester:
 - a. Certificate, \$25.00 annually.
 - b. Duplicate certificate, \$25.00.

R17-5-704. Audit Repealed

A. To assure continued compliance with certification requirements the Division may make random, onsite inspections, during normal business hours, to audit the operation, facility and/or records.

1. Persons who are certified shall submit copies of related documents to the Division upon request.
2. After a Division audit a warning letter, to allow 30 calendar days for compliance, shall be issued for failure to:
 - a. Maintain requirements or records as referenced in administrative rules 17 A.A.C. 5, Article 7.
 - b. Notify the Division of requirement or program changes.

B. Failure to comply with the provisions set forth in a warning letter or failure to allow or cooperate in an audit shall result in a notice of revocation of certification.

R17-5-705. Panel review Repealed

A. When the Division determines a certification is to be denied or revoked, written notice shall be served either in person or by mail. Revocations shall be effective 20 calendar days from the date of notice.

B. One person may request a Division review when certification is denied or revoked. A timely written request shall stay a revocation until a panel conducts a review and determination has been made. Written requests shall be submitted to the Director at the following address: Motor Vehicle Division, Commercial Driver's License Section, 1801 West Jefferson Street, Phoenix, Arizona, 85007.

C. The Director shall appoint a review panel consisting of three persons to determine if revocations or denials shall be upheld.

1. The affected parties may request to appear at the review, have counsel appear in their behalf or to have a summary review which does not require an appearance.
2. The Division shall send written notice, to the person, of the time, date and place of the review and of the final decision after the review.

R17-5-706. Third-party Driver License Processor and Tester Repealed

A. Definitions:

1. "Third party Processor" means a business entity which is authorized by the Director to employ third party testers.
2. "Director" means the Assistant Director of the Arizona Department of Transportation, Motor Vehicle Division, or the Director's designee.
3. "Division" means the Motor Vehicle Division of the Arizona Department of Transportation.
4. "Principal or established place of business" means a permanent site or location at which the business of a driver license processor is or will be conducted.
5. "Third party tester" means a person who is certified by the Director to administer driver examinations for Class D or M driver licenses.

B. Third party Processor Requirements:

Notices of Proposed Rulemaking

1. Before authorization.
 - a. The third party processor applicant shall be in compliance with all applicable business laws of Arizona.
 - b. The Director shall authorize a business entity as a third party processor only if no partner, officer, director, agent, or shareholder who owns 20% or more of the business entity, and no person who will be involved in the licensing process for the third party processor applicant:
 - i. Had an authorization to do business revoked or suspended by the Director during the previous three years;
 - ii. Has an uncompleted term of imprisonment, probation, or parole, or fine payment resulting from conviction for fraud or a licensing related felony during the previous 10 years;
 - iii. Has an uncompleted term of imprisonment, probation, or parole, or fine payment resulting from conviction for any felony other than that described in subsection (B)(1)(b)(ii) during the previous five years; or
 - iv. Had a license or operating authorization concerning the testing for or issuance of driver licenses revoked or suspended in Arizona or any other state during the previous two years.
 - c. The third party processor applicant shall designate an agent within Arizona to accept service of process.
 - d. The third party processor applicant shall demonstrate acceptable financial responsibility to protect any liability that may arise from the issuance of a permit. Acceptable financial responsibility shall be demonstrated as follows:
 - i. General liability insurance in the amount of at \$5,000,000 of which at least \$1,000,000 is primary coverage. If the policy deductible provision exceeds \$100,000, then a principal of the third party processor shall provide the Director with a sworn affidavit stating that the Department of Transportation and the state of Arizona are included in the third party processor's self insured program to the same extent as an additional insured endorsement on the policy would provide.
 - ii. The Arizona Department of Transportation and the state of Arizona shall be named as additional insureds on the insurance policy.
 - iii. The primary coverage shall be issued by an insurance company licensed to do business in Arizona by the Arizona Department of Insurance.
 - iv. The policy shall provide that the Director shall be notified at least 30 days prior to any policy cancellation, nonrenewal, or change in provisions. Additionally, the policy shall provide that the Director shall be notified if the insurance company becomes insolvent.
 - v. The policy, together with all endorsements and exclusions, shall be provided to the Director at time of initial application.
 - vi. No authorization shall be issued until the insurance policy is approved by the Director.
 - vii. Nothing in this requirement places any limitations on any indemnification provisions in the contract between the third party processor and the Director.
 - e. The third party processor applicant shall enter into a written contract with the Director to conduct business as a third party processor. The contract shall include the following provisions:
 - i. An indemnification agreement;
 - ii. The form and manner in which records shall be maintained and processed, and
 - iii. Security provisions for the protection of computer access and for the protection of data received from the Division.
2. After authorization.
 - a. The third party processor shall employ at least one person as a third party tester.
 - b. The third party processor shall maintain a principal or established place of business within this state with adequate and safe facilities to accommodate the related written and demonstration tests.
 - c. The third party processor shall maintain all vehicles used in demonstrations and testing in a safe operating condition and comply with all registration and insurance requirements for vehicles as set forth in A.R.S. Title 28.
 - d. The third party processor shall possess a copy of each third party tester's certificate.
 - e. The third party processor shall file and maintain a current mailing address with the Director.
 - f. The third party processor shall continue to be in compliance with the pre authorization requirements set forth in subsection (B)(1) of this Section.
- C. Third party tester certification requirements.
 1. A third party tester shall be at least 18 years of age and employed by a third party processor.
 2. A third party tester shall successfully complete the Division's third party tester training program and remain current with any continuing education requirements of the Division.
 3. A third party tester shall not have:
 - a. Had an authorization to do business revoked or suspended by the Director during the previous three years;
 - b. Had an uncompleted term of imprisonment, probation, or parole, or fine payment resulting from conviction for fraud or a licensing related felony during the previous 10 years;
 - c. Had an uncompleted term of imprisonment, probation, or parole, or fine payment resulting from conviction for any felony other than that described in subsection (C)(3)(b) during the previous five years; or

- d. Had a license or operating authorization concerning the testing for or issuance of driver licenses revoked or suspended in Arizona or any other state during the previous two years.
 - 4. A third party tester shall at all times be subject to a criminal investigation which may be conducted at random at time of application and with good cause thereafter with the costs borne by the third party processor.
 - 5. A third party tester shall comply with all applicable statutes, rules, and contract provisions governing the testing of applicants for driver licenses.
 - 6. A third party tester shall have five years of driving experience, plus a total of five years' experience in driver license issuance, driver education instruction, professional driving instruction, or a combination thereof.
 - 7. A third party tester shall possess a current license for the operation of the type vehicle in which the written or demonstration tests are to be given.
 - 8. A third party tester shall not have had any driver license suspension, revocation, cancellation, disqualification, denial, or other license withdrawal nor any conviction related to driving while under the influence of intoxicating liquors or drugs, reckless driving, racing upon a highway, or leaving the scene of an accident within the five-year period prior to application.
- D.** Application. The Division shall provide the application for third party tester certification and third party processor authorization. The completed application shall be submitted to: Arizona Motor Vehicle Division, 1801 W. Jefferson Street, Phoenix, Arizona 85007.
- E.** Duties and Responsibilities of Third party Processor.
- 1. A third party processor shall retain records of all written and demonstration tests administered for a period of three years to include:
 - a. Accounting records documenting receipt of fees;
 - b. Copies of all applications and score sheets setting forth the name, driver's license number, social security number, and date of birth of those tested, the date of test and class of license tested, and the name and certification number of the third party tester.
 - 2. A third party processor shall not administer any examination unless the applicant meets the requirements of all applicable rules and statutes governing licensing.
 - 3. A third party processor shall ensure that all testing is done in accordance with the Division training manual and that all recording and reporting are done on forms approved by the Director.
 - 4. A third party processor shall submit to random onsite inspections by the Director.
 - 5. A third party processor shall make records available for and cooperate in any audit by the Director.
 - 6. A third party processor shall comply with all applicable rules, statutes, and contract provisions.
 - 7. A third party processor shall collect licensing fees and forward same to the Director by the close of the next business day.
 - 8. If a third party processor adds or changes a partner, officer, director, agent, shareholder owning 20% or more of the corporation, or adds or changes any other employee or person who may be involved in the licensing process or business and who was not included in the application, the third party processor shall give written notification to the Director within 30 days of any change or addition. The new partner, officer, director, agent, shareholder owning 20% or more of the corporation, or employee or person who is involved in the licensing process or business is subject to this rule and the provisions of the contract between the third party processor and the Director, and is also subject to a criminal background investigation with the cost borne by the third party processor.
 - 9. A third party processor shall give written notice immediately to the Director of any tester whose driver license is suspended, revoked, canceled, disqualified, denied, or otherwise withdrawn.
 - 10. A third party processor shall not conduct any examinations on a test route nor change an approved test route without obtaining approval of the route from the Director.
 - 11. A third party processor shall submit within 10 days any report required by the Director as part of a complaint investigation.
 - 12. A third party processor shall not employ advertising which implies the guaranty of a license, the use of influence with the Division, or any preferential treatment by the Division.
- F.** Audit.
- 1. To assure continued compliance with authorization and certification requirements, the Division may conduct random, onsite inspections during normal business hours to audit the business records of the third party processor.
 - 2. Records shall be made available for audit at the third party processor's place of business. If the records are maintained at a location outside the state of Arizona, the third party processor shall either make the records available at a location within Arizona designated by the Director or make the records available at the third party processor's place of business outside the state of Arizona. Audits conducted at a location out of state shall be at the third party processor's expense. Audit expenses, including per diem and travel expenses, are to be prepaid according to Arizona Department of Transportation Administrative Procedures, Chapter 6.02 Travel Authorization Procedure dated January 28, 1991, which is incorporated into and made a part of this rule by reference and on file at the Office of the Secretary of State and also on file at the Arizona Department of Transportation Motor Vehicle Division Executive Hearing Office. This

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rule does not include any later amendments or additions of the incorporated matter.

3. Failure to allow or cooperate in an audit shall result in revocation of the third-party processor authorization.

G. Background investigation.

1. The Director shall conduct random criminal background investigations of any partner, officer, director, agent, or shareholder who owns 20% or more of a business entity that has applied for authorization as a third-party processor and of any third party tester or other person who will be involved in the licensing process for the business entity.

2. The Director shall, with good cause, conduct criminal background investigations after a business entity has been authorized as a third-party processor.

3. The cost of a criminal background investigation shall be paid by the business entity that has applied for or received authorization as a third-party processor.

H. Denial and Revocation; Appeal.

1. The application for third party tester certification or third party processor authorization shall be denied if the applicant fails to meet the requirements set forth in this rule.

2. If the application contains a material omission or a false statement, the application shall be denied and the applicant shall not be allowed to reapply for a period of 12 months.

3. The third party tester certification or third party processor authorization shall be revoked upon a determination by the Director that the third party tester or third party processor is no longer qualified for certification or authorization under this rule or is in breach of the contract with the Division.

4. The third party tester certification or third party processor authorization shall be revoked upon a determination by the Director that the third party tester or third party processor violated the provisions of this rule or other applicable rule or statute.

5. The order of revocation shall be preceded by a notice of immediate suspension and intent to revoke. The notice shall be sent by first-class mail, postage prepaid, to the address of the third party processor on file with the Director.

6. The notice shall inform the third party processor that the processor or third party tester is no longer authorized to administer examinations and of the right to a hearing and the procedure for requesting a hearing.

7. The order of revocation shall become effective 25 days after the mailing date of the notice unless a timely request for hearing is submitted.

8. The third party tester or third party processor shall not be allowed to reapply for authorization or certification following revocation if the revocation was based on a fraudulent act or a knowing and intentional violation or attempt to violate the provisions of the contract, this rule, or any other related rule or statute.

9. If the application for third party tester certification or third party processor authorization is denied, the denial shall be sent by first-class mail, postage prepaid, to the address shown on the application. The notice of denial shall inform the applicant of the right to a hearing and the procedure for requesting a hearing.

10. Hearings, rehearings, and appeals shall be noticed and conducted in accordance with A.R.S. § 41-1061 et seq. and 17 A.A.C. 1, Article 5.

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 7. DEPARTMENT OF TRANSPORTATION

THIRD-PARTY PROGRAMS

[R05-324]

PREAMBLE

1. Sections Affected

R17-7-101
R17-7-201
R17-7-202
R17-7-203
R17-7-204
R17-7-301
R17-7-302
R17-7-401
Article 5
R17-7-501
R17-7-502
Article 6

Rulemaking Action

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

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R17-7-601	New Section
R17-7-602	New Section
R17-7-603	New Section
R17-7-604	New Section
R17-7-605	New Section
R17-7-606	New Section
R17-7-607	New Section
R17-7-608	New Section
R17-7-609	New Section
R17-7-610	New Section
R17-7-611	New Section
Article 7	New Article
R17-7-701	New Section
R17-7-702	New Section
R17-7-703	New Section
R17-7-704	New Section
R17-7-705	New Section
R17-7-706	New Section
R17-7-707	New Section
Article 8	New Article
R17-7-801	New Section
R17-7-802	New Section

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

Authorizing statutes: A.R.S. §§ 28-366 and 28-363

Implementing statute: A.R.S. § 28-5101

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

Notice of Rulemaking Docket Opening: 11 A.A.R. 815, February 18, 2005

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

Name: Janette M. Quiroz
Address: Administrative Rules Unit
Arizona Department of Transportation
Motor Vehicle Division, Mail Drop 530M
1801 W. Jefferson
Phoenix, AZ 85007
Telephone: (602) 712-8996
Fax: (602) 712-3373
E-mail: jmquiroz@azdot.gov

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at <http://www.azdot.gov/mvd/mvdrules/rules.asp>

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

The Arizona Department of Transportation, Motor Vehicle Division (Division) proposes to consolidate and amend existing rules and create new rules for the Division's Third Party Programs.

Currently third party provisions are contained within 17 A.A.C. 5, Article 7 and 17 A.A.C. 7, Articles 1 through 4. This rulemaking action will consolidate the existing rules into one Chapter: 17 A.A.C. 7, Articles 1 through 8. In addition, the rules have been amended to improve clarity, conciseness, and understandability of the rules.

These rules provide the requirements necessary for the business community and the public to successfully participate in the Third Party Programs, including:

- Commercial driver licenses and instruction permits;
- Dealer licenses;
- Driver license examinations;
- Motor carrier permits;
- Motor vehicle record processing;
- Noncommercial driver licenses, instruction permits, and identification licenses;
- Tax report processing;
- Title and registration; and

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- Vehicle verification.

6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not 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:

The Division did not rely on any study for this rulemaking.

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:

The Division incurs substantial cost under the third-party program rules, to certify and train personnel who work for authorized third parties, to perform continuous quality assurance, conduct periodic audits, and to regulate authorized third parties, in the interest of protection of the public. However, the Division experiences a decrease in revenue spending as the responsibilities that would normally be performed by the Division are provided for by an authorized or certified third party. Consequently, the Division is not required to expend resources on personnel or equipment to perform such duties.

Authorized or certified third-party participants can incur moderate to substantial cost for facilities, security, equipment (such as computers, hardware/software), and costs associated with personnel. Conversely, the rules increase business opportunities of businesses and individuals meeting the authorization or certification requirements. Participants in the Third Party Title and Registration Program will experience an increased cost for the procurement of a third party bond for each branch office, whereas previously participants were required only one bond per company. This increase will not affect those third parties who are determined to be exempt per statute.

Consumers of authorized or certified third parties are required to pay a minimal convenience fee for services as authorized by A.R.S. 28-5101. Consumers experience non-quantifiable benefits of obtaining services at non-traditional times and locations by non-traditional media, and the ability to avoid wait time increases at Division field offices. Additionally, these rules protect consumers of services provided by authorized or certified third parties through Division oversight, as required by statute.

Implementation of these rules will not significantly increase the cost to the Division, or existing and potential third parties.

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:

An interested party may communicate with the Agency official listed in item #4 concerning the economic impact statement.

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:

An oral proceeding is not scheduled for these proposed rules. To request an oral proceeding or to submit written, faxed, or e-mail comments, please contact the rules analyst listed in item #4 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except legal holidays. If no request for an oral proceeding is made, the public record in this rulemaking will close on October 11, 2005, at 5:00 p.m.

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 17. TRANSPORTATION

**CHAPTER 7. DEPARTMENT OF TRANSPORTATION
THIRD-PARTY PROGRAMS**

ARTICLE 1. DEFINITIONS AND APPLICABILITY

Section
R17-7-101. Definitions

ARTICLE 2. AUTHORIZATION

Section
R17-7-201. Authorization Application Requirements
R17-7-202. Notification of Authorization Approval or Denial and Hearing
R17-7-203. Authorization Agreement
R17-7-204. Authorized Third Party's Duties

ARTICLE 3. CERTIFICATION

Section
R17-7-301. Certification Application Requirements
R17-7-302. Notification of Certification Approval or Denial and Hearing

ARTICLE 4. AUDITS

Section
R17-7-401. Audits

ARTICLE 5. PRE-APPLICATION AND SELECTION PANEL

Section
R17-7-501. Definitions
R17-7-502. Pre-Application and Selection Panel

ARTICLE 6. DRIVER LICENSE EXAMINATION PROGRAM

Section
R17-7-601. Definitions
R17-7-602. Activities
R17-7-603. Pre-Application and Selection Panel Process
R17-7-604. Additional Authorization Application Requirements
R17-7-605. Additional Certification Application Requirements
R17-7-606. Driver License Examination Authorization Agreement
R17-7-607. Duties of Authorized Driver License Examination Program
R17-7-608. Duties of Certified Driver License Examiner
R17-7-609. Professional Conduct
R17-7-610. Enforcement
R17-7-611. Denial, Cancellation and Suspension; Appeal

ARTICLE 7. TITLE AND REGISTRATION PROGRAM

Section

<u>R17-7-701.</u>	<u>Definitions</u>
<u>R17-7-702.</u>	<u>Authorization Application</u>
<u>R17-7-703.</u>	<u>General Authorization Requirements</u>
<u>R17-7-704.</u>	<u>General Duties of an Authorized Third Party and a Certified Individual</u>
<u>R17-7-705.</u>	<u>Financial Requirements</u>
<u>R17-7-706.</u>	<u>Corrective Action</u>
<u>R17-7-707.</u>	<u>General Application Requirements for Certification</u>

ARTICLE 8. THIRD PARTY INSPECTION PROGRAM

Section

<u>R17-7-801.</u>	<u>Definitions</u>
<u>R17-7-802.</u>	<u>General Provisions; Additional Duties; Reporting Requirements</u>

ARTICLE 1. DEFINITIONS AND APPLICABILITY

R17-7-101. Definitions

The following definitions apply to this Chapter unless otherwise specified:

1. "Accountable inventory" means an item that is reproduced by the Division in a consecutively numbered series for:
 - a. Recording the number of a completed, issued, or voided item in a log, and
 - b. Reporting the number of a completed, issued, or voided item to the Division.
2. "Activity" means a function or service that is provided by an authorized third party and performed by a certified individual.
3. "Agency head" or "political subdivision head" means the chief officer of an agency or political subdivision or another individual with authority to act for the agency head or political subdivision head.
4. "Application Date" means the date the application is signed by the applicant.
5. "Application Received Date" means the date the application is received as complete by the Division.
46. "Audit" means an examination or inspection of the operations of an authorized third party to determine compliance with all applicable statutes, rules, contract terms, and Division policies but is not limited to, performing an inspection or attestation engagement of the operations of an authorized Third Party to determine compliance with applicable statutes, rules, contract terms, and Division policies.
7. "Attestation engagement" means an examination, a review, or the completion of specific testing procedures agreed upon with the Division, the result of which is a report issued by the Arizona Department of Transportation Office of Audit & Analysis.
58. "Authorized third party" means an entity that:
 - a. Has written permission from the Division to operate a business under A.R.S. Title 28, Chapter 13; and
 - b. Employs or contracts with at least one certified individual to provide third party services.
69. "Branch" means an authorized third party's business location that is:
 - a. In addition to the established place of business,
 - ~~a-b.~~ Division-approved;
 - ~~b-c.~~ Not used as a residence;
 - ~~e-d.~~ Authorized to perform contracted activities at the third party's business location, and
 - ~~d-e.~~ Located within the same county as the established place of business.
710. "Cancellation" means a Division action that withdraws an authorization or certification issued under A.R.S. Title 28, Chapter 13.
811. "Certified individual" means an individual who the Division certifies under A.R.S. Title 28, Chapter 13 to perform specified activities for an authorized third party as an employee or contractor. The Division may certify an individual as a:
 - a. Commercial driver license examiner,
 - b. Dealer license processor,
 - c. Driver license processor,
 - d. Noncommercial driver license examiner,
 - e. Tax report processor,
 - f. Title and registration processor,

- g. Vehicle inspector, or
 - h. Vehicle permit processor.
912. "Classes of driver licenses" ~~is defined~~ means the same as prescribed in A.R.S. § 28-3101.
4013. "Commercial driver license examiner" means an individual certified by the Division to administer class A, B, or C driver license skills tests.
4414. "Contact individual" means ~~an a principle or designated individual, other than the principal~~ of an authorized third party who communicates with the Division on behalf of the authorized third party;
- a. ~~Whose current name and telephone number the authorized third party submits to the Division in writing;~~
 - b. ~~Who communicates with the Division on behalf of the authorized third party.~~
4215. "Convenience fee" means the amount exceeding the statutorily prescribed fees and taxes that an authorized third party collects and retains for its services.
4316. "Department" means the Arizona Department of Transportation.
17. "Director" means the Division Director, Motor Vehicle Division, Arizona Department of Transportation or the Director's designee.
4418. "Division" means the Arizona Department of Transportation, Motor Vehicle Division.
45. "Division headquarters" means 1801 West Jefferson Street, Phoenix, Arizona 85007.
4619. "Division-issued business license" means:
- a. An automotive recycler license,
 - b. A broker license,
 - c. A distributor license,
 - d. A distributor branch license,
 - e. A factory branch license,
 - f. A manufacturer license,
 - g. A new motor vehicle dealer license,
 - h. A professional driver training school license,
 - i. A third-party authorization,
 - j. A title service company license,
 - k. A used motor vehicle dealer license,
 - l. A wholesale motor vehicle dealer license, or
 - m. A wholesale motor vehicle auction dealer license.
4720. "Driver license processor" means an individual certified by the Division to:
- a. Review applications for driver licenses, instruction permits, and identification licenses;
 - b. Administer driver license tests;
 - c. Enter information related to the applications in the Division's database; and
 - d. Issue or deny specified classes of driver licenses, instruction permits, and identification licenses.
4821. "Established place of business" means an authorized third party's primary business location that is:
- a. Division-approved,
 - b. Not used as a residence, and
 - c. ~~Performs third party activities on site. Where authorized third party activities are performed.~~
49. "Floor plan" means a ~~Division approved diagram of a building interior, as seen from above, that shows the interior dimensions and the location of doors, windows, and equipment. A floor plan includes:~~
- a. ~~A computer generated graphic;~~
 - b. ~~A blueprint or other photographic reproduction of an architectural plan or technical drawing; or~~
 - e. ~~A non-technical drawing made by hand using a straightedge.~~
2022. "Good standing" means an authorized or certified ~~third party~~ third party applicant ~~does not have~~ has no:
- a. ~~Within three years before the application date, a suspension~~ Suspension, cancellation, revocation, or denial of a Division-issued ~~authorized third party business license or certification; or within the previous five years of the application date;~~
 - b. ~~On the application date, any delinquent~~ Delinquent fees, taxes, or unpaid balance owed to the Division; ~~and~~
 - c. ~~While holding a third party authorization or certification;~~
 - i. ~~A suspension, cancellation, revocation, or denial of another Division issued license; or~~
 - ii. ~~Delinquent fees, taxes, or unpaid balance owed to the Division.~~
 - d. ~~If the applicant is a former Department employee or authorized third party owner or employee:~~ Dismissal or resignation from position for cause, if the applicant is a former Department employee or authorized third party owner or employee within five years prior to the application date, to include:
 - i. ~~A dismissal from position due to misconduct~~ Misconduct;
 - ii. ~~A resignation~~ Resignation from position:
 - (1) In lieu of dismissal;

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- (2) By mutual agreement following allegations of misconduct, or
(3) Under unsatisfactory conditions.
- iii. ~~A designation~~ Designation "not eligible for rehire."
- ~~21. "Inactive status" means a Division action taken at the request of an authorized third party that deactivates a third-party authorization for no more than six months.~~
- ~~22~~23. "Log" means a complete, chronological record of accountable inventories and activities performed and kept by the authorized third party, as prescribed by the Division.
- ~~23~~24. "Monthly reconciliation report" means an authorized third-party's report ~~on~~ of accountable inventory use other than title and registration accountable inventory. ~~A monthly reconciliation report:~~
- ~~a. Lists the number of each completed license, permit, or form;~~
 - ~~b. Lists the number of each voided license, permit, or form;~~
 - ~~c. Is signed by a principal or contact individual of the authorized third party; and~~
 - ~~d. Includes all voided licenses, permits, or forms.~~
- ~~24~~25. "Noncommercial driver license examiner" means an individual certified by the Division to administer class D, G, and M driver license tests.
26. "Principal" mean any of the following: if the applicant is
- a. A sole proprietor, the sole proprietor's name;
 - b. A partnership, limited partnership, limited liability partnership, limited liability company, or corporation, the name of each:
 - i. Partner;
 - ii. Manager;
 - iii. Member;
 - iv. Officer;
 - v. Director;
 - vi. Agent; and
 - vii. If a limited liability company or corporation, each stockholder owning 20 percent or more of the limited liability company or corporation; or
 - c. A political subdivision or government agency, the name of the political subdivision head or agency head.
- ~~25~~27. "Principal place of business" means an authorized third party's administrative headquarters.
- ~~26~~28. "Skills test" means a set of tests, authorized and approved by the Division and administered by a commercial or non-commercial driver license examiner or driver license processor to determine whether the applicant possesses the required skills for the type of license for which the applicant applies.
- ~~27~~29. "Skills test route" means a public road or highway driving course, identified by an authorized third party and approved by the Division, for administering skills tests to driver license applicants.
- ~~28~~30. "Suspension" means a Division action that, for a stated period, prohibits:
- a. An authorized third party from:
 - i. Providing at least one type of third-party activity, or
 - ii. Operating as an authorized third party.
 - b. A certified individual from:
 - i. Performing at least one type of third-party activity, or
 - ii. Working for an authorized third party.
- ~~29~~31. "Tax report processor" means an individual certified by the Division to:
- a. Process motor fuel tax reports and interstate user fuel tax reports from fuel suppliers, fuel vendors, and motor carriers; and
 - b. File the reports with the Department.
- ~~30~~32. "Test site" means a location, identified by an authorized third party, for administering skills tests to driver license applicants that is:
- a. Division-approved,
 - b. Permanently marked, and
 - c. Off the public road or highway.
- ~~31~~33. "Title and registration processor" means an individual certified by the Division to:
- a. Review applications for vehicle certificates of title or registrations under A.R.S. Title 28, Chapter 7,
 - b. Enter information related to applications for vehicle certificates of title or registrations in the Division's database, and
 - c. Issue or deny vehicle certificates of title or registrations.
- ~~32~~34. "Vehicle dealer license processor" means an individual certified by the Division to:
- a. Review applications for vehicle dealer licenses under A.R.S. Title 28, Chapter 10;
 - b. Enter information related to the applications in the Division's database; and
 - c. Issue or deny vehicle dealer licenses.

~~3335.~~"Vehicle inspector" means an individual certified by the Division to perform motor vehicle inspections.

~~3436.~~"Vehicle permit processor" means an individual certified by the Division to:

- a. Review applications for permits or registrations under A.R.S. Title 28, Chapter 3, Articles 18 and 19, and Chapter 7.
- b. Enter information related to the applications in the Division's database; and
- c. Issue or deny permits or registrations.

ARTICLE 2. AUTHORIZATION

R17-7-201. Authorization Application Requirements

- A. An applicant for third-party authorization shall provide to the Division:
1. The applicant's name, business name, and federal employer identification number;
 2. The applicant's bond status as exempt or nonexempt under A.R.S. §§ 28-5104 ~~and 28-5105~~. If exempt, the applicant's name under subsection (A)(1);
 3. The name of the applicant's principal. ~~If the applicant is:~~
 - a. ~~A sole proprietor, state the sole proprietor's name;~~
 - b. ~~A partnership, limited partnership, limited liability partnership, limited liability limited partnership, limited liability company, or corporation, the name of each:~~
 - i. ~~Partner;~~
 - ii. ~~Manager;~~
 - iii. ~~Member;~~
 - iv. ~~Officer;~~
 - v. ~~Director;~~
 - vi. ~~Agent; and~~
 - vii. ~~If a limited liability company or corporation, each stockholder owning 20 percent or more of the limited liability company or corporation; or~~
 - e. ~~A political subdivision or government agency, the name of the political subdivision head or agency head;~~
 4. The name and telephone number of the applicant's contact individual;
 5. The activities for which the applicant seeks authorization;
 6. The address of the applicant's principal place of business and the address of each established place of business;
 7. A statement that the applicant is in good standing with the Division, ~~if applicable;~~
 8. The signature of:
 - a. The sole proprietor,
 - b. All partners,
 - c. A corporate officer,
 - d. A limited liability company manager, or
 - e. The political subdivision head or agency head;
 9. ~~An applicant shall provide to the Department documents~~ Documents relating to the applicant's business. ~~If if the applicant is a:~~
 - a. ~~A corporation~~ Corporation:
 - i. A copy of the articles of incorporation, including any amendments, filed with the Arizona Corporation Commission; and
 - ii. Any other official documents, including copies of board meeting minutes and annual reports, that reflect changes to the corporate name, structure, or officers;
 - b. ~~A limited~~ Limited liability company:
 - i. A copy of the articles of organization, including any amendments, filed with the Arizona Corporation Commission, and
 - ii. A copy of the application for registration as a foreign limited liability company filed with the Arizona Corporation Commission and a copy of the certificate of registration issued by the Arizona Corporation Commission to a foreign limited liability company; or
 - c. ~~A limited~~ Limited partnership, limited liability partnership, ~~or a limited liability limited partnership~~:
 - i. A copy of a valid certificate of existence issued by the Arizona Secretary of State, or
 - ii. A copy, stamped "Filed" by the Arizona Secretary of State, of a Certificate of Limited Partnership, Certificate of Foreign Limited Partnership, Limited Liability Partnership form, Foreign Limited Liability Partnership form, or Statement of Qualification for Conversion of Limited Partnership or Limited Liability Partnership ~~to a Limited Liability Limited Partnership~~;
 10. A floor plan for each established place of business;
 11. A map, drawing, or narrative description of each skills test route and a photograph or drawing of each test site;

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12. Unless exempt, proof of a surety bond according to A.R.S. § 28-5104; and
 13. Unless exempt, a full set of fingerprints for a criminal records check of each principal at least age 18 ~~named under subsection (A)(3)(a) or (A)(3)(b)~~. The applicant is responsible for the cost of finger printing and background check. Each full set of fingerprints shall be impressed on a fingerprint card:
 - a. Supplied by the Division, and
 - b. Completed by a law enforcement agency.
- B.** Unless exempt, an applicant for a third-party authorization shall submit, ~~for the individual named under subsection (A)(3)(a) or (A)(3)(b) for each principle~~, a statement on a form provided by the Division with the following information:
1. Name, including other names and birth dates used;
 2. Residence address;
 3. Any Division-issued business suspension, cancellation, revocation, or denial within five years ~~before~~ prior to the application date;
 4. The individual's signature witnessed by a notary public or a Division agent designated under A.R.S. § 28-370(A); and
 5. Any other information requested by the ~~Division~~ Director.
- C.** The complete authorization application packet as provided under subsection (A) and (B) shall be received within 30 days of application date.

R17-7-202. Notification of Authorization Approval or Denial and Hearing

- A.** Notification. The Division shall send written and dated notification of approval or denial of third-party authorization:
1. By regular mail,
 2. To the address provided on the application, and
 3. According to A.R.S. § 28-5107(A).
- B.** Hearing. A.R.S. §§ 28-5107(B) through 28-5107(D), A.A.C. R17-1-501 through R17-1-511, and A.A.C. R17-1-513 apply to a hearing on the denial of ~~third-party~~ third party authorization.

R17-7-203. Authorization Agreement

Before the ~~Department~~ Division issues a ~~third-party~~ third party authorization, an applicant receiving authorization shall sign a written agreement with the Division as to the terms and conditions of the ~~third-party~~ third party authorization.

R17-7-204. Authorized Third Party's Duties

- A.** While holding a Third Party authorization, an authorized Third Party shall have no:
1. Suspension, cancellation, revocation, or denial of another Division-issued license; or
 2. Delinquent fees, taxes, or unpaid balance owed to the Division.
- A-B.** Until returned to the Division, an authorized third party shall retain the following records at each established place of business or at the principal place of business:
1. All logs and copies of completed, issued, or voided accountable inventory;
 2. All unused accountable inventory; and
 3. All other paper and electronic records, including all supporting documents, relating to the activities provided by the third party.
- B-C.** The ~~Upon the request of the Department, a third party shall provide to the Division~~ the records listed in subsections (A)(1) through (A)(3) ~~(B)(1) through (B)(3) upon request of the Department.~~
- C-D.** An authorized third party shall maintain a copy of the certificate relating to each type of authorized activity the certified individual performs at the business location where the certified individual works.
- D-E.** An authorized third party shall retain a certified individual's personnel file for one year after the certified individual's last day of work. The ~~retained~~ personnel file shall include the certified individual's:
1. Dates of employment,
 2. All computer access forms (if applicable), and
 3. Computer access termination form (if applicable).
- E-F.** An authorized third party shall submit by the fifth day of each month, a monthly reconciliation report. If the authorized third party fails to timely submit a monthly reconciliation report, the Division shall:
1. Give an oral or written warning for the first untimely report,
 2. Send a letter of concern for the second untimely report in a 12-month period, or
 3. Suspend or cancel the authorization for the third untimely report in a 12-month period.
- F-G.** An authorized third party shall comply with the audit and inspection requirements of R17-7-401.
- G-H.** An authorized third party shall obtain the Division's written approval before:
1. Changing the location or floor plan of an established place of business,
 2. Changing a skills test route or test site, or
 3. Performing an additional authorized activity.
- H-I.** An authorized third party shall notify the Division, within two business days, of any change to the list of certified personnel, or the contact individual.

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- ~~I.J.~~ An authorized third party that is open to the public shall post at each established place of business the sign required by A.R.S. § 28-5101(F) 28-5101(G), and a sign provided by the Division that ~~is stating~~ states the business:
- ~~The business is~~ Is a Division-authorized ~~third party~~ third party provider, and
 - ~~The business may~~ May charge the customer a convenience fee.
- ~~J.K.~~ An authorized third party shall ~~not represent that it is the State of Arizona, the Department, or the Division in any printed or electronic advertising or promotional material.~~ comply with the requirements of R17-7-201 before:
- Using a name different from the name on its Authorization Agreement, or
 - An ownership change in the entity operating as the Authorized Third Party.
- ~~K.L.~~ An authorized third party shall ~~not employ or contract with a current Department employee to provide training for certification without the Department employee obtaining written approval from the Department.~~ An authorized third party shall cooperate with an onsite audit by Department personnel or the Department's representative.
- ~~L.M.~~ An authorized third party shall ~~comply with the requirements of R17-7-201:~~
- ~~Before using a name different from the name on its authorization, or~~
 - ~~Before an ownership change in the entity operating as the authorized third party.~~
- An authorized third party shall not represent that it is the state of Arizona, the Department, or the Division in any printed or electronic advertising or promotional material.
- ~~M.N.~~ An authorized third party shall ~~cooperate with an on-site audit by Department personnel or the Department's representative.~~ not employ or contract with a current Department employee to provide training for certification without the Department employee obtaining written approval from the Department.

ARTICLE 3. CERTIFICATION

R17-7-301. Certification Application Requirements

- A. A certification applicant shall provide to the Division the following:
- The applicant's name, residence address, mailing address, telephone number, and date of birth;
 - The activities for which the applicant seeks certification;
 - The dates of any employment of the applicant by the Division;
 - ~~Whether~~ If the Division previously denied any certification of the applicant;
 - For each previous certification issued to the applicant by the Division:
 - The effective dates of the certification, and
 - The activity the applicant was certified to perform;
 - ~~Whether~~ If the Division suspended or canceled any certification listed under subsection (A)(5);
 - ~~Whether~~ If the applicant previously worked as a certified individual, the names of ~~no more than~~ the last three authorized third parties that employed or contracted with the applicant, and the dates of the employment or contract work;
 - The applicant's signature;
 - ~~A full set of fingerprints, on a fingerprint card supplied by the Division and completed by a law enforcement agency, for a criminal records check; and; A statement that the applicant is in good standing with the Division, if applicable;~~
 - ~~The applicant's signature;~~ A full set of fingerprints, on a fingerprint card supplied by the Division and completed by a law enforcement agency, for a criminal records check; and
 - If the applicant requests certification as a driver license processor or a driver license examiner, the applicant's driving record for the 39 months ~~before~~ prior to the application date.
- B. The applicant is responsible for the cost of finger printing and criminal records check.
- C. An applicant for a certification shall submit to the Division a statement with the information listed under R17-7-201(B).
- D. An applicant is eligible for certification if the applicant:
- ~~Is at least age 18 on the application date;~~
 - ~~Is in good standing as defined in R17-7-101(20); and~~
 - ~~Successfully completes all training courses and continuing education courses required by the Division; or~~
 - ~~Agrees in writing to complete all training courses and continuing education courses required by the Division.~~ The complete certification application packet as provided in subsections (A) through (C) shall be received within 30 days of application date.
- E. An applicant who was previously employed by the Division is eligible for certification if the applicant:
- ~~Meets the requirements under subsection (D);~~
 - ~~Was not terminated by the Division for misconduct in performing official duties within three years before the application date, or~~
 - ~~Did not resign during a Division investigation of misconduct in performing official duties within three years before the application date.~~
- An applicant is eligible for certification if the applicant:
- Is at least age 18 on the application date;

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2. Is in good standing as defined in R17-7-101(20); and
 3. Successfully completes all training courses ~~and continuing education courses~~ required by the Division; ~~or,~~
 4. ~~Agrees in writing to complete all training courses and continuing education courses required by the Division.~~
- F.** An applicant who was previously employed by the Division is eligible for certification if the applicant:
1. Meets the requirement under subsection (D).
 2. Was not terminated by the Division for misconduct in performing official duties within three years prior to the application date, or
 3. Did not resign during a Division investigation of misconduct in performing official duties within three years prior to the application date.

R17-7-302. Notification of Certification Approval or Denial and Hearing

- A.** Notification. The Division shall send written and dated notification of certification approval or denial:
1. By regular mail,
 2. To the address provided on the application, and
 3. According to A.R.S. § 28-5107(A).
- B.** Hearing. A.R.S. §§ 28-5107(B) through 28-5107(D), A.A.C. R17-1-501 through R17-1-511, and A.A.C. R17-1-513 apply to a certification denial hearing.

ARTICLE 4. AUDITS

R17-7-401. Audits

- A.** During an on site audit or inspection, Department personnel, a law enforcement agency, ~~or federal personnel employees or agents of the Federal Motor Carrier Safety Administration~~ may:
1. Review and copy paper and electronic records;
 2. Examine the site;
 3. Interview:
 - a. Employees, ~~and~~
 - b. ~~Customers.~~ Certified individuals, and
 - c. Customers
- B.** If Department personnel or the Department's representative ~~conduct~~ conducts an onsite audit outside Arizona under A.R.S. § 28-5102(B)(3), the Department shall charge, and the authorized third party shall pay, for the audit.
1. The audit charge and payment shall equal the Arizona Department of Administration reimbursement for out-of-state travel authorized by A.R.S. Title 38, Chapter 4, Article 2 and stated in ~~sections Section II-D-3 and sections II-D-6~~ of the Arizona Accounting Manual prepared by the Arizona Department of Administration.
 2. ~~Sections Section II-D-3 and II-D-6~~ of the Arizona Accounting Manual is available on the Arizona General Accounting Office web site at www.gao.state.az.us.

ARTICLE 5. PRE-APPLICATION AND SELECTION PANEL

R17-7-501. Definitions

The following term applies to this Article, unless the content otherwise requires:

"Selection Panel" means a committee, designated by the Director and comprised of Department personnel, to review and evaluate potential applicants.

R17-7-502 Pre-Application and Selection Panel

- A.** For the selection panel process, an applicant shall:
1. Submit a completed Third Party Authorization Interest form under R17-5-201;
 2. Submit a business plan with designated information as required by the Division; and
 3. Attend a scheduled interview conducted by Division personnel.
- B.** The Division selection panel shall evaluate documentation as required in subsection (A)(1) and (A)(2) for each potential applicant.
- C.** The Division selection panel shall forward the results of the evaluation to the appropriate program.

ARTICLE 6. DRIVER LICENSE EXAMINATION PROGRAM

R17-7-601. Definitions

The following terms and phrases apply to this Article, unless the content otherwise requires:

1. "Arizona Commercial Driver License Manual" means the Division's approved reference material for Commercial Driver License applicants, containing specific requirements to obtain a CDL.
2. "Arizona CDL Examiners Manual" means the Division's approved curriculum for training CDL examiners for administering the CDL skills test.
3. "CDL" means Commercial Driver License.
4. "CDLE" means Commercial Driver License Examination.
5. "CDLE Coach/Transit Bus Activity" means the Commercial Drivers License Examination Program activity for administering examinations for a Passenger (P) endorsement on a Commercial Driver License (CDL).
6. "CDLE School Bus Activity" means the CDL Examination Program activity for administering examinations for a School Bus (S) endorsement on a CDL.
7. "CDLE Truck Activity" means the CDL Examination Program activity for administering examinations for a Class A, B, or C truck CDL.
8. "Component Parts" means the safety related parts as listed on the "Third Party CDL Demonstration Test Score sheet."
9. "Contractor" means an authorized third party that has entered into an agreement with the Division that employs Driver License Examiners as defined in R17-7-101.
10. "Demonstration Test" means a skills test as defined in R17-7-101.
11. "NDL" means Noncommercial Driver License, Class D/G or Class M.
12. "NDLE" means Noncommercial Driver License Examination.
13. "NDLE Operator Activity" means Noncommercial Driver License Examination Program activity for Class D and G driver licenses.
14. "NDLE Motorcycle Activity" means Noncommercial Driver License Examination Program activity for Class M driver license or endorsement.
15. "Pre-Trip Inspection Examination" means the process of examining the applicant's ability to identify a commercial vehicle's component parts, and to determine if those parts are in safe operating condition as required under federal and state law.
16. "Qualifying party" means a bona fide employee designated to qualify for authorization on behalf of the principal.

R17-7-602. Activities

The authorized and certified activities for the Driver License Examination Program are:

1. CDLE "Coach/Transit Bus",
2. CDLE "School Bus",
3. CDLE "Truck",
4. NDLE "Motorcycle", or
5. NDLE "Operator."

R17-7-603. Pre-Application and Selection Panel Process

Interested parties seeking to apply for authorization in the Driver License Examination Program shall comply with the requirements of Article 5.

R17-7-604. Additional Authorization Application Requirements

A. In addition to the requirements of R17-7-201, an applicant approved by the Selection Panel shall:

1. Unless exempt, submit for each qualifying party, a statement on a form provided by the Division, with the following information:
 - a. Name, including other names and birth dates used;
 - b. Residence address;
 - c. Any Division-issued business license suspension, cancellation, revocation, or denial within five years before the application date;
 - d. The individual's signature witnessed by a notary public or a Division agent designated under A.R.S. § 28-370(A); and
 - e. Any other information requested by the Director.

B. Provide the name, telephone number and email address of the applicant's qualifying party on the Authorization Application. The qualifying party shall:

1. Be a bona fide employee whose principal employment is with the company for whom the applicant has qualified;
2. Have complete oversight, supervision, and responsibility of all operations necessary to ensure full compliance with all applicable statutes, rules, and program requirements; and
3. Meet all authorization requirements on behalf of the authorization applicant.

C. Submit a Site Inspection Request form for each of the following:

1. Principal Place of Business,
2. Established Place of Business.

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3. Branch office, and
4. Test Site:
 - a. CDL: A diagram with the dimensions of any proposed CDL test site shall be attached to the inspection request. The dimensions shall be in compliance with the Arizona CDL Examiners Manual.
 - b. Motorcycle: A diagram with the dimensions of any proposed motorcycle test site shall be attached to the inspection request. The dimensions shall be in compliance with the Motorcycle Safety Foundation requirements.
- D.** Maintain a valid agreement for the use of the land if the applicant does not own the land on which the test site is located.
- E.** Ensure each Principal Place of Business, Established Place of Business, Branch office, and Test Site:
 1. Meet all local zoning requirements, and
 2. Is not be used as a residence.

R17-7-605. Additional Certification Application Requirements

In addition to R17-7-301 an applicant for certification as a Driver License Examiner shall:

1. Possess a valid Arizona driver license of the class and endorsement representative of the examinations to be administered;
2. Have no driver license suspensions, cancellations, revocations, or disqualifications within the 39 months prior to application date, including CDL medical suspensions as defined in R17-5-508, or convictions within the 39 months prior to application date relating to:
 - a. Driving under the influence of intoxicating liquors or drugs,
 - b. Reckless driving,
 - c. Racing upon a highway, or
 - d. Leaving the scene of an accident.
3. CDLE:
 - a. Be at least 21 years of age,
 - b. Have a minimum of three years of driving experience pertaining to the operation of a commercial vehicle representative of the type and class for which the applicant is seeking certification, and
 - c. A total of three years experience in:
 - i. Driver license issuance;
 - ii. Driver education instruction;
 - iii. Professional driving instruction, or
 - iv. Any combination thereof.
4. NDLE:
 - a. Be at least 18 years of age,
 - b. Have a minimum of one year driving experience, and
 - c. A total of one year experience in:
 - i. Driver license issuance;
 - ii. Driver education instruction;
 - iii. Professional driving instruction;
 - iv. Any combination thereof.
5. A contractor has the right to withdraw a certification application if the examiner applicant has failed to meet certification requirements.

R17-7-606. Driver License Examination Authorization Agreement

In addition to R17-7-203, the authorization agreement shall: Include an addendum identifying the specific requirements pertaining to the Driver License Examination Program and the selected activity.

R17-7-607. Duties of Authorized Driver License Examination Program

In addition to R17-7-204, after authorization, a Driver License Examination Program shall:

1. Comply with all federal requirements, state statutes, Division rules and contract provisions;
2. Maintain compliance with all authorization requirements set forth in these rules;
3. Attend all ongoing Division training;
4. Provide a safe work area adequate in size to accommodate the related test;
5. Ensure all vehicles used for examination are:
 - a. Representative of the class and type for which the individual is seeking a driver license,
 - b. Maintained in safe operating condition, and
 - c. In compliance with registration and insurance requirements set forth in Title 28, Arizona Transportation Laws;
6. Maintain approved commercial vehicles in compliance with applicable Federal Motor Carrier Safety Regulations and Arizona Commercial Driver License Manual;
7. Purchase and maintain the following examination equipment:
 - a. CDLE:

- i. Fifteen or more 28" high traffic cones.
 - ii. Measuring tape.
 - iii. Clipboard, and
 - iv. At least two wheel chocks for placement in front of and behind the vehicle rear wheels for pre-trip inspection examination.
 - b. NDLE:
 - i. Clipboard.
 - ii. Fire Extinguisher (Class A,B,C).
 - iii. First aid kit.
 - iv. Proper vision screening equipment approved by the Division if providing vision examinations, and 75 4" or 6" high traffic cones (Motorcycle only).
8. Notify the Division within two business days of any change to the qualifying party; and
9. Notify the Division, within two business days, of any change to the list of certified personnel, or the contact individual.

R17-7-608. Duties of Certified Driver License Examiner

A Certified Driver License Examiner shall:

1. Comply with all federal requirements, statutes, Division rules, and contract provisions;
2. Maintain compliance with all pre-certification requirements set forth in these rules;
3. Shall not administer any examination unless the applicant meets the requirements of all statutes, rules and policies governing driver licensing;
4. Attend ongoing Division training;
5. Provide written notice within 24 hours to both the Authorized Driver License Examination Program and MVD if the Examiner's driver license is suspended, revoked, canceled or disqualified including CDL medical suspensions as defined in R17-5-508 and revocations;
6. Conduct skills tests only on Division approved test routes;
7. Issue a skills test score sheet to an applicant who successfully completes the skills test. The score sheet shall be completed in the presence of the applicant at the time of the skills test, and is valid for 30 calendar days from the completion date of the skills test; and
8. Verify the CDL driver license applicant possesses a:
 - a. Valid Arizona driver license with photograph.
 - b. Valid Division issued commercial instruction permit for the class and endorsement of the vehicle to be used in administering the skills test, and
 - c. Sealed envelope from the Division containing a valid Arizona Driver License or Identification Card Application that names the applicant and indicates in the appropriate section that the applicant successfully completed the CDL written/knowledge test(s).

R17-7-609. Professional Conduct

A. The Driver License Examination Program Contractor or Examiner will not be permitted to:

1. Accompany any applicant into any MVD or third party office.
2. Solicit any individual on the premises rented, leased, or owned by the Division or third party.
3. Engage in any activity or behavior that would bring discredit or embarrassment to the Division, and
4. Behave in an unprofessional manner while dealing with the public in general or with Division staff.

B. The Driver License Examination Program Contractor or Examiner shall maintain high standards of honesty, integrity and impartiality, free from any personal consideration, favoritism or partisan demands.

R17-7-610. Enforcement

Upon termination from the Driver License Examination Program, whether voluntary or involuntary, the following shall be surrendered to the Division:

1. All authorization, certification and branch certificates issued by the Division;
2. All unused Division forms and unused accountable inventory;
3. All copies of completed or voided accountable inventory and logs; and
4. All records of driver license examinations conducted.

R17-7-611. Denial, Cancellation and Suspension; Appeal

The authorization or certification shall be denied, canceled or suspended upon a determination by the Director that a Contractor or Examiner is no longer qualified for authorization or certification under this rule, or is in breach of the contract with the Division.

ARTICLE 7. TITLE AND REGISTRATION PROGRAM

R17-7-701. Definitions

The following terms and phrases apply to this Article, unless the content otherwise requires:

1. "Concentration Banking System (CBS)" means a type of state bank account, established by the Arizona State Treasurer's office for deposit of funds collected by an authorized third party.
2. "Floor plan" means a Division-approved diagram of a building's interior, as seen from above, that shows the interior dimensions and the location of doors, windows, and equipment.
3. "Vicinity" means the area adjacent to or in the immediate proximity of an Authorized Third Party's Established Place of Business.

R17-7-702. Authorization Application

In addition to the requirements in R17-7-201, an applicant for Third Party Authorization shall provide to the Division:

1. A floor plan that includes either:
 - a. A computer-generated graphic,
 - b. A blueprint or other photographic reproduction of an architectural plan or technical drawing, or
 - c. A non-technical drawing made by hand using a straightedge; and
2. A Third Party Bond for each established branch location unless otherwise exempt per statute.

R17-7-703 General Authorization Requirements

In addition to R17-7-201 and R17-7-204, the authorized third party shall:

1. Have facilities, including the vicinity and equipment, pre-approved by the Division;
2. Have an Established Place of Business as defined in R17-7-101;
3. Conduct all authorized activities only at the Established Place of Business;
4. Submit to the Division for review and approval any other businesses to be conducted by the Authorized Third Party at the Established Place of Business; and
5. Maintain a Third Party Bond for each established place of business.

R17-7-704. General Duties of an Authorized Third Party and a Certified Individual

The Authorized Third Party or Certified Individual shall:

1. Submit all documents and corrections, in accordance with all laws, rules, policies, procedures, Third Party Authorization Agreement, and other established Division guidelines;
2. Immediately notify ADOT/MVD of inappropriate actions relating to motor vehicle transactions;
3. Require the submittal of all supporting documentation relating to a title and registration or driver license transactions prior to updating the Motor Vehicle Division databases;
4. Maintain professional conduct;
5. Provide written notice within twenty four hours to both the Authorized Third Party Program and MVD if the processor's driver license is suspended, revoked, canceled or disqualified including CDL medical suspensions as defined in R17-5-508;
6. Conduct skills tests only on Division approved test routes;
7. Not witness or notarize documentation relating to these transactions unless the appropriate identification is submitted;
8. Not accompany any applicant into any MVD or third party office;
9. Not solicit any individual on the premises rented, leased or owned by the Division or third party;
10. Not engage in any activity or behavior that would bring discredit or embarrassment to the Division; and
11. Not behave in an unprofessional manner while dealing with the public in general or with Division staff.

R17-7-705. Financial Requirements

An Authorized Third Party shall comply with the Division's specific financial requirements as follows:

1. Deposit all required money to be remitted to the Division under A.R.S. § 28-5101 by the business day following the transaction date in the designated:
 - a. CBS account, or
 - b. Account through an electronic method pre-approved by the Division.
2. Submit to the Division any additional money required within two days after notification.

R17-7-706. Corrective Action

- A. Non-compliance with laws, rules, policies, procedures, Division guidelines, or contractual requirements may result in corrective action.
- B. Corrective actions may include probation, suspension or cancellation of authorization or certification based on:

1. Non-compliance.
2. History of non-compliance.
3. Frequency and severity of the violation, or
4. Failure to maintain good standing status as defined in R17-7-101.

R17-7-707. General Application Requirements for Certification

In addition to the requirements in R17-7-301 an applicant requesting:

1. Certification shall:
 - a. Complete all additional application forms, and
 - b. Be employed or under contract for an employer applying for or authorized as a Title and Registration or Driver License Authorized Provider, as applicable.
2. Driver license certification shall:
 - a. Not have any driver license suspensions, revocations, cancellations or disqualifications within the 39 months prior to application, including convictions related to:
 - i. Driving under the influence of intoxicating liquors or drugs.
 - ii. Reckless driving.
 - iii. Racing upon the highway, or
 - iv. Leaving the scene of an accident.
 - b. Not have any CDL medical suspensions as defined in R17-4-508

ARTICLE 8. THIRD PARTY INSPECTION PROGRAM

R17-7-801. Definitions

The following term applies to this Article, unless the content otherwise requires:

“Inspection” means vehicle verification as prescribed in A.R.S. § 28-2011.

R17-7-802. General Provisions; Additional Duties; Reporting Requirements

- A.** In addition to the Authorized Vehicle Inspection Provider provisions under R17-7-101 through R17-7-501, an Authorized Vehicle Inspection Provider shall:
1. Maintain all Vehicle Inspection forms in numerical order by the accountable form number;
 2. Ensure that the Division receives the following by the fifth day of each month:
 - a. Completed Vehicle Inspection Monthly Reconciliation Report for the previous month;
 - b. Division copies of the Vehicle Inspection forms, along with any voided forms; and
 - c. If no inspections were completed during the previous month, a verification of Vehicle Inspection Monthly Reconciliation indicating zero inspections.
 3. Retain all vehicle inspector copies of completed and voided Vehicle Inspection forms in numerical order by accountable form number, filed by month, and made readily accessible for audit purposes for a period of three years; and
- B.** In the event that the Division does not receive a Vehicle Inspection Monthly Reconciliation Report from the Authorized Vehicle Inspection Provider, as prescribed in R17-7-702, the Division shall take corrective action in accordance with Division policy.