

NOTICES OF FINAL RULEMAKING

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

NOTICE OF FINAL RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 9. DEPARTMENT OF AGRICULTURE AGRICULTURAL COUNCILS AND COMMISSIONS

[R06-08]

PREAMBLE

- 1. Sections Affected**

Article 1	<u>Rulemaking Action</u>
R3-9-101	New Article
R3-9-102	New Section
R3-9-103	New Section
R3-9-104	New Section
R3-9-105	New Section
R3-9-106	New Section
- 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. § 3-526
Implementing statute: A.R.S. § 3-526.02(C)(9)
- 3. The effective date of the rules:**

March 11, 2006
- 4. A list of all previous notices appearing in the *Register* addressing the final rule:**

Notice of Rulemaking Docket Opening: 10 A.A.R. 367, January 30, 2004
Notice of Proposed Rulemaking: 11 A.A.R. 670, February 11, 2005
Notice of Public Information: 11 A.A.R. 4147, October 21, 2005
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Rebecca Nichols, Rules Analyst
Address:	Arizona Department of Agriculture 1688 W. Adams, Room 235 Phoenix, AZ 85007
Telephone:	(602) 542-0962
Fax:	(602) 542-5420
E-mail:	rnichols@azda.gov
- 6. An explanation of the rule, including the agency's reason for initiating the rule:**

This rulemaking establishes procedures for governance of the Arizona Iceberg Lettuce Research Council ("AILRC") as prescribed under A.R.S. § 3-526.02.

It also codifies the process under which the AILRC will award grants. The AILRC received a statutory exemption from Chapter 24 of A.R.S. Title 41, which applies to the solicitation of grants. A.R.S. § 41-2706.

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7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did 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 agency did not review any study relevant to the rules.

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

Not applicable

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

A. *The Arizona Iceberg Lettuce Research Council and the Arizona Department of Agriculture.*

The AILRC and the Department will incur modest expenses related to educating the regulated community on the new Sections.

B. *Political Subdivision.*

Other than the AILRC and the Department, the Office of Administrative Hearings may be affected by this rule-making if a party requests a hearing.

C. *Businesses Directly Affected by the Rulemaking.*

Iceberg lettuce producers, grower-shippers, handlers, researchers, and universities are the beneficiaries of the grants programs developed by the AILRC.

The regulated community, as well as the AILRC itself, will benefit from the use of the grant rules.

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

The following list reflects only the major changes where language was either removed from or moved within the rules.

- At R3-9-101, the definition of “applicant” was removed.
- At R3-9-103, the title of this Section was relabeled from “Hearings” to “Hearings and Rehearings” for clarification.
- At the top of page 5, the Article number was corrected from “5” to “1”.
- At R3-9-106(A)(3)(a), the language describing the types of research the AILRC can statutorily fund was removed because it is defined in the statute cited.
- At R3-9-106(A)(4)(a) through (e), the language was removed due to duplication in subsection (E) Awards and Project Monitoring.
- At R3-9-106(A)(4)(f), the language was moved to the end of subsection (A)(3).
- At R3-9-106(A)(3)(g), the language is now contained in subsection (A)(4).
- At R3-9-106(C), this subsection and all subsequent subsections were relettered correctly.
- At R3-9-106(C), this subsection was relabeled from “No Confidentiality” to “Public Participation” as it addresses the public’s participation in the grant award making process.
- At R3-9-106(C)(1), the language was removed due to duplication in subsection (A)(3)(b).
- At R3-9-106(D)(1), the language was removed due to duplication in the previous subsection (C).
- At R3-9-106(D)(2), the language was removed as it is covered in statute under A.R.S. § 38-502, 38-503 and 38-510.
- At R3-9-106(D)(4) and (5), the language was removed as it is covered in open meeting law, A.R.S. § 38-431 et seq.
- At R3-9-106(E)(2), the language was moved to subsection (A)(3)(e).
- Grammatical and technical changes have been made to the rules based on suggestions from the Department and G.R.R.C. staff.

11. A summary of the comments made regarding the rule and the agency response to them:

None

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

The AILRC received a statutory exemption from Chapter 24 of A.R.S. Title 41, which applies to the solicitation of grants. A.R.S. § 41-2706.

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

None

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

No.

15. The full text of the rules follows:

TITLE 3. AGRICULTURE

**CHAPTER 9. DEPARTMENT OF AGRICULTURE
AGRICULTURAL COUNCILS AND COMMISSIONS**

ARTICLE 1. ~~RESERVED~~ ARIZONA ICEBERG LETTUCE RESEARCH COUNCIL

Section

<u>R3-9-101.</u>	<u>Definitions</u>
<u>R3-9-102.</u>	<u>Elections</u>
<u>R3-9-103.</u>	<u>Hearings and Rehearings</u>
<u>R3-9-104.</u>	<u>Annual Report</u>
<u>R3-9-105.</u>	<u>Records</u>
<u>R3-9-106.</u>	<u>Grants</u>

ARTICLE 1. ~~RESERVED~~ ARIZONA ICEBERG LETTUCE RESEARCH COUNCIL

R3-9-101. Definitions

In addition to the definitions in A.R.S. § 3-526, the following terms apply to this Article:

1. "AILRC" means the Arizona Iceberg Lettuce Research Council.
2. "Authorized signature" means the signature of an individual authorized to receive funds on behalf of the applicant and responsible for the execution of the applicant's project.
3. "Awardee" means a successful applicant to whom the AILRC awards grant funds for research on a specific project.
4. "Department" means the Arizona Department of Agriculture.
5. "Grant" means an award of financial support to an applicant according to A.R.S. § 3-526.02 (B) and (C)(5).
6. "Grant award agreement" means a document that advises an applicant of the amount of money awarded following receipt by the AILRC of the applicant's signed acceptance.

R3-9-102. Elections

- A. The AILRC shall elect officers as specified in A.R.S. § 3-526.02 (A)(2) during the first quarter of each calendar year.
- B. Officers continue in office until the next annual election.
- C. An officer may be reelected successively.

R3-9-103. Hearings and Rehearings

- A. The AILRC shall follow the Uniform Administrative Procedure Act, A.R.S. Title 41, Chapter 6, Article 10, for a hearing before the AILRC.
- B. A party may file a motion for rehearing or review under A.R.S. § 41-1092.09.
- C. The AILRC shall grant a rehearing or review of a decision for any of the following causes materially affecting the moving party's rights:
 1. The decision is not justified by the evidence or is contrary to law;
 2. There is newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original proceeding;
 3. One or more of the following deprived the party of a fair hearing:
 - a. Irregularity or abuse of discretion in the conduct of the proceeding;
 - b. Misconduct of the AILRC, the administrative law judge, or the prevailing party; or
 - c. Accident or surprise that could not have been prevented by ordinary prudence; or
 4. Excessive or insufficient sanction.
- D. The AILRC may grant a rehearing or review to any or all of the parties. The rehearing or review may cover all or part of the issues for any of the reasons stated in subsection (C). An order granting a rehearing or review shall particularly state the grounds for granting the rehearing or review, and the rehearing or review shall cover only the grounds stated.

R3-9-104. Annual Report

The AILRC shall prepare a report according to A.R.S. § 3-526.02(A)(5), by October 31 of each year.

R3-9-105. Records

The AILRC shall retain records required by A.R.S. § 3-526.02(A)(4). A person may review records at the AILRC's office, Monday through Friday, except an Arizona legal holiday, during the hours of 8 a.m. to 5 p.m. Upon request, the AILRC shall provide a copy of the records according to A.R.S. § 39-121 et seq.

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R3-9-106. Grants

A. Grant application process.

1. The AILRC shall award grants according to the competitive grant solicitation requirements of this Article.
2. The AILRC shall post the grant application and manual on the AILRC's web site at least four weeks before the due date of a grant application.
3. The AILRC shall ensure that the grant application manual contains the following items:
 - a. Grant topics related to AILRC programs specified by A.R.S. § 3-526.02(B) and (C)(5);
 - b. A statement that the information contained in an application is not confidential;
 - c. A statement that the AILRC funding source is primarily from per carton assessments on iceberg lettuce grown in Arizona;
 - d. An application form including sections about the description of the grant project, scope of work to be performed, an authorized signature line, and a sample budget form;
 - e. A statement that the applicant shall not include overhead expenses in the budget for the proposed project.
 - f. The criteria that the AILRC shall use to evaluate an application;
 - g. The date and time by which the applicant shall submit an application;
 - h. The anticipated date of the AILRC award;
 - i. A copy of the AILRC grant solicitation rules; and
 - j. Any other information necessary for the grant application.
4. The AILRC shall not consider an application received by the AILRC after the due date and time.

B. Criteria. The AILRC shall consider the following when reviewing a grant application and deciding whether to award AILRC funds:

1. The applicant's successful completion of prior research projects.
2. The extent to which the proposed project identifies solutions to current issues facing the iceberg lettuce industry.
3. The extent to which the proposed project addresses future issues facing the iceberg lettuce industry.
4. The extent to which the proposed project addresses the findings of any industry surveys conducted within the previous year.
5. The appropriateness of the budget request in achieving the project objectives.
6. The appropriateness of the proposal time-frame to the stated project objectives, and
7. Relevant experience and qualifications of the applicant.

C. Public participation.

1. The AILRC shall make all applications available for public inspection by the business day following the application due date.
2. Before awarding a grant, the AILRC shall discuss and evaluate grant applications and proposed projects at a meeting conducted under A.R.S. § 38-431 et seq.

D. Evaluation of grant applications.

1. The AILRC may allow applicants to make oral or written presentations at the public meeting if time, applicant availability, and meeting space permit.
2. The AILRC may modify an applicant's proposed project in awarding funding.
3. The AILRC shall notify an applicant in writing of the AILRC's decision to fund, modify, or deny funding for a proposed project within 10 business days of the AILRC decision. The AILRC shall notify applicants by the U.S. Postal Service, commercial delivery, electronic mail, or facsimile.

E. Awards and project monitoring.

1. Before releasing grant funds, the AILRC shall execute a grant award agreement with the awardee. The awardee shall agree to accept the grant's legal requirements and conditions and authorize the AILRC to monitor the progress of the project by signing a grant award agreement.
2. The AILRC shall pay no more than 50% of the grant in the initial payment to the awardee.
3. During the term of the project, the awardee shall inform the AILRC of changes to the awardee's address, telephone number, or other contact information.
4. The AILRC may require an interim written report or oral presentation from the awardee during the pendency of the project.
5. The AILRC shall not award grant funds remaining after the initial payment until the awardee submits to the AILRC:
 - a. A final research report, and
 - b. An invoice for actual final project expenses not exceeding the remaining portion of the award.
6. The AILRC shall make research findings and reports resulting from any grant awarded by the AILRC available to Arizona iceberg lettuce producers.

F. Repayment. If the awardee does not complete the project as specified in the grant award agreement, the awardee shall return all unexpended grant funds within 30 days after receipt of a written request by the AILRC.

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TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

[R06-19]

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. The effective date of the rules:

With the exception of R12-4-208(B)(4), which will become effective on August 1, 2006, the rules will become effective on March 11, 2006. In the Notice of Proposed Rulemaking, the Department proposed an effectiveness date of January 1, 2006, for R12-4-208(B)(4), in anticipation of the rulemaking becoming effective and enforceable by that date. This subsequently changed, and the Department is now clarifying the effectiveness date for this subsection to give adequate notice to the regulated community of the rule change.

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

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

Notice of Proposed Rulemaking: 11 A.A.R. 3398, September 9, 2005

5. 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

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

The Department is amending the rules principally as stated in the five-year rule review report submitted to the Governor's Regulatory Review Council and approved at their January 2004 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 A.R.S. Title 41. The Department will also amend the rule, as necessary, to make it more clear, concise, and understandable.

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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 (N), formerly (L), 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

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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 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.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did 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

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

Not applicable

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

The 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.

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

Minor grammatical changes proposed by G.R.R.C. staff and clarification of the effectiveness date of R12-4-208(B)(4).

11. A summary of the comments made regarding the rule and the agency response to them:

Written Comment: I would like to see the regulations changed to provide Disabled Veteran's Licenses for those that are rated as "severely disabled" by the Veteran's Administration. Those would be any veteran with a rating of 50% or higher.

Agency Response: The Department is unable to comply with this request in rulemaking. Under authorizing statute A.R.S. 17-336(2), to receive a disabled veteran's license an individual must be rated as 100% disabled.

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

None

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

None

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

No.

15. 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

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- 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 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 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 the 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.

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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 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 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 but will be reevaluated, the 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 possess an Arizona 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 Arizona 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 possess an Arizona state migratory bird stamp, ~~affixed to a Class F, G, or H, complimentary or lifetime license as prescribed in R12-4-101, that accompanies a valid Arizona hunting license.~~ 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 et seq., 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.

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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, within five years preceding the date of application, of a violation of a federal or state wildlife law for which a license to take wildlife may be revoked or suspended. Subsection (B)(4) shall become effective beginning August 1, 2006.
- 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 in accordance with subsection (B), but the applicant voluntarily reported the violation immediately after committing it.
- ~~C.~~**D.** 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 within the state and knowledge of 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).
- ~~D.~~**E.** The Department shall ~~give administer~~ the examinations required in subsection ~~(C)~~ 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.

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- EF.** 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 full~~ The applicant's 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.
- JK.** ~~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~~ 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 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); subsections (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;

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- 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.~~

~~L.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, Department 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.~~ A crossbow permit is valid as long as the criteria for obtaining the permit are met, unless the Commission revokes the permit.
- ~~I.~~ 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.~~ A crossbow permittee permit holder shall not transfer the permit to another individual or allow another individual to use

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the permit issued to the crossbow permittee.

- ~~KJ.~~ After a hearing and upon sufficient cause showing, the Commission shall revoke the crossbow permit of a crossbow permittee 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 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 name, Department 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.~~ While a motor vehicle or watercraft is in use under subsection (A), the CHAMP permittee holder shall display on the motor vehicle or watercraft the CHAMP vehicle placard issued by the Department that the Department issues with the CHAMP.
- ~~I.~~ The Department shall provide a CHAMP permittees holder with a dispatch permit that allows the CHAMP permittee 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 permittee holder. The CHAMP permittee holder shall designate the assistant only after the animal is wounded or killed. The CHAMP permittee 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 permittee 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 they can be identified later.

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- 2. The assistant possesses the dispatch permit while tracking and dispatching the wounded animal.
 - 3. The CHAMP ~~permittee 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 ~~permittee 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 ~~permittee holder~~, and the tag of the CHAMP ~~permittee 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 ~~permittee 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 ~~permittee permit holder~~ shall ~~be in possession of~~ possess and exhibit the CHAMP, upon request, to ~~a~~ any peace officer.
- ~~MK.~~ A CHAMP ~~permittee holder~~ shall not transfer the permit to another individual or allow another individual to use the permit issued to the CHAMP ~~permittee~~.
- ~~NL.~~ After a hearing and upon sufficient cause showing, the Commission shall revoke the CHAMP of a ~~permittee 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~~ the individual may petition the Commission for rehearing in accordance with R12-4-607.
- ~~O.~~ This rule is effective January 1, 2000.

NOTICE OF FINAL RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION

TITLE, REGISTRATION, AND DRIVER LICENSES

[R06-20]

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R17-4-503 | 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. § 28-366
 Implementing statute: A.R.S. §§ 28-3051(A), 28-3052(A)(2)(a), (B), and 28-3164(A)(1)(a)
- 3. The effective date of the rules:**
 January 10, 2006
 In accordance with A.R.S. § 41-1032(A)(4), the Division is requesting an immediate effective date for this rulemaking as a benefit to those individuals using bioptic telescopic lens systems who, in the past, have not been able to apply for or obtain a driver license because the use of the bioptic telescopic lens system was not allowed during vision screening. These individuals may have had to limit themselves to employment that is either close to their residence or on a major public transportation route and pass on what might be better or more lucrative employment opportunities located farther away from home or that are not on a major public transportation route. No penalty is associated with a violation of the rule.
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
 Notice of Rulemaking Docket Opening: 11 A.A.R. 2755, July 22, 2005
 Notice of Proposed Rulemaking: 11 A.A.R. 2701, July 22, 2005
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
 Name: Troy A. Walters, Rules Analyst
 Address: Administrative Rules Unit
 Department of Transportation, Mail Drop 530M
 1801 W. Jefferson St.
 Phoenix, AZ 85007

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Telephone: (602) 712-8994
Fax: (602) 712-3081
E-mail: twalters@azdot.gov

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

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

The Division is amending the rule based on a recommendation by the Medical Advisory Board to allow a person to wear bioptic telescopic lens systems during vision screening. Additionally, a person using these lenses will be required to: 1) Have an annual exam performed by a physician or optometrist to ascertain if the eye disease is progressive; 2) Obtain a statement from a physician or optometrist that the individual meets the visual acuity standard as prescribed in this rule. The rule also requires that the magnification of the lenses be no more than 4X. Other grammatical and technical changes have been made for clarity, conciseness, and understanding.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did 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 agency did not review and will not rely on any written study for this rulemaking.

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

Not applicable

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

Costs incurred by agencies including the Arizona Department of Transportation, Motor Vehicle Division, Governor's Regulatory Review Council, and Secretary of State are minimal. Cost to an applicant or licensee to obtain vision testing done by a physician or optometrist is minimal. Insurance companies may benefit by issuing more policies.

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

R17-4-503(A)(2) – Definition of “Bioptic Telescopic Lens System” added.

R17-4-503(A)(10) – Was deleted and a more accurate definition was created at R17-4-503(A)(2).

Conforming changes made throughout the rule - Addition of the definition of a “Bioptic Telescopic Lens System” required these changes. The term “telescopic lens” was removed throughout the rule and replaced with “bioptic telescopic lens system”.

R17-4-503(B)(2) – Field of vision standard in the proposed rule was changed to 60 degrees since some other states use 60 degrees as the standard. However, it was never the intent of the Agency or the Medical Advisory Board to change the standard to 60 degrees. The recommendation was not adopted and the standard was to remain 70 degrees. During the process, this portion of the draft rule was never updated to remove the new 60 degree standard and it was left in the proposed rule inadvertently. This change will not affect the rule to any extent prescribed in A.R.S. § 41-1025(B)(1),(2),(3) since the rulemaking has had major constituent and industry input and support.

R17-4-503(D)(2)(b) – removed “is proficient in the use of the lens while operating a motor vehicle” and added “meets the visual acuity standard as prescribed in subsection B”. The Medical Advisory Board feels that a physician or optometrist cannot determine if an individual is proficient in the use of the lens while operating a motor vehicle; however, they can state that the individual using the bioptic telescopic lens system meets the visual acuity standard as prescribed in subsection B of this rule.

R17-4-503(G) – removed “A physician, optometrist, or”. The physician or optometrist only determines whether or not the eye disease is progressive, and it is up to the Division to determine whether or not an individual with a diagnosed progressive eye disease should be required to have a driving test.

Additionally, minor technical and grammatical changes were made at the suggestion of G.R.R.C. staff.

11. A summary of the comments made regarding the rule and the agency response to them:

R17-4-503(A)(10) – The Arizona Optometric Association recommended that the definition of “Telescopic lens” be changed to “Bioptic Telescopic Lens System”.

R17-4-503(D)(2)(b) – removed “is proficient in the use of the lens while operating a motor vehicle” and added “meets the visual acuity standard as prescribed in subsection B”. The Medical Advisory Board feels that a physician or optometrist cannot determine if an individual is proficient in the use of the lens while operating a motor vehicle, however, they can state that the individual using the bioptic telescopic lens system meets the visual acuity standards as prescribed in subsection B of this rule.

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R17-4-503(G) – removed “A physician, optometrist, or”. The Arizona Optometric Association feels that the Division is responsible for requiring a driving test and not the physician or optometrist. The physician or optometrist only determines whether or not the eye disease is progressive, but it is up to the Division to determine whether or not an individual with a diagnosed progressive eye disease should be required to have a driving test.

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

Not applicable

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

None

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

No.

15. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION
TITLE, REGISTRATION, AND DRIVER LICENSES

ARTICLE 5. SAFETY

Section

R17-4-503. Vision Standards

ARTICLE 5. SAFETY

R17-4-503. Vision Standards

A. Definitions.

1. “Binocular vision” means ~~vision~~ the ability to see in both eyes.
2. “Bioptic Telescopic Lens System” means a bioptic, spectacle-mounted corrective lens prescribed by a physician or optometrist for meeting vision acuity requirements for driving that uses magnification as the main method of obtaining minimal visual acuity.
23. “~~Conventionally corrected visual acuity~~” “Corrected visual acuity” means distance vision corrected by ~~glasses eye-glasses, or~~ contact lenses ~~but not by telescopic lenses, or a bioptic telescopic lens system.~~
4. “Corrective lens” means eyeglasses, contact lenses, or a bioptic telescopic lens system used to correct distance vision.
35. “Diplopia” means double vision.
46. “Field of vision” means the area in which objects may be seen when the eye is fixed.
57. “Impaired night vision” means below normal ability to see in reduced light.
68. “Monocular vision” means the ability to see in one eye only.
79. “Optometrist” means ~~a doctor of optometry licensed to practice in Arizona, a contiguous U.S. state, or employed by the federal government and practicing in Arizona~~ a person licensed to practice optometry in any state, territory, or possession of the United States or the Commonwealth of Puerto Rico.
810. “Retinitis pigmentosa” means a chronic progressive inflammation of the retina with atrophy and pigmentary infiltration of the inner layers ~~of the retina.~~
911. “Snellen Chart” means a chart imprinted with lines of black letters ~~graduating in of decreasing~~ size for testing visual acuity.
10. “Telescopic lens” means a corrective lens which uses magnification as the main method of obtaining minimal visual acuity.
412. “Visual acuity” means ~~ability to see clearly~~ the clarity of a person’s vision.

B. Standard.

1. Visual acuity. ~~Conventionally corrected~~ A person shall have binocular or monocular vision and visual acuity ~~must be~~ of 20/40 in at least one eye.
2. Field of vision. Field of vision ~~must shall~~ be 70 degrees ~~temporally, plus and~~ 35 degrees ~~on the opposite side of the nose nasally,~~ in at least one eye.

C. Restrictions.

1. ~~Persons~~ A person with ~~conventionally~~ corrected vision ~~must shall~~ wear corrective lenses at all times when driving if the corrective lens is required to achieve ~~the~~ vision standards ~~in subsection (B).~~

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2. ~~Persons~~ The Division shall restrict a person with diagnosed impaired night vision ~~shall be restricted~~ to daytime driving only.
 3. ~~Persons~~ The Division shall restrict a person with binocular vision and corrected or uncorrected with visual acuity (including with conventional correction) of 20/50 or 20/60, ~~in both eyes together when using both eyes,~~ will be restricted to daytime driving only.
 4. The Division shall not license a person with monocular vision and visual acuity of 20/50 or greater.
 5. The Division shall not license a person with binocular vision and visual acuity of 20/70 or greater.
- D. Screening process.
1. ~~The Division, a physician, or an optometrist may administer~~ Visual-visual acuity and field of vision screening ~~through the use of visual screening equipment to determine if a person's visual acuity and field of vision meets minimum standards. may be administered by the Department, a physician, or an optometrist.~~
 2. ~~A person~~ Persons may use ~~cannot wear a bioptic telescopic lenses lens system during while having their vision screened~~ screening.
 - a. Beginning on the date of a initial application and every year thereafter, a person using a bioptic telescopic lens system shall submit to the Division an annual exam performed by a physician or optometrist to ascertain whether the person has a progressive eye disease.
 - b. The Division shall not license a person using a bioptic telescopic lens system unless the person submits to the Division a written statement from a physician or an optometrist that the individual meets the visual acuity standard as prescribed in subsection (B).
 - c. The Division shall not license a person using a bioptic telescopic lens system with magnification of the lens that is more than 4X.
 3. ~~Department screening for~~ The Division shall conduct visual acuity ~~screening will be conducted~~ through the use of visual screening equipment or the Snellen Chart to determine ~~if the~~ whether a person's corrected vision is 20/40 in at least one eye.
 4. ~~The Department screening for field of vision will be conducted through the use of visual screening equipment to determine if the a person's field of vision meets minimum standards.~~
- E. Reporting requirements.
1. ~~If the person wishes to have initial visual acuity and visual field screening done by a physician or optometrist, rather than by the Department, the medical examination must be submitted to the Department. A person choosing to have initial visual acuity and visual field screening done by a physician or an optometrist shall submit the results to the Division.~~
 2. ~~If a~~ If the Division does initial visual acuity and visual field screening and the person does not meet the vision standards of subsection (B), the Department will Division shall require the person to submit the results of the person's a medical examination a visual acuity and vision field screening from by a physician or an optometrist.
 3. ~~Persons having~~ The Division shall require a person diagnosed with any of the following conditions will be required to file the results of the person's a medical visual acuity and visual field screening completed by the physician or optometrist:
 - a. ~~Diagnosed retinitis pigmentosa.~~ Any progressive eye disease.
 - b. ~~Diagnosed diplopia.~~ Diplopia, or
 - c. ~~Diagnosed impaired~~ Impaired night vision.
- F. ~~Content of medical examination~~ Results of visual acuity and visual field screening shall contain the following.
1. ~~Examination cannot be older than three months from date of submission to the Department.~~ An examination date no more than three months before the submission date to the Division;
 2. ~~Visual acuity and field of vision results;~~
 3. ~~Identification of the person who~~ If applicable, specification that the person is monocular;
 4. ~~Identification of persons having the conditions referred to in R17-4-521 (E)(3)~~ If applicable, diagnosis of any condition described in subsection (E)(3);
 5. ~~Diagnosis of any progressively deteriorating eye disease.~~
 6. ~~Any recommendations on frequency of reporting requirements for this~~ the person, in addition to those required by the ~~Department~~ Division;
 7. ~~Suggested restrictions on driving, in addition to those required by the Department.~~ Division; and
 8. ~~Any recommendations on the person's functional ability to safely operate a motor vehicle.~~
- G. The Division shall require a driving test if a persons eye disease is determined by a physician or optometrist to be progressive.

NOTICE OF FINAL RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS

[R06-21]

PREAMBLE

1. **Sections Affected**
R17-5-408
1. **Rulemaking Action**
New Section
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. § 28-366
Implementing statute: A.R.S. § 28-4422
3. **The effective date of the rules:**
March 11, 2006
4. **A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 11 A.A.R. 3318, September 2, 2005
Notice of Proposed Rulemaking: 11 A.A.R. 3420, September 9, 2005
5. **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, Mail Drop 530M
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.
6. **An explanation of the rule, including the agency's reason for initiating the rule:**
In accordance with A.R.S. § 28-4422, the Division is making a rule that 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 with the dealer's records.
7. **A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did 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
8. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
9. **The summary of the economic, small business, and consumer impact:**
The economic cost of this rulemaking is minimal to both the new motor vehicle dealers and the Division. new motor vehicle dealers will experience a slight cost associated with creating and reproducing a form to be signed by retail consumers impacted by this rulemaking. The only costs to the Division as a result of these rules will be the resources necessary for rulemaking and a minimal cost associated with compliance review. Dealers will receive a minimal to moderate benefit, because a new motor vehicle dealers will be able to resell a previously purchased vehicle as new. Consumers will experience a non-quantifiable benefit by receiving notification that the vehicle sold as new, had been delivered to a previous purchaser. Consumers will benefit from the Dealer's ability to pass on to the consumer allow-

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ances, such as manufacturer rebates, associated with the purchase of a new motor vehicle. There is no other estimated impact to any other parties.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):
None

11. A summary of the comments made regarding the rule and the agency response to them:
None

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
None

13. Incorporations by reference and their location in the rules:
None

14. Was this rule previously made as an emergency rule?
No.

15. 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 in A.R.S. § 28-4301, that sells a new motor vehicle that was delivered to a previous purchaser, shall provide written notice to the new purchaser under subsection (B).
- B.** A dealer shall ensure that the notice under A.R.S. § 28-4422 contains the following information:
1. The name of the dealership;
 2. A vehicle description, including year, make, and vehicle identification number (VIN);
 3. A statement 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) indicating that the new purchaser has received the notice.
- C.** The new motor vehicle dealer shall:
1. Provide a copy of the notice under subsection (B) to the new purchaser, and
 2. Keep a copy of the signed notice under subsection (B) at the new motor vehicle dealer's established place of business for at least three years.
- D.** The new motor vehicle dealer is not required to submit to the Division the notice under subsection (B) 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 specified in subsection (B).