

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

Editor's Note: The following Notice of Exempt Rulemaking was reviewed per Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 on page 410.) The Governor's Office authorized the notice to proceed through the rulemaking process on November 30, 2009.

[R10-23]

PREAMBLE

- 1. Sections Affected**

R12-4-802	<u>Rulemaking Action</u>
R12-4-803	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 and 41-1005(A)(1)
Implementing statute: A.R.S. § 17-231(B)(2), (3) and (7)
Exempt from the requirements of Title 41, Chapter 6, Article 3 under A.R.S. § 41-1005(A)(2)
- 3. The effective date for the rules:**

March 5, 2010, immediately upon publication in the *Arizona Administrative Register*. Under A.R.S. §§ 41-1032(A)(1) and (A)(2), an agency may request immediate effectiveness if the rulemaking will preserve the public peace, health, and safety and will avoid violations of federal law. The proposed amendments to the restrictions on the wildlife areas are generally intended to maintain public safety or were specifically intended to comply with a request from local law enforcement to close certain areas at night to prevent criminal activity. In addition, amendments to the restrictions on wildlife areas are designed to prevent the take of or disturbance of nesting bald eagles, which are violations of the federal endangered species and bald and golden eagle protection acts.
- 4. A list of all previous notices appearing in the *Register* addressing the exempt rules:**

Not applicable
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Celeste Cook
Address:	5000 W. Carefree Hwy. Phoenix, AZ 85086
Telephone:	(623) 236-7390
Fax:	(623) 236-7677
E-mail:	ccook@azgfd.gov
- 6. An explanation of the rules, including the agency's reasons for initiating the rulemaking:**

Laws 2009, 3rd Special Session, Ch. 7, § 28(B)(3) allows an agency to pursue rulemaking to prevent a threat to the public health, peace, or safety; § (B)(6) allows an agency to pursue rulemaking for a rule or other item that is exempt from A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 41-1005, Arizona Revised Statutes. On November 30, the Governor's office approved the Department's request to pursue the following rulemaking for R12-4-802 and R12-4-803.

The Arizona Game and Fish Commission engages in this rulemaking to clarify restrictions and conditions for use of Commission owned wildlife areas and to more clearly identify wildlife areas.

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R12-4-802(6) is amended to reduce the length of time posted portions of the Becker Lake Wildlife Area are closed to public entry. The Commission also amends the rule to add nightly closure restrictions at the request of local law enforcement in an attempt to reduce undesired activity and associated property management impacts.

R12-4-802(10) is amended to add the newly acquired wildlife area, Cibola Valley Conservation and Wildlife Area and establish restrictions and conditions for public use.

R12-4-802(11) through R17-4-802(34) are amended to renumber those subsections.

R12-4-802(17) is amended to better regulate the times in which portions of the Luna Lake Wildlife Area are closed to public entry to provide better protection for bald eagles nesting in the wildlife area.

R12-4-802(29) is amended to allow natural biodiversity to occur while permitting compatible public activities in the upper Verde River Wildlife Area by further clarifying the open fire ban, improving management of vehicular access, and clarifying times when dogs must be leashed.

R12-4-803(4) is amended to add wildlife area boundary descriptions for newly acquired Department properties; Cibola Valley Conservation and Wildlife Area and new properties located within the Arlington Wildlife Area.

R12-4-803(29) is amended to update the Upper Verde River Wildlife Area boundaries.

This rulemaking is exempt from the regular rulemaking process under A.R.S. § 41-1005(A)(2).

7. A reference to any study relevant to the rule that the agency reviewed and either relied on 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:

Not applicable

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

Not applicable

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

Exempt under A.R.S. § 41-1005(A)(2).

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

Not applicable

11. A summary of the comments made regarding the rules and the agency response to them, if applicable:

Not applicable

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. Any material incorporated by reference and its location in the text:

Not applicable

14. Whether the rule was previously made as an emergency rule and, if so, whether the text was changed between making as an emergency and the making of the exempt rules:

Not applicable

15. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 8. WILDLIFE AREAS AND DEPARTMENT PROPERTY

Sections

R12-4-802. Wildlife Area Restrictions

R12-4-803. Wildlife Area Boundary Descriptions

ARTICLE 8. WILDLIFE AREAS AND DEPARTMENT PROPERTY

R12-4-802. Wildlife Area Restrictions

No person shall violate the following restrictions on Wildlife Areas:

1. No change

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2. No change
3. No change
4. No change
5. No change
6. Becker Lake Wildlife Area (located in Unit 1):
 - a. No change
 - b. No change
 - c. Motorized vehicle travel permitted on designated roads, on designated trails, or in designated areas only.
 - d. The Becker Lake boat launch access road and parking areas along with any other posted portions of the wildlife area will be closed to all public entry from one hour after sunset to one hour before sunrise daily.
 - ~~d-e.~~ Posted portions closed to public entry from December 15 to ~~July 31~~ June 30 annually.
 - ~~e-f.~~ Open to hunting in season, except posted portions. Legal weapons restricted to shotguns shooting shot and bow and arrow.
7. No change
8. No change
9. No change
10. Cibola Valley Conservation and Wildlife Area (located in unit 43A):
 - a. No open fires allowed.
 - b. No firewood cutting or gathering allowed.
 - c. No overnight public camping allowed.
 - d. Motorized vehicle travel permitted on designated roads and only for the purpose of retrieving lawfully taken big game animals.
 - e. Open to hunting in season, except posted portions closed to public entry.
 - f. Legal weapons restricted to shotguns shooting shot and bow and arrow.
- ~~10-11.~~ No change
 - a. No change
 - b. No change
- ~~11-12.~~ No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
- ~~12-13.~~ No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
- ~~13-14.~~ No change
 - a. No change
 - b. No change
- ~~14-15.~~ No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
- ~~15-16.~~ No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
- ~~16-17.~~ Luna Lake Wildlife Area (located in Unit 1):
 - a. Posted portions closed to public entry from ~~April 1~~ February 15 to July 31 annually.
 - b. No change
- ~~17-18.~~ No change
 - a. No change

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- b. No change
- c. No change
- d. No change
- e. No change
- ~~18-19.~~ No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
- ~~19-20.~~ No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
- ~~20-21.~~ No change
 - a. No change
 - b. No change
- ~~21-22.~~ No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change
 - h. No change
 - i. No change
- ~~22-23.~~ No change
 - a. No change
 - b. No change
- ~~23-24.~~ No change
 - a. No change
 - b. No change
 - c. No change
- ~~24-25.~~ No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
- ~~25-26.~~ No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
- ~~26-27.~~ No change
 - a. No change
 - b. No change
 - c. No change
- ~~27-28.~~ No change
- ~~28-29.~~ No change
 - a. No change
 - b. No change

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- c. No change
- ~~29-30.~~ Upper Verde River Wildlife Area (located in Unit 8 and 19A):
 - a. No change
 - b. No open fires.
 - ~~b-c.~~ No change
 - ~~e-d.~~ Motorized vehicle travel permitted on designated roads, on designated trails, or in designated areas only prohibited except for Department authorized vehicles or law enforcement, fire department, or other emergency vehicles.
 - ~~d-e.~~ No change
 - ~~e-f.~~ No change
 - g. All dogs must remain on leash except for hunting dogs during a legal open season.
- ~~30-31.~~ No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
- ~~31-32.~~ No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
- ~~32-33.~~ No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
- ~~33-34.~~ No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change

R12-4-803. Wildlife Area Boundary Descriptions

Wildlife areas are described as follows:

- 1. No change
- 2. No change
- 3. No change
- 4. Arlington Wildlife Area: The Arlington Wildlife Area shall be those areas described as:
 - T1S, R5W
 - Section 33, E1/2SE1/4.
 - T2S, R5W
 - Section 3, W1/2W1/2;
 - Section 4, E1/2;
 - Section 9, E1/2, SW1/4, NW1/4;
 - Section 15, those portions of S1/2N1/2 and NW1/2SW1/4 lying west of the primary through road;
 - Section 16;
 - Section 21, E1/2, E1/2SW1/4, SE1/4NW1/4, 25 acres in the NE1/4NW1/4.
- 5. No change
- 6. No change
- 7. No change
- 8. No change
- 9. No change

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10. Cibola Valley Conservation and Wildlife Area: The Cibola Valley Conservation and Wildlife Area shall be those areas described as:
- a. Parcel 1. This parcel is located in the Northwest quarter of Section 36, T1N, R24W of the Gila and Salt River Base and Meridian, La Paz County, Arizona, lying East of the right of way line of the "Cibola Channelization Project of the United States Bureau of Reclamation Colorado River Front Work and Levee System," as indicated on Bureau of Reclamation Drawing 423-300-438, dated March 31, 1964, and more particularly described as follows: beginning at the Northeast corner of the Northwest quarter of said Section 36; thence South and along the East line of the Northwest quarter of said Section 36, a distance of 2,646.00 feet to a point being the Southeast corner of the Northwest quarter of said Section 36; thence Westerly and along the South line of the Northwest quarter, a distance of 1,711.87 feet to a point of intersection with the East line of the aforementioned right of way; thence Northerly and along said East line of the aforementioned right of way, a distance of 2,657.20 feet along a curve concave Easterly, having a radius of 9,260.00 feet to a point of intersection with the North line of the Northwest quarter of said Section 36; thence Easterly and along the North line of the Northwest quarter of said Section 36, a distance of 1,919.74 feet to the point of beginning.
 - b. Parcel 2. This parcel is located in the United States Government Survey of Lot 1 and the East half of the Southwest quarter of Section 36, T1N, R24W of the Gila and Salt River Base and Meridian, La Paz County, Arizona, lying East of the right of way line of the "Cibola Channelization Project of the United States Bureau of Reclamation Colorado River Front Work and Levee System," as indicated on Bureau of Reclamation Drawing 423-300-438, dated March 31, 1964, and more particularly described as follows: Beginning at the South quarter corner of said Section 36; thence Westerly and along the South line of said Section 36, a distance of 610.44 feet to a point of intersection with the East line of the aforementioned right of way; thence Northerly along said East line of the of the aforementioned right of way and along a curve concave Southwesterly, having a radius of 17,350.00 feet, a distance of 125.12 feet to a point; thence continuing along said right of way line and along a reverse curve having a radius of 9,260.00 feet, a distance of 2,697.10 feet to a point of intersection with the East-West midsection line of said Section 36; thence Easterly along said East-West midsection line, a distance of 1,711.87 feet to a point being the center of said Section 36; thence South and along the North-South midsection line, a distance of 2,640.00 feet to the point of beginning.
 - c. Parcel 3. This parcel is located in the East half of the Northeast quarter of Section 36, T1N, R24W of the Gila and Salt River Base and Meridian, La Paz County, Arizona.
 - d. Parcel 4. This parcel is located in the East half of the Northwest quarter of the Southwest quarter of Section 21, T1N, R23W of the Gila and Salt River Base and Meridian, La Paz County, Arizona, lying South of the South right of way line of U.S.A. Levee; EXCEPT therefrom that portion lying within Cibola Sportsman's Park, according to the plat thereof recorded in Book 4 of Plats, Page 58, records of Yuma (now La Paz) County, Arizona; and FURTHER EXCEPTING the North half of the East half of the Northwest quarter of the Southwest quarter.
 - e. Parcel 5. This parcel is located in the South half of the Southwest quarter of Section 21, T1N, R23W of the Gila and Salt River Base and Meridian, La Paz County, Arizona. EXCEPT the West 33.00 feet thereof; and further EXCEPTING that portion more particularly described as follows: the North half of the Northwest quarter of the Southwest quarter of the Southwest quarter of said Section. EXCEPTING the North 33.00 feet and the East 33.00 feet thereof.
 - f. Parcel 6. This parcel is located in the Southwest quarter of the Southeast quarter of Section 21, T1N, R23W of the Gila and Salt River Base and Meridian, La Paz County, Arizona.
 - g. Parcel 7. This parcel is located in Sections 24 and 25, T1N, R24W of the Gila and Salt River Base and Meridian, La Paz County, Arizona, lying South of the Colorado River and East of Meander line per BLM Plat 2647C.
 - h. Parcel 8. This parcel is located in the West half of Section 19, T1N, R23W of the Gila and Salt River Base and Meridian, La Paz County, Arizona, lying South of the Colorado River. EXCEPT that portion in condemnation suit Civil No. 5188PHX filed in District Court of Arizona entitled *USA v. 527.93 Acres of Land*; and EXCEPTING therefrom any portion of said land lying within the bed or former bed of the Colorado River waterward of the natural ordinary high water line; and also EXCEPTING any artificial accretions to said line of ordinary high water.
 - i. Parcel 9. This parcel is located in the North half of the Northeast quarter of the Southeast quarter; and the West half of the Southwest quarter of the Northeast quarter of the Southeast quarter; and that portion of the Southeast quarter of the Northeast quarter of Section 20, T1N, R23W of the Gila and Salt River Base and Meridian, La Paz County, Arizona, lying South of the South right of way line of the U.S.B.R. Levee; EXCEPT the East 33.00 feet thereof; and further EXCEPTING that portion more particularly described as follows: Commencing at the Northeast corner of the Southeast quarter of said Section 20; thence South 0°24'00" East along the East line, a distance of 380.27 feet; thence South 89°36'00" West, a distance of 50.00 feet to the true point of beginning; thence continuing South 89°36'00" West, a distance of 193.00 feet; thence North 0°24'00" West, a distance of 261.25 feet; thence South 70°11'00" East, a distance of 205.67 feet to the West line of the East 50.00 feet of said Southeast

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quarter of Section 20; thence South 0°24'00" East, a distance of 190.18 feet to the true point of beginning; EXCEPTING therefrom any portion of said land lying within the bed or former bed of the Colorado River waterward of the natural ordinary high water line; and also EXCEPTING any artificial accretions to said line of ordinary high water.

j. Parcel 10. This parcel is located in the South half of the Southeast quarter of Section 20, T1N, R23W of the Gila and Salt River Base and Meridian, La Paz County, Arizona; EXCEPT the East 33.00 feet thereof.

k. Parcel 11. This parcel is located in the Southwest quarter of the Northeast quarter; and the Northwest quarter of the Southeast quarter of Section 20, T1N, R23W of the Gila and Salt River Base and Meridian, La Paz County, Arizona, lying South of the Colorado River and West of the Meander line per BLM Plat 2546B; EXCEPT any portion thereof lying within U.S.A. Lots 5 and 6 of said Section 20, as set forth on BLM Plat 2546B; and EXCEPTING therefrom any portion of said land lying within the bed or former bed of the Colorado River waterward of the natural ordinary high water line; and also EXCEPTING any artificial accretions to said line of ordinary high water.

l. Parcel 12. This parcel is located in the Southeast quarter of the Northeast quarter of the Southeast quarter; and the East half of the Southwest quarter of the Northeast quarter of the Southeast quarter of Section 20, T1N, R23W of the Gila and Salt River Base and Meridian, La Paz County, Arizona.

m. Parcel 13. This parcel is located in the East half of Section 19, T1N, R23W of the Gila and Salt River Base and Meridian, La Paz County, Arizona, lying South of the Colorado River; EXCEPT the West half of the West half of the Southeast quarter of the Southwest quarter of the Southeast quarter; EXCEPT the East half of the East half of the Southwest quarter of the Southwest quarter of the Southeast quarter; EXCEPT the Southwest quarter of the Southwest quarter of the Northeast quarter; EXCEPT the West half of the Southeast quarter of the Southwest quarter of the Northeast quarter; and EXCEPTING therefrom any portion of said land lying within the bed or former bed of the Colorado River waterward of the natural ordinary high water line; and also EXCEPTING any artificial accretions to said line of ordinary high water.

n. Parcel 14. This parcel is located in the Southwest quarter of the Southwest quarter of the Northeast quarter; and the West half of the Southeast quarter of the Southwest quarter of the Northeast quarter of Section 19, T1N, R23W of the Gila and Salt River Base and Meridian, La Paz County, Arizona, lying South of the Colorado River and protection levees and front work, EXCEPTING therefrom any portion of said land lying within the bed or former bed of the Colorado River waterward of the natural ordinary high water line; and also EXCEPTING any artificial accretions to said line of ordinary high water.

o. Parcel 15. This parcel is located in the West half of Section 20, T1N, R23W of the Gila and Salt River Base and Meridian, La Paz County, Arizona; EXCEPT the West 133.00 feet thereof; EXCEPT any portion lying within the U.S. Levee or Channel right of way or any portion claimed by the United States for Levee purposes or related works; and EXCEPT the Southeast quarter of the Southeast quarter of the Southwest quarter of said Section 20.

p. Parcel 16. This parcel is located in the Southeast quarter of the Southeast quarter of the Southwest quarter of Section 20, T1N, R23W of the Gila and Salt River Base and Meridian, La Paz County, Arizona.

~~10-11.~~ No change

~~11-12.~~ No change

~~12-13.~~ No change

~~13-14.~~ No change

~~14-15.~~ No change

~~15-16.~~ No change

~~16-17.~~ No change

~~17-18.~~ No change

~~18-19.~~ No change

~~19-20.~~ No change

~~20-21.~~ No change

~~21-22.~~ No change

~~22-23.~~ No change

~~23-24.~~ No change

~~24-25.~~ No change

~~25-26.~~ No change

~~26-27.~~ No change

~~27-28.~~ No change

~~28-29.~~ No change

~~29-30.~~ Upper Verde River Wildlife Area: The Upper Verde River Wildlife Area consists of four parcels totaling ~~796~~ 1089 acres located eight miles north of Chino Valley in Yavapai County, Arizona, along the upper Verde River and lower Granite Creek described as:

a. Sullivan Lake: Located immediately downstream of Sullivan Lake, the headwaters of the Verde River: the NE1/

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4NE1/4 lying east of the California, Arizona, and Santa Fe Railway Company right-of-way in Section 15, T17N, R2W; and also the NW1/4NE1/4 of Sec. 15 consisting of approximately 80 acres.

- b. Granite Creek Parcel: Includes one mile of Granite Creek to its confluence with the Verde River: The SE1/4SE1/4 of Section 11; the NW1/4SW1/4 and SW1/4NW1/4 of Section 13; the E1/2NE1/4 of Section 14; all in T17N, R1W consisting of approximately 239 acres. E1/2SW1/4SW1/4, SE1/4SW1/4, NE1/4SW1/4 and NW1/4SE1/4 of Section 12, NW1/4NW1/4 of Section 13, T17N, R2W consisting of approximately 182.26 acres.
- c. Campbell Place Parcel: Tracts 40 and 41 in Section 7, T17N, R1W and Section 7, T17N, R1W and Section 12, T17N, R2W consisting of 315 acres. All that portion of Government Lots 9 and 10 of Section 7, T17N, R1W consisting of approximately 70.87 acres.
- d. Tract 39 Parcel: The east half of Tract 39 within the Prescott National Forest boundary, SE1/2SW1/4 and SW1/4SE1/4 of Section 5, T18N, R1W; and the W1/2 of Tract 39 outside the Forest boundary, SW1/4SW1/4 of Section 5 and NW1/4NW1/4 of Section 8, T18N, R1W consisting of approximately 163 acres. Lot 3 and SW1/4NW1/4 of Section 8, T17N, R1W consisting of approximately 40.238 acres.

~~30-31~~. No change

~~31-32~~. No change

~~32-33~~. No change

~~33-34~~. No change