



post-tax dependent which are to be removed to comply with recent statutory changes. Likewise, definitions are being amended to clarify meaning and eliminate confusion; this includes definitions for child, eligible dependents, employee, qualified life events, seasonal employee, temporary employee, and variable hour employee. New legislation requires references to be added to include terms for a surviving spouse/dependent of a deceased law enforcement officer killed in the line of duty, which is being incorporated into the current definitions for a surviving spouse and surviving dependent. These changes will provide enhanced clarification for laws regulating the manner in which benefits are offered to state employees.

R2-6-105 stipulates the times for enrollment into insurance benefits for different classifications of members. A new subsection (D) is being incorporated to include times for enrollment for surviving spouse and dependents of a deceased law enforcement officer killed in the line of duty, which is a requirement of state statute.

R2-6-106 specifies effective dates of coverage for employees, dependents, and retirees once enrolled in benefits. This section explains when coverage dates will take place when experiencing any changes due to employment, Medicare eligibility, retirement, or a qualified life event. BSD will amend subsections (C)(3) and (4) of this section to remove reference to domestic partner and to modify word use of educational institution to educational entity. These changes are being made to remain consistent with definitions used in R2-6-101 and to eliminate contradictory information between rule and A.R.S. § 38-651 that are no longer necessary to the operation of benefits.

R2-6-107 delineates the different timelines of when termination of benefits coverage will take place. Subsection (B) must be amended to clarify when insurance coverage will terminate for an eligible dependent who no longer meets the age requirement and subsection (D)(1) and (2) must be amended to include surviving spouse/dependent of a deceased law enforcement officer killed in the line of duty. Specifying these factors is necessary to align with state statute requirements and federal mandates.

R2-6-108 discusses COBRA coverage eligibility, costs, and requirements. BSD will amend this section, in order to be consistent with section R2-6-101, which removes information that is outdated, antiquated and no longer necessary to the operations of benefits. Specifically, subsection (B) will remove all reference to the terms domestic partner, older child, and disabled older child. This change will alleviate any contradictory information that may be present about terms that are no longer recognized by BSD.

R2-6-204 sets forth the requirement that the agency will comply with Section 125 of the Internal Revenue Code. It explains how the employee's or officer's compensation will be treated in a flexible benefit plan. Subsection (B) through (D) are being amended to remove reference to pre and post-tax dependents. This is necessary to align with R2-6-101. Reference to pre- and post-tax dependents are no longer recognized due to no longer covering domestic partners. This change eliminates references that are no longer necessary for the operation of benefits.

R2-6-301 discusses eligibility criteria to participate in health, dental, and vision insurance plans. BSD will amend subsection (F) which addresses eligibility exceptions. Subsection (F)(1) through (3) references outdated State Personnel System rules, pertaining to leave without pay, which have been repealed. Section (F) is being updated to now incorporate the correct reference to the Personnel rules. Amending this rule eliminates antiquated information.

R2-6-302 outlines eligibility to participate in life and short-term disability insurance plans. This rule is necessary to differentiate when employees, officers, former elected officials, eligible dependents, and surviving spouse of a former elected official may participate in these insurance plans, and at what specific times enrollment must occur. BSD is amending subsection (A) (3) of this rule to remove information that is contradictory to current BSD practice. In subsection (A) (3) there is reference to the amount of supplemental life insurance that an employee is eligible to purchase and how it may not exceed three times of the employee's or officer's base pay when combined with basic life insurance. Current contract does not combine basic and supplemental life when determining eligible amounts allowable per employee. This rulemaking will eliminate provisions that are not applicable to the operation of benefits.

R2-6-303 provides expectations and acceptable forms of documentation in regards to audits of dependent eligibility. Section (C) is being amended to include language that provides authority of the director to extend the 60-day requirement on an individual basis. Sections (C)(3), (4), and (10) are being removed as acceptable forms of documentation, in part to the removal of domestic partner. Subsection (D) (1) is adding a sentence to the beginning that addresses the advanced notice of at least 30-days to the member before terminating coverage of a dependent found to be ineligible. These changes are necessary to comply with federal mandates (PPACA).

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:

The Department did not review or rely on any study for this rulemaking.

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

Not applicable

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

This rulemaking package does not have any effect on small business or consumer impact, but rather affects the state employee population. For the 2015 plan year, ADOA's medical plan covered 53,386 active and state university employees, 6,965 retirees, and 72,657 dependents of the active and retiree populations.

From 1990 to 2016 there were 73 firefighters and 75 law enforcement officers killed in the line of duty. Generally, there is an average of 2:1 members to employees. So there could be a potential of up to 296 new members eligible to join the plan as a surviving spouse/dependent, however, unlikely. Some of the surviving spouses and children may have passed away over the last 16 years and/or some of the children have attained 26 years of age. Currently, ADOA has three surviving spouses and five surviving children enrolled in the medical insurance plan under the provisions of the previous law. Additionally, it is difficult to determine how



many surviving dependent(s) of law enforcement officers killed in the in the line of duty will utilize the lifetime benefit. If both parents of surviving children have deceased prior to the dependent turning the age of 26 years old, the dependent is reclassified as a member who is eligible to stay on the plan indefinitely, with the ability to now add their own dependents until they reach age 26. In addition, A.R.S. § 38-1114 does not require enrollment in the health plan within a certain time limit, which could potentially expand the eligible population many years prior to the statute taking affect.

There is no expected economic impact because the number of same sex spouses has been nearly equal to the number of domestic partners that were on the plan.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

At the request of council staff the text of R2-6-102 and R2-6-104 are being consolidated into R2-6-201 to make the rules more concise. Other technical changes were also made at the request of council staff.

11. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

No comments were made about the rulemaking.

12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

None of the rules require a permit.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Federal law 26 U.S. Code §125 and 111 P.L. 148 Affordable Care Act and Supreme Court decisions Diaz v. Brewer (Case No. 2:09-cv-02402 JWS) and 135 S. Ct. 2584 Obergefell v. Hodges are applicable to the subject of this rulemaking. The proposed rules are not more stringent than federal law.

c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:

No business competitiveness analysis was received by the Department.

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:

Not applicable

14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

Not applicable

15. The full text of the rules follows:

**TITLE 2. ADMINISTRATION
CHAPTER 6. DEPARTMENT OF ADMINISTRATION
BENEFIT SERVICES DIVISION**

ARTICLE 1. GENERAL PROVISIONS

Section	
R2-6-101.	Definitions
R2-6-102.	Availability of Funds Required Repealed
R2-6-104.	Confidentiality Repealed
R2-6-105.	Times for Enrollment
R2-6-106.	Effective Date of Coverage
R2-6-107.	Termination of Coverage
R2-6-108.	COBRA

ARTICLE 2. INSURANCE PLANS

Section	
R2-6-201.	Insurance Plans
R2-6-204.	Employee Flexible Benefit Plan

ARTICLE 3. ELIGIBILITY CRITERIA

Section	
R2-6-301.	Eligibility to Participate in Health, Dental, and Vision Insurance Plans
R2-6-302.	Eligibility to Participate in Life and Short-term Disability Insurance Plans
R2-6-303.	Audit of Dependent Eligibility



ARTICLE 1. GENERAL PROVISIONS

R2-6-101. Definitions

In this Chapter, unless otherwise specified:

1. "Accident and health insurance," as used in A.R.S. Title 38, Chapter 4, Article 4, means health insurance and dental insurance.
2. "Agency" means a department, board, office, authority, commission, or other governmental budget unit of the state.
3. "Agency head" means the chief executive officer of an agency.
4. "Appeal" means a request to a plan provider for review of a decision made by the plan provider.
5. "Approved leave" means an employee's or officer's absence from assigned work that is authorized by the employee's or officer's supervisor.
6. "Base pay" means the fixed compensation paid to an employee or officer. Base pay excludes pay for overtime, shift differential, bonuses, special performance adjustment, special incentive program, or other allowance.
7. "Basic life insurance" means the amount of life insurance that the Department provides at no charge to an employee or officer.
8. "Child" means an ~~unmarried~~ individual who falls within one or more of the following categories:
 - a. A natural child, adopted child, ~~or~~ stepchild, or foster child of an employee, officer, retiree, or former elected official, ~~or domestic partner~~ who is: ~~younger than 26;~~
 - i. ~~Younger than 19, or~~
 - ii. ~~Younger than 25 if a full-time student;~~
 - b. ~~A foster child who is younger than 19;~~
 - ~~e-b.~~ A child who is younger than ~~19~~26 for whom the employee, officer, retiree, or former elected official has court-ordered guardianship;
 - ~~d-c.~~ A child who is younger than ~~19~~26 and placed in the home of the employee, officer, retiree, or former elected official by court order pending adoption; or
 - ~~e-d.~~ A natural child, adopted child, ~~or~~ stepchild or foster child of an employee, officer, retiree, or former elected official, ~~or domestic partner~~:
 - i. Who was disabled as defined at 42 U.S.C. 1382c before the age of ~~19~~ 26;
 - ii. Who continues to be disabled as defined at 42 U.S.C. 1382c;
 - iii. Who is dependent for support and maintenance upon the employee, officer, retiree, or former elected official, ~~or domestic partner~~; and
 - iv. For whom the employee, officer, retiree, or former elected official, ~~or domestic partner~~ had custody before the child was ~~19~~26.
9. "COBRA" means Consolidated Omnibus Budget Reconciliation Act of 1986, which is a federal law that provides the opportunity to continue group health insurance cover- age that might otherwise be terminated.
10. "COBRA member" means a former member or formerly eligible dependent of a member or former member who opts to continue health insurance through COBRA after no longer meeting the eligibility standards in Article 3.
11. "Compensation" means the total taxable remuneration provided by the state to an employee or officer in exchange for the employee's or officer's services.
12. "Creditable coverage" has the same meaning as prescribed at 29 U.S.C. 1181.
13. "Day" means a calendar day.
14. "Dental insurance" means an arrangement under which a policy holder makes advance payment to an insurer and the insurer pays amounts on behalf of an insured for certain preventive, diagnostic, and remedial care of the insured's teeth and gums.
15. "Department" means the Arizona Department of Administration.
16. "Director" means the Director of the Department or the Director's designee.
17. "Disability income insurance" means a form of insurance that insures a specified portion of the compensation of an employee or officer against the risk that disability will make working impossible.
- ~~18.~~ "Disabled older child" means an older child who:
 - a. ~~Is disabled, as defined at 42 U.S.C. 423 or 42 U.S.C. 1382e;~~
 - b. ~~Became disabled on or after the older child's 19th birthday but before the older child's 25th birthday;~~
 - e. ~~Is dependent for support and maintenance upon:~~
 - i. ~~The employee, officer, retiree, or former elected official who enrolled the disabled older child in the insurance plan made available by the Department; or~~
 - ii. ~~The domestic partner of the employee, officer, retiree, or former elected official; and~~
 - d. ~~If the criteria in subsections (18)(a) through (18)(e) are met, may be more than 24 years old.~~
19. "Domestic partner" means an individual who is of the same or opposite gender to an employee, officer, or retiree and who:
 - a. Shares a permanent residence with the employee, officer, or retiree;
 - b. Has resided with the employee, officer, or retiree continuously for the last 12 consecutive months and expects to continue to reside with the employee, officer, or retiree indefinitely as evidenced by an affidavit filed at the time of enrollment;
 - e. Has not signed a declaration or affidavit of domestic partnership with another individual within the last 12 months;
 - d. Has not had another domestic partner within the last 12 months;
 - e. Does not currently have another domestic partner;
 - f. Is not currently married to or legally separated from anyone;
 - g. Is not related by blood to the employee, officer, or retiree to a degree that would prohibit marriage in Arizona;
 - h. Was mentally competent to consent when the domestic partnership was established;
 - i. Is not acting under fraud or duress with regard to the insurance plans made available by the Department;
 - j. Is at least 18 years old; and
 - k. Is financially interdependent with the employee, officer, or retiree in at least three of the following ways:
 - i. Holds a joint mortgage, joint property tax identification, or joint tenancy on a residential lease;



- ii. Holds one or more credit or bank accounts jointly;
 - iii. Owns significant property, such as a vehicle or real estate, jointly;
 - iv. Has one or more joint liabilities;
 - v. Is named by or has named the employee, officer, or retiree as beneficiary of life insurance or under a will or retirement annuity;
 - vi. Has a written durable power of attorney in which each assumes financial responsibility for the other; or
 - vii. Other evidence of financial interdependence that is approved by the Director.
- ~~20-18.~~ “Eligible dependent” means a member’s spouse, ~~domestic partner, or child, older child, or disabled older child,~~ who is lawfully present in the U.S.
- ~~21-19.~~ “Employee” for the purposes of eligibility means an individual who is hired by the state, including the state universities, and who is regularly scheduled to work at least 20 hours per week for six months or longer. ~~Employee does not include: at least 90 days, but does not include:~~
- a. A patient or inmate employed at a state institution;
 - b. A non-state employee, officer, or enlisted personnel of the National Guard of Arizona;
 - c. ~~An individual hired to fill an emergency, seasonal, or temporary position; A seasonal, temporary, or variable hour employee, unless the employee is determined to have been paid for an average of at least 30 hours per week using a 12-month measurement period;~~
 - d. An individual who fills a position designed primarily to provide rehabilitation to the individual;
 - e. ~~A student or work study employee; or~~
 - f. ~~e.~~ An individual hired by a state university or college for whom the state university or college does not contribute to a state-sponsored retirement plan unless the individual is:
 - i. A non-immigrant alien employee,
 - ii. Participating in a medical residency or post-doctoral training program,
 - iii. On federal appointment with Cooperative Extension, or
 - iv. A retiree who has returned to work under A.R.S. § 38-766.01.
- ~~22-20.~~ “Employee flexible benefit plan,” is the State of Arizona Cafeteria Plan as approved by the Internal Revenue Service and means the insurance plans specified in R2-6-204, the value of which is excludable from an employee’s or officer’s compensation under Section 125 of the Internal Revenue Code.
- ~~23-21.~~ “Flexible spending account” means a financial arrangement under which an employee or officer authorizes the Department to reduce the employee’s or officer’s compensation on a pre-tax basis by a specified amount that the employee or officer uses to pay for eligible out-of-pocket expenses for health care, dependent care, or both.
- ~~24-22.~~ “Former elected official” means an individual who was elected by popular vote in this state to serve, but who no longer serves as a:
- a. State official;
 - b. County official;
 - c. Justice of the Supreme Court;
 - d. Judge of the court of appeals or superior court;
 - e. Full-time superior court commissioner except a full-time superior court commissioner who did not make a timely election of membership under the judges’ retirement plan repealed on August 7, 1985; and
 - f. Official of an incorporated city or town if the incorporated city or town has executed an agreement with the state for coverage of the official.
- ~~25-23.~~ “Grievance” means a written expression of dissatisfaction about any benefits matter other than a decision by a plan provider.
- ~~26-24.~~ “Health insurance” means an arrangement under which a policy holder makes advance payments to an insurer and the insurer pays amounts on behalf of an insured for routine, preventive, and emergency health-care procedures and pharmaceuticals.
- ~~27-25.~~ “Incumbent” means the employee or officer who currently holds a position or office.
- ~~28-26.~~ “Institution” means a facility that provides supervision or care for residents on a 24-hours-per-day, seven-days-per-week basis.
- ~~29-27.~~ “Life insurance” means a contract between an insurer and a policy holder under which the insurer agrees to pay a sum of money upon the occurrence of an insured’s death in exchange for the policy holder paying a stipulated amount at regular intervals.
- ~~30-28.~~ “Long-term disability insurance” means an insurance product that replaces part of an employee’s or officer’s compensation after an initial waiting period for the duration of time that the employee or officer is medically determined to be totally disabled as a result of a covered injury, illness, or pregnancy.
- ~~31-29.~~ “Manifest error” means an act or failure to act that clearly is or has caused a mistake.
- ~~32-30.~~ “Member” means an employee, officer, retiree, or former elected official who meets the criteria at R2-6-301(B), who enrolls in one or more of the insurance plans made available by the Department.
- ~~33-31.~~ “Officer” means an individual who:
- a. Is elected or appointed to a state office, including a member of the state legislature; or
 - b. Is a member of a state board, commission, or council and serves at least 1,000 hours per year.
- ~~34.~~ “Older child” means an individual who meets one of the criteria in subsections (a) through (e) and all of the criteria in subsections (d) through (g):
- a. ~~Is a natural child, adopted child, or stepchild of an employee, officer, retiree, or former elected official;~~
 - b. ~~Is a natural child, adopted child, or stepchild of a domestic partner; or~~
 - c. ~~Is a child for whom an employee, officer, retiree, or former elected official received a court-ordered guardianship when the child was 18 years old or younger;~~
 - d. ~~Is younger than 25 years old;~~
 - e. ~~Is unmarried;~~



- f. ~~Was covered by a health insurance plan made available by the Department during the year that the individual was 18 years old; and~~
- g. ~~Resides in Arizona.~~
- 35-32. "Open enrollment" means a specified period during which a member may make additions, changes, or deletions to the member's participation in the insurance plans made available by the Department.
- 36-33. "Ophthalmic goods" means eyeglasses or contact lenses for which a prescription is required and components of the eyeglasses.
- 37-34. "Plan provider" means an entity that enters into a contract with the Department to provide an insurance plan to members and their eligible dependents.
- 38-35. "Plan year" means a specified period of 12 consecutive months during which a member is able to change the member's participation in the insurance plans made available by the Department only if the member experiences a qualified life event.
- 39. ~~"Post-tax dependent" means an older child, disabled older child, domestic partner, and natural child, adopted child, or stepchild of the domestic partner of an employee or officer.~~
- 40. ~~"Pre-tax dependent" means an eligible dependent who is not a post-tax dependent.~~
- 41-36. "QMCSO" means qualified medical child support order and has the same meaning as prescribed at 29 U.S.C. 1169.
- 42-37. "Qualified life event" means a change in a member's dependents, employment status, or residence that entitles the member to change the member's or an eligible dependent's participation in the insurance plans made available by the Department before the next open enrollment period. Qualified life event includes:
 - a. Change in marital status caused by marriage, divorce, legal separation, annulment, or death of spouse;
 - b. ~~Change in domestic partnership status caused by creation or termination of a domestic partnership or death of a domestic partner;~~
 - eb. Change in dependent status caused by birth, adoption, placement for adoption, court-ordered guardianship, death, or dependent eligibility due to age, ~~marriage, or student status;~~
 - ec. Change in employment status or work schedule that affects a member's eligibility to participate in the insurance plans made available by the Department; and
 - ed. Change in residence that affects available insurance plan options.
- 43-38. "Retiree" means an employee or officer who is retired under a state-sponsored retirement plan or who receives long-term disability payments under a plan made available by the Department.
- 44-39. "Salary-reduction order" means a document signed by an employee or officer who elects to participate in the employee flexible benefit plan authorizing the state to reduce the employee's or officer's compensation under Section 125 of the Internal Revenue Code.
- 40. "Seasonal employee" means an individual who is employed by the state for not more than six months of the year and whose state employment is dependent on an easily identifiable increase in work associated with a specific and reoccurring season. Seasonal employees do not include employees of education entities who work during the active portions of the academic year.
- 45-41. "Short-term disability insurance" means an insurance product that replaces part of an employee's or officer's compensation for a predetermined period if the employee or officer is medically determined to be unable to work due to illness, pregnancy, or a non-work-related injury.
- 46-42. "Spouse" means a member's husband or wife under Arizona law.
- 47-43. "Supplemental life insurance" means life insurance that is in addition to basic life insurance.
- 48-44. "Surviving dependent," as used in A.R.S. § 38- 651.01(A) or A.R.S. § 38-1114, means:
 - a. An insured eligible dependent of an insured retiree who dies, or
 - b. An insured spouse or insured eligible dependent child of an insured employee or officer who dies when eligible for retirement under the Arizona State Retirement System, ~~or~~
 - c. An insured or uninsured dependent of a deceased law enforcement officer killed in the line of duty.
- 49-45. "Surviving spouse," as used in A.R.S. § 38-651.01(B) or A.R.S. § 38-1114, means the insured spouse of:
 - a. An incumbent elected official who dies when the incumbent elected official would be qualified for eligibility under R2-6-301(B) if the incumbent elected official had not been in office at the time of death, or
 - b. An insured former elected official who dies when qualified for eligibility under R2-6-301(B), ~~or~~
 - c. An insured or uninsured spouse of a deceased law enforcement officer killed in the line of duty.
- 46. "Temporary employee" means an appointment made for a maximum of 1,500 hours worked in any agency in each calendar year. A temporary appointment employee may work full time for a portion of the year, intermittently, on a seasonal basis, or on an as needed basis.
- 47. "Variable hour employee" means an individual who is employed by the state, if based on the facts and circumstances at the employee's start date, for whom the state cannot determine whether the employee is reasonably expected to be employed an average of at least 30 hours per week, including any paid leave, because the employee's hours are variable or otherwise uncertain.
- 50-48. "Vision insurance" means a form of insurance that provides coverage for the services rendered by an eye-care professional and for the purchase of ophthalmic goods.

R2-6-102. Availability of Funds Required Repealed

~~As provided by law, any expenditure of public monies for an insurance plan described in this Article is contingent upon the legislature making an appropriation for the plan and the availability of funds.~~

R2-6-104. Confidentiality Repealed

~~The Department shall comply with federal, state, and local laws regarding use and disclosure of protected health information of an individual who participates in an insurance plan made available by the Department.~~

R2-6-105. Times for Enrollment



- A. An employee, officer, retiree, or former elected official may enroll or may enroll an eligible dependent in one or more of the insurance plans made available by the Department only at the following times:
 - 1. Within 31 days of becoming eligible to participate in an insurance plan,
 - 2. Within 31 days of a qualified life event, and
 - 3. At open enrollment.
- B. A surviving dependent, as defined in R2-6-101, who wishes to continue enrollment in the health, dental, and vision insurance plans made available by the Department shall enroll within six months after the death that makes the surviving dependent eligible to continue enrollment.
- C. A surviving spouse, as defined in R2-6-101, who wishes to continue enrollment in the health, dental, vision, or life insurance plans made available by the Department shall enroll within 31 days after the death of the incumbent or former elected official.
- D.** If a surviving spouse or surviving dependent of a deceased law enforcement officer killed in the line of duty was enrolled in the health insurance program made available by the Department or the health insurance program that is offered by the state retirement system or a plan from which the surviving spouse or surviving dependent is receiving benefits at the time the law enforcement officer was killed in the line of duty or died from injuries suffered in the line of duty, and is eligible to receive health insurance premium payments but is no longer enrolled in either health insurance program, the employer shall allow the surviving spouse and any surviving dependent to enroll in the employer's health insurance program to receive health insurance premium payments pursuant to A.R.S. § 38-1114.
- D.E.** To be covered under the health or dental insurance plans made available by the Department, a retiree shall enroll at the time specified in subsection (A) and shall maintain enrollment in the health or dental insurance plan. If a retiree terminates participation in both the health and dental insurance plans made available by the Department, neither the retiree nor the retiree's eligible dependent is eligible to enroll at a later time.

R2-6-106. Effective Date of Coverage

- A. If an individual enrolls in an insurance plan made available by the Department or provides notice of a qualified life event within the time specified in R2-6-105, the Department shall ensure that the insurance coverage becomes effective on the following dates:
 - 1. Newly hired employee or officer. The date determined by the Director following submission of a properly completed enrollment form and supporting documentation;
 - 2. Retiree, former elected official, surviving dependent, or surviving spouse. The first day of the first pay period following the end of active coverage or the first day of the first month following submission of a properly completed enrollment form and supporting documentation, whichever is applicable;
 - 3. Qualified life event change other than a change in the number of dependents due to birth, adoption, legal placement for adoption, or grant of legal guardianship:
 - a. Non-university employee or officer. The first day of the first pay period following submission of a properly completed enrollment form and supporting documentation;
 - b. University employee. The date determined by the Director; and
 - c. Retiree, former elected official, surviving dependent, or surviving spouse. The first of the month following submission of a properly completed enrollment form and supporting documentation; and
 - 4. Change in the number of dependents due to birth, adoption, legal placement for adoption, or grant of legal guardianship. On the date of birth, adoption, legal placement for adoption, or grant of legal guardianship if a properly completed enrollment form and supporting documentation are submitted.
- B. If a retiree, former elected official, eligible dependent, surviving dependent, or surviving spouse becomes eligible for Medicare, the retiree, former elected official, eligible dependent, surviving dependent, or surviving spouse may cancel or reduce coverage under the health plan made available by the Department. If a retiree, former elected official, eligible dependent, surviving dependent, or surviving spouse ceases to be eligible for Medicare, the retiree, former elected official, eligible dependent, surviving dependent, or surviving spouse may enroll or increase coverage under the health plan made available by the Department. A change made under this subsection becomes effective on the first day of the first month following submission of a properly completed enrollment form and supporting documentation if the enrollment form and supporting documentation are submitted within 31 days of the change in Medicare eligibility.
- C. If a member experiences one of the following changes in coverage, the member may make a corresponding change to the member's coverage under the health plan made available by the Department by submitting a properly completed enrollment form and supporting documentation within 31 days of the change. A change made under this subsection becomes effective on the first day of the first pay period or first month, as applicable, following submission of a properly completed enrollment form and supporting documentation:
 - 1. Elected coverage provided under the plan is significantly restricted or eliminated,
 - 2. Non-elected coverage provided under the plan is significantly improved,
 - 3. The member's spouse ~~or domestic partner~~ makes a change in the coverage provided by the spouse's ~~or domestic partner's~~ employer,
 - 4. The member or an eligible dependent loses coverage under another group health plan sponsored by a governmental or educational ~~institution-entirety~~, or
 - 5. The member becomes subject to a QMCSO or another person becomes subject to a QMCSO that requires the other person to provide health insurance for the member's eligible dependent.

R2-6-107. Termination of Coverage

- A. Insurance coverage of an employee or officer and the employee's or officer's eligible dependent terminates at 11:59 p.m. on the last day of the period for which an insurance premium was paid if the employee or officer ceases to be eligible to participate in the insurance plan.
- B. Insurance coverage of an eligible dependent terminates at 11:59 p.m. on the last day of the month that the individual is an eligible dependent under this Chapter.



- C. Insurance coverage of a retiree or former elected official terminates:
 1. Automatically if the retiree or former elected official dies, or
 2. At 11:59 p.m. on the last day of the period for which the last insurance premium was paid.
- D. Insurance coverage of a surviving dependent or surviving spouse terminates:
 1. At 11:59 p.m. on the last day of the period for which the last insurance premium was paid; or
 2. Shall be in accordance with A.R.S. § 38-1114 for surviving spouse and dependents of a deceased law enforcement officer killed in the line of duty, including the termination of payments for health insurance premiums payable by the employer.
- E. Insurance coverage of a COBRA member terminates at 11:59 p.m. on the last day that the COBRA member is eligible for coverage under COBRA or of the period for which the last insurance premium was paid.
- F. By providing written notice to the Director at any time, an employee, officer, or former elected official, as applicable, may cease purchasing:
 1. Supplemental life insurance in excess of \$35,000;
 2. Life insurance for an eligible dependent; or
 3. Short-term disability insurance.

R2-6-108. COBRA

- A. When a member or an insured eligible dependent ceases to be eligible to participate in the health, dental, or vision insurance plans made available by the Department because of a change in the work status of the member, the Director shall inform the member or eligible dependent of whether the member or eligible dependent is eligible for coverage under COBRA.
- B. When an insured eligible dependent of a member ceases to be eligible to participate in the health, dental, or vision insurance plans made available by the Department because the member dies or because of divorce, legal separation, ~~termination of domestic partnership~~, or ceasing to meet the criteria for a child, ~~older child, or disabled older child~~, the member or affected dependent shall provide written notice of the change to the Director within 60 days of the change. The Director shall inform the affected dependent whether the affected dependent is eligible for coverage under COBRA. The Department shall not make COBRA coverage available to an affected dependent if notice is not provided as specified in this subsection.
- C. When an employee or officer ceases to be eligible for a health care flexible spending account because of termination of status as an employee or officer, the Director shall inform the former employee or officer and all qualified beneficiaries of whether they are eligible for coverage under COBRA.
- D. The state shall not pay any of the cost for COBRA coverage. An individual who elects COBRA coverage shall pay all costs plus a small amount for administrative expenses.
- E. COBRA coverage is determined by federal law.

ARTICLE 2. INSURANCE PLANS

R2-6-201. Insurance Plans

- A. As provided by law, any expenditure of public monies for an insurance plan described in this Chapter is contingent upon the legislature making an appropriation for the plan and the availability of funds.
- B. The Department shall make available the following types of insurance plans:
 1. Health insurance,
 2. Dental insurance,
 3. Vision insurance,
 4. Flexible spending account,
 5. Life insurance, and
 6. Short-term disability insurance.
- C. The Department shall comply with all federal, state, and local laws regarding use and disclosure of protected health information of an individual who participates in an insurance plan made available by the Department.

R2-6-204. Employee Flexible Benefit Plan

- A. The Director shall ensure that the premium paid by an employee or officer for participation in the insurance plans listed in R2-6-201(1) through (3) and for a maximum of \$35,000 in supplemental life insurance and the amount set aside in a flexible spending account reduces the employee's or officer's compensation as allowed by Section 125 of the Internal Revenue Code.
- B. The Director shall ensure that the premium paid by an employee or officer to enroll a ~~pre-tax~~ dependent in the insurance plans listed in R2-6-201(1) through (3) reduces the employee's or officer's compensation as allowed by Section 125 of the Internal Revenue Code.
- C. The Director shall ensure that the amount paid by the state to enable a ~~post-tax~~ dependent of an employee or officer to participate in the insurance plans listed in R2-6-201(1) through (3) increases the employee's or officer's compensation and is taxed as required by law.
- D. If an employee or officer experiences a qualified life event during a plan year that adds or deletes a ~~pre-tax or post-tax~~ dependent, the Director shall ensure that the compensation of the employee or officer is adjusted accordingly and taxed as required by law.
- E. The Director shall ensure that the method of adjusting an employee's or officer's compensation under this Section is not changed or canceled until the end of a plan year.

ARTICLE 3. ELIGIBILITY CRITERIA

R2-6-301. Eligibility to Participate in Health, Dental, and Vision Insurance Plans

- A. Employees, officers, and retirees. An employee, officer, or retiree may participate in the health, dental, and vision insurance plans made available by the Department by enrolling at the time specified in R2-6-105 and agreeing to pay the contracted cost of each insurance plan chosen.



- B. Former elected officials. A former elected official may participate in the health, dental, and vision insurance plans made available by the Department if the former elected official:
 1. Has at least five years of credited service in the Elected Officials' Retirement Plan established at A.R.S. § 38-802;
 2. Participated in a group health, dental, or vision insurance plan made available to elected officials at the time of leaving office;
 3. Served as an elected official on or after January 1, 1983;
 4. Enrolls at the time specified in R2-6-105; and
 5. Agrees to pay the contracted cost of the insurance plan.
- C. Eligible dependents. A member may enroll an eligible dependent in the health, dental, and vision insurance plans made available by the Department at the time specified in R2-6-105. The member who enrolls an eligible dependent shall pay the contracted cost of the insurance plan.
- D. Surviving dependents. A surviving dependent, as defined at R2-6-101, may continue coverage under the health, dental, and vision insurance plans made available by the Department by enrolling at the time specified in R2-6-105 and paying the contracted cost of the insurance plan.
- E. Surviving spouse. A surviving spouse, as defined at R2-6-101, may continue coverage under the health, dental, and vision insurance plans made available by the Department by enrolling at the time specified in R2-6-105 and paying the contracted cost of the insurance plan.
- F. Eligibility exception. An employee or officer who is on approved leave without pay and the enrolled eligible dependents of the employee or officer may continue enrollment in the health, dental, and vision insurance plans made available by the Department under the conditions specified in ~~R2-5A-C602~~.
 1. ~~R2-5-405 if the employee or officer is on approved leave without pay because of an industrial illness or injury;~~
 2. ~~R2-5-413 if the employee or officer is on approved medical leave without pay; and~~
 3. ~~R2-5-414 if the employee or officer is on approved leave without pay for another reason.~~
- G. Coverage of a newborn infant.
 1. The state shall provide health insurance to an infant born to a member or the member's spouse from the time the infant is born until the infant reaches its 31st day. To ensure that the infant continues to have health insurance coverage, the member shall enroll the infant in the health insurance plan made available by the Department before the infant reaches its 31st day.
 2. In compliance with the Newborns' and Mothers' Health Protection Act of 1996, the state shall provide health insurance to an infant born to a member's eligible dependent other than the member's spouse. As permitted under the Newborns' and Mothers' Health Protection Act of 1996, the state shall limit health insurance provided under this subsection to 48 hours for a vaginal delivery and 96 hours for delivery by cesarean section. A member who wishes to obtain health insurance for the infant beyond the time required under the Newborns' and Mothers' Health Protection Act of 1996, may enroll the infant in the health insurance plan made available by the Department if the infant is eligible.

R2-6-302. Eligibility to Participate in Life and Short-term Disability Insurance Plans

- A. Employees and officers.
 1. Life insurance. An employee or officer may participate in the life and short-term disability insurance plans made available by the Department by enrolling at the time specified in R2-6-105. The state shall provide basic life insurance to an employee or officer at no charge.
 2. Short-term disability insurance. An employee or officer who chooses to participate in the short-term disability insurance plan made available by the Department shall agree to pay the contracted cost of the plan.
 3. Supplemental life insurance. The state shall make supplemental life insurance available to an employee or officer. An employee or officer may purchase an amount of supplemental life insurance that, ~~when combined with basic life insurance~~, does not exceed three times the employee's or officer's base pay, rounded down to the nearest \$5,000 or the maximum amount established by the Director, whichever is less. An employee or officer who chooses to participate in the supplemental life insurance plan shall agree to pay the contracted cost for the supplemental life insurance.
- B. Former elected officials. A former elected official may purchase life insurance made available by the Department if the former elected official meets the criteria at R2-6-301(B)(1) and (3).
- C. Eligible dependents. An employee, officer, or former elected official who meets the criteria at R2-6-301(B)(1) and (3) may purchase life insurance through the plan made available by the Department for an eligible dependent in an amount determined by the Director. An employee, officer, or former elected official who chooses to purchase life insurance for an eligible dependent shall agree to pay the contracted cost for the life insurance.
- D. Surviving spouse of a former elected official. Under A.R.S. § 38-651.02(C), the surviving spouse of a former elected official who met the criteria at R2-6-301(B)(1) and (3) at the time of death may continue to purchase life insurance through the plan made available by the Department if the surviving spouse:
 1. Makes application within the time specified in R2-6-105,
 2. Agrees to pay the contracted cost for the life insurance, and
 3. Is receiving a monthly survivor's retirement check from the Elected Officials' Retirement Plan.

R2-6-303. Audit of Dependent Eligibility

- A. A member shall not enroll an individual in an insurance plan made available by the Department unless the individual is an eligible dependent as defined in R2-6-101.
- B. The Department shall conduct audits to determine whether individuals enrolled by members in an insurance plan made available by the Department are eligible dependents. The Department shall choose a particular member for audit either randomly or in response to uncertainty concerning dependent eligibility.
- C. If a member is chosen for audit, the Department shall provide the member with written notice and 60 days in which to produce evidence that an individual enrolled by the member in an insurance plan made available by the Department is an eligible dependent. The



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6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

The statutes in Arizona Revised Statutes (A.R.S.) Title 36, Chapter 21.1, govern emergency medical services. The Department uses the authority granted by these statutes to make the rules in Arizona Administrative Code (A.A.C.) Title 9, Chapter 25. Laws 2015, Ch. 130, § 1 requires the Department to “adopt or amend rules relating to the coordination of stroke care services between emergency medical services providers and hospitals in this state.” The Department had adopted rules related to stroke care in 9 A.A.C. 25, Article 6 under Laws 2011, Ch. 47. After obtaining an exception from the rulemaking moratorium established by Executive Order 2015-01, the Department is amending the rules in 9 A.A.C. 25, Article 6. To comply with Laws 2015, Ch. 130 or for clarification, the Department is adding and amending definitions, adding acute stroke-ready hospitals and comprehensive stroke centers as emergency receiving facilities, and specifying stakeholders from which the council shall seek input when reviewing and updating emergency stroke care protocols. The rules changes conform to rulemaking format and style requirements of the Governor’s Regulatory Review Council and the Office of the Secretary of State.

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

The Department did not review or rely on any study for this rulemaking.

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking 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:

As part of the rulemaking, the Department is changing R9-25-601 to add or amend definitions to comply with Laws 2015, Ch. 130, or to improve the clarity of the rules. Changes to R9-25-602 include a clarification that emergency stroke care protocols may include education about identifying stroke patients who may have an emergent large vessel occlusion, adding acute stroke-ready hospitals and comprehensive stroke centers as emergency receiving facilities to comply with Laws 2015, Ch. 130 (A), and specifying stakeholders from which the emergency medical services council shall seek input to comply with Laws 2015, Ch. 130 (B). The Department anticipates that persons affected by the rulemaking may include the Department; emergency medical services providers and ambulance services and their emergency medical care technicians (EMCTs); hospitals; individuals on the emergency medical services council, established according to A.R.S. § 36-2203; health insurance companies and health plans, including AHCCCS and those providing Medicare coverage; and the general public. Annual costs/revenues changes, which the Department believes are largely imposed by Laws 2015, Ch. 130 rather than the rules themselves, are designated as minimal when more than \$0 and \$1,000 or less, moderate when between \$1,000 and \$10,000, and substantial when \$10,000 or greater in additional costs or revenues. A cost is listed as significant when meaningful or important, but not readily subject to quantification.

The Department believes that complying with the Arizona Legislature’s requirements in Laws 2015, Ch. 130 will provide a significant benefit to the Department and that an increased administrative burden on the Department caused by longer agendas or more frequent meetings for the emergency medical services council or its standing Education Committee due to revisions of emergency stroke care protocols may cause the Department to incur at most minimal costs. The Department anticipates that, if an EMS provider or ambulance service decides to make changes on the basis of revised emergency stroke care protocols, including providing education about ELVO outside the ongoing continuing education training, the Department estimates that the EMS provider or ambulance service may incur as much as a moderate cost for making the changes or providing this education, depending on the extent of the changes and the depth of the education, the method by which the education is provided, and the number of EMCTs receiving the education or otherwise affected by the changes. These costs would not be imposed by the rule changes, but be based on decisions made by the EMS provider or ambulance service. Being able to more effectively triage and transport a stroke patient to an appropriate facility may provide a significant benefit to an EMS provider or ambulance service, as well as to EMCTs. If members of the EMS Council spend additional time developing changes in emergency stroke care protocols due to the legislation or rule changes, they may incur minimal costs. Having better emergency stroke care protocols may enable better care to be provided to patients and provide a significant benefit to the members of the EMS Council. A hospital that has more stroke patients transported to it on the basis of its capability of providing appropriate stroke care to a patient may receive a substantial benefit from any revisions made to the emergency stroke care protocols as a result of the legislation and subsequent rulemaking. The costs to a health insurance company or health plan associated with a patient who survives a stroke and requires rehabilitation services are higher than those for a patient who dies as a result of a stroke. Therefore, the Department anticipates that a health insurance company or health plan may incur substantial costs as a result of the legislation and subsequent rulemaking. However, a health insurance company or health plan may also receive a substantial benefit if these changes result in better patient outcomes with shorter hospitalizations and less disability requiring rehabilitation services of shorter duration. Since the intent of the legislation is to decrease the death rate from stroke and reduce the extent of accompanying disability for stroke patients, the legislation and resulting rulemaking may provide a significant benefit to the general public by improving stroke care.



10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

No changes were made to the rules between the proposed rulemaking and the final rulemaking.

11. An agency’s summary of the public stakeholder comments made about the rulemaking and the agency response to the comments:

The Department received four written comments during the public comment period, one from the owner of an ambulance company, one from a State Senator, one from a Phoenix City Council Member, and the other from Get Ahead of Stroke, supporting the contents of the Notice of Proposed Rulemaking and thanking the Department for the time and effort the Department devoted to the rulemaking. The Department thanks the commenters. The Department held an oral proceeding for the proposed rules on April 11, 2017, which was attended by six stakeholders/members of the public and at which no oral comments were provided.

12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rules do not require a permit.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable

c. Whether a person submitted an analysis to the agency that compares the rule's impact on the competitive-ness of business in this state to the impact on business in other states:

No business competitiveness analysis was received by the Department.

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

Not applicable

14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

Not applicable

15. The full text of the rules follows:

**TITLE 9. HEALTH SERVICES
CHAPTER 25. DEPARTMENT OF HEALTH SERVICES
EMERGENCY MEDICAL SERVICES**

ARTICLE 6. STROKE CARE

Section

- R9-25-601. Definitions (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))
- R9-25-602. Emergency Stroke Care Protocols (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

ARTICLE 6. STROKE CARE

R9-25-601. Definitions (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the following definitions apply in this Article, unless otherwise specified:

1. “Acute stroke-ready hospital” means a hospital that is certified by a national stroke center certification organization as meeting national stroke care standards for the initial assessment, diagnosis, stabilization, and either:
 - a. Transfer of a stroke patient to a primary stroke center or comprehensive stroke center, or
 - b. Care of a stroke patient with input from the staff of a primary stroke center or comprehensive stroke center.
2. “Comprehensive stroke center” means a hospital that is certified by a national stroke center certification organization as meeting national stroke care standards for the assessment, diagnosis using advanced imaging devices, and treatment of stroke patients with complex cases of ischemic stroke, caused by the loss of the blood supply to a part of the brain, or hemorrhagic stroke, caused by bleeding into a part of the brain.
- ~~3.~~ “Council” means the emergency medical services council established under A.R.S. § 36-2203.
4. “Health care provider” means an individual licensed according to A.R.S. Title 32, Chapter 13, 15, 17, 19, 25, or 34.
- ~~2.~~~~5.~~ “Local EMS coordinating system” means the same as in A.R.S. § 36-2210.
- ~~3.~~~~6.~~ “National stroke care standards” means criteria for the assessment and treatment of stroke that are consistent with guidelines established by the ~~American Stroke Association~~ American Heart Association/American Stroke Association, an organization that focuses on reducing the impact of stroke.
- 4.~~7.~~ “National stroke center certification organization” means an entity:
 - a. Such as:
 - i. The Joint Commission;
 - ii. The Healthcare Facilities Accreditation Program; ~~or~~
 - iii. Det Norske Veritas Healthcare, Inc.; ~~or~~
 - iv. The American Heart Association/American Stroke Association;



- b. That assesses the compliance of a hospital with national stroke care standards; and
- c. That documents hospitals that meet national stroke care standards.
- ~~5-8.~~ “Primary stroke center” means a hospital that ~~meets~~ is certified by a national stroke center certification organization as meeting national stroke care standards, as determined by a national stroke center certification organization for the assessment, diagnosis, and treatment of stroke patients.
- ~~6-9.~~ “Stroke patient” means an individual who has signs or symptoms of a stroke and is receiving assessment or treatment for a stroke.
- 10. “Transport” means the same as in A.A.C. R9-10-101.

R9-25-602. Emergency Stroke Care Protocols (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A. The council shall:
 - 1. Establish emergency stroke care protocols, and
 - 2. Support the adoption of emergency stroke care protocols by emergency medical services providers through local EMS coordinating systems.
- B. The council shall ensure that emergency stroke care protocols:
 - 1. Are developed and implemented in coordination with:
 - a. Local EMS coordinating systems,
 - b. National organizations that focus on heart disease and stroke,
 - c. Emergency medical ~~service~~ services providers, and
 - d. Health care providers;
 - 2. Include procedures for the pre-hospital assessment and treatment of stroke patients, which may include education about identifying stroke patients who may have an emergent large vessel occlusion, the blockage of a large blood vessel that causes an individual to have an ischemic stroke;
 - 3. Provide for transport of stroke patients to the most appropriate emergency receiving facility, consistent with A.R.S. § 36-2205(E), taking into account the:
 - a. Needs of a stroke patient;
 - b. Availability of resources in urban areas, suburban areas, rural areas, and wilderness areas;
 - c. Capability of an emergency receiving facility to practice telemedicine, as defined in A.R.S. § 36-3601, with specialists in stroke care;
 - d. Location of emergency receiving facilities that:
 - i. Are:
 - (1) Acute stroke-ready hospitals,
 - (2) ~~primary~~ Primary stroke centers, or
 - (3) Comprehensive stroke centers; and
 - ii. Participate in quality improvement activities, including the submission of data on stroke care provided by the emergency receiving facility that may be compiled on a statewide basis;
 - e. Capability of an emergency receiving facility that is not a primary stroke center or comprehensive stroke center to stabilize a stroke patient before initiating a transfer to a primary stroke center or comprehensive stroke center;
 - f. Capability of an emergency receiving facility that is not a primary stroke center or comprehensive stroke center to stabilize and admit a stroke patient; and
 - g. Distance and duration of transport;
 - 4. Are consistent with national stroke care standards; and
 - 5. Are based on data on stroke care from:
 - a. National organizations that focus on heart disease and stroke;
 - b. U.S. Department of Transportation, National Highway Traffic Safety Administration; and
 - c. Statewide data on stroke care, as available.
- C. The council shall review and update, as necessary, the emergency stroke care protocols in subsection (A) ~~at least once every three years~~ after seeking input from:
 - 1. Local EMS coordinating systems,
 - 2. National organizations that focus on heart disease and stroke,
 - 3. Nonprofit organizations that focus on the development of stroke systems of care,
 - 4. Emergency medical services providers, and
 - 5. Health care providers.



NOTICE OF FINAL RULEMAKING
TITLE 12. NATURAL RESOURCES
CHAPTER 4. GAME AND FISH COMMISSION

[R17-104]

PREAMBLE

Table with 2 columns: Article, Part, or Section Affected (as applicable) and Rulemaking Action. Lists items R12-4-501 through R12-4-530 with corresponding actions like Amend, Repeal, and New Section.

2. Citations to the agency's statutory authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 5-311(A)(1)

Implementing statute: A.R.S. §§ 5-301, 5-302, 5-311, 5-321, 5-321.01, 5-322, 5-323, 5-324, 5-326, 5-327, 5-328, 5-331, 5-332, 5-336, 5-341, 5-343, 5-346, 5-347, 5-349, 5-350, 5-361, 5-371, 5-391, 5-392, 5-393, 5-399, 5-399.01, 5-399.02, 5-399.03.

3. The effective date of the rules:

August 5, 2017

a. If the agency selected a date earlier than the 60 days effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):

Not applicable

b. If the agency selected a date later than the 60 days effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(B):

Not applicable

4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:

Notice of Rulemaking Docket Opening: 23 A.A.R. 299, February 3, 2017

Notice of Proposed Rulemaking: 23 A.A.R. 273, February 3, 2017

Notice of Final Exempt Rulemaking: 23 A.A.R. 1034, May 5, 2017 (Sections R12-4-504, R12-4-507, R12-4-527)

5. The agency's contact person who can answer questions about the rulemaking:

Name: Celeste Cook, Policy and Rules Manager

Address: Game and Fish Department
5000 W. Carefree Highway
Phoenix, AZ 85086

Telephone: (623) 236-7390

Fax: (623) 236-7110

E-mail: CCook@azgfd.gov

Please visit the AZGFD web site to track progress of this rule and any other agency rulemaking matters at https://www.azgfd.com/agency/rulemaking/

6. An agency's justification and reason why the rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

An exemption from Executive Order 2015-01 was provided for this rulemaking by Hunter Moore, Natural Resource Policy Advi-



sor, Governor's Office, in an email dated July 7, 2016.

R12-4-501. Boating and Water Sports Definitions

The objective of the rule is to establish definitions that assist the regulated community and members of the public in understanding the unique terms used throughout Article 5. The Commission proposes to amend the definition of "abandoned watercraft" to establish that a watercraft remaining unattended in a designated mooring or anchorage area is not considered an "abandoned watercraft" to make the rule more concise. With this rulemaking, the Department is establishing a third-party provider program that will allow a person to provide certain watercraft services to the public; the Commission proposes to define "third-party provider" to facilitate consistent interpretation of, and to prevent the regulated community from misinterpreting the intent of, the proposed third-party provider rule. Under A.R.S. § 5-326, a nonresident owner of a watercraft must pay a nonresident boating safety infrastructure fee. Initially, the Commission authorized different options as proof of payment of the fee, including a separate decal to be affixed to the watercraft. However, since the rule was adopted, the Department has determined the most cost effective and efficient option is to use the certificate of number or the registration decal as the means to indicate proof of payment. The Commission proposes to amend the rule to repeal the definition of the "Nonresident Boating Safety Infrastructure decal." In 2014, 33 C.F.R. 175 was amended to define "wearable" and "throwable" Personal Flotation Devices (PFDs). The Commission also proposes to amend the definition of "personal flotation device" and define "wearable" and "throwable" PFDs in order to maintain consistency between the rule and the corresponding federal regulation, as required under A.R.S. § 5-311. In addition, the Commission proposes to amend the definition of "livery" to facilitate consistent interpretation of the Commission rules.

R12-4-502. Application for Watercraft Registration

The objective of the rule is to establish watercraft registration application requirements to ensure the Department collects and maintains the information required under 33 C.F.R. 187 Vessel Identification System (VIS) and 33 C.F.R. 174 State Numbering and Casualty Reporting Systems. These regulations prescribe the owner and vessel information requirements for States electing to participate in VIS. The Commission proposes to establish signature requirements for watercraft owned by more than one person, a business, or held in a trust to reflect the Department's current business processes and ensure compliance with A.R.S. § 5-321(A) which states, "the application shall be signed by the owner of the motorized watercraft...". The Commission proposes to require an applicant for a watercraft registration to complete and sign a residency statement to ensure compliance with A.R.S. § 5-301(13), which establishes residency standards. The Commission proposes to amend the rule to remove the Department website Uniform Resource Location (url) and simply reference the Department's website to ensure the rule remains concise in the event the Department's url should change. The Commission proposes to require the owner's signature on the release of interest to be acknowledged before a notary public or witnessed by a Department employee when a person is registering a watercraft in Arizona for the first time, is not listed as the owner on the current registration, and the signature of the buyer or seller is in question. This typically occurs when the release of interest contains a printed signature or the signature on another document submitted along with the release of interest does not match the person's signature on the release of interest. The Commission proposes to require the owner to present their watercraft for inspection when the applicant is unable to provide required information. The Department is aware of instances where a watercraft bearing a watercraft dealer certificate of number is used for personal recreational purposes by employees or family members of the dealership, in violation of A.R.S. §§ 5-321(A) and 5-322(F). The Commission also proposes to establish a watercraft dealer registration may become invalid when used in violation of A.R.S. § 5-322(F), as authorized under R12-4-506. In addition, the Commission proposes to amend the rule to reference the letter of deletion issued by the U.S. Coast Guard. The U.S. Coast Guard documents watercraft that are owned by a U.S. citizen, are in excess of five net tons, and are operated on the navigable waters of the U.S. or in the fisheries in the U.S. Exclusive Economic Zone (EEZ). The EEZ extends no more than 200 nautical miles from the territorial sea baseline and is adjacent to the 12 nautical mile territorial sea of the U.S., including the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands. Because the states are only able to register undocumented watercraft, a letter of deletion (proof the watercraft is no longer documented by the U.S. Coast Guard) is required.

R12-4-503. Renewal of Watercraft Registration

The objective of the rule is to establish watercraft registration renewal requirements when the renewal is made in person, through the mail, or online. Laws 2013, 1st Regular Session, Ch. 197, Section 25 (Senate Bill 1223) amended A.R.S. §§ 5-321 and 5-322 to authorize the Commission to establish watercraft registration, watercraft transfer, duplicate registration and decal, and dealer certificate of number fees. The Commission proposes to replace references to the statutory fee authority with the rule that establishes watercraft fees, R12-4-504. In addition, the Commission proposes to allow a person to obtain a duplicate registration online via the Department's online watercraft registration system. Currently, a person may only obtain a duplicate watercraft registration by mail or in person at a Department office. As a result, a person who discovers they have misplaced their registration on a weekend or holiday is not able to obtain a duplicate watercraft registration any sooner than the next business day. This change is in response to customer comments received by the Department.

R12-4-504. Watercraft Fees; Penalty for Late Registration; Staggered Registration Schedule

The objective of the rule is to establish motorized watercraft registration, watercraft transfer, duplicate registration and decal, and dealer certificate of number fees, penalty for late registration, and a staggered watercraft registration schedule. The Commission proposes to specify the number of months of proration to clarify the current watercraft registration process for the first renewal period to make the rule more concise. In addition, the Commission proposes to allow a person to renew their watercraft registration up to six months before the current registration expiration date. This change is in response to customer comments received by the Department.

R12-4-505. Hull Identification Numbers

The objective of the rule is to establish Hull Identification Number (HIN) requirements in compliance with 33 C.F.R. 181. The Commission proposes to allow the Department to accept a bill of sale with a missing or nonconforming HIN to make the rule more



concise and reduce costs to persons regulated by the rule. Such scenarios include a homemade watercraft or a watercraft manufactured prior to November 1, 1972.

R12-4-506. Invalidation of Watercraft Registration and Decals

The objective of the rule is to establish the circumstances under which the Department may invalidate a watercraft registration and provide the Department with the authority to refuse to register a watercraft until the reason for the invalidity is corrected or no longer exists. With this rulemaking, the Department is establishing a third-party provider program that will allow a person to provide certain watercraft services to the public; the Commission proposes to amend the rule to allow the Department to invalidate the watercraft registration erroneously issued by a third-party provider (agent). Under A.R.S. § 5-321(F), no person may operate a motorized watercraft on the waterways of this state unless the watercraft displays the assigned number and current annual decals or the person is in possession of a valid thirty-day temporary registration as prescribed by this article. Under A.R.S. § 5-322(F), each dealer or manufacturer in this state engaged in the sale of motorized watercraft using the watercraft for a sales demonstration shall obtain one or more dealer watercraft certificates of number with the current validating decals. A watercraft dealer certificate of number (registration) allows the watercraft dealer to demonstrate a watercraft's features to a potential buyer. The Department is aware of instances where the watercraft is being used by an employee or family member of the dealership for personal recreation and not for demonstration purposes. This act facilitates the unlawful use of an unregistered watercraft on the waterways of the state and circumvents paying the proper watercraft registration fee as required under A.R.S. § 5-321. The Commission proposes to amend the rule to establish the Department shall invalidate the dealer watercraft registration when the watercraft dealer registration is used contrary to law.

R12-4-507. Transfer of Ownership of an Abandoned or Unreleased Watercraft

The objective of the rule is to establish requirements for transferring ownership of an unreleased or abandoned watercraft. Under R12-4-501, "abandoned watercraft" includes any watercraft that has remained on private property without the consent of the private property owner. An "unreleased watercraft" is a watercraft for which there is no written release of interest from the registered owner. Currently, only the property owner may submit an abandoned watercraft application. When a watercraft is abandoned on foreclosed real property, the financial institution often contracts with a company for the removal of any personal effects left on the foreclosed property (including watercraft). The Commission proposes to amend the rule to allow an agent to act on behalf of the lienholder when a watercraft is abandoned on foreclosed real property to reduce costs and burdens to persons regulated by the rule. This change is in response to customer comments received by the Department. The Commission also proposes to amend the rule to authorize the Department to notify the public of a person's intent to obtain ownership of an abandoned watercraft. Currently, when the Department is unable to notify the owner of a person's intent to obtain a transfer for an abandoned watercraft, the Department publishes a notice once in a newspaper or other publication of general circulation in this state; which costs the Department approximately \$1,800. This change will result in a more efficient and less costly process for the Department. Also, more and more people are using electronic media instead of subscribing to newspaper services; it is reasonable to provide this notice on the Department's website where it will be available to a larger group of people. In addition, the Commission proposes to amend the rule to remove the requirement that the Department will provide a description of the abandoned or unreleased watercraft subject to the transfer of ownership. The Department has never received a request for this information from any person whose watercraft was abandoned or stolen; the Department believes this requirement is obsolete and should be removed from the rule.

R12-4-509. Watercraft Agents

The objective of the rule is to establish watercraft agent application requirements and the authorization process for a dealer seeking to issue a 30-day temporary certificate of number upon the sale of a new watercraft. The Commission proposes to reference the rule that establishes the dealer certificate of number fee to increase consistency between Commission rules. The Commission proposes to replace references to "watercraft dealer" with "watercraft agent" to make the rule more concise. The Commission proposes to allow a watercraft agent to issue a temporary certificate of number for a used watercraft. This change is in response to customer comments received by the Department. The Commission proposes to remove the list of information required on the application and require the application submitted by the watercraft agent to comply with the requirements of R12-4-502 to make the rule more concise. The Department is in the process of creating an online system that will allow a watercraft agent to log-in, issue temporary certificates of number, and access their watercraft agent account. As a result of the online system, the Department will no longer supply prenumbered temporary certificates of number to watercraft agents. In addition, a watercraft agent will no longer be required to verify receipt of prenumbered temporary certificates of number, submit voided prenumbered temporary certificates of number, or submit a monthly report for activities conducted during the previous month. The Commission also proposes to increase the amount of time in which a watercraft agent must submit documentation from 72 hours to five business days. This change is in response to customer comments received by the Department. In addition, the Commission proposes to amend the rule to comply with changes made to U.S. Coast Guard regulations under 33 C.F.R. 187 Vessel Identification System (VIS), as required under A.R.S. § 5-311.

R12-4-510. Refund of Fees Paid in Error

The objective of the rule is to establish requirements necessary to obtain a refund for watercraft registration renewal and Nonresident Boating Safety Infrastructure fees, as applicable. Under the current rule, the Department may refund registration fees when a watercraft owner erroneously paid fees twice for the same watercraft or sold the watercraft to another person prior to renewing the registration. At the January 15, 2016 Commission meeting, a watercraft owner petitioned the Commission for a refund of her registration fee for a watercraft she did not intend to register. The Commission denied the petition as the rule did not allow for a refund under the petitioner's circumstance, but directed the Department to evaluate the petitioner's request during the rulemaking process for Article 5. The Commission proposes to allow for a refund under this circumstance. With this rulemaking, the Department is establishing a third-party provider program that will allow a person to provide certain watercraft services to the public; the Commission proposes to amend the rule to establish that a person who paid their watercraft registration fee to a third-party provider must request a refund from that third-party provider.

**R12-4-511. Personal Flotation Devices**

The objective of the rule is to establish personal flotation device (PFD) category and type requirements specific to the operator, each passenger, and watercraft type. Compliance with PFD laws and rules is important because, according to the U.S. Coast Guard, drowning was the reported cause of death in 78% of the 610 recreational boating fatalities in 2014 nationwide. Of those incidents, 84% of those drowning victims were not wearing a PFD. In 2014, 33 C.F.R. 175 was amended to define “wearable” and “throwable” PFDs. A throwable PFD means a U.S. Coast Guard approved Type IV device such as, but not limited to, a buoyant cushion, ring buoy, or horseshoe buoy. A wearable PFD means a U.S. Coast Guard approved Type I, Type II, Type III, or Type V device for use on any watercraft such as, but not limited to, an off-shore lifejacket, near-shore buoyant vest, special-use wearable device, or flotation aid. The Commission proposes to amend the rule to reflect changes made to U.S. Coast Guard regulation, as required under A.R.S. § 5-311.

R12-4-513. Watercraft Accident and Casualty Reports

The objective of the rule is to establish self-reporting requirements for watercraft operators involved in any collision, accident, or other casualty resulting in an injury, casualty, or property damage. The Commission proposes to replace references to “accident” with “incident” to reflect the current terminology used in the boating industry. In addition, the Commission proposes to remove the list of information required on the report and require the owner or operator of the watercraft submitting the report to comply with the requirements of 33 C.F.R. 173.57 to make the rule more concise.

R12-4-514. Liveries

The objective of this rule is also to establish identification requirements for rental watercraft when the certificate of number is retained on shore by the owner. The U.S. Coast Guard regulations address commercial, passenger for hire operations in which a livery offers a watercraft with an operator for hire or lease operations. Persons renting personally owned watercraft for compensation circumvent livery and business regulatory requirements and place the public at risk by using uninspected safety equipment. The Department has received complaints from Maricopa County Parks and Maricopa County Sheriff’s Office enforcement officers regarding persons who are operating rented or leased watercraft; some were observed to have multiple safety violations. A.R.S. § 5-371 prohibits the owner, employee, or agent of a boat from renting or leasing watercraft registered as a livery that do not have the equipment (e.g. personal flotation devices, fire extinguishers, lights, flame arrestors, etc.). The avoidance of regulation and accountability is cause for public concern. More recently, multiple fatalities along the Colorado River involving the rental of personal watercraft has peaked public and media interest regarding current regulatory mechanisms of livery watercraft. The Commission proposes to amend the rule to require a person who rents, leases, or offers a watercraft or who operates a passenger for hire situation to register the watercraft as a livery. The Commission proposes to amend the rule to require a person who rents, leases, or offers a watercraft or who operates a passenger for hire situation to display a placard or some other form of display with the name and phone number of the business and carry the registration or receipt onboard the watercraft when operating a livery watercraft on waterways within the state. Identifying livery craft by name and phone number has been a practice employed by the larger livery companies and is a benefit to both the livery operation and persons renting when disabled or damaged craft are contacted by law enforcement and the lessee doesn’t know the name of the rental company, contact number or where the business is located; this proposal protects the livery operator’s fleet property by allowing recovery or identification of livery craft involved in reckless operation. Most watercraft rental businesses already identify their watercraft as rentals; this aids law enforcement with watercraft recovery and search and rescue operations. It is also a form of advertisement, which can be beneficial to any business.

R12-4-515. Display of AZ Numbers and Registration Decals

The objective of the rule is to establish requirements for the display of watercraft numbers and registration decals issued by the Department. Under A.R.S. § 5-322(A), all motorized watercraft whether underway, moored, or anchored on the waters within the boundaries of the state are to be numbered in accordance with A.R.S. Title 5, Chapter 3 or rules of the Commission in accordance with the federally approved numbering system. The Commission proposes to amend the rule to reference “moored” and “anchored” watercraft to increase consistency between statute and rule.

R12-4-517. Watercraft Motor and Engine Restrictions

The objective of the rule is to establish watercraft motor and engine restrictions to protect the public and conserve aquatic resources. The rule was adopted to restrict the use of watercraft and boat engines on certain bodies of water in order to protect the public health and safety and the environment. This is necessary because the lakes listed under subsection (A) are used as a source of drinking water for local communities and lakes listed under subsection (B) are small or have habitat for nesting wildlife. In the past, watercraft powered by electric motors were typically smaller than their gas-powered counterparts due to their short battery life and output. Advances in electric motor and composition of watercraft have greatly improved battery life and output, resulting in the manufacture of larger watercraft with electric motors. The Commission proposes to amend the rule to establish a ten horsepower (hp) limit for watercraft with electric motors for listed lakes.

R12-4-520. Arizona Uniform State Waterway Marking System

The objective of the rule is to incorporate the U.S. Coast Guard’s uniform state waterway marking system. The Commission proposes to amend the title to reflect the current terminology used in the boating industry to make the rule more concise. The Commission proposes to incorporate by reference the most recent version of 33 C.F.R. 62 to ensure compliance with A.R.S. § 5-311, which requires the Commission to adopt rules for uniform navigational marking standards of waters. The Commission also proposes to amend the rule to combine R12-4-520, R12-4-521, and R12-4-522 into one overarching rule that addresses regulatory markers and aids to navigation. As a result, R12-4-521, and R12-4-522 will be repealed. In addition, the Commission proposes to prohibit the use of lights to mark waterways or shorelines without Department authorization, federal regulation 33 C.F.R. 62 also addresses the use of lights. For example, at night, a green light placed on a dock gives the impression that a watercraft is being operated in the area. This presents a safety hazard to persons operating another watercraft in the immediate vicinity. The amendment would allow the Department to require the person responsible for the light to either relocate or change the color of the light. Under A.R.S. § 5-



361(A), "No city, county or person shall mark the waters of this state in any manner in conflict with the uniform navigational marking standards of waters as prescribed by the commission or the United States coast guard."

R12-4-521. Placing or Tampering with Regulatory Markers or Aids to Navigation

The objective of the rule is to establish prohibited activities involving regulatory markers, aids to navigation, or other waterway marking devices. The Commission proposes to amend R12-4-520 to combine the requirements of R12-4-520, R12-4-521, and R12-4-522 into one overarching rule that addresses regulatory markers and aids to navigation and repeal R12-4-521.

R12-4-522. Establishment of Controlled-Use Markers

The objective of the rule is to establish requirements for persons requesting to establish, change, or remove controlled-use markers and the follow-up reporting requirements. The Commission proposes to amend R12-4-520 to combine the requirements of R12-4-520, R12-4-521, and R12-4-522 into one overarching rule that addresses regulatory markers and aids to navigation and repeal R12-4-522.

R12-4-524. Water Skiing

The objective of the rule is to establish water ski observer requirements. The responsibilities of an observer include watching for hazards, observing water skiers, notifying boat operators when a skier has entered the water, and determining approximate points of entry in the water. Since the rule was adopted, the variety of towed water sport activities has grown immensely and includes a wide range of devices. The Commission proposes to amend the rule title to clarify that the rule applies to all persons participating in a towed water sport, not just water skiing. The Commission proposes to amend the rule to reflect observer requirements mandated under A.R.S. § 5-346 to increase consistency between statute and rule. In recent years a risky new fad, "teak surfing," also called "drag surfing" has emerged in boat-towed sports. Teak surfing is performed by hanging onto a swim platform at the back of a boat while the boat is moving forward in slow motion. Often the teak surfer will release their grip and body surf in the boat's wake. The obvious danger is the teak surfer's proximity to the boat propeller. The silent danger is exposure to carbon monoxide, which is tasteless and odorless, and potentially lethal when inhaled. According to the Naval Safety Center, the symptoms of carbon monoxide poisoning may include severe headache, dizziness, confusion, nausea, fainting, and death. Low levels can cause shortness of breath, mild nausea, and a mild headache. Low levels are more dangerous in the boating environment because they can lead to drowning because teak surfers rarely wear life preservers because they inhibit body surfing. Carbon-monoxide poisoning may not be suspected immediately because the symptoms are similar to those of people with the flu, food poisoning, or other illnesses. The Commission proposes to ban "teak surfing." "Wake surfing" is another risky fad; in this variation of waterskiing, surfers are pulled behind a watercraft by a towrope and, once a surf wave is created, the wake surfer releases the rope and "surfs" the wave created by the watercraft. The Commission believes wake surfers are exposed to the same risks as water skiers and should be subject to the same safety requirements. The Commission also proposes to require the operator of a watercraft to ensure an observer is on duty at all times a person is being towed behind the watercraft or is surfing a wake created by the watercraft. In addition, the Commission proposes to require a wake surfer to wear a PFD.

R12-4-526. Unlawful Mooring

The objective of the rule is to establish watercraft mooring restrictions, prohibitions, and exceptions. Both Department officers and the Lake Havasu Police Department have requested the Commission amend the rule to enable law enforcement to take action quickly when a watercraft is abandoned, submerged or is sinking. Watercraft abandoned in public waterways are a major problem as they create navigation and environmental hazards. Consider the pollution that comes from one abandoned boat that sinks; it releases oil, fuel, antifreeze and the many synthetic (often toxic) materials the boat itself is made of. Not only do these harmful substances destroy fish habitat and community drinking water, the blight and dangers that come from sunken boats put boaters at greater safety risks. The Commission proposes to require a person to remove abandoned or submerged watercraft within 72 hours of written or verbal notification and establish the owner of the watercraft is responsible for all towing and storage fees resulting from the removal of the watercraft from waters. These changes are in response to comments received by the Department.

R12-4-527. Transfer of Ownership of a Towed Watercraft

The objective of the rule is to establish transfer of ownership requirements for a watercraft in possession of a towing company and ensure compliance with A.R.S. §§ 5-399 - 5-399.02, which prescribes the process that allows a towing company to take ownership of a watercraft they towed and impounded and is left unclaimed. A.R.S. § 5-399(A) requires a towing company to provide written notification by mail to the owner and lienholder, if known, of the impounded watercraft's location. Because statute does not establish a time-frame for this notification, the towing company is not obligated to notify the owner/lienholder of the impounded watercraft's location in a timely manner, resulting in the accrual of additional impound fees. In addition, the Department is aware of scenarios where a towing company will wait until they have a buyer for a watercraft before applying for a certificate of number for that watercraft. This practice results in the accrual of additional impound fees and, by the time the towing company notifies the owner/lienholder, the fees have become so great that the owner/lienholder opts to give the watercraft to the towing company in lieu of paying those exorbitant impound fees. The Commission proposes to amend the rule to require a towing company to submit a request for the owner/lienholder information from the Department within 15 days of impounding the watercraft, and to thereafter notify the owner and lienholder of an impounded watercraft's location within 15 days of receiving the information from the Department. These time-frame mirror the statutory period of time in which the towing company must wait before submitting a request to obtain ownership of a watercraft; as prescribed under A.R.S. § 5-399(B), if the watercraft's owner or lienholder does not remove the watercraft within 15 days of the mailing of notice, the towing company shall submit an application for ownership of the abandoned watercraft. These amendments are authorized under A.R.S. § 5-399.03 which states, "The department may adopt rules to carry out the requirements of this article and establish fees to implement this article." In addition, the Commission proposes to remove the reference to the Director to make the rule more concise because it is the Department's watercraft program that will process the towing company's application.

R12-4-529. Nonresident Boating Safety Infrastructure Fees; Proof of Payment; Decal



The objective of the rule is to establish the nonresident boating safety infrastructure fee (NBSIF) schedule (based on the length of the watercraft) and the manner in which a nonresident recreational watercraft owner may provide acceptable proof of payment of the fee. Under A.R.S. § 5-326, the Commission shall prescribe the manner in which a person shall carry and display proof of payment of the required fee. Initially, the Commission authorized different options as proof of payment of the fee. However, since the rule was adopted, the Department has determined the most cost effective and efficient option is to use the registration decal as a means to indicate proof of payment. The Commission proposes to remove references and requirements that relate to the Arizona NBSIF Decal.

R12-4-530. Authorized Third-party Providers; Agents

With this rulemaking, the Department is establishing a third-party provider program. The proposed rule allows the Department to enter into a contract, through the State procurement process, with a private entity to perform limited or specific services on behalf of the Department. The proposed rule authorizes a third party vendor to process the less complex watercraft transactions: watercraft transfers, watercraft registration renewals, duplicate watercraft registrations and decals, and new watercraft registrations. The proposed rule establishes the Department shall determine minimum quality standards of service and a quality assurance program designed to ensure the authorized third-party provider is complying with established standards. The proposed rule requires a third-party provider to collect and remit the State's fees to the Department and authorizes the third-party provider to collect and retain a reasonable and commensurate fee for its services. The proposed rule requires a third-party provider to identify to the applicant the Department's registration fee and the nonresident boating safety infrastructure fee, when applicable, separately from any other costs. The proposed rule allows the Department to suspend or cancel an authorization/certification when it determines an authorized third-party provider made a material misrepresentation or misstatement in the application for authorization or certification, has been convicted of fraud or a watercraft related felony in any state or jurisdiction of the U.S. within the ten years immediately preceding the date a criminal records check is complete, or any other felony within the five years immediately preceding the date a criminal records check is complete, violated a rule or policy adopted by the Department, failed to keep and maintain required records, failed to remit to the Department the State's fees, or allowed an unauthorized person to engage in any business pursuant to this Section. The proposed rule allows the Department to order a summary suspension of the third provider's authorization if the Department has reasonable grounds to believe that a certificate holder or other person employed by an authorized third-party provider has committed watercraft registration fraud, improperly disclosed a watercraft owner's personal information, committed bribery or theft. In addition, the proposed rule establishes a third-party or certificate holder may appeal the decision pursuant to A.R.S. Title 41, Chapter 6, Article 10. This rule is proposed in response to customer comments received by the Department.

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

The agency did not rely on any study in its evaluation of or justification for the rule.

8. A showing of good cause why the rulemaking 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. A summary of the economic, small business, and consumer impact:

The Commission's intent in proposing these amendments is to protect public health and safety, ensure compliance with watercraft operation and registration statutes, administer a boating safety program, and ensure compliance with the U.S. Coast Guard regulations. The Commission believes the majority of the rulemaking will benefit persons regulated by the rule, members of the public, and the Department by clarifying rule language to ease enforcement, creating consistency among existing Commission rules, reducing the burden on the regulated community where practical, implementing customer-service-oriented processes, and allowing the Department additional oversight where necessary. The Commission anticipates the rulemaking will result in little or no impact to political subdivisions of this state; private and public employment in businesses, agencies or political subdivisions; or state revenues. The Commission has determined that there are no less intrusive or costly alternative methods of achieving the purpose of the rulemaking. In addition to the cost of rulemaking, The Commission anticipates the Department will incur costs to develop and implement an online duplicate watercraft registration system and third-party provider program; however, these amendments will not require new full-time employees as the Department has a designated full-time employees who administer the watercraft program. Therefore, the Commission has determined that the benefits of the rulemaking outweigh any costs.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

In addition to minor grammatical and formatting corrections that were made at the request of Department staff and the Governor's Regulatory Review Council staff:

R12-4-503(C) was revised to reflect technical changes made to the online watercraft registration system.

R12-4-509(E)(3) and (G)(3) were revised to clarify the (State's) fees a watercraft dealer must collect on behalf of, and transmit to, the Department.

R12-4-513(B) was revised to allow a person to submit the completed form electronically.

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

In addition, the publication of the Notice of Proposed Rulemaking in the *Arizona Administrative Register*, the Department posted the Notice of Proposed Rulemaking to the Department's website, from February 3 to March 5, 2017, for the purpose of public comment. In addition, on February 3, 2017, the Department emailed information regarding the proposed changes included in the Notice of Proposed Rulemaking to all licensed watercraft agents, the President of the Arizona Professional Towing and Recovery Association, Inc., and persons interested in receiving rulemaking notices. The Department also issued a press release regarding the



proposed changes included in the Notice of Proposed Rulemaking and the Department's contact information for persons interested in submitting a comment.

On February 22, 2017, Department representatives met with licensed watercraft agents and dealers located in Lake Havasu City. This meeting was followed by a meeting with the general membership of the Lake Havasu Marine Association. The meeting was pre-announced in their newsletter that has wide distribution. Between the two meetings, approximately 80 persons were in attendance. Both groups were presented with the proposed changes to the Article 5 rules and only two questions were posed. The questions and agency responses are provided below. Other questions were seeking clarification of proposed changes; none of the members present at either meeting expressed opposition to the proposed amendments. Most attendees seemed satisfied with the proposed amendments and the Department's justification for the rule changes.

The Department received the following public or stakeholder comments in response to the proposed rulemaking:

Written Comment: February 13, 2017: I am concerned about the new towing and abandoned rules. Are there any special rules about someone towing away your boat having to reach the owner before they can legally take (steal) your boat? I ask because I had a boat in storage for the winter. I paid my bills on time, went down in the spring and - no boat! No one notified me my boat was gone. It was found later and was about to be re-registered. If I had not gone down when I did, what recourse would I have had? Just curious about your protocol. **Follow up comment February 14, 2017:** Thanks for answering. In my case boat was stolen from supposedly secure yard and left in Phoenix, it was then picked up by a tow company and about to taken over by them. I was never contacted by police or the tow company. Mine was not a lien problem, it was as you described; tow company not contacting me - the owner. Hopefully, this rule will save someone else.

Agency Response: The tow company rule applies to a watercraft that were abandoned on a public property or waterway. Under Title 5 statutes, a tow company is required to obtain a watercraft record from the Department within 15 days. The Department record provides the tow company with the owner/lienholder information. However, statute does not place a time-frame on how soon the tow company must notify the owner/lienholder of the impounded watercraft. The amendment to the tow company rule requires the tow company to notify the owner/lien holder within 15-days of obtaining the record from the Department. This amendment was proposed to protect watercraft owners/lienholders from those companies that hold onto a watercraft until the storage fees are so great the owner/lienholder has no choice but to sign over/release the watercraft. Your situation is a little different as you were dealing with a storage lien. These 'operation of law' transfers are covered under Title 33 statutes. **Agency Response to follow-up comment:** The Department appreciates your support.

Written Comment: February 14, 2017: Something needs to be done about the criminals that are running a towing/salvage company at Lake Pleasant. Two summers ago, I hit a rock and it flooded my boat and we had to be rescued. The rescue cost \$500 and they went out the next day and retrieved my boat. They locked it up in a compound and told me I had to pay \$19,000 to get it out. The mechanic at the shop told me I had to get the boat to them within 24 hours or lose the engine. No insurance company works that fast and the charges were way over industry standard. They are criminals and you should do something about them. Want more information? Call the owner or Scorpion Bay, <name redacted> at Sun Country and he will tell you some more stories of fraud. By the way, I got my boat to the shop, in time to save it and the insurance settle for just about \$7,000.

Agency Response: Thank you for taking the time to submit your comment regarding the tow company experience you had. Unfortunately, the changes you are seeking are outside of the Commission's statutory authority because the Commission only has authority to promulgate rules governing the towed watercraft transfer process; DPS is responsible for tow company rules. However, your comment will be forwarded to the DPS rule writer for consideration.

Written Comment: February 21, 2017: Two-stroke jet skis should be banned due to pollution of our lakes. They are often old and leak oil or break down, causing a waterway hazard and or sink polluting our lakes. Thank you for taking this under consideration.

Agency Response: The Commission does not have the authority to categorically ban the use of two-stroke jet skis. The Commission is required to register all watercraft that meet state and U.S. Coast Guard requirements. However, all law enforcement officers have the authority to enforce the Clean Water Act.

Oral Comment: February 22, 2017. I would like the Department to consider a two-year registration period to reduce the hassle of registering a watercraft every year.

Agency Response: Previously, the Department offered a three-year registration period, which is the maximum amount of time authorized by U.S. Coast Guard regulations. The Department incurred greater costs and burdens due to the need to stock multiple year registration decals at each Regional office. The longer shelf-life of the decal inventory caused the glue of the decals to break down and issued decals were falling off watercraft, which resulted in numerous customer complaints and a greater administrative burden to the Department due to the re-issuance of replacement decals. The vendor could not guarantee the adhesion of the decals past one year, so to avoid waste and prevent greater administrative costs, the Commission chose to offer one-year registrations, only. In addition, there is an important financial consideration. Under A.R.S. 5-323, watercraft registration revenue is subject to legislative appropriation. Although the Department intended to use the three-year registration fees that were collected in any given year over a period of three years; the funds accumulated in any one-year period gave State Legislators the impression the Department received funds in excess of its budgetary needs for that fiscal year. To avoid the accumulation of funds that are vulnerable to being swept for other Legislatively determined purposes, the Commission chose to collect and deposit watercraft funds for one-year registrations.

Oral Comment: February 22, 2017. The Department should restrict waters to "no wake" areas instead of placing horsepower restrictions on smaller Arizona lakes.

Agency Response: The Commission previously considered this request and determined limiting the engine horsepower to certain lakes is a more efficient and enforceable way to regulate use and achieve the objectives for managing a recreational body of water. Horsepower or engine limitations serve several objectives, primarily one of aesthetic enjoyment and protecting community water



sources from higher rates of hydrocarbon pollution sources. Smaller engines often run more efficiently at slow speeds, thus emitting fewer pollutants. In addition, those waters that have been identified as community water sources are usually restricted to smaller electric motors only. Larger outboards are often times noisier and do not efficiently burn fuels at slower speeds. The unburnt hydrocarbons provide a pollution point source to the air above the water and the lake itself. An additional consideration is the construction of boat ramps and facilities that support recreational boating. Ramp and dock facilities at horsepower restricted lakes are designed and constructed to support smaller watercraft. Launching a larger watercraft that supports larger outboards could damage launching and docking facilities that are not designed to accommodate larger watercraft. Increasing the size and reinforcing of boat ramps and docking facilities would represent a significant cost increase to the Department and local jurisdictions to provide and improve those accommodations. Enforcing a “no wake” zone regulations is more difficult for enforcement agencies because an officer must be present to observe the violation and the violation is somewhat subjective. The officer may believe the wake created by any watercraft may not rise to the level of a violation, yet that same wake may be offensive to other recreational boaters who are fishing or otherwise enjoying the public waterways.

12. All agency’s shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

a. Whether the rule requires a permit, whether a general permit is used, and if not, the reason why a general permit is not used:

R12-4-502, the rule complies with A.R.S. § 41-1037. The certificate of number described in the rule falls within the definition of “general permit” as defined under A.R.S. § 41-1001(11).

R12-4-503, the rule complies with A.R.S. § 41-1037. The certificate of number described in the rule falls within the definition of “general permit” as defined under A.R.S. § 41-1001(11).

For R12-4-507, the rule complies with A.R.S. § 41-1037. The certificate of number described in the rule falls within the definition of “general permit” as defined under A.R.S. § 41-1001(11).

For R12-4-509, the rule complies with A.R.S. § 41-1037. The authorization described in the rule falls within the definition of “general permit” as defined under A.R.S. § 41-1001(11).

For R12-4-522, the rule complies with A.R.S. § 41-1037. The authorization described in the rule falls within the definition of “general permit” as defined under A.R.S. § 41-1001(11).

For R12-4-527, the rule complies with A.R.S. § 41-1037. The certificate of number described in the rule falls within the definition of “general permit” as defined under A.R.S. § 41-1001(11).

For R12-4-529, the rule complies with A.R.S. § 41-1037. The Arizona Watercraft Registration Decal described in the rule falls within the definition of “general permit” as defined under A.R.S. § 41-1001(11).

For R12-4-530, the rule complies with A.R.S. § 41-1037. The third-party authorization described in the rule falls within the definition of “general permit” as defined under A.R.S. § 41-1001(11).

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law, and if so, citation to the statutory authority to exceed the requirements of federal law:

Except for the rules listed below, federal law is not directly applicable to the subject of the rules. The rules are based on state law.

For R12-4-501, Federal regulation 33 C.F.R. 187 is applicable to the subject of the rule. 33 C.F.R. 187.303 establishes the terms a state must define in order to participate in the Vessel Identification System (VIS). The Department has determined the rule is not more stringent than the corresponding federal law.

For R12-4-502, Federal regulation 33 C.F.R. 187 is applicable to the subject of the rule. 33 C.F.R. 187 prescribes the minimum owner, vessel, and record information requirements for States electing to participate in VIS. The Department has determined the rule is not more stringent than the corresponding federal law.

For R12-4-502, Federal regulation 33 C.F.R. 174 is applicable to the subject of the rule. 33 C.F.R. 174 prescribes a standard numbering system for vessels applicable to States for approval of State numbering systems. The Department has determined the rule is not more stringent than the corresponding federal law.

For R12-4-505, Federal regulations 33 C.F.R. 181 and 33 C.F.R. 187 are applicable to the subject of the rule. 33 C.F.R. 181 prescribes requirements for the certification of boats and associated equipment and identification of boats to which 46 U.S.C. applies and 33 C.F.R. 187 prescribes the minimum owner, vessel, and record information requirements for States electing to participate in the Vessel Identification System (VIS). The Department has determined the rule is not more stringent than the corresponding federal laws.

For R12-4-506, Federal regulation 33 C.F.R. 173 is applicable to the subject of the rule. 33 C.F.R. 173.77 establishes that a certificate of number becomes invalid if the application contains false information or fees for the issuance of the certificate of number are not paid. A certificate of number is also invalid 60 days after the day the watercraft is no longer principally operated in the State where the certificate of number was issued or the person whose name appears on the certificate of number involuntarily loses their interest in the numbered watercraft by legal process. The Department has determined the rule is not more stringent than the corresponding federal law.

For R12-4-511, Federal regulation 33 C.F.R. 175 is applicable to the subject of the rule. 33 C.F.R. 175 establishes federal PFD regulations apply to all recreational vessels propelled or controlled by machinery, sails, oars, paddles, poles, or other



vessels, to include defining “personal flotation device” and “PFD” prescribing the circumstances under which a PFD is required, specifications for size, fit, access, and serviceable condition. 33 C.F.R. 175.13(c) states, “No person may operate a recreational vessel under way with any child under 13 years old aboard unless each such child is either wearing an appropriate PFD approved by the U.S. Coast Guard or is below decks or in an enclosed cabin.” The Department has determined the rule is more stringent than the corresponding federal law in requiring a child who is on board a watercraft and is twelve years of age or under to wear a PFD whenever the watercraft is underway. However, A.R.S. § 5-331 (C) provides statutory authority to exceed the requirements of federal law and states, “A child twelve years of age or under on board a watercraft shall wear a United States coast guard approved type I, II or III personal flotation device whenever the watercraft is underway.”

For R12-4-513, Federal regulation 33 C.F.R. 174 is applicable to the subject of the rule. 33 C.F.R. 107 establishes the operator of a vessel shall submit the casualty or accident report prescribed in § 173.57 to the reporting authority prescribed in § 173.59 when, as a result of an occurrence that involves the vessel or its equipment damage to vessels and other property totals \$2,000 or ...” The Department has determined the rule is more stringent than the corresponding federal law. However, A.R.S. § 5-349(C) provides statutory authority to exceed the requirements of federal law and states, “For every other collision, accident or other casualty involving property damage exceeding five hundred dollars, a report shall be submitted within five days after the incident by the operator or owner of the watercraft involved.”

For R12-4-514, Federal regulation 33 C.F.R. 173 is applicable to the subject of the rule. 33 C.F.R. 173.21 establishes that no person may use a vessel subject to numbering requirements unless it has a number issued on a certificate of number by the issuing authority in the State of principal operation and the number is displayed on the vessel or, if leased or rented for noncommercial operation, a copy of the lease or rental agreement containing the vessel number that appears on the certificate of number and the period of time for which the vessel is leased or rented. The Department has determined the rule is not more stringent than the corresponding federal law.

For R12-4-515, Federal regulation 33 C.F.R. 173 and 33 C.F.R. 174 are applicable to the subject of the rule. 33 C.F.R. 173 prescribes requirements for numbering vessels and 33 C.F.R. 174 prescribes a standard numbering system for vessels. The Department has determined the rule is not more stringent than the corresponding federal law.

For R12-4-520, Federal regulation 33 C.F.R. 62 is applicable to the subject of the rule. 33 C.F.R. 62 prescribes the general characteristics of the U.S. Aids to Navigation System, and the details, policies and procedures employed by the U.S. Coast Guard in establishing, maintaining, operating, changing or discontinuing Federal aids to navigation. The Department has determined the rule is not more stringent than the corresponding federal law.

For R12-4-521, Federal regulation 33 C.F.R. 62 is applicable to the subject of the rule. 33 C.F.R. 62 prescribes the general characteristics of the U.S. Aids to Navigation System, and the details, policies and procedures employed by the U.S. Coast Guard in establishing, maintaining, operating, changing or discontinuing Federal aids to navigation. The Department has determined the rule is not more stringent than the corresponding federal law.

For R12-4-522, Federal regulation 33 C.F.R. 62 is applicable to the subject of the rule. 33 C.F.R. 62 prescribes the general characteristics of the U.S. Aids to Navigation System, and the details, policies and procedures employed by the U.S. Coast Guard in establishing, maintaining, operating, changing or discontinuing Federal aids to navigation. The Department has determined the rule is not more stringent than the corresponding federal law.

c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:

The agency has not received an analysis that compares the rule’s impact of competitiveness of business in this state to the impact on business in other states.

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

33 C.F.R. 62, revised July 1, 2014, R12-4-520(A)

14. Whether the rule previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-4-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

The rule was not previously made, amended, or repealed as an emergency rule.

15. The full text of the rules follows:

**TITLE 12. NATURAL RESOURCES
CHAPTER 4. GAME AND FISH COMMISSION
ARTICLE 5. BOATING AND WATER SPORTS**

Section	
R12-4-501.	Boating and Water Sports Definitions
R12-4-502.	Application for Watercraft Registration
R12-4-503.	Renewal of Watercraft Registration; Duplicate Watercraft Registration or Decal



R12-4-504.	Watercraft Fees; Penalty for Late Registration; Staggered Registration Schedule
R12-4-505.	Hull Identification Numbers
R12-4-506.	Invalidation of Watercraft Registration and Decals
R12-4-507.	Transfer of Ownership of an Abandoned or Unreleased Watercraft
R12-4-509.	Watercraft Dealers ; Agents
R12-4-510.	Refund of Fees Paid in Error
R12-4-511.	Personal Flotation Devices
R12-4-513.	Watercraft Accident <u>Incident</u> and Casualty Reports
R12-4-514.	Liveries
R12-4-515.	Display of AZ Numbers and Registration Decals
R12-4-517.	Watercraft Motor and Engine Restrictions
R12-4-520.	Arizona Uniform State Waterway Marking <u>Aids to Navigation</u> System
R12-4-521.	Placing or Tampering with Regulatory Markers or Aids to Navigation <u>Repealed</u>
R12-4-522.	Establishment of Controlled Use Markers <u>Repealed</u>
R12-4-524.	<u>Towed Water Skiing Sports</u>
R12-4-526.	Unlawful Mooring
R12-4-527.	Transfer of Ownership of a Towed Watercraft
R12-4-529.	Nonresident Boating Safety Infrastructure Fees; Proof of Payment; Deed
R12-4-530.	<u>Third-party Providers; Agents</u>

ARTICLE 5. BOATING AND WATER SPORTS

R12-4-501. Boating and Water Sports Definitions

In addition to the definitions provided under A.R.S. § 5-301, the following definitions apply to this Article unless otherwise specified:

“Abandoned watercraft” means any watercraft that has remained:

- On private property without the consent of the private property owner;
- Unattended for more than 48 hours on a highway, public street, or other public property;
- Unattended for more than 72 hours on state or federal lands; or
- Unattended for more than 14 days on state or federal waterways, unless in a designated mooring or anchorage area.

“Aids to navigation” means buoys, beacons, or other fixed objects placed on, in, or near the water to mark obstructions to navigation or to direct navigation through channels or on a safe course.

“Authorized third-party provider” means an entity that has been awarded a written agreement with the Department, pursuant to a competitive bid process, to perform limited or specific services on behalf of the Department.

“AZ number” means the Department-assigned identification number with the prefix “AZ.”

“Bill of sale” means a written agreement transferring ownership of a watercraft that includes all of the following information:

- Name of buyer;
- Name of seller;
- Manufacturer of the watercraft, when known;
- Hull identification number, unless exempt under R12-4-505;
- Purchase price and sales tax paid, when applicable; and
- Signature of seller.

“Boats keep out” in reference to a regulatory marker means the operator or user of a watercraft, or a person being towed by a watercraft on water skis, ~~a surfboard~~ an inflatable device, or similar ~~device~~ or equipment shall not enter.

“Certificate of number” means the Department-issued document that is proof that a motorized watercraft is registered in the name of the owner.

“Certificate of origin” means a document provided by the manufacturer of a new watercraft or its distributor, its franchised new watercraft dealer, or the original purchaser establishing the initial chain of ownership for a watercraft, such as but not limited to:

- Manufacturer’s certificate of origin (MCO);
- Manufacturer’s statement of origin (MSO);
- Importer’s certificate of origin (ICO);
- Importer’s statement of origin (ISO); or
- Builder’s certification (Form CG-1261).

“Controlled-use marker” means an anchored or fixed marker on the water, shore, or a bridge that controls the operation of watercraft, water skis, surfboards, or similar devices or equipment.

“Dealer” means any person who engages in whole or in part in the business of buying, selling, or exchanging new or used watercraft, or both, either outright or on conditional sale, consignment, or lease.

“Homemade watercraft” means a watercraft that is not fabricated or manufactured for resale and to which a manufacturer has not attached a hull identification number. If a watercraft is assembled from a kit or constructed from an unfinished manufactured hull and does not have a manufacturer assigned hull identification number it is a “homemade watercraft.”



“Hull identification number” means a number assigned to a specific watercraft by the manufacturer or by a government jurisdiction as prescribed by the U.S. Coast Guard.

“Junk watercraft” means any hulk, derelict, wreck, or parts of any watercraft in an unseaworthy or dilapidated condition that cannot be profitably dismantled or salvaged for parts or profitably restored.

“Letter of gift” means a document transferring ownership of a watercraft that includes all of the following information:

- Name of previous owner;
- Name of new owner;
- ~~Name of manufacturer~~ Manufacturer of the watercraft, when known;
- Hull identification number, unless exempt under R12-4-505;
- A statement that the watercraft is a gift; and
- Signature of previous owner.

“Livery” means a business authorized to rent or lease watercraft with or without an operator for recreational, non-commercial use as prescribed under A.R.S. § 5-371.

“Manufacturer” means any person engaged in the business of manufacturing or importing new watercraft for the purpose of sale or trade.

“Motorized watercraft” means any watercraft propelled by machinery and powered by electricity, fossil fuel, or steam.

“No ski” in reference to a regulatory marker means a person shall not be towed on water skis, an inflatable device, or similar equipment.

~~“Nonresident Boating Safety Infrastructure Decal” means the Department issued decal that is proof of payment of the fee authorized under A.R.S. § 5-327.~~

“No wake” in reference to a regulatory marker has the same meaning as “wakeless speed” as defined under A.R.S. § 5-301.

“Operate” in reference to a watercraft means use, navigate, or employ.

“Owner” in reference to a watercraft means a person who claims lawful possession of a watercraft by virtue of legal title or equitable interest that entitles the person to possession.

“Personal flotation device” means a U.S. Coast Guard approved ~~Type I, II, III, or V~~ wearable; or ~~Type IV~~ throwable device for use on any watercraft, as prescribed under A.R.S. §§ 5-331, 5-350(A), and R12-4-511.

“Regatta” means an organized water event of limited duration affecting the public use of waterways, for which a lawful jurisdiction has issued a permit.

“Registered owner” means the person or persons to whom a watercraft is currently registered by any jurisdiction.

“Registration decal” means the Department-issued decal that is proof of watercraft registration.

“Regulatory marker” means a waterway marker placed on, in, or near the water to convey general information or indicate the presence of:

- A danger, or
- A restricted or controlled-use area, ~~or~~
- ~~To convey general information and directions.~~

“Release of interest” means a statement surrendering or abandoning unconditionally any claim or right of ownership or use in a watercraft.

“Sound level” means the noise level measured in decibels on the A-weighted scale of a sound level instrument that conforms to recognized industry standards and is maintained according to the manufacturer’s instructions.

“Staggered registration” means the system of renewing watercraft registrations in accordance with the schedule provided under R12-4-504.

“State of principal operation” means the state in whose waters the watercraft is used or will be operated most during the calendar year.

“Throwable personal flotation device” means a U.S. Coast Guard approved Type IV device for use on any watercraft such as, but not limited to, a buoyant cushion, ring buoy, or horseshoe buoy.

“Unreleased watercraft” means a watercraft for which there is no written release of interest from the registered owner.

“Watercraft” means a boat or other floating device of rigid or inflatable construction designed to carry people or cargo on the water and propelled by machinery, oars, paddles, or wind action on a sail. Exceptions are sea-planes, makeshift contrivances constructed of inner tubes or other floatable materials that are not propelled by machinery, personal flotation devices worn or held in hand, and other objects used as floating or swimming aids.

“Watercraft agent” means a person authorized by the Department to collect applicable fees for the registration and numbering of watercraft.

“Watercraft registration” means the validated certificate of number and validating decals issued by the Department.



“Wearable personal flotation device” means a U.S. Coast Guard approved Type I, Type II, Type III, or Type V device for use on any watercraft such as, but not limited to, an off-shore lifejacket, near-shore buoyant vest, special-use wearable device, or flotation aid.

R12-4-502. Application for Watercraft Registration

- A. Only motorized watercraft as defined under R12-4-501 are subject to watercraft registration.
- B. A person shall apply for watercraft registration under A.R.S. § 5-321 using a form furnished by the Department and available at any Department office or online at www.azgfd.gov on the Department's website. The applicant shall provide the following information for registration of all motorized watercraft except homemade watercraft, which are addressed under subsection (C):
1. Arizona residency certification statement, signed by the watercraft owner;
 - ~~2.~~ Type of watercraft;
 - ~~2-3.~~ Propulsion type;
 - ~~3-4.~~ Engine drive type;
 - ~~4-5.~~ Overall length of watercraft;
 - ~~5-6.~~ Make and model of watercraft, if known;
 - ~~6-7.~~ Year built or model year, if known;
 - ~~7-8.~~ Hull identification number;
 - ~~8-9.~~ Hull material;
 - ~~9-10.~~ Fuel type;
 - ~~10-11.~~ Category of use;
 - ~~11-12.~~ Watercraft or AZ number previously issued for the watercraft, if any;
 - ~~12-13.~~ State of principal operation; and
 - ~~13-14.~~ For watercraft:
 - a. Owned by ~~an individual~~ a person:
 - i. ~~Name, Legal name;~~
 - ii. Mailing address; ~~and;~~
 - iii. Date of birth; ~~and~~
 - iv. Signature of each applicant.
 - b. Owned by a business:
 - i. Name of business;
 - ii. Business address; ~~and;~~
 - iii. Tax Identification Number; ~~and~~
 - iv. Signature and title of authorized representative on behalf of the business.
 - c. Held in a trust:
 - i. Name of trust;
 - ii. Primary trustee's address; ~~and~~
 - iii. Tax Identification Number, required when the trust is held by two or more persons;
 - ~~iii-iv.~~ Date of trust; and
 - iv. Signature of each trustee, unless the trust instrument authorizes the signature of one trustee to bind the trust.
 - ~~14-15.~~ When ownership of the watercraft is in more than one name, the applicant shall indicate ownership designation by use of one of the following methods:
 - a. Where ownership is joint tenancy with right of survivorship, the applicant shall use “and/or” between the names of the owners. To transfer registration of the watercraft, each owner shall provide a signature. Upon legal proof of the death or incompetency of either owner, the remaining owner may transfer registration of the watercraft.
 - b. Where ownership is a tenancy in common the applicant shall use “and” between the names of the owners. To transfer registration of the watercraft, each owner shall provide a signature. In the event of the death or incompetency of any owner, the disposition of the watercraft shall be handled through appropriate legal proceedings.
 - c. Where the ownership is joint tenancy or is community property with an express intent that either of the owners has full authority to transfer registration, the applicant shall use “or” between the names of the owners. Each owner shall sign the application for registration. To transfer registration, either owner's signature is sufficient for transfer.
- C. The builder, owner, or owners of a homemade watercraft shall present the watercraft for inspection at a Department office. The applicant shall provide the following information for registration of homemade watercraft, using the same ownership designations specified in subsection ~~(A)(14)~~ (A)(15):
1. Type of watercraft;
 2. Propulsion type;
 3. Engine drive type;
 4. Overall length of watercraft;
 5. Year built;
 6. Hull material;
 7. Fuel type;
 8. Category of use;
 9. Each owner's:
 - a. Name,
 - b. Mailing address, and
 - c. Date of birth;
 10. State of principal operation;
 11. Whether the watercraft was assembled from a kit or rebuilt from a factory or manufacturer's hull;



- 12. Hull identification number, if assigned; and
- 13. Signature of the applicant, acknowledged before a Notary Public or witnessed by a Department employee.
- D. As prescribed under A.R.S. § 5-321, the applicant shall submit a use tax receipt issued by the Arizona Department of Revenue with the application for registration unless any one of the following conditions apply:
 - 1. The applicant is exempt from use tax as provided under ~~15~~ A.A.C. ~~Title 15~~, Chapter 5,
 - 2. The applicant is transferring the watercraft from another jurisdiction to Arizona without changing ownership,
 - 3. The applicant submits a bill of sale or receipt showing the sales or use tax was paid at the time of purchase, or
 - 4. The applicant submits a notarized affidavit of exemption stating that the acquisition of the watercraft was for rental or resale purposes.
- E. An applicant for a watercraft dealer registration authorized under A.R.S. § 5-322(F), shall be a business offering watercraft for sale or a watercraft manufacturer registered by the U.S. Coast Guard. A person shall display dealer registration for watercraft demonstration purposes only. For the purposes of this Section, “demonstration” means to operate a watercraft on the water for the purpose of selling, trading, negotiating, or attempting to negotiate the sale or exchange of interest in new watercraft, ~~which and~~ includes operation by a manufacturer for purposes of testing a watercraft. Demonstration does not include operation of a watercraft for personal purposes by a dealer or manufacturer or an employee, family member, or an associate of a dealer or manufacturer. The watercraft dealer registration is subject to invalidation pursuant to R12-4-506 if a watercraft with displayed dealer registration is used for purposes other than those authorized under A.R.S. § 5-322(F) or this Section. A watercraft dealer registration applicant shall submit an application to the Department. The application is furnished by the Department and is available at any Department office. The applicant shall provide the following information on the application:
 - 1. All business names used for the sale or manufacture of watercraft in Arizona;
 - 2. Mailing address and telephone number for each business for which a watercraft dealer registration is requested;
 - 3. Tax privilege license number;
 - 4. U.S. Coast Guard manufacturer identification code, when applicable;
 - 5. Total number of certificates of number and decals requested; and
 - 6. The business owner’s or manager’s:
 - a. Name,
 - b. Business address,
 - c. Telephone number, and
 - d. Signature.
- F. In addition to submitting the application form and any other information required under this Section, the applicant for watercraft registration shall submit one or more of the following additional forms of documentation:
 - 1. Original title if the watercraft is titled in another state;
 - 2. Original registration if the watercraft is from a non-titling state;
 - 3. Bill of sale as defined under R12-4-501 if the watercraft has never been registered or titled in any state;
 - 4. Letter of gift as defined under R12-4-501 if the watercraft was received as a gift and was never registered or titled in ~~another~~ any state;
 - 5. Court order or other legal documentation establishing lawful transfer of ownership, ~~or~~
 - 6. Letter of deletion, required when the watercraft was previously documented by the U.S. Coast Guard;
 - ~~6-7.~~ Statement of facts form furnished by the Department and available from any Department office when none of the documentation identified under subsections (F)(1) through ~~(F)(5)~~ (F)(6) exists either in the possession of the watercraft owner or in the records of any jurisdiction responsible for registering or titling watercraft. An applicant for watercraft registration under a statement of facts shall present the watercraft for inspection at a Department office. The statement of facts form shall include the following information:
 - a. Hull identification number,
 - b. Certification that the watercraft meets one of the following conditions:
 - i. The watercraft was manufactured prior to 1972, is 12 feet in length or less, and is not propelled by an inboard engine;
 - ii. The watercraft is owned by the applicant and has never been registered or titled;
 - iii. The watercraft was owned in a state that required registration, but was never registered or titled; or
 - iv. The watercraft was purchased, received as a gift, or received as a trade and has not been registered, titled, or otherwise documented in the past five years.
 - c. Signature of the applicant, acknowledged before a Notary Public or witnessed by a Department employee.
 - ~~7-8.~~ An original certificate of origin when all of the following conditions apply:
 - a. The watercraft was purchased as new,
 - b. The applicant is applying for watercraft registration within a year of purchasing the watercraft, and
 - c. The certificate of origin is not held by a lien holder.
- G. If the watercraft is being transferred to a person other than the original listed owner, the applicant for a watercraft registration shall submit a release of interest. The Department may require the applicant to provide a release of interest that is acknowledged before a Notary Public or witnessed by a Department employee when the Department is unable to verify the signature on the release of interest.
- H. If the original title is held by a lien holder, the applicant for a watercraft registration shall submit a form furnished by the Department and available from any Department office along with a copy of the title. The applicant shall comply with the following requirements when submitting the form:
 - 1. The applicant shall provide the following information on the form:
 - a. Applicant’s name,
 - b. Applicant’s mailing address,
 - c. ~~Watercraft make~~ Make and model of watercraft, and



- d. Watercraft hull identification number.
2. The applicant shall ensure the lien holder provides the following information on the form:
 - a. Lien holder's name,
 - b. Lien holder's mailing address,
 - c. Name of person completing the form ~~for on behalf of~~ the lien holder,
 - d. Title of person completing the form ~~for on behalf of~~ the lien holder, and
 - e. Signature of the person completing the form ~~for on behalf of~~ the lien holder, acknowledged before a Notary Public or witnessed by a Department employee.
- ~~I. The Department shall issue a watercraft registration within 30 calendar days of receiving a valid application and documentation required by this Section, whether from the applicant or from a watercraft agent authorized under R12-4-509.~~
- ~~J. If the watercraft's original title or registration is lost, the Department shall register a watercraft, if the watercraft's original title or registration is lost, upon receipt of one of the following:~~
 1. A letter or printout from any jurisdiction responsible for registering or titling watercraft that verifies the owner of record for that specific watercraft;
 2. A printout of the Vessel Identification System for that specific watercraft from the U.S. Coast Guard and verification from the appropriate state agency that the information regarding the owner of record for that specific watercraft is correct and current;
 3. A statement of facts by the applicant as described under subsection ~~(F)(6)~~ (F)(7) if the watercraft has not been registered, titled, or otherwise documented in the past five years; or
 4. The abandoned or unreleased watercraft approval letter issued by the Department, as established under R12-4-507(I).
- ~~J. The Department shall issue a watercraft registration within 30 calendar days of receiving a valid application and the documentation required under this Section from the applicant or a watercraft agent authorized under R12-4-509.~~
- K. All watercraft registrations and supporting documentation are subject to verification by the Department and to the requirements established under R12-4-505. The Department shall require a watercraft to be presented for inspection to verify the information provided by an applicant if the Department has reason to believe the information provided by the applicant is inaccurate or the applicant is unable to provide the required information.
- L. The Department shall deem an application invalid if the Department receives legal documentation of any legal action that may affect ownership of ~~the that~~ watercraft.
- M. The Department shall invalidate a watercraft registration if the registration is obtained by an applicant who makes a false statement or provides false information on any application, statement of facts, or written instrument submitted to the Department.

R12-4-503. Renewal of Watercraft Registration; Duplicate Watercraft Registration or Decal

- A. The owner of a registered watercraft shall ~~ensure~~ renew the watercraft's registration ~~is renewed~~ no later than the day before the prior registration period expires.
 - ~~B.1.~~ To renew a watercraft's registration in person or by mail, an applicant shall pay the registration fee authorized under A.R.S. § 5-321 ~~R12-4-504~~ and present any one of the following:
 - ~~1-a.~~ Current or prior certificate of number,
 - ~~2-b.~~ Valid driver's license,
 - ~~3-c.~~ Valid Arizona Motor Vehicle Division identification card,
 - ~~4-d.~~ Valid passport, or
 - ~~5-e.~~ Department-issued renewal notice.
 - ~~C.~~ To renew a watercraft's registration online, an applicant shall electronically pay the registration fee authorized under A.R.S. § 5-321, provide the assigned Arizona watercraft AZ number of the watercraft being renewed, and one of the following to the Department or its agent:
 - ~~1.~~ Department assigned authorization number,
 - ~~2.~~ Applicant's date of birth, or
 - ~~3.~~ Applicant's password.
 2. The owner of a registered watercraft may renew a watercraft registration by accessing the Department's online system and paying the applicable watercraft registration fee authorized under R12-4-504.
 - ~~B.~~ The owner of a registered watercraft may obtain a duplicate watercraft registration or decal in person or by mail. To obtain a duplicate watercraft registration or decal in person or by mail, an applicant shall:
 1. Complete and submit an application for a duplicate certificate and/or decal form to the Department or its authorized agent, available from any Department office and on the Department's website; and
 2. Pay the duplicate watercraft registration fee authorized under R12-4-504.
 - ~~C.~~ If made available by the Department, the owner of a registered watercraft may obtain a duplicate watercraft registration or decal by accessing the Department's online system and paying the duplicate watercraft registration fee authorized under R12-4-504.
 - ~~D.~~ When a watercraft registration is renewed by mail or online, the Department shall mail the renewal to the address of record, unless the Department receives a notarized request from the registered owner instructing the Department to mail the renewal to another address. When a request for a watercraft registration renewal or duplicate watercraft registration or decal is submitted by mail or online, the Department shall mail the registration or decal, as applicable, to the address of record, unless the Department receives a notarized request from the registered owner instructing the Department to mail the duplicate registration or decal to another address.

R12-4-504. Watercraft Fees; Penalty for Late Registration; Staggered Registration Schedule

- A. The following fees are required, when applicable as authorized under A.R.S. §§ 5-321 and 5-322:
 1. Motorized watercraft registration fees are assessed as follows:
 - a. Twelve feet and less: \$20
 - b. Twelve feet one inch through sixteen feet: \$22
 - c. Sixteen feet one inch through twenty feet: \$30



- d. Twenty feet one inch through twenty-six feet: \$35
- e. Twenty-six feet one inch through thirty-nine feet: \$39
- f. Thirty-nine feet one inch through sixty-four feet: \$44
- g. Sixty-four feet one inch and over: \$66
- h. For the purposes of this subsection, the length of the motorized watercraft shall be measured in the same manner prescribed under A.R.S. § 5-321(C).
- 2. Motorized watercraft transfer fee: \$4.
- 3. Duplicate motorized watercraft registration: \$2.
- 4. Duplicate decal: \$2.
- 5. Watercraft dealer certificate of number: \$2.50.
- B. The Department or its agent shall collect the entire registration fee for a late registration renewal and a penalty fee of \$5, unless exempt under A.R.S. § 5-321(L); or ~~unless~~ the expiration date falls on a Saturday, Sunday, or state holiday, and the registration is renewed before the close of business on the next working day. The Department or its agent shall not assess a penalty fee when a renewal is mailed before the expiration date, as evidenced by the postmark.
- C. All new watercraft registrations expire 12 months after ~~they are issued~~ the date of issue.
- D. Resident and nonresident watercraft registration renewals ~~expire~~:
 - 1. Shall be valid for a period of 7 to 18 months depending on the expiration month.
 - a. This provision applies to the initial renewal period only.
 - b. The Department shall prorate fees accordingly.
 - 2. May be renewed up to six months prior to the expiration month.
 - 3. Shall expire on the last day of the month indicated by the last two numeric digits of the AZ number, as shown in the following table:

Last two numeric digits of AZ number									Expiration month
00	12	24	36	48	60	72	84	96	December
01	13	25	37	49	61	73	85	97	January
02	14	26	38	50	62	74	86	98	February
03	15	27	39	51	63	75	87	99	March
04	16	28	40	52	64	76	88		April
05	17	29	41	53	65	77	89		May
06	18	30	42	54	66	78	90		June
07	19	31	43	55	67	79	91		July
08	20	32	44	56	68	80	92		August
09	21	33	45	57	69	81	93		September
10	22	34	46	58	70	82	94		October
11	23	35	47	59	71	83	95		November

- E. Watercraft dealer, manufacturer, and governmental use registration renewals expire on October 31 of each year.
 - F. Livery and all other commercial use registration renewals expire on November 30 of each year.
- R12-4-505. Hull Identification Numbers**
- A. The Department shall not register a watercraft without a hull identification number.
 - B. The Department shall verify watercraft manufactured after November 1, 1972; have a primary hull identification number that complies with the requirements established under 33 ~~CFR~~ C.F.R. 181, subpart C. The Department shall assign a hull identification number when the watercraft hull identification number does not meet the requirements established under 33 ~~CFR~~ C.F.R. 181, subpart C.
 - C. The hull identification number shall be fully visible and unobstructed at all times. Watercraft manufactured prior to August 1, 1984, are exempt from this requirement provided the obstruction is original equipment and was attached by the manufacturer.
 - D. The Department shall assign a hull identification number to a watercraft with a missing hull identification number only if the Department determines:
 - 1. The hull identification number was not intentionally or illegally removed or altered, unless the application is accompanied by an order of forfeiture, order of seizure, or other civil process; ~~or~~
 - 2. The missing hull identification number was caused by error of the manufacturer or a government jurisdiction ~~or failure of a previous owner of a watercraft to comply with this rule;~~ or because the
 - 3. The watercraft is a homemade watercraft as defined under R12-4-501.
 - E. The Department may assign a hull identification number within 30 days of receipt of a valid application, as described under R12-4-502.
 - F. The Department may accept a bill of sale presented with a missing or ~~improper nonconforming~~ hull identification number for registration purposes only ~~if~~ when:
 - 1. ~~# The hull identification number matches the improper nonconforming hull identification number or there is no hull identification number on the watercraft;~~
 - 2. Supporting evidence exists that the seller is the owner of the watercraft;
 - 3. The watercraft is homemade and does not have a hull identification number; or



4. The watercraft was manufactured prior to November 1, 1972.
2. A hull identification number is issued by the Department under subsection (D).
- G. Within 30 days of issuance, the applicant or registered owner shall:
1. Burn, carve, stamp, emboss, mold, bond, or otherwise permanently affix each hull identification number to a non-removable part of the watercraft in a manner that ensures any alteration, removal, or replacement will be obvious.
 2. Ensure the characters of each hull identification number affixed to the watercraft are no less than 1/4 inch in height.
 3. Permanently affix the hull identification number as follows:
 - a. On watercraft with transoms, affix the hull identification number to the right or starboard side of the transom within two inches of the top of the transom or hull/deck joint, whichever is lower.
 - b. On watercraft without a transom, affix the hull identification number to the starboard outboard side of the hull, back or aft within one foot of the stern and within two inches of the top of the hull, gunwale, or hull/deck joint, whichever is ~~lowest~~ lower.
 - c. On a catamaran or pontoon boat, affix the hull identification number on the aft crossbeam within one foot of the starboard hull attachment.
 - d. As close as possible to the applicable location established under subsections (a), (b), or (c) when rails, fittings, or other accessories obscure the visibility of the hull identification number.
 - e. Affix a duplicate of the visibly affixed hull identification number in an unexposed location on a permanent part of the hull.
 4. Certify to the Department that the hull identification number was permanently affixed to the watercraft ~~as required under subsection (G)~~. The certification statement is furnished by the Department when ~~the~~ a hull identification number is issued. The certification statement shall include the location of the permanently affixed hull identification number.

R12-4-506. Invalidation of Watercraft Registration and Decals

- A. Any watercraft registration obtained by fraud or misrepresentation is invalid from the date of issuance.
- B. A certificate of number and any decals issued by the Department under R12-4-502 ~~and R12-4-529~~ are invalid if any one of the following occurs:
1. Any check, money order, or other currency certificate presented to the Department for payment of watercraft registration or renewal is found to be non-negotiable;
 2. Any person whose name appears on the certificate of number loses ownership of the watercraft by legal process;
 3. Arizona is no longer the state of principal operation;
 4. The watercraft is documented by the U.S. Coast Guard;
 5. An applicant provides incomplete or incorrect information to the Department and fails to provide the correct information within 30 days after a request by the Department;
 6. The Department revokes the certificate of number, AZ numbers, and decals as provided under A.R.S. § 5-391(I); ~~or~~
 7. The Department or its agent erroneously issued a certificate of number or any decals;
 8. A watercraft bearing a dealer registration is used for any purpose not authorized under R12-4-502(E); or
 9. A watercraft registered or used as a livery is operated in violation of A.R.S. § 5-371 or R12-4-514.
- C. A person shall surrender the invalid certificate of number and decals to the Department within 15 calendar days of receiving written ~~notification~~ determination from the Department that the certificate of number or decals are invalid, unless the person appeals the Department's determination to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.
- D. The Department shall not validate or renew an invalid watercraft registration or decals until the reason for invalidity is corrected or no longer exists.

R12-4-507. Transfer of Ownership of an Abandoned or Unreleased Watercraft

- A. A person who has knowledge and custody of a watercraft abandoned on private property owned by that person may attempt to obtain ownership of the watercraft by way of the abandoned watercraft transfer process. A lienholder of foreclosed real property may assign an agent to act on its behalf.
- B. The last registered owner of an abandoned or unreleased watercraft is presumed to be responsible for the watercraft, unless the watercraft is reported stolen.
- C. The operator of a self-storage facility located in this state and having a possessory lien shall comply with the requirements prescribed under A.R.S. Title 33, Chapter 15, Article 1 when attempting to obtain ownership of a watercraft abandoned while in storage.
- D. A person having a possessory lien under a written ~~rental~~ agreement shall comply with the requirements prescribed under A.R.S. Title 33, Chapter 7, Article 6 when attempting to obtain ownership of a watercraft for which repairs or service fees remain unpaid.
- E. Only a person acting within the scope of official duties as an employee or authorized agent of a government agency may order the removal of a watercraft abandoned on public property or a public waterway.
- F. A person seeking ownership of an abandoned or unreleased watercraft shall submit an application to the Department. The application is furnished by the Department and available at any Department office. The application shall include the following information, if available:
1. Hull identification number, unless exempt under R12-4-505;
 2. Registration number;
 3. Decal number;
 4. State of registration;
 5. Year of registration;
 6. Name, address, and daytime telephone number of the person who found the watercraft;
 7. For abandoned watercraft:
 - a. Address or description of the location where the watercraft was found,
 - b. Whether the watercraft was abandoned on private or public property, and
 - c. When applicable, for watercraft abandoned on private property, whether the applicant is the legal owner of the property;



- 8. Condition of the watercraft: wrecked, stripped, or intact;
 - 9. State in which the watercraft will be operated;
 - 10. Length of time the watercraft was abandoned;
 - 11. Reason why the applicant believes the watercraft is abandoned; and
 - 12. Signature of the applicant, acknowledged before a Notary Public or witnessed by a Department employee.
- G.** This state and its agencies, employees, and agents are not liable for relying in good faith on the contents of the application.
- H.** The Department shall attempt to determine the name and address of the registered owner by:
- 1. Conducting a search of its watercraft database when documentation indicates the watercraft was previously registered in this state, or
 - 2. Requesting the watercraft record from the other state when documentation indicates the watercraft was previously registered in another state.
- I.** If the Department is able to determine the name and address of the registered owner, the Department shall send written notice of the applicant's attempt to register the watercraft to the owner by certified mail, return receipt requested.
- 1. If service is successful or upon receipt of a response from the registered owner, the Department shall send the following written notification to the applicant, as appropriate:
 - a. If the registered owner provides a written release of interest in the watercraft, the Department shall mail the release of interest and an abandoned or unreleased watercraft approval letter to the applicant. The applicant shall apply for watercraft registration in compliance with the requirements established under R12-4-502.
 - b. If the registered owner provides written notice to the Department refusing to release interest in the watercraft, the Department shall notify the applicant of the owner's refusal. The Department shall not register the watercraft to the applicant unless the applicant provides proof of ownership and complies with the requirements established under R12-4-502.
 - c. If the registered owner does not respond to the notice in writing within 30 days from the date of receipt, the Department shall notify the applicant of the owner's failure to respond. The Department shall not register the watercraft to the applicant unless the applicant provides proof of ownership and complies with the requirements established under R12-4-502.
 - d. If the registered owner does not respond to the notice within 180 days from the date of receipt of the notice, this failure to act shall constitute a waiver of interest in the watercraft by any person having an interest in the watercraft, and the watercraft shall be deemed abandoned for all purposes. The Department shall mail an abandoned or unreleased watercraft approval letter to the applicant. The applicant shall apply for watercraft registration in compliance with the requirements established under R12-4-502.
 - 2. If the written notice is returned unclaimed or refused, the Department shall notify the applicant within 15 days of the notice being returned that the attempt to contact the registered owner was unsuccessful.
- J.** If the Department is unable to identify or serve the registered owner, the Department shall ~~publish~~ ~~post~~ a notice of intent ~~once in a newspaper or other publication of general circulation in this state~~ on the Department's website within 45 days of the Department's notification to the applicant as provided in subsection (I)(2).
- 1. The ~~published~~ notice shall include a statement of the Department's intent to transfer ownership of the watercraft ten days after the date of ~~publication~~ posting, unless the Department receives notice from the registered owner refusing to release interest in the watercraft within that ~~ten-day~~ ten-day period following ~~publication~~ posting.
 - 2. ~~Upon request, the Department shall make available to the public a description of the abandoned or unreleased watercraft subject to transfer of ownership.~~
 - 3-2. If the watercraft remains unclaimed after the ~~ten-day~~ ten-day period, the Department shall mail an abandoned or unreleased watercraft approval letter to the applicant. The applicant shall apply for watercraft registration in compliance with the requirements established under R12-4-502.
- K.** A government agency may submit an application for authorization to dispose of a junk watercraft abandoned on state or federal lands or waterways. The application is furnished by the Department and is available at any Department Office. Upon receipt of the application, the Department shall attempt to determine the name and address of the registered owner. If the Department is unable to identify and serve the registered owner, the Department shall publish a notice of intent to authorize the disposal of the junk watercraft as described ~~in~~ under subsection (J).
- 1. The published notice shall include a statement of the Department's intent to authorize the disposal of the watercraft ten days after the date of publication, unless the Department receives notice from the registered owner refusing to release interest in the watercraft within that ~~ten-day~~ ten-day period following publication.
 - 2. If the watercraft remains unclaimed after the ~~ten-day~~ ten-day period, the Department shall mail an authorization to dispose of the junk watercraft to the government agency. The government agency may dispose of the abandoned watercraft and all indicia for that watercraft in any manner the agency determines expedient or convenient.

R12-4-509. Watercraft Dealers; Agents

- A.** The Department ~~has the authority to~~ may authorize a watercraft dealer to act as an agent on behalf of the Department for the purpose of issuing temporary certificates of number valid for ~~30~~ 45 days for new ~~or used~~ watercraft, provided:
- 1. The applicant's previous authority to act as a watercraft agent under A.R.S. § 5-321(I) has not been canceled by the Department within the preceding 24 months, and
 - 2. The applicant is a business located and operating within this state and sells watercraft ~~for an identified manufacturer.~~
- B.** An applicant seeking watercraft ~~dealer agent~~ authorization shall submit an application to the Department. The application is furnished by the Department and available at the Arizona Game and Fish Department, 5000 W. Carefree Highway, Phoenix, AZ 85086. The applicant shall provide the following information on the application:
- 1. Principal business or corporation name, address, and telephone number or if not a corporation, the full name, address, and telephone number of all owners or partners;
 - 2. Name, address, and telephone number of the owner or manager responsible for compliance with this Section;
 - 3. Whether the applicant has previously issued temporary certificates of number under A.R.S. § 5-321(I);



4. All of the following information specific to the location from which new watercraft are to be sold and temporary certificates of number issued:
 - a. Name of owner or manager;
 - b. Business hours;
 - c. Business telephone number;
 - d. Business type;
 - e. Storefront name; and
 - f. Street address;
 5. Manufacturers of the watercraft to be ~~distributed~~ sold; and
 6. Signature of person named under subsection (B)(2).
- C. The Department shall either approve or deny the application within the licensing time-frame established under R12-4-106.
- ~~D. Authorization to act as a watercraft agent is specific to the dealer's business location designated on the application and approved by the Department, unless the dealer is participating in a boat show for the purpose of selling watercraft.~~
- ~~D-E.~~ The watercraft dealer agent shall:
1. Use the assigned watercraft dealer agent number when issuing a temporary certificate of number,
 2. Use the online application system ~~or~~ and forms supplied by the Department; and
 3. Collect the appropriate fee as prescribed under ~~A.R.S. §§ 5-321 and 5-327~~ R12-4-504 and R12-4-527.
- ~~E.~~ ~~Authorization to act as a watercraft agent is specific to the dealer's business location designated on the application and approved by the Department, unless the dealer is participating in a scheduled, advertised boat show for the purpose of selling watercraft.~~
- ~~F.~~ ~~A watercraft agent is prohibited from issuing a temporary certificate of number for a watercraft when:~~
1. ~~The watercraft is involved in legal proceedings such as, but not limited to, a marital dissolution, probate, or bankruptcy proceeding;~~
 2. ~~The watercraft is abandoned or unreleased;~~
 3. ~~The watercraft is homemade; or~~
 4. ~~The watercraft has a nonconforming HIN.~~
- ~~F.~~ ~~A watercraft dealer shall not destroy prenumbered temporary certificate of number applications provided by the Department. The watercraft dealer shall mark the unused prenumbered application "void" and return the application to the Department with the monthly report required under subsection (J).~~
- ~~G.~~ ~~The Department shall provide supplies within 30 calendar days after receipt of the watercraft dealer's request form. The watercraft dealer shall verify supplies were received within seven days of receipt.~~
- ~~H-G.~~ A watercraft dealer agent issuing a temporary certificate of number to the purchaser of a new watercraft shall comply with all the following:
1. The watercraft dealer agent shall obtain ~~an~~ a completed application if the watercraft is purchased from the dealer or the applicant's bill of sale containing the following information:
 - a. ~~Statement that the watercraft is new;~~
 - b. ~~Names and addresses of the buyer and seller;~~
 - c. ~~Date of purchase;~~
 - d. ~~Amount of sales tax paid;~~
 - e. ~~Purchase price;~~
 - f. ~~Make and model of watercraft, if known;~~
 - g. ~~Engine drive type;~~
 - h. ~~Length of the watercraft;~~
 - i. ~~Year of manufacture; and~~
 - j. ~~Hull identification number that complies with the requirements established under R12-4-502.~~
 2. The watercraft dealer agent shall identify to the applicant the state registration fee and the nonresident boating safety infrastructure fee, when applicable, separately from any other costs.
 3. The fees collected under subsection (E)(3) shall be submitted electronically to the Department prior to the submission of the documentation required under subsection (G)(4).
 - 3-4. Within 72 hours after five business days of issuing a temporary certificate of number, a watercraft dealer agent shall deliver or mail the legible original application, a legible original or copy of the bill of sale, the original certificate of origin, and the state's fees following documentation to the Arizona Game and Fish Department, Watercraft Agent Representative, 5000 W. Carefree Highway, Phoenix, AZ 85086:
 - a. For a new watercraft:
 - i. Original application;
 - ii. Original or copy of the bill of sale issued by the watercraft agent; and
 - iii. Original certificate of origin;
 - b. For a used watercraft:
 - i. Original application;
 - ii. Original or copy of the bill of sale issued by the watercraft agent;
 - iii. Ownership document, such as but not limited to a title, bill of sale, letter of gift or U.S. Coast Guard letter of deletion when the watercraft was previously documented by the U.S. Coast Guard; and
 - iv. Lien release, when applicable.
 4. ~~The state's fees shall be submitted by check or money order with the required documentation or electronically prior to the submission of the required documentation.~~
- ~~F.~~ The Department shall accept online applications or prenumbered temporary certificate of number application forms provided to the watercraft dealer by the Department, as established under R12-4-502.



- ~~J.~~ By the 10th day of each month, a watercraft dealer shall submit a report of activity for the previous month to the Department on a form furnished by the Department and available at the Department office listed under subsection (H)(3). The watercraft dealer shall submit the report whether or not any activity occurred during the reporting period. The report shall include all of the following:
 - 1. Name and address of the watercraft dealer;
 - 2. Department assigned watercraft agent number;
 - 3. For each temporary certificate of number issued:
 - a. Application number;
 - b. Name of the purchaser;
 - c. Hull identification number; and
 - d. Date of issuance; and
 - 4. A list of any voided or missing application numbers, with explanation.
 - 5. A watercraft dealer who processes all transactions using the Department's online application system is exempt from subsection (J).
- ~~K.H.~~ The Department may cancel the watercraft dealer's agent's authorization and demand the return of or collect all supplies issued to the agent if the dealer agent does any one of the following:
 - 1. Fails to comply with the requirements established under this Article;
 - 2. Submits more than one check, draft, order, or electronic payment dishonored because of insufficient funds, payments stopped, or closed accounts to the Department within a calendar year;
 - 3. Predates, postdates, alters, or provides or knowingly allows false information to be provided on or with an application for a temporary certificate of number; or
 - 4. Issues a temporary certificate of number for a used watercraft;
 - 5. Falsifies the application for authorization as a watercraft agent; or
 - 6. Falsifies the monthly report required by subsection (J).
- ~~L.~~ Denial of a dealer's application to become a watercraft agent, or cancellation of watercraft agent status by the Department may be appealed to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.
- ~~L.~~ The Department shall provide a written notice to the applicant person stating the reason for the denial or cancellation of watercraft agent status, as applicable. The person may appeal the denial or cancellation to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.

R12-4-510. Refund of Fees Paid in Error

- A. The Department shall issue a refund for watercraft registration fees paid in error under the following circumstances and, when applicable, the Nonresident Boating Safety Infrastructure fee when:
 - 1. The Department shall issue a refund for the watercraft registration renewal fee and, when applicable, the Nonresident Boating Safety Infrastructure fee when the The registered owner has erroneously paid those fees twice for the same watercraft;
 - 2. The Department shall issue a refund for the watercraft registration renewal fee and, when applicable, the Nonresident Boating Safety Infrastructure fee when the The registered owner has erroneously paid those fees for a watercraft that has already been sold to another individual; or
 - 3. The registered owner registered the watercraft in error.
- B. To request a refund of fees paid in error, the person applying for the refund shall surrender all of the following to the Department:
 - 1. Original certificate of number;
 - 2. Registration decals; and
 - 3. Nonresident Boating Safety Infrastructure Decal, when applicable.
- C. A person requesting a refund of fees under subsections (A)(1) or (A)(2) shall submit the request to the Department within 30 calendar days of the date the payment was received by the Department.
- D. The Department shall not refund a late registration penalty fee:
 - 1. A late registration penalty fee.
 - 2. A fee collected by an authorized third-party provider. A person who paid their watercraft registration fee to a third-party provider shall request a refund of fees from that third-party provider.

R12-4-511. Personal Flotation Devices

- A. For the purpose of this Section, "wear" means:
 - 1. The personal flotation device is worn according to the manufacturer's design or recommended use;
 - 2. All of the device's closures are fastened, snapped, tied, zipped, or secured according to the manufacturer's design or recommended use; and
 - 3. The device is adjusted for a snug fit.
- B. The operator of a canoe, kayak, or other watercraft shall ensure the canoe, kayak, or other watercraft is equipped with at least one appropriately correctly-sized, U.S. Coast Guard-approved, wearable personal flotation device that is in good and serviceable condition for each person on board the canoe, kayak, or other watercraft. The operator of a canoe, kayak or other any watercraft shall also ensure the wearable personal flotation devices on board the canoe, kayak or other watercraft are readily accessible and available for immediate use. The following wearable personal flotation devices are approved by the U.S. Coast Guard:
 - 1. Type I Personal Flotation Device: off-shore life jacket;
 - 2. Type II Personal Flotation Device: near-shore buoyancy vest;
 - 3. Type III Personal Flotation Device: flotation aid, and
 - 4. Type V Special Use Device.
- C. In addition to the personal flotation devices described under subsection (B), the operator of a watercraft that is 16 feet or more in length shall ensure the watercraft is also equipped with a U.S. Coast Guard-approved Type IV Personal Flotation Device throwable personal flotation device: buoyant cushion, ring buoy, or horseshoe buoy. Canoes and kayaks are not subject to this subsection.



- D. The operator of a watercraft shall ensure ~~an individual~~ a person twelve years of age or under on board a watercraft shall wear a U.S. Coast Guard approved ~~type I, II or III wearable~~ personal flotation device whenever the watercraft is underway.
- E. The operator of a personal watercraft shall ensure each ~~individual person~~ aboard the personal watercraft is wearing a wearable personal flotation device approved by the U.S. Coast Guard whenever the personal watercraft is underway.
- F. Subsections (B), (C), and (D) do not apply to the operation of a racing shell or rowing skull during competitive racing or supervised training, if the racing shell or rowing skull is manually propelled, recognized by a national or international association for use in competitive racing, and designed to carry and does carry only equipment used solely for competitive racing.

R12-4-513. Watercraft ~~Accident~~ Incident and Casualty Reports

- A. The operator or owner of a watercraft involved in any collision, ~~accident~~ incident or other casualty resulting in injury, death, or property damage exceeding \$500 shall submit the report required under A.R.S. § 5-349 to the Department. The report shall be made on a form furnished by the Department ~~and or~~ provided by the law enforcement officer investigating the collision, incident, or other casualty. The operator or owner of the watercraft shall complete the form in full and clearly identify on the form any information that is either not applicable or unknown. The operator or owner of the watercraft submitting the report shall provide all of the following information: ~~required under~~
 1. ~~The operator's personal information;~~
 2. ~~The owner's personal information;~~
 3. ~~The operator's hours of experience in operating watercraft;~~
 4. ~~The operator's amount of boating safety instruction;~~
 5. ~~Information on the watercraft involved;~~
 6. ~~Information on the accident;~~
 7. ~~Estimated cost of damage to the watercraft;~~
 8. ~~Whether the watercraft sank, and if so, information regarding the recovery of the watercraft;~~
 9. ~~Information regarding U.S. Coast Guard approved personal flotation devices;~~
 10. ~~Information regarding fire extinguishers;~~
 11. ~~Personal information for operators and owners of each of the other watercraft involved in the accident;~~
 12. ~~Personal information for persons killed or injured in the accident;~~
 13. ~~Personal information for all passengers in the watercraft;~~
 14. ~~The location of passengers, skiers, and swimmers at the time of the accident;~~
 15. ~~Information regarding damage to property other than any of the watercraft involved;~~
 16. ~~Contact information for any witnesses other than passengers;~~
 17. ~~A diagram and narrative explaining the accident;~~
 18. ~~Contact information for the person completing the form;~~
 19. ~~The signature of the person completing the form;~~
 20. ~~The date the person completing the form submits the form to the Department; and~~
 21. ~~Any other information required by the Department to ensure compliance with 33 CFR C.F.R. 173.57.~~
- B. The person completing the form shall deliver ~~or, mail, or email~~ the form to the Arizona Game and Fish Department, Law Enforcement Branch at 5000 W. Carefree Hwy, Phoenix, AZ 85086 ~~or BoatAccidentReporting@azgfd.gov, as applicable.~~
- C. The operator or owner of a watercraft involved in any collision, ~~accident~~ incident or other casualty resulting in injury or death shall submit the report to the Department no later than 48 hours after the incident.
- D. The operator or owner of a watercraft involved in any collision, ~~accident~~ incident or other casualty resulting only in property damage exceeding \$500 shall submit the report to the Department no later than five days after the incident.

R12-4-514. Liveries

- A. A person who rents, leases, or offers any watercraft for compensation, with or without an operator, for recreational, non-commercial use shall register the watercraft as a livery as established under R12-4-502.
- ~~AB.~~ As prescribed under A.R.S. § 5-371, a ~~A~~ watercraft owned by a boat livery that requires registration and does not have the certificate of number on board shall be identified while in use by means of a receipt:
 1. Placard or some other form of display that is affixed to the watercraft and is visible when the watercraft is underway. The placard or other form of display shall indicate the business name and current phone number of the livery.
 2. Receipt provided by the livery to the person operating the rented watercraft. The receipt shall contain the following information:
 - ~~1-a.~~ Business name and address of the livery as shown on the certificate of number,
 - ~~2-b.~~ Watercraft registration number as issued by the Department,
 - ~~3-c.~~ Beginning date and time of the rental period, and
 - ~~4-d.~~ Written acknowledgment on the receipt of compliance with the requirements prescribed under A.R.S. § 5-371, signed by both the livery operator or the livery's their agent and the renter.
- ~~BC.~~ The ~~A~~ person operating the a rented or leased watercraft or operating a passenger for hire watercraft shall carry the registration or receipt onboard and produce it upon request to any peace officer.
- ~~D.~~ Failure to comply with the requirements prescribed under A.R.S. § 5-371 and this Section may result in the invalidation of the watercraft registration and decals as provided under A.R.S. § 5-391(A) and R12-4-506.

R12-4-515. Display of AZ Numbers and Registration Decals

- A. A person shall not use ~~or, operate, moor, anchor,~~ or grant permission to use ~~or, operate, moor, or anchor~~ a watercraft on the boundaries of this state unless such watercraft displays a valid number and current registration decal in the manner as established under subsection (B). This Section does not apply to undocumented watercraft displaying a valid temporary numbering certificate authorized under R12-4-509 or exempt under A.R.S. § ~~3-322~~ 5-322.
- B. The owner of a watercraft shall ~~ensure~~ display the AZ number and registration decals ~~are displayed~~ as follows:



- 1. The AZ numbers shall:
 - a. Be clearly visible and painted on or attached to each exterior side of the forward half of a non-removable portion of the watercraft;
 - b. Be in a color that contrasts with the watercraft’s background color so as to be easily read from a distance;
 - c. Include the letters “AZ” and the suffix, separated by a hyphen or equivalent space between the letters “AZ” and the suffix; and
 - d. Read from left to right in well-proportioned block letters that are not less than three inches in height, excluding outline.
- 2. The registration decals shall be affixed three inches in front of “AZ” on both sides of the forward half of a non-removable portion of the watercraft.
- C. On watercraft so constructed that it is impractical or impossible to display the AZ numbers in a prominent position on the forward half of the hull or permanent superstructure, the AZ numbers may be displayed on brackets or fixtures securely attached to the forward half of the watercraft.
- D. Persons possessing a dealer watercraft certificate of number issued under A.R.S. § 5-322(F) shall visibly display the AZ numbers and validating registration decals as established under this Section, except that the numbers and decals may be printed or attached to temporary, removable signs that are securely attached to the watercraft being demonstrated.
- E. Expired registration decals issued by any jurisdiction shall be covered or removed from the watercraft, so that only the current registration decals are visible.
- F. Invalid watercraft AZ numbers and registration decals shall not be displayed on any watercraft. The owner of the watercraft shall surrender the AZ numbers and registration decals to the Department in compliance with R12-4-506(C).

R12-4-517. Watercraft Motor and Engine Restrictions

- A. A person operating a motorized watercraft on the following waters shall only use an electric motor not exceeding 10 manufacturer-rated horsepower:
 - 1. Ackre Lake
 - 2. Bear Canyon Lake
 - 3. Bunch Reservoir
 - 4. Carnero Lake
 - 5. Chaparral Park Lake
 - 6. Cluff Ponds
 - 7. Coconino Reservoir
 - 8. Coors Lake
 - 9. Dankworth Pond
 - 10. Dogtown Reservoir
 - 11. Fortuna Lake
 - 12. Goldwater Lake
 - 13. Granite Basin Lake
 - 14. Horsethief Basin Lake
 - 15. Hulsey Lake
 - 16. J.D. Dam Lake
 - 17. Knoll Lake
 - 18. Lee Valley Lake
 - 19. McKellips Park Lake
 - 20. Pratt Lake
 - 21. Quigley Lake
 - 22. Redondo Lake
 - 23. Riggs Flat Lake
 - 24. Roper Lake
 - 25. Santa Fe Lake
 - 26. Scott’s Reservoir
 - 27. Sierra Blanca Lake
 - 28. Soldier Lake (in Coconino County)
 - 29. Stehr Lake
 - 30. Stoneman Lake
 - 31. Tunnel Reservoir
 - 32. Whitehorse Lake
 - 33. Willow Valley Lake
 - 34. Woodland Reservoir
 - 35. Woods Canyon Lake
- B. A person operating a motorized watercraft on the following waters shall use only a single electric motor or a single gasoline engine not exceeding 10 manufacturer-rated horsepower:
 - 1. Arivaca Lake
 - 2. Ashurst Lake
 - 3. Becker Lake
 - 4. Big Lake
 - 5. Black Canyon Lake
 - 6. Blue Ridge Reservoir
 - 7. Cataract Lake



8. Chevelon Canyon Lake
 9. Cholla Lake Hot Pond
 10. Concho Lake
 11. Crescent Lake
 12. Fool Hollow Lake
 13. Kaibab Lake
 14. Kinnikinick Lake
 15. Little Mormon Lake
 16. Lower Lake Mary
 17. Luna Lake
 18. Lynx Lake
 19. Marshall Lake
 20. Mexican Hay Lake
 21. Nelson Reservoir
 22. Parker Canyon Lake
 23. Peña Blanca Lake
 24. Rainbow Lake
 25. River Reservoir
 26. Show Low Lake
 27. Whipple Lake
 28. White Mountain Lake (in Apache County)
 29. Willow Springs Lake
- C. A person shall not operate a watercraft on Frye Mesa Reservoir, Rose Canyon Lake, or Snow Flat Lake, except as authorized under subsection (D).
- D. A person who possesses a valid use permit issued by the U.S. Forest Service may operate a non-motorized watercraft only on Rose Canyon Lake on any Tuesday, Wednesday, or Thursday during June and July from 9:30 a.m. to 4:30 p.m. Mountain Time Zone. This subsection does not exempt the person from complying with all applicable requirements imposed by federal or state laws, rules, regulations, or orders.
- E. This Section does not apply to watercraft of governmental agencies or to Department-approved emergency standby watercraft operated by lake concessionaires if operating to address public safety or public welfare.

R12-4-520. Arizona Uniform State Waterway Marking Aids to Navigation System

- ~~A. The Arizona uniform state waterway marking aids to navigation system is the same as that prescribed under 33 CFR C.F.R. 62, revised July 1, 2004 2014, which is incorporated by reference in this Section. The incorporated material is available at any Department office, online at www.gpoaccess.gov, or it may be ordered from the U.S. Government Printing Office, Stop: IDCC, Washington, D.C. 20401 Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000. This Section does not include any later amendments or editions of the incorporated material.~~
- ~~B. A person shall not mark the waterways or their shorelines in this state with mooring buoys, regulatory markers, aids to navigation, lights, or other types of permitted waterway marking devices, without authorization from the governmental agency or the private interest having jurisdiction on such waters.~~
- ~~C. A person shall not moor or fasten a watercraft to any marker not intended for mooring, or willfully damage, tamper with, remove, obstruct, or interfere with any aid to navigation, regulatory marker or other type of permitted waterway marking devices, except in the performance of authorized maintenance responsibilities or as authorized under R12-4-518 or this Section.~~
- ~~D. If a government agency or private interest has not exercised its authority to control watercraft within its jurisdiction under A.R.S. § 5-361, or if waters are directly under the jurisdiction of the Commission, the Department has the authority to control watercraft within that jurisdiction in accordance with the following guidelines:~~
- ~~1. The Department may place controlled-use markers only where controlled operation of watercraft is necessary to protect life, property, or habitat, and shall move or remove the markers only if the need for the protection changes.~~
 - ~~2. The restrictions imposed are clearly communicated to the public by wording on the markers, such as those defined under R12-4-501.~~
- ~~E. A governmental agency, excluding federal agencies with jurisdiction over federal navigable waterways, has the authority to control watercraft within that jurisdiction in accordance with the following guidelines:~~
- ~~1. A governmental agency may place controlled-use markers only where controlled operation of watercraft is necessary to protect life, property, or habitat, and shall move or remove the markers only if the need for the protection changes.~~
 - ~~2. The restrictions imposed are clearly communicated to the public by wording on the markers, such as those defined under R12-4-501.~~
- ~~F. Any person may request establishment, change, or removal of controlled-use markers on waters under the jurisdiction of the Commission or on waters not under the jurisdiction of another governmental agency by submitting a written request providing the reasons for the request to the Arizona Game and Fish Department, 5000 W. Carefree Hwy, Phoenix, AZ 85086.~~
- ~~1. The Department shall either approve or deny the request within 60 days of receipt.~~
 - ~~2. A person may appeal the Department's denial of a request to the Commission as an appealable agency action under A.R.S. Title 41, Chapter 6, Article 10.~~

R12-4-521. Placing or Tampering with Regulatory Markers or Aids to Navigation Repealed

- ~~A. A person shall not mark the waterways or their shorelines in this state with mooring buoys, regulatory markers, aids to navigation, or other types of permitted waterway marking devices as established under R12-4-520, without authorization from the governmental agency or the private interest having jurisdiction on such waters.~~



~~B. A person shall not moor or fasten a watercraft to any marker not intended for mooring, or willfully damage, tamper with, remove, obstruct, or interfere with any aid to navigation, regulatory marker or other type of permitted waterway marking devices as established under R12-4-520, except in the performance of authorized maintenance responsibilities or as authorized under R12-4-518 or R12-4-522.~~

R12-4-522. Establishment of Controlled-Use Markers Repealed

~~A. If a lawful jurisdiction government agency or private interest has not exercised its authority to control watercraft under A.R.S. § 5-361, or if waters are directly under the jurisdiction of the Commission, the Department has the authority to control watercraft within that jurisdiction in accordance with the following requirements:~~

- ~~1. The Department shall place controlled-use markers only where controlled operation of watercraft is necessary to protect life, property, or habitat, and shall move or remove the markers only if the need for the protection changes.~~
- ~~2. The Department shall ensure restrictions imposed are clearly communicated to the public as prescribed by rule or by wording on the markers.~~

~~B. A governmental agency, excluding federal agencies with jurisdiction over federal navigable waterways, shall report to the Department when controlled-use markers have been placed or removed, unless the establishment or removal of markers is for a period of less than 30 days. The report shall be made within 30 days of establishment or removal of any controlled-use markers and shall include the:~~

- ~~1. Report type;~~
- ~~2. Purpose of markers;~~
- ~~3. Placement of markers, and~~
- ~~4. Whether the markers are expected to be permanent or temporary.~~

~~C. Any person or government agency may request establishment, change, or removal of controlled-use markers on waters under the jurisdiction of the Commission or on waters not under the jurisdiction of another agency by submitting a written request providing the reasons for the request to the Arizona Game and Fish Department, 5000 W. Carefree Hwy, Phoenix, AZ 85086. The Department shall either approve or deny the request within 60 days of receipt.~~

~~D. A person may appeal the Department's denial of a request to the Commission as an appealable agency action under A.R.S. Title 41, Chapter 6, Article 10.~~

R12-4-524. Towed Water Skiing Sports

A. An operator of a watercraft shall ensure that the an observer is on duty at all times when a person is being towed behind the watercraft or is surfing a wake created by the watercraft. The observer of a water skier is physically shall be:

1. Be twelve years of age or older;
2. Be physically capable and mentally competent to act as an observer and at least 12 years of age; and
3. Continually observe the person or persons being towed behind the watercraft or surfing a wake created by the watercraft.

B. The operator of a watercraft shall ensure a person being towed behind the watercraft or riding a wake created by the watercraft is wearing a wearable personal flotation device approved by the U.S. Coast Guard whenever the watercraft is underway. This subsection applies to any contrivance designed for or used to tow a person behind a watercraft or ride the wake created by a watercraft regardless of whether or not the contrivance is attached to the watercraft. This includes, but is not limited to, boards, discs, hydrofoils, kites, inflatables, and water skis.

C. A person shall not operate a watercraft while a person is holding onto or is physically attached to any transom structure of the watercraft, including but not limited to a swim platform, swim deck, swim step, and swim ladder. This subsection does not apply to a person who is:

1. Assisting with docking or departure activities;
2. Exiting or entering the watercraft, or
3. Engaging in law enforcement or emergency rescue activity.

R12-4-526. Unlawful Mooring

A. A person, as defined under A.R.S. § 5-301, shall not moor, anchor, fasten to the shore, or otherwise secure a watercraft in any public body of water for more than 14 days within any period of 28 consecutive days unless:

- ~~1. The person moves the watercraft at least 25 nautical miles from its previous location;~~
- ~~2.1. The waters are a special anchorage area as defined under A.R.S. § 5-301,~~
- ~~3.2. Authorized for private dock or moorage, or~~
- ~~4.3. Authorized by the government agency or private interest having jurisdiction over the waters.~~

~~B. The 14 day limit may be reached through either a number of separate moorings or 14 days of continuous overnight occupation during the 28 day period. A person shall remove an abandoned or submerged watercraft from public waters within 72 hours of notice by registered mail or personal service of notice to remove such watercraft.~~

~~C. The owner of any abandoned watercraft shall be responsible for all towing and storage fees resulting from the removal of the watercraft from public waters.~~

R12-4-527. Transfer of Ownership of a Towed Watercraft

A. For the purpose of this Section, "towed watercraft" means a watercraft that has been impounded by ~~and~~ or is in the possession of a towing company located in this state.

B. At the time a towing company requests Within 15 days of impounding a watercraft, a towing company shall submit a request to the Department for watercraft registration information as prescribed under A.R.S. § 5-324 for a towed watercraft, the and in compliance with A.R.S. § 5-399. The towing company shall present the towed watercraft to the closest Department office for identification if there is no discernible hull identification number or state-issued registration number.

C. Within 15 days of receiving the watercraft registration information from the Department, the towing company shall provide written notification by certified mail return receipt requested to the owner and lienholder, if known, of the watercraft's location.



- CD.** ~~A towing company seeking to transfer the ownership of a towed watercraft~~ If a watercraft remains unclaimed 15 days after the date of mailing the written notification to the owner and lienholder as required under subsection (C) of this Section, the towing company shall submit all of the following to the Director of the Department:
1. Evidence of compliance with notification requirements prescribed under A.R.S. § 5-399 and subsection (C);
 2. A report on a form furnished by the Department and available at any Department office. The form shall include all of the following information:
 - a. Name of towing company;
 - b. Towing company's business address;
 - c. Towing company's business telephone number;
 - d. Towing company's Arizona Department of Public Safety tow truck permit number;
 - e. Towed watercraft's hull identification number, if known;
 - f. Towed watercraft's state-issued registration number, registration decal, and year of expiration, if known;
 - g. Towed watercraft's trailer license number, if available;
 - h. State and year of trailer registration, if available;
 - i. Towed watercraft's color and manufacturer, if known;
 - j. Towed watercraft's condition, whether intact, stripped, damaged, or burned, along with a description of any damage;
 - k. Date the watercraft was towed;
 - l. Location from which the towed watercraft was removed;
 - m. Entity that ordered the removal of the towed watercraft, and if a law enforcement agency, include officer badge number, jurisdiction, and copy of report or towing invoice;
 - n. Location where the towed watercraft is stored; and
 - o. Name and signature of towing company's authorized representative; and
 3. Twenty-five dollar application fee authorized under A.R.S. § 5-399.03(2) and established under R12-4-504.
- E.** The towing company shall notify the Department within 24 hours if the watercraft is released, returned to, redeemed, or repossessed by the owner, lienholder, or by a person identified in the Department's record as having an interest in the watercraft.
- DE.** ~~If the Department is unsuccessful in its attempt to identify or contact the registered owner or lienholder of the towed watercraft and has determined the towed watercraft is not stolen, the towing company shall follow:~~
1. Follow the application procedures established under A.R.S. § 5-399.02(B), and
 2. Apply for watercraft registration as established under R12-4-502 to register the towed watercraft.
- G.** A towing company that obtains ownership of a watercraft pursuant to A.R.S. § 5-399.02 and this Section shall maintain the following records for a period of three years from the date the Department transferred ownership of the towed watercraft:
1. The request made pursuant to A.R.S. § 5-324.
 2. The notification provided pursuant to A.R.S. § 5-399.
 3. The application for transfer of ownership pursuant to A.R.S. § 5-399.02.
 4. Any other documents required by the Department.

R12-4-529. Nonresident Boating Safety Infrastructure Fees; Proof of Payment; ~~Decal~~

- A.** Before placing that watercraft on the waterways of this State, a nonresident owner of a recreational watercraft who establishes this State as the state of principal operation shall pay the applicable Nonresident Boating Safety Infrastructure Fee (NBSIF) as authorized under A.R.S. §§ 5-326 and 5-327:
1. Twelve feet and less: \$80
 2. Twelve feet one inch through sixteen feet: \$88
 3. Sixteen feet one inch through twenty feet: \$192
 4. Twenty feet one inch through twenty-six feet: \$224
 5. Twenty-six feet one inch through thirty-nine feet: \$253
 6. Thirty-nine feet one inch through sixty-four feet: \$286
 7. Sixty-four feet one inch and over: \$429
 8. For the purposes of this subsection, the length of the motorized watercraft shall be measured in the same manner prescribed under A.R.S. § 5-321(C).
- B.** The nonresident recreational watercraft owner shall carry and display proof of payment of the fee while the watercraft is underway, moored, or anchored on the waterways of this State. Acceptable proof of payment includes any one of the following:
1. A current Arizona Watercraft Certificate of Number indicating the NBSIF was paid,
 2. A current Arizona Watercraft Temporary Certificate of Number indicating the NBSIF was paid, or
 3. A current Arizona Watercraft Registration Decal indicating the NBSIF was paid, ~~or~~
 4. ~~A current Arizona Nonresident Boating Safety Infrastructure Decal.~~
- C.** ~~The Nonresident Boating Safety Infrastructure Decal shall be affixed in front of the Arizona Watercraft Registration Decal on both sides of the forward half of the watercraft.~~

R12-4-530. Authorized Third-party Providers; Agents

- A.** The Department may enter into a contract with a private entity to perform limited or specific services on behalf of the Department in accordance with State procurement laws and rules.
1. The Department may authorize a person to be a third-party provider. An authorized third-party provider shall meet the requirements established by the Department and shall be selected through a competitive bid process.
 2. The Department may authorize a third-party provider to perform any one or more of the following services:
 - a. Watercraft transfer.
 - b. Watercraft registration renewal.
 - c. Duplicate watercraft registration and decal.



- d. New watercraft registration.
- B.** A person shall not engage in any business pursuant to this Section unless the Department authorizes the person to engage in the business.
- C.** The Department shall establish minimum quality standards of service and a quality assurance program for authorized third-party providers to ensure that an authorized third-party provider is complying with the minimum standards.
- D.** The Department may:
 - 1. Conduct investigations.
 - 2. Conduct audits.
 - 3. Make on-site inspections in compliance with A.R.S. § 41-1009.
 - 4. Require an authorized third-party or employees or agents of an authorized third-party be certified to perform the services prescribed in this Article.
- E.** An authorized third-party provider shall remit to the Department all fees established under R12-4-504 and R12-4-529 it collects.
 - 1. An authorized third-party provider may collect and retain a reasonable and commensurate fee for its services.
 - 2. Each authorized third-party provider that holds itself out as providing services to the public shall identify to the applicant the Department's registration fee and the nonresident boating safety infrastructure fee, when applicable, separately from any other costs.
- F.** A third-party who is authorized pursuant to this Section shall:
 - 1. Maintain records in a form and manner prescribed by the Department.
 - 2. Allow access to the records during regular business hours to authorized representatives of the Department or any law enforcement agency to ensure compliance with all applicable statutes and rules.
- G.** The Department may suspend or cancel an authorization or certification, or both, granted pursuant to this Section if the Department determines that the third-party provider or certificate holder has done any of the following:
 - 1. Made a material misrepresentation or misstatement in the application for authorization or certification.
 - 2. Has been convicted of fraud or a watercraft related felony in any state or jurisdiction of the U.S. within the ten years immediately preceding the date a criminal records check is complete.
 - 3. Has been convicted of a felony, other than a felony described in subsection (2), in any state or jurisdiction of the U.S. within the five years immediately preceding the date a criminal records check is complete.
 - 4. Violated a rule or policy adopted by the Department.
 - 5. Failed to keep and maintain records required by this Section.
 - 6. Failed to remit to the Department all fees established under R12-4-504 and R12-4-529 it collects.
 - 7. Allowed an unauthorized person to engage in any business pursuant to this Section.
- K.** If the Department has reasonable grounds to believe that a certificate holder or other person employed by an authorized third-party provider has committed a serious violation, the Department may order a summary suspension of the third provider's authorization granted pursuant to this Section pending formal suspension or cancellation proceedings. For the purposes of this subsection, "serious violation" means:
 - 1. Watercraft registration fraud.
 - 2. Improper disclosure of personal information.
 - 3. Bribery.
 - 4. Theft.
- L.** On determining that grounds for suspension or cancellation of an authorization or certification, or both, exist, the Department shall give written notice to the third-party provider or certificate holder to appear at a hearing before the Department to show cause why the authorization or certification should not be suspended or canceled.
 - 1. After consideration of the evidence presented at the hearing, the Department shall serve notice of the finding and order to the third-party or certificate holder.
 - 2. If a third-party authorization or a certification is suspended or canceled, the third-party or certificate holder may appeal the decision pursuant to A.R.S. Title 41, Chapter 6, Article 10.