

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

PREAMBLE

1. Sections Affected

R12-4-121
R12-4-402
R12-4-409
R12-4-413
R12-4-418
R12-4-420
R12-4-421
R12-4-423
R12-4-424

Rulemaking Action

New Section
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend

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

Authorizing statute: A.R.S. § 17-231(A)(1)

Implementing statutes: A.R.S. § 17-332(D) for R12-4-121

A.R.S. §§ 17-231(B)(8) and 17-306 for R12-4-402

A.R.S. §§ 17-238 and 17-306 for R12-4-409

A.R.S. §§ 17-238, 17-306 and 17-307 for R12-4-413

A.R.S. §§ 17-231(B)(8), 17-238 and 17-306 for R12-4-418

A.R.S. §§ 17-231(B)(8), 17-238 and 17-306 for R12-4-420

A.R.S. §§ 17-102, 17-238, 17-239, and 17-306 for R12-4-421

A.R.S. §§ 17-238 and 17-306 for R12-4-423

A.R.S. §§ 17-306 and 17-317 for R12-4-424

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

Notice of Rulemaking Docket Opening: For R12-4-121, 6 A.A.R. 2678, July 14, 2000

Notice of Rulemaking Docket Opening: For all other rules, 5 A.A.R. 765, March 12, 1999 and 6 A.A.R. 1089, March 24, 2000

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

Name: Mark E. Naugle, Manager, Rules and Risk Management

Address: Arizona Game and Fish Department DORR
2221 West Greenway Road
Phoenix, Arizona 85023-4399

Telephone: (602) 789-3289

Fax: (602) 789-3677

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

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

During the 2000 legislative session, A.R.S. § 17-332 was amended through HB 2555, to allow a parent or legal guardian to transfer a big game permit or tag to the parent's or guardian's minor child, pursuant to the following requirements:

1. The transfer must be prescribed by the Arizona Game and Fish Commission.
2. The parent or guardian must accompany the child in the field and must be within 50 yards of the child when the animal is taken.
3. The minor child is between the ages of 10 years and 17 years and has a valid class F or G hunting license on the date of transfer.
4. A minor child under the age of 14 years has satisfactorily completed a Department approved hunter education course on the date of transfer.
5. Any big game taken counts toward the child's bag limit.

HB 2555 was signed by the Governor and the statutory amendment became effective July 18, 2000. This statutory amendment creates the necessity that the Commission adopt a procedure prescribing the manner in which the permit or tag is transferred from the parent or guardian to the minor child. Legally, this procedure constitutes an agency practice that sets forth requirements to be followed by the public and, therefore, must be established through a Commission Rule.

Therefore, the agency is proposing this new rule to establish the manner by which a parent or legal guardian can transfer a big game permit or tag to the parent's or guardian's minor child.

R12-4-402. Live wildlife: prohibited acts

This rule lists all activities associated with live wildlife, in conjunction with those in A.R.S. § 17-306, which are prohibited except as specifically authorized within the Commission's rules and 3 A.A.C. 6.

Although the rule is effective in meeting its objective, the five-year review of this rule identified that the language of A.R.S. § 17-306 should be incorporated into the rule for the purpose of clarity. A.R.S. § 17-306 was amended after this rule was created to cross-reference 3 A.A.C. 16, which governs new laws allowing aquaculture (and passed regulation of the aquaculture industry to the Department of Agriculture.) This creates the perception of inconsistency as the rule only references wildlife laws. It would make the law more understandable to incorporate the language of A.R.S. § 17-306 into this rule rather than just cross-referencing it. This would list all prohibitions in one central location. Therefore, the proposed rulemaking incorporates the language of A.R.S. § 17-306 into this rule for the purpose of clarity.

In addition, the proposed rulemaking addresses the recent amendment of R12-4-417 and R12-4-422 that allows the exhibit of live wildlife under certain circumstances and with proper license, by stating that a person may exhibit lawfully possessed wildlife only as authorized within the Commission's rules or 3 A.A.C. 6. This will let the reader be aware that commercialization is unlawful without a license.

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

This rule prescribes requirements and penalties common to special licenses and grants authority to the Department to issue licenses. Although the rule is generally effective in meeting its objective, the five-year review of this rule and additional agency analysis identified the need for the following amendments.

In 1996 the Arizona legislature passed S.B. 1056, which requires state agencies to adopt by rule time-frames for reviewing and issuing licenses. In response to this a new rule, R12-4-106, was adopted by the Commission and became effective June 10, 1998. Since R12-4-106 provides licensing time-frames for the special licenses in Article 4, R12-4-409 should be amended to cross-reference R12-4-106 and to explain licensing time-frame parameters to ensure awareness.

A.R.S. § 41-1092.11 is in conflict with R12-4-409(B), and therefore requires change to the rule. A.R.S. § 41-1092.11 provides that a license shall not expire until an agency takes final action on a timely and sufficient renewal application. R12-4-409(B) states that a license will remain valid after expiration, only if the application for renewal has no change from the currently existing license. Because Section 41-1092.11 does not recognize the distinction made in R12-4-409(B), the agency proposes to revise the language to clarify that if a new application is submitted on or before current license expiration, the current license remains valid pending final agency action.

In addition, the proposed rulemaking amends subsection (D) to replace the reference to R12-4-608 with a reference to the statutes governing appealable actions; moves the reference to disciplinary actions in subsection (E) to subsection (I) which identifies all disciplinary actions; and makes the rule consistent with required rulemaking language and style.

R12-4-413. Private Game Farm License

This rule prescribes criteria and operating requirements for game farm licensees. Although the rule is effective in meeting its objective, the five-year review of this rule identified that the incorporation by reference in subsection (B)(5)(c) should be updated to identify the most current version of the federal Animal Welfare Act.

The proposed rulemaking updates the incorporation by reference in subsection (B)(5)(c), deletes the reference to licensing time-frames already identified in R12-4-106 and proposed to be referenced in R12-4-409, and makes the rule consistent with required rulemaking language and style.

R12-4-418. Scientific Collecting Permit

This rule prescribes criteria and operating requirements for permits to allow the take of wildlife (live or dead) for scientific or educational purposes, outside of the normal seasons and bag and possession limits established by Commission order, while protecting wildlife resources.

Although the rule is effective in meeting its objective, the five-year review of this rule identified that the rule could be improved. The agency maintains nongame occurrence databases for locality-specific information provided in mandatory scientific collection reports. To effectively manage both nongame and game wildlife, the agency needs basic information on common and rare, native and non-native species. R12-4-418(G)(4) requires detailed collection information for wildlife species listed as “*threatened native wildlife*.” All other wildlife species taken, banded, possessed, or disposed of must be reported only by species and number per subsection (G)(5). Thus, important locality information is not required for these species, and specimens that are sampled, but not taken, do not even have to be reported. Therefore, the proposed rulemaking will amend the rule to require relevant information on all wildlife collected, observed, banded, or otherwise handled. It also provides latitude for the Department to require a lesser reporting standard for species for which detailed information is not needed.

In addition, the proposed rulemaking deletes the reference to licensing time-frames already identified in R12-4-106 and proposed to be referenced in R12-4-409; clarifies that no person shall exhibit wildlife held under a scientific collecting permit, and makes the rule consistent with required rulemaking language and style.

R12-4-420. Zoo License

This rule prescribes the criteria and operating requirements for zoo licenses, in order to allow and control the operation of commercial facilities open to the public where the principal business is holding wildlife in captivity for exhibition purposes, in such a manner as to protect resident wildlife resources and public safety. Although the rule is generally effective in meeting its objective, the five-year review of this rule and additional agency analysis identified the need for several amendments.

The proposed rulemaking clarifies the authority for a zoo to obtain and possess non-restricted indigenous live wildlife, corrects the reference to definition of “zoo” in subsection (B)(1), updates the incorporation by reference in subsection (B)(2), amends (B)(3) to parallel language in R12-4-417, deletes the reference to licensing time-frames already identified in R12-4-106 and proposed to be referenced in R12-4-409, and makes the rule consistent with required rulemaking language and style.

R12-4-421. Wildlife Service License

This rule provides for a private business service for the public for the removal of nuisance wildlife while maintaining protection of the resource. Although the rule is generally effective in meeting its objective, the five-year review of this rule and additional agency analysis identified the need for several amendments.

Clarification is needed regarding the functional relationship between actions conducted under this existing rule and rule R12-4-113, the small game depredation rule. While the rules have been interpreted to function together to justify the wildlife service licensee acting as “agent” for the holder of the small game depredation permit, this rule change would make this potential relationship explicit. This change is necessary to discern the relationship between the two rules. If the rule is not changed this relationship will exist primarily as an item of institutional knowledge in the agency rather than being codified. This obscures the relationship and leads to possible failure to recognize the opportunities provided by the rules working together. This proposed amendment will clarify that a wildlife service licensee may act as an agent for the holder of a small game depredation permit.

Another proposed change would relieve public safety agencies from the requirement of obtaining this license while engaged in their legitimate responsibilities in the community. This change is necessary to resolve the economic and logistical costs of requiring each individual in a public safety agency who might be acting in such a capacity to obtain a wildlife service license. Many such actions are conducted annually by public safety personnel on a statewide basis. This has the effect of providing local and immediate relief to the public confronted with situations where wildlife have caused a risk of public safety incident to occur. This is of great benefit to both the Arizona Game and Fish Department (Department) and to the public. Without this ability to respond, public safety would be delayed unduly. Agencies would be likely to discontinue such services if individual licensing was required due to the logistical costs of licensing. This proposed amendment will specify that public safety organizations such as fire and police departments are exempted from special licensing requirements in order to capture, transport, and release wildlife for public safety purposes

In addition, the proposed rulemaking clarifies that an agent of the licensee is not authorized to operate under same license, deletes the reference to licensing time-frames already identified in R12-4-106 and proposed to be referenced in R12-4-409, and makes the rule consistent with required rulemaking language and style.

R12-4-423. Wildlife Rehabilitation License

This rule prescribes criteria, procedures, and operating requirements intended to meet the needs of wildlife, which are the property of the people of Arizona, and the needs of rehabilitators, who perform a valuable service for wildlife for no commercial benefit. Although the rule is generally effective in meeting its objective, the five-year review of this rule and additional agency analysis identified that the need for several amendments.

The proposed rulemaking updates the incorporation by reference in subsection (A)(4), deletes the reference to licensing time-frames already identified in R12-4-106 and proposed to be referenced in R12-4-409, clarifies in subsections (B) and renumbered (F) that no person shall educationally display or exhibit wildlife held under a wildlife rehabilitation license, clarifies that a wildlife holding permit is required to permanently possess wildlife that cannot be restored to the wild, clarifies in subsection (F) that an applicant must pass an exam associated with the additional taxa, clarifies that a licensee not may display live wildlife in soliciting and accepting donations, and makes the rule consistent with required rulemaking language and style.

R12-4-424. White Amur Stocking License

This rule permits possession of triploid white amur (grass carp) and their stocking in closed aquatic systems as allowed under A.R.S. § 17-317.

Although the rule is generally effective in meeting its objective, the five-year review of this rule identified that administration could be improved by a change to subsection (B), which requires a license for each closed aquatic system. The rule currently permits the stocking of triploid white amur in closed aquatic systems or separately managed reaches of that system by a single applicant on a single application. Applicants that operate or manage separate systems currently must submit separate applications and pay separate fees for each closed system. This creates redundant work on the part of applicants with multiple systems and increases the cost of compliance.

The agency has determined that the regulatory burden on licensees can be reduced without negatively impacting the effectiveness or enforcement of the rule. A single license could be issued for more than one closed aquatic system when operated by the same owner. This would reduce paperwork, cost to the licensee, and agency visits to the field. The proposed rulemaking will revise subsection (B) to allow issuance of license for more than one closed aquatic system when operated by same owner.

In addition, the proposed rulemaking clarifies that the Department's determination regarding the applicant's submission of a written proposal addressing the biological ramifications of stocking in watersheds containing "threatened native wildlife" shall be made during the substantive review time-frame, deletes or modifies references to licensing time-frames already identified in R12-4-106 and proposed to be referenced in R12-4-409, and makes the rule consistent with required rulemaking language and style.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None

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

Not applicable

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

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

The proposed rulemaking will result in no added cost to the agency, the 125,000 persons who annually hold big game permits or tags, or any other persons. The proposed rulemaking will benefit parents or legal guardians of minor children who wish to transfer their unused big game permit or tag to a qualified minor. There will be no charge for or fees associated with the permit or tag transfer.

R12-4-402. Live wildlife: prohibited acts

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

R12-4-413. Private Game Farm License

R12-4-420. Zoo License

R12-4-423. Wildlife Rehabilitation License

The proposed rulemaking will result in no added cost to the agency, persons holding special licenses, or any other persons. The proposed rulemaking will benefit the agency, persons holding special licenses, and the public by improving the accuracy, clarity and understanding of the rules.

R12-4-418. Scientific Collecting Permit

The proposed rulemaking will result in no added cost to the agency, persons holding scientific collecting permits, or any other persons. The proposed rulemaking will benefit the agency, permittees, and the public by providing the agency with basic information on common and rare, native and non-native species that is needed to effectively manage both nongame and game wildlife. The proposed rulemaking will also benefit the agency, permittees, and the general public by improving the accuracy, clarity and understanding of the rule.

R12-4-421. Wildlife Service License

The proposed rulemaking will not result in any additional costs to any persons, government agencies, or businesses in Arizona. The proposed rulemaking increases opportunity for licensees to conduct their business and frees public safety agencies to look after solutions to legitimate public safety issues. The proposed rulemaking will also benefit the agency, permittees, and the general public by improving the accuracy, clarity and understanding of the rule.

R12-4-424. White Amur Stocking License

The proposed rulemaking will result in no added cost to the agency, persons applying for or holding this special license, or any other persons. The proposed rulemaking will benefit the agency, license applicants, licensees, and the public by reducing regulatory burden on applicants and licensees and improving customer service and satisfaction. The proposed rulemaking will also benefit the agency, permittees, and the general public by improving the accuracy, clarity and understanding of the rule.

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

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

Leonard L. Ordway, Law Enforcement Branch Chief
Arizona Game & Fish Department FOLE
2221 West Greenway Road
Phoenix, Arizona 85023-4399
(602) 789-3307

R12-4-402. Live wildlife: prohibited acts:

Leonard L. Ordway, Law Enforcement Branch Chief
Arizona Game & Fish Department FOLE
2221 West Greenway Road
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(602) 789-3307

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

Terry B. Johnson
Nongame Branch Chief
Arizona Game and Fish Department
2221 West Greenway Road
Phoenix Arizona 85023-4399
(602) 789-3507

R12-4-413. Private Game Farm License:

Tice Supplee
Game Branch Chief
Arizona Game & Fish Department, WMGB
2221 West Greenway Road
Phoenix, Arizona 85023-4399
(602) 789-3350

R12-4-418. Scientific Collecting Permit:

Terry B. Johnson
Nongame Branch Chief
Arizona Game and Fish Department
2221 West Greenway Road
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(602) 789-3507

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R12-4-420. Zoo License:

Heidi Vasiloff
Field Operations Regional Coordinator
Arizona Game and Fish Department
2221 West Greenway Road
Phoenix Arizona 85023-4399
(602) 789-3292

R12-4-421. Wildlife Service License:

Tom Hildbrandt
Wildlife Program Manager, Region VI
Arizona Game and Fish Department
7200 East University
Mesa, Arizona 85207-6502
(602) 981-9400, Ext. 221
Mail Drop: FO6

R12-4-423. Wildlife Rehabilitation License:

Tim Baumgarten
Law Enforcement Program Manager, Region III
5325 North Stockton Hill Rd.
Kingman, Arizona 86401
(520) 692-7700

R12-4-424. White Amur Stocking License:

Larry Riley
Fisheries Branch Chief
Arizona Game and Fish Department
2221 West Greenway Road
Phoenix Arizona 85023-4399
(602) 789-3258

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

Notice of this proposed rulemaking and the Commission's consideration of the proposed rulemaking on September 9, 2000 at 10:30 a.m. in Flagstaff, AZ was provided on August 18, 2000, by U.S. mail, to the 1337 persons holding special licenses issued under Title 12, Natural Resources, Chapter 4, Game And Fish Commission, Article 4, Live Wildlife and to the 71 persons on the Arizona Game and Fish Department, Rules and Risk Management Section's Rules Mailing List. Notice of this proposed rulemaking was also provided via the Arizona Game and Fish Commission September 2000 Meeting Agenda Notice mailed to the 430 persons on the Arizona Game and Fish Department, Director's Office Commission Agenda Mailing List.

Written comments will be accepted until Monday, November 13, 2000 at 5:00 p.m. and should be submitted to:

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

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

Date: Friday, January 19, 2001

Time: 10:00 a.m.

Location: Arizona Game & Fish Department, Wildlife Building
Arizona State Fairgrounds
McDowell and 17th Avenue
Phoenix, Arizona

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

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

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

Not applicable

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

R12-4-413. Private Game Farm License

The United States Department of Agriculture 9 CFR Subchapter A., Animal Welfare, 01-01-1999 edition, revised 10-18-1999, not including any later amendments or editions, is incorporated by reference in R12-4-413 and is available for inspection at any Department office. In addition, a copy may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

R12-4-420. Zoo License

The United States Department of Agriculture 9 CFR Subchapter A., Animal Welfare, 01-01-1999 edition, revised 10-18-1999, not including any later amendments or editions, is incorporated by reference in R12-4-420 and is available for inspection at any Department office. In addition, a copy may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

R12-4-423. Wildlife Rehabilitation License

The list of migratory birds in 50 CFR 10.13, revised October 1, 1999, not including any later amendments, is incorporated by reference in R12-4-423 and is available for inspection at any Department office. In addition, a copy may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

13. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

Section

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

ARTICLE 4. LIVE WILDLIFE

Sections

R12-4-402. Live ~~Wildlife: Prohibited Acts~~ ~~wildlife: prohibited acts~~

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

R12-4-413. Private Game Farm License

R12-4-418. Scientific Collecting Permit

R12-4-420. Zoo License

R12-4-421. Wildlife Service License

R12-4-423. Wildlife Rehabilitation License

R12-4-424. White Amur Stocking License

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

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

A. A parent or guardian to whom a big game permit or tag was issued may transfer the unused permit or tag to the parent's or guardian's minor child, if:

1. The minor child is between the ages of 10 years and 17 years on the date of transfer.

2. The minor child has a valid class F or G hunting license on the date of transfer, and

3. A minor child under the age of 14 years has satisfactorily completed a Department approved hunter education course by the date of transfer.

B. A parent or guardian may obtain a transfer, in person, at any Department office. To obtain a transfer, a parent or guardian shall provide the following:

1. Proof of ownership of the big game permit or tag to be transferred.

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2. The minor's class F or G general or lifetime hunting license, and if under the age of 14 proof of satisfactory completion of a Department approved hunter education course, and
 3. The unused big game permit or tag.
- C. The Department shall issue a transfer permit or tag in the name of the minor child.

ARTICLE 4. LIVE WILDLIFE

R12-4-402. Live Wildlife: Prohibited Acts ~~wildlife: prohibited acts~~

No person shall import or transport any live wildlife into the state, or possess, offer for sale, sell, sell as live bait, trade, give away, purchase, rent or lease, display for any purpose, propagate, stock, or release within the state any live wildlife, or export any live wildlife, or kill any captive wildlife, or operate a shooting preserve, except as authorized by this Chapter or as defined in A.R.S. Title 3, Chapter 16. A person may exhibit lawfully possessed wildlife only as authorized by this Chapter or as defined in A.R.S. Title 3, Chapter 16.

~~In addition to those prohibitions in A.R.S. § 17-306, no person shall give away, rent or lease, purchase, exhibit or display for any purpose, offer for sale, sell as live bait, propagate, stock, or export any live wildlife or kill any captive wildlife, or operate a shooting preserve, except as authorized by this Chapter.~~

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

- A. The Department shall issue special licenses as defined in R12-4-401, when application is made and criteria are met as prescribed in the rule governing the specific special license. The Department shall either grant or deny the special license within the administrative completeness review time-frame and the overall time-frame listed for the special license in R12-4-106 and in a manner consistent with A.R.S. § 41-1072 et. seq. During the administrative completeness review time-frame, the Department may return to the applicant, without denial, any incomplete application that is lacking information as required by the rule governing the specific special license. Each returned application shall be accompanied by written notice stating what information the applicant has failed to provide. The administrative completeness review time-frame and the overall time-frame listed for the special license in R12-4-106 are suspended from the date the notice is issued until the date that the Department receives the missing information from the applicant. During the substantive review time-frame, the Department may make one comprehensive written request for additional information. The Department and the applicant may mutually agree in writing to allow the agency to submit supplemental requests for additional information. The substantive review time-frame and the overall time-frame listed for the special license in R12-4-106 are suspended from the date the request is issued until the date that the Department receives the additional information from the applicant. No special license for any wildlife shall be valid for any wildlife protected by federal law or regulation unless supported by federally issued documentation rendering the licensed activity lawful.
- B. All special licenses expire on December 31 for the year issued unless otherwise specified in the governing rule. If application for a new special license is not made by the expiration date, live wildlife possessed ~~under pursuant to~~ the expired license shall be considered unlawfully possessed and is subject to seizure by the Department. If application for a new special license ~~with no change from a currently existing special license~~ is made on or ~~before prior~~ to the expiration date the existing license shall remain valid while application is pending with the Department and until the Department has made a final determination to issue or deny the special license.
- C. ~~Knowingly providing false information upon application for any special license shall be grounds for denying the special license, and any~~ The Department shall deny a special license if the applicant knowingly provides false information upon application. Any special license so obtained is void and of no effect from the date of issuance thereof.
- D. The Department shall provide written notice stating the reason for denial to an applicant whose application is denied. The applicant may appeal the denial to the Commission as prescribed in A.R.S. § 41-1092.02 through 41-1092.12. Denials shall be issued in writing and shall state the reason for denial. Any person whose application has been denied may appeal to the Commission as provided in R12-4-608
- E. Special license holders shall keep records and submit reports as required by the rule governing their special license. Such records shall be exhibited to any Department game ranger upon reasonable request. ~~Failure to keep records or submit reports as required shall be grounds for rejecting an application or for revocation of a special license.~~
- F. Facilities of special license holders are subject to reasonable inspection by a game ranger for compliance with any requirements imposed by this Article. A routine inspection shall not be considered reasonable when the game ranger has inspected another facility holding wildlife of the same class within the previous seventy-two hours when the game ranger had contact with the wildlife or there was reason to believe disease may have been present.
- G. When a disease as determined by a person with relevant expertise or other condition constituting an emergency exists that poses an immediate threat to the welfare of wildlife, including the wildlife held ~~under pursuant to~~ special license, or to the public, the Department may immediately order a cessation of operation under special license and, if necessary, humane disposition or quarantine of any contaminated or threatening wildlife. Disease testing ~~shall must~~ be performed as directed by the Department or wildlife quarantined ~~shall must~~ be destroyed. Any disease giving rise to an emergency condition ~~under pursuant to~~ this subsection shall be diagnosed by a person or persons professionally certified to make such diagnosis. Once operation has ceased and an emergency no longer exists, subsection (H) shall apply.

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- H.** When a condition exists, including disease or any violation of this Article, including any violation of Section R12-4-428, which poses a threat to the welfare of wildlife, including the wildlife held, or to the public, but which threat does not constitute an emergency, the Department shall provide the licensee a written notice of the condition, by certified mail or personal service, which notice shall specify a reasonable period of time for the licensee to cure the noticed condition. Failure of the licensee to cure the noticed condition within the time specified by the Department shall constitute a violation under pursuant to subsection (I) of this rule. When a licensee receives three notices under pursuant to this subsection for the same condition within a two-year period, the third notice shall be treated as a failure to cure.
- I.** ~~Violation of any provision of this rule, or of A.R.S. § 13-2908, criminal nuisance; or conviction of any criminal offense involving cruelty to animals, including A.R.S. § 13-2910; or of the rule governing a specific special license; or refusal to permit reasonable inspection of facilities, wildlife, or required records may result in any or all of the following actions by the Department:~~
- ~~1. Filing of criminal charges.~~
 - ~~2. Suspension of authority to hold wildlife pursuant to special license for the remainder of validity of the license.~~
 - ~~3. Seizure of any wildlife held pursuant to the special license, and its humane disposition except that such wildlife shall not be killed pending appeal by the licensee.~~
 - ~~4. Denial of subsequent application for a special license for a period not to exceed five years.~~
- I.** The Department may take any of the following actions against a person for violation of any provision of this rule, the rule governing a specific special license, or A.R.S. § 13-2908; for criminal nuisance or conviction of any criminal offense involving cruelty to animals, including A.R.S. § 13-2910; for refusal to permit reasonable inspection of facilities, wildlife, or required records; or for failure to keep required records or submit required reports to the Department:
1. Filing of criminal charges.
 2. Suspension of authority to hold wildlife under special license for the remainder of validity of the license.
 3. Seizure of any wildlife held under the special license, and its humane disposition except that such wildlife shall not be killed pending appeal by the licensee.
 4. Denial of subsequent application for a special license for a period not to exceed five years.
- A person may appeal Department actions identified in paragraphs (2), (3), and (4) to the Commission as prescribed in A.R.S. § 41-1092.02 through 41-1092.12.
- J.** This rule is effective July 1, 2001 ~~January 1, 1995~~.

R12-4-413. Private Game Farm License

- A.** A private game farm license allows any or all of the following: offer for sale, sale, trade, rent or lease, giving away, purchase, display for sale, import, possession, propagation, rearing, transport and export of the live wildlife specified on the license. The wildlife may be killed but shall not be hunted.
- B.** The following criteria are requisite to approval of a private game farm license:
1. A possible escape of the proposed species would not create a threat to indigenous wildlife.
 2. The application required by subsection (C) shall be accompanied by a detailed diagram of the facilities where wildlife is to be held, and a detailed description of the procedures to be employed by the applicant in meeting the requirements of R12-4-428.
 3. The Department may issue a license for only the following pen-reared game birds:
 - a. *Alectoris chukar*, chukar.
 - b. *Callipepla californica*, California or valley quail.
 - c. *Callipepla gambelii*, Gambel's quail.
 - d. *Callipepla squamata*, scaled quail.
 - e. *Colinus virginianus*, northern bobwhite. License is required only Units 34A, 36A, 36B, and 36C, as prescribed in R12-4-108.
 - f. *Cyrtonyx montezumae*, Montezuma or Mearn's quail.
 - g. *Dendragapus obscurus*, blue grouse.
 - h. *Phasianus colchicus*, ringneck and whitewing pheasant.
 4. The Department may issue a license for foxes or mink when a prior inspection of the holding facilities or the plans for those facilities by the Department proves escape is unlikely.
 5. The Department may issue a license for other mammals listed as restricted live wildlife only when:
 - a. The same species does not exist in the wild in Arizona.
 - b. The wildlife shall be disposed of only to game farms licensed this rule, zoos licensed under pursuant to R12-4-420, to medical or scientific research facilities exempted under pursuant to R12-4-407, or by export from Arizona.

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- c. The application required in subsection (C) of this rule is accompanied by proof of current licensing by the United States Department of Agriculture ~~under pursuant to~~ 9 CFR Subchapter A., Animal Welfare, ~~01-01-1999 01-01-1992~~ edition, revised 10-18-1999, not including any later amendments or editions, which is incorporated by reference ~~in this Section herein~~. A copy is on file with the Secretary of State and is available for inspection at any Department office, or it may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.
 - d. The application required in subsection (C) of this rule is also accompanied by a typed proposal explaining the species to be possessed, the purpose of possession and the purpose of propagation if applicable, and the planned disposition of wildlife including progeny, and how the licensee shall prevent escape, threat to native wildlife and threat to public safety.
6. The Department may issue a license for any other restricted live wildlife not addressed in subsection (B)(3), (4), or (5), only when the wildlife was held ~~under pursuant to~~ a private game farm license issued ~~before prior to~~ April 28, 1989.
 7. Application shall be for a single location.
- C.** Application shall be made on a form available from any Department office. ~~The Department shall issue the license or deny application within 30 calendar days of receiving the application.~~ Application requires the following to be provided by the applicant:
1. Name, address, and telephone number of the applicant.
 2. Location of game farm, including street address or legal description.
 3. Species and number of live wildlife to be obtained or, if application is for renewal, which are currently in captivity.
 4. Signature of applicant.
- D.** Each shipment of live wildlife imported into the state shall be accompanied by a certificate of health issued by a licensed veterinarian.
- E.** Licensee shall keep records for three years which shall include the number, species, source and date of wildlife obtained or raised and the number, species and date of disposition and manner of disposition of all wildlife, including the names of persons to whom sold, bartered or given.
- F.** A receipt shall be provided to ~~a each~~ person transporting dead wildlife from the site of the game farm. The receipt shall include the date of purchase and the name of the game farm, and the number, by species, of wildlife to be transported.
- G.** Shipments of wildlife made by the game farm shall be accompanied by documentation showing the name of the game farm, date shipped, the number of species and the number of individuals per species of wildlife in the shipment, and the name of the person or common carrier transporting the shipment and the name of the person who will receive the shipment.
- H.** Game farm licenses are subject to ~~the provisions of~~ R12-4-409 and R12-4-428.
- I.** This rule is effective July 1, 2001 ~~January 1, 1995~~.

R12-4-418. Scientific Collecting Permit

- A.** The scientific collecting permit allows the following, subject to Department evaluation of and stipulations ~~made pursuant to~~ the application submitted in compliance with subsection (C):
1. Wildlife specified on the permit may be taken in the localities and time periods specified on the permit, and may be taken by any method prescribed in R12-4-304 or R12-4-313, and, when specifically authorized on by the permit, may also be taken by the use of stupefying or deleterious substances, electroshock, pitfalls, leghold traps, snares, or nets, and at night by firearms, providing the least onerous practical method is employed. The Department may rescind or modify any method of take authorized on the in a permit ~~when it is deemed necessary to do so~~ to protect the interests of wildlife or public safety. The permit may restrict the number of animals per species or other taxa which may be taken, as well as the age or condition of the wildlife which may be taken.
 2. Live wildlife specified on the permit may be possessed, transported, propagated, or educationally displayed. ~~The possession, transportation, propagation and educational display of live wildlife until December 31 of the year of collection. No person shall exhibit wildlife held under a scientific collecting permit.~~
 3. Live wildlife specified on the permit shall ~~Specified live wildlife may~~ be disposed of as authorized by the Department, ~~or~~ released when not removed from the area where captured, or released in a location previously approved by the Department.
- B.** ~~The following criteria are requisite to approval:~~
1. ~~The applicant's privilege to take or possess wildlife is not under current suspension or revocation by the government of any state or the United States.~~

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2. Issuance of a scientific collecting permit shall be for a purpose which is in the best interest of the wildlife species to be held, wildlife management, education, the advancement of science, or promotion of the public health or welfare, when such purpose may be served without posing a threat to wildlife or public safety, and without unnecessarily duplicating previously documented projects. Determination of purpose shall be based upon a written proposal which shall be submitted with the application form required at subsection (C). The Department may require submission of interim reports in addition to those required by subsection (G), and may make the requirement a criterion for issuance.
- B.** The Department shall issue a scientific collecting permit only when:
1. The applicant's privilege to take or possess wildlife is not under current suspension or revocation by the government of any state or the United States.
 2. The permit is for the purpose of wildlife management; gathering information valuable to maintenance of wild populations; education; the advancement of science; or promotion of the public health or welfare.
 3. The permit is for a purpose that is in the best interest of the wildlife or the species, will not adversely impact other affected wildlife in Arizona, and may be served without posing a threat to wildlife or public safety.
 4. The permit is for a purpose that does not unnecessarily duplicate previously documented projects.
 5. The Department has verified the purpose based on a written project proposal submitted as part of the application form required in subsection (C). The Department may require submission of interim reports in addition to those required by subsection (G), and may make the requirement a criterion for permit issuance.
- C.** The applicant Applicants shall provide the following information on an application a form supplied by the Department. The application form shall include be accompanied by a detailed project proposal, description, not to exceed 3 three pages, telling of the purpose, methods, completion schedule, and publication intent of the project ; proposed, including a statement of stating the qualifications of the applicant relative to the proposal, and by a detailed description of describing in detail the procedures to be employed by the applicant will use to meet in meeting the requirements of R12-4-428. The applicant shall submit the application Application shall be submitted to the Department's Phoenix office. The Department shall issue the permit or deny the application within 30 calendar days of receiving the application:
1. Name, home address, home phone number, and physical description of applicant.
 2. If applicable, the name, address and telephone number of the scientific or educational institution affiliation or governmental employer.
 3. A complete list by species, or higher taxa, if appropriate, of all wildlife for which collecting authorization is sought and the number of individuals per taxon.
 4. The locality or localities for which collecting activities are proposed.
 5. Whether applicant proposes to:
 - a. Salvage specimens found dead;
 - b. Collect specimens alive and keep them;
 - c. Collect specimens by killing;
 - d. Collect specimens alive and release at the site where taken without transporting from that site after photographing or banding or marking them with rings, bands, collars, brands or other markings.
 6. The method or methods of take to be used, including justification for selection of the methods proposed.
 7. Planned disposition of wildlife collected and progeny of wildlife collected.
- D.** A scientific Scientific collecting permit permits shall be issued to an individual, individuals, but the applicant applicants may request in writing that one or more named individuals be authorized to act as an agent agents on the applicant's their behalf, provided:
1. There is an employment or supervisory relationship between the permittee and the agent all agents, and the no agent's privilege to take or possess wildlife is shall be not under current suspension or revocations by the government of any state or the United States.
 2. If the permit limits the number of animals which may be collected, the limit shall apply to the aggregate of all collectors.
 3. The permittee Permittees may at any time during the license period make written request to amend the their permit to add or delete agents meeting the criteria above. The Department shall approve or deny the request within 30 calendar days of receipt.
 4. The Department shall be notified in writing within 10 ten calendar days of termination of any agent.
- E.** Before Prior to collecting any wildlife at night with firearms, the permittee shall notify the regional Department office nearest the locality of the planned collection and advise that office of the dates, times, places and methods of collection.
- F.** A copy of the permit shall accompany any shipment of wildlife made under authority of the permit.
- G.** A Each permittee shall file a written report on a form available from the Department, within 30 days after expiration of the permit. A report is required even if no collecting was done. The following information shall be provided by the permittee shall provide the following information and shall include information from agents acting for on behalf of the permittee:
1. Name and address of permittee and any agency affiliation relevant to the permit;
 2. Name and address of all agents;

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3. Scientific collecting permit number and date of issuance;
 4. ~~A list by specimen of all species collected live or dead of any species listed as "Threatened Native Wildlife" as defined in R12-4-401; big game animals as defined in A.R.S. § 17-101; yellow mud turtle, *Kinosternon flavescens*; flat-tailed horned lizard, *Phrynosoma mcallii*; Gila monster, *Heloderma suspectum*; rock rattlesnake, *Crotalus lepidus*; twispotted rattlesnake, *Crotalus pricei*; ridgenosed rattlesnake, *Crotalus willardi*; and desert tortoise, *Xerobates (Gopherus) agassizii*; providing also detailed localities including legal descriptions, dates of take and places of disposition for all such specimens;~~
 - ~~4.5. A list by specimen of all species collected live or dead of any species the Department may stipulate on the permit, the list shall also give detailed localities of collection, observation, banding, or other handling, dates of take, places of disposition, and other relevant information the Department may stipulate on the permit. A list by species and number of individuals for all wildlife taken, banded, possessed, or disposed of that are not listed above.~~
 5. A list by individual for all species live or dead, collected, banded, possessed, or disposed of that are not listed per subsection (G)(4).
- H. ~~A scientific collecting permit is~~ Scientific collecting permits are subject to the provisions of R12-4-409 and R12-4-428.
- I. ~~A scientific collecting permit expires~~ Scientific collecting permits expire on December 31 of the year of issuance, or, if the permittee is a representative of an institution, organization or agency, upon termination of affiliation with that entity, whichever comes first.
- J. This rule is effective ~~July 1, 2001~~ January 1, 1995.

R12-4-420. Zoo License

- A. A zoo license allows any or all of the following: exhibit, educational display, import, purchase, export, possession, propagation, euthanization, transport, give away, offer for sale, and sale or trade of restricted live wildlife and other Arizona wildlife legally possessed, subject to the following restrictions:
1. All wildlife possessed by the zoo shall be held in the facilities specified on the license except when being transported to or from temporary exhibits. Temporary exhibits shall not exceed 20 consecutive days at any one location.
 2. Disposition of restricted live wildlife within Arizona shall only be to another zoo licensed ~~under pursuant to~~ this rule, a game farm licensed ~~under pursuant to~~ R12-4-413, a medical or scientific research facility exempted ~~under pursuant to~~ R12-4-407, or as directed by the Department.
 3. No zoo shall accept any wildlife donations nor purchase or otherwise obtain wildlife without accompanying evidence of lawful possession.
 4. All wildlife obtained ~~under pursuant to~~ a scientific collecting permit, or wildlife which has been loaned to the zoo directly from the Department, may be disposed of only as directed by the Department.
- B. The following criteria are requisite to approval of a zoo license:
1. The operation shall meet the definition of "zoo" at ~~A.R.S. § 17-101(A)(23)~~ A.R.S. § 17-101(A)(22).
 2. Application shall be accompanied by proof of current licensing by the United States Department of Agriculture ~~under pursuant to~~ 9 CFR Subchapter A, Animal Welfare, 01-01-99 ~~01-01-92~~ edition, revised 10-18-1999, not including any later amendments or editions, which is incorporated by reference in this Section, herein. A copy is on file with the Secretary of State and is available for inspection at any Department office, or it may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.
 3. The issuance of a license shall be for a purpose in the best interest of the wildlife or species to be held, ~~and~~ shall not adversely impact upon any other wildlife in Arizona, and shall not pose a threat to wildlife or public safety.
- C. Application shall be made on a form provided by and available from any Department office. ~~The Department shall issue the license or deny the application within 30 calendar days of receiving the application. The following shall be provided by the applicant on the form:~~ The applicant shall provide the following on the form:
1. Name and location of zoo;
 2. Mailing address and telephone number for zoo;
 3. Signature of owner or person responsible for the zoo.
 4. An application ~~Applications~~ which ~~is~~ are not for renewal of a previously granted license shall include ~~be accompanied by~~ a list of restricted live wildlife and other legally possessed Arizona wildlife to be held and number of each. The list shall include scientific and common names for restricted live wildlife as specified in R12-4-406.
- D. ~~The licensee~~ Licensee shall maintain a record of each animal obtained ~~under pursuant to~~ subsection (A), paragraph (4) for 3 ~~three~~ years following the date of disposition. The record shall include the species, date received, any Department approval authorizing acquisition, and the date and method of disposition.
- E. Zoo licenses are subject to ~~the provisions of~~ R12-4-409.
- F. This rule is effective ~~July 1, 2000~~ January 1, 1995.

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R12-4-421. Wildlife Service License

- A.** A wildlife service license allows the live capture, transport and relocation to the wild of furbearing, predatory or nongame wildlife that is causing a nuisance, causing property damage, or posing a threat to the health or life of any human being, or where the life, health or well-being of ~~the any such~~ wildlife is threatened by the condition of its immediate environment. A wildlife service license also allows the live capture, transport and relocation to the wild of small game wildlife when the licensee is operating under a valid small game depredation permit issued under R12-4-113 to the wildlife service licensee or another for whom the licensee is acting as agent. The Department shall issue a wildlife service license to a qualified individual ~~Wildlife service permits shall be issued to individuals and shall be subject to Department evaluation of and stipulations made pursuant to the application submitted in compliance with subsection (C). Only a named, licensed individual may conduct activities the license authorizes. A wildlife service license~~ Wildlife service permits shall not be valid for any wildlife protected by federal law or regulation unless supported by federally-issued documentation rendering the activity lawful. Those employed by and conducting activities under the auspices of any public safety government agency or incorporated business authorized to provide public safety measures are exempt from the licensing requirements of this rule.
- B.** The following criteria are requisite to approval:
1. The applicant's privilege to take or possess wildlife is not under current suspension or revocation by the government of any state or the United States.
 2. The licensee shall provide documentation to prove a minimum of six months of full-time employment or voluntary service experience in handling wildlife of the species or groups of species for which the wildlife service permit would be valid.
- C.** Application shall be made on a form available from any Department office. ~~The Department shall issue the permit or deny the completed application within 60 calendar days of receiving it.~~ The following information shall be supplied at the time of application:
1. Name, mailing address, and day and night telephone numbers to be provided to the public seeking service, and the hours and days of the week when the applicant will be available for service;
 2. A list of furbearing, predatory, small game, or nongame wildlife, by species or groups of species, for which authorization is requested;
 3. The general geographic area for which services are to be performed;
 4. Signature of applicant and date of submittal of application;
 5. The applicant shall submit a written narrative statement with the application, containing a statement of the applicant's experience in the capture, handling and removal of wildlife, specifying all species of wildlife for which the applicant has performed the such a function, referencing the general location and dates that the such services were performed along with the methods of disposition for wildlife captured.
- D.** ~~The Department may return to the applicant, without denial, any application that is lacking information required above, including information that is necessary to establishing that the applicant has met the criteria requisite to approval. Each returned application shall be accompanied by a letter stating what information the applicant has failed to provide. When the missing information can be provided verbally, the Department may handle the corrections by telephone, noting where such changes have been made, and the 60-day approval or denial period shall be restarted on receipt of the completed application.~~
- DE.** A copy of the approved license shall be in the possession of the licensee at all times when the licensed function is being performed.
- EF.** Capture, removal, transport and relocation to the wild of any wildlife taken under ~~pursuant to~~ this rule shall be accomplished in the manner which is least likely to cause injury to the affected wildlife and is least likely to result in negative human interaction. The licensee's possession of the wildlife shall not extend beyond the period of time necessary to transport and relocate the wildlife to the wild, except as allowed by R12-4-427. No wildlife shall be ~~publicly displayed or exhibited~~ during any period of possession under ~~pursuant to~~ this rule.
- FG.** A wildlife service licensee shall advise the Department within 5 five working days of any change in telephone numbers, area of service, or change in business hours or days as previously submitted to the Department.
- GH.** ~~A licensee~~ Licensees may at any time during the license period make a written request to amend the their license to add or delete authority to transport and release designated species of wildlife, provided that any addition requested meets the requirements of subsection (A) of this rule. The Department shall approve or deny the request within 60 calendar days of receipt. ~~by the procedures prescribed in subsections (C) and (D) of this rule.~~
- HI.** An application ~~Applications~~ for renewal of wildlife service licenses without change of or authority may reference supportive materials submitted previously, and replicate copies of the such materials need not be submitted with the application for renewal.
- IJ.** The licensee ~~Licensees~~ shall submit a written report to the Department before January 21 ~~on or before the 20th day of January~~ following each license year. The report shall contain the following information:
1. The licensee's name, address, telephone number and permit number.

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2. A list of all services performed ~~under pursuant to~~ the permit during the preceding calendar year, including for each service the date, location of service, the number and species of wildlife removed, and the final disposition of each animal removed including location of release.

~~JK.~~ The wildlife service license is subject to the provisions of R12-4-409 and R12-4-428.

~~KL.~~ This rule is effective July 1, 2001, ~~January 1, 1993~~.

R12-4-423. Wildlife Rehabilitation License

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

1. "Agent" means a person designated on the license who assists a licensee in performing rehabilitative functions, including transport or release of wildlife, provided there is an employment or direct supervisory relationship between the licensee and the agent.
2. "Assistant" means a person not designated as an agent who assists the licensee under direct supervision at the premises described on the license.
3. "License" means the license form issued by the Department, and the application form submitted by the applicant and approved by the Department, including any stipulations made upon approval.
4. "Migratory birds" means all species listed at 50 CFR 10.13, revised October 1 ~~1999, 1988~~, not including any later amendments, which is incorporated by reference in this Section, ~~herein~~. A copy of the incorporated matter is on file with the Secretary of State and available for inspection at any Department office, or it may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.
5. "Taxa" means groups of animals within specific classes of wildlife occurring in Arizona and having characteristics in common with each other that establish relatively similar requirements in habitat, food and other ecological or behavioral factors pertinent to establishing standards of housing, care and/or rehabilitation as follows:
 - a. Amphibians: all amphibians.
 - b. Reptiles: all reptiles.
 - c. Birds:
 - i. non-passerines, birds in any Order other than those named below;
 - ii. raptors, birds in the Orders Falconiformes or Strigiformes;
 - iii. quail, birds in the Order Galliformes;
 - iv. doves, birds in the Order Columbiformes;
 - v. hummingbirds, birds in the Order Trochiliformes;
 - vi. passerines, birds in the Order Passeriformes.
 - d. Mammals:
 - i. nongame mammals;
 - ii. bats, all bats;
 - iii. big game mammals: bighorn sheep, bison, black bear, deer, elk, javelina, mountain lion and pronghorn;
 - iv. carnivores: bobcat, coati, coyote, foxes, ringtail, skunks and weasel.
 - e. All other systems of classification or nomenclature notwithstanding, endangered or threatened species and threatened native wildlife as defined at R12-4-401 and golden eagles, Gila monsters, twin-spotted rattlesnakes and banded rock rattlesnakes are not included in the taxa defined above and shall not be possessed ~~under pursuant to~~ license unless specifically authorized on that license.

B. A wildlife rehabilitation license allows the live capture; transport; possession; rehabilitation; transfer to a practicing veterinarian for treatment or euthanasia or to another rehabilitator licensed for the wildlife; and release and euthanasia of the injured, diseased, disabled, orphaned or otherwise debilitated live wildlife specified on the license. It may also allow the wildlife to be exported, transferred to a licensed zoo or disposed of as directed by the Department. No person shall educationally display or exhibit wildlife held under a wildlife rehabilitation license. The authorized activities shall be subject to Department evaluation of, and stipulations ~~made pursuant to~~, applications submitted in compliance with subsections ~~(D) or (E) (E) or (F)~~. Applications may be denied or the license may be limited based upon the training and experience of the applicant. Wildlife rehabilitation licenses shall be:

1. Issued only for the purpose of restoring wildlife to the wild through rehabilitative activities; all wildlife held ~~under pursuant to~~ the license remains the property of the State of Arizona and shall be returned to the Department on request.
2. Issued to provide a public service, with the names and telephone numbers of all licensees being subject to public disclosure by the Department, and no fee or other compensation shall be charged by the licensee for the wildlife rehabilitation functions performed.
3. Issued to individuals, who shall be solely responsible for all expenses incurred and all actions undertaken ~~under pursuant to~~ the license, including all actions and omissions of all agents and assistants.
4. Valid only for the premises described on the license.

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- C. The following criteria are requisite to approval:
1. The privilege of the applicant or any agent to take or possess wildlife is not under current suspension or revocation by the government of any state or the United States.
 2. ~~A license~~ Licenses to rehabilitate migratory birds shall be issued only to persons 18 years of age or older. The application of a minor to rehabilitate any other species shall be cosigned by the minor's parent or legal guardian and shall be notarized ~~before~~ prior to submittal. See subsection (B)(5) of this rule.
 3. The applicant shall provide documentation to prove one or more of the following:
 - a. A valid, current license issued by a state veterinary medical examination authority authorizing the applicant to practice as a veterinarian.
 - b. A minimum of six months of experience performing wildlife rehabilitative work for an average of not less than eight hours per week for the taxa of animals proposed to be held ~~under pursuant to~~ license, while assisting a licensed wildlife rehabilitator, a veterinarian or a state or federal wildlife agency.
 - c. A current, valid wildlife rehabilitation license issued by the government of any state or the United States.
 4. The applicant shall also provide documentation that within the last five years applicant has answered correctly at least 80 percent of the questions on a written or tape recorded examination supervised and administered by the Department related to: wildlife rehabilitation; the handling, transport, humane treatment, nutritional, behavioral, developmental, ecological and habitat requirements of wildlife; captivity standards established at R12-4-428; human and wildlife safety considerations; this rule; and R12-4-409.
 - a. The test shall be administered by appointment at any Department office during normal working hours.
 - b. The written score of the test shall be mailed to the applicant within 30 calendar days of the examination date.
 - c. Only those sections of the test that are applicable to the taxa of wildlife for which the license is sought shall be considered in establishing the qualifications of the applicant.
 5. Any licensee who, ~~before~~ prior to expiration of a Department license to rehabilitate wildlife, makes application to continue the authorized activities unchanged for those species and for no others is exempted from the written examination required by this subsection, unless written reports filed ~~under pursuant to~~ subsection (Q) show that no rehabilitative functions were performed during the license period preceding the one for which application is being made.
- D. Application for a wildlife rehabilitation license ~~Applications for wildlife rehabilitation licenses~~ shall be made on a form available from any Department office. ~~Except as provided at Subsection E of this Rule, the Department shall issue the license or deny the application within 60 calendar days of receipt.~~ Applications and licenses issued under pursuant to this rule shall reference the taxa defined in subsection (A) of this rule or shall stipulate specific species.
1. The applicant shall submit the following information on the form:
 - a. Name, date of birth, mailing address and telephone number of the applicant.
 - b. Names, dates of birth, mailing addresses and telephone numbers of all agents.
 - c. Street addresses or legal descriptions of all premises at which wildlife rehabilitation facilities would be established.
 - d. The taxa or species of wildlife proposed to be rehabilitated.
 - e. Signature of the applicant and date of submittal of the application.
 2. The form shall ~~be accompanied by~~ include typed, signed statements executed by all proposed agents acknowledging that their privilege to take or possess wildlife is not under current suspension or revocation by the government of any state or of the United States.
 3. The form shall also include ~~be accompanied by~~ a typed, signed narrative statement demonstrating, describing or including at a minimum the following:
 - a. Whether the applicant requests that methods of disposition of wildlife include export, transfer to a licensed zoo or other methods under direction of the Department.
 - b. Any application to rehabilitate taxa not currently authorized by the Department shall include a statement of the applicant's training and experience in the handling, capture, rehabilitation and care of the taxa for which application is being made.
 - c. Detailed diagrams of all rehabilitation facilities in which wildlife would be held, including facilities to be used by agents. The diagrams must describe holding facility dimensions, though not necessarily to scale, and materials, location relative to buildings and fences and relevant information about ~~as to~~ proposed construction and expected completion dates.
 - d. A description of the procedures to be employed to ensure the standards set in R12-4-428 are always met at all times, including a description of: cleaning methods; food and water supply; shelter; bedding; and mechanisms for prevention of escape of wildlife and, for potentially dangerous animals, protection of human safety.
 4. When required by subsection (C) of this rule, the application shall also include ~~be accompanied by~~ documentation of a passing score on the examination prescribed in paragraph (C)(4).
 5. One or more of the following shall also be submitted with the application:
 - a. A typed, signed statement that the applicant is a licensed, practicing veterinarian; or

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- b. A typed, signed statement from the Department's Adobe Mountain Wildlife Center Coordinator that the Center shall assist the applicant in providing rehabilitative treatment for the wildlife to be held under pursuant to license; or
 - c. A typed, signed statement from a licensed, practicing veterinarian that the veterinarian shall be reasonably available to give render veterinary services requested by the licensee as necessary to facilitate rehabilitation of wildlife. Responsibility for expenses incurred in the treatment shall be determined by the veterinarian and the licensee.
6. Application Applications for renewal of a wildlife rehabilitation license licenses without change of species or location or design of facilities may reference supportive materials submitted previously, and replicate copies of the such materials need not be submitted with the application for renewal.
- ~~E.~~ The Department may return without denial or approval any application lacking information required by Subsection D. Each returned application shall be accompanied by a letter identifying the information the applicant failed to provide. When missing information can be provided verbally, the Department may handle the corrections by telephone, noting where such changes have been made, and the date and source thereof. The approval or denial period shall be restarted at day one on receipt of the completed application.
- ~~EF.~~ A licensee Licensees may at any time during the license period make a written request to amend the license their licenses to add or delete agents or premises or to obtain authority to rehabilitate additional taxa of wildlife, provided the requests. The request shall meet the requirements of subsections (C)(4) and (D)(1) through (D)(3) of this rule. The Department shall approve or deny a request within 60 calendar days of receipt. by the procedures prescribed in subsection (E).
- ~~FG.~~ A licensee Licensees may accept donations to defray expenses or to provide materials or facilities essential to the licensed activity. Only those activities allowed under a wildlife rehabilitation license as identified in subsection (B) are permitted during the solicitation of donations.
- ~~GH.~~ Capture, removal, transport and release of wildlife under pursuant to this rule shall be accomplished in a manner which is least likely to cause injury to the affected wildlife.
- ~~HI.~~ A licensee authorized to rehabilitate big game mammals, golden eagles, Gila monsters, twin-spotted rattlesnakes, banded rock rattlesnakes or endangered or threatened species or threatened native wildlife as defined in R12-4-401 shall, within 24 hours of receiving the any such individual, contact the Department for instructions in handling that animal. While awaiting instructions, emergency veterinary care shall be provided as necessary.
- ~~IJ.~~ Except when the Department has authorized possession for a longer period, raptors shall not be possessed longer than 180 days; other wildlife shall not be possessed longer than 90 days. Any request to hold wildlife in excess of this period shall be submitted to the Department in writing. The Department may require the licensee to provide a typed, signed statement from a licensed veterinarian setting forth the medical reasons why the such extension is necessary. The Department shall grant or deny a request for extension within ten days of receipt of the request or the veterinarian's statement. The licensee may continue to hold the specified wildlife while the Department considers the request. A denial of request for extension shall be in writing and shall include specific, time-dated directions on disposition of the animal.
- ~~JK.~~ Wildlife may be held under pursuant to a wildlife rehabilitation license after reaching a state of restored health only for such time as is reasonably necessary to make humane disposition of the wildlife but in no case for longer than has been authorized under pursuant to subsection (I) ~~(J)~~ of this rule. Rehabilitated wildlife shall be released at an ecologically appropriate time of year and into a habitat suitable to sustain it:
- 1. In the same geographic area as the animal was originally obtained, except that birds may be released at any location statewide within the normal range of that species in ecologically suitable habitat; or
 - 2. At an such area as has been designated by the Department; and
 - 3. Without immediate threat to the animal of injurious contact with humans.
- ~~K.~~ To permanently hold rehabilitated wildlife that is unsuitable for release, a licensee shall apply for a wildlife holding license as prescribed in R12-4-417.
- ~~L.~~ Unless otherwise stipulated in the license, all wildlife that is euthanized or which otherwise dies while held under pursuant to license shall within 30 days of death be disposed of by burial or incineration, except that all carcasses of endangered or threatened species or threatened native wildlife or golden eagles shall be transferred to the Department.
- ~~M.~~ A copy of the approved license and application shall accompany any shipment or transport of wildlife under pursuant to this rule, and shall be available for inspection at each of the premises authorized by the license.
- ~~N.~~ A licensee Licensee shall keep a current log showing the date of acquisition, location and disposition of all wildlife held pursuant to the their license.
- ~~O.~~ Before January 16 of On or before the 15th day of January each year, a each licensee shall file a written report on activities under pursuant to license for the previous calendar year. The report shall be made on a form available from the Department. The following information shall be provided in the written report:
- 1. Name, address and phone number of the licensee and of all agents; and
 - 2. The permit or license number of any federal permits or licenses that relate to any rehabilitative function performed by the licensee; and

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3. An itemized list of each animal held ~~under pursuant to~~ license during the calendar year for which activity is being reported. For each animal held by the licensee or agent, the itemization shall include the: name of the species; condition that required rehabilitation; source, location and date of acquisition; if reasonably determinable, age class at acquisition; status at disposition or end-of-year relative to the condition requiring rehabilitation; and method, place and date of disposition. A copy of the rehabilitator's federal permit report of activities related to federally protected wildlife shall satisfy this reporting requirement for federally protected wildlife.
- P.** A licensee ~~Licensees~~ shall participate in one of the following during the license period:
 1. Eight hours or more of continuing education sessions on wildlife rehabilitation offered by the Department at no fee. The Department shall provide each licensee a minimum of 30 calendar days' notice of such sessions.
 2. Eight hours or more of continuing education sessions on wildlife rehabilitation offered by an accredited university or college; the National Wildlife Rehabilitators Association, R.R. 1, Box 125 E, Brighton, Illinois 62012; or the International Wildlife Rehabilitation Council, P.O. Box 3007, Walnut Creek, California 94598.
- Q.** Written authorization shall be obtained from the Department ~~under pursuant to~~ subsection (D) or (E) ~~(F)~~ before any agent is designated. The agent shall have this authorization in possession while in possession of wildlife. The licensee shall be responsible for the acts of the agent insofar as they fall within the framework of this rule, and the rehabilitation license may be suspended or revoked by the Department for violation of this rule by the agent.
- R.** Wildlife rehabilitation licenses expire on December 31 of the second year following the date of issuance of the license.
- S.** Wildlife rehabilitation licenses are subject to ~~the provisions of~~ R12-4-409 and R12-4-428.
- T.** This rule is effective July 1, 2001. ~~January 1, 1995.~~

R12-4-424. White Amur Stocking License

- A.** For ~~the purpose of~~ this rule:
 1. "Closed aquatic system" means any body of water, canal system, series of lakes, canals, or ponds, that constitutes a body of water where triploid white amur are prevented from ingress or egress by any natural or man-made barrier as determined by the Department.
 2. "Triploid" means a species which has 3N chromosomes.
- B.** A white amur stocking license may allow the importation, transportation, stocking and possession of triploid white amur (*Ctenopharyngodon idellus*). The Department may make stipulations on what the license will allow, based on evaluation of the application. A white amur stocking license shall be obtained for each closed aquatic system, or for each separately managed portion thereof, or for multiple separate closed aquatic systems owned, controlled or legally held by the same applicant where stocking is to occur.
- C.** In addition to the requirements in A.R.S. § 17-317, the following criteria are requisite to approval of a white amur stocking application:
 1. The proposed stocking site shall meet the definition for "closed aquatic system".
 2. The purpose of the stocking shall be: to control aquatic weeds which interfere with recreational, domestic, municipal, agricultural, or industrial use of water, or which impair water quality; or for sale from licensed fish farms.
 3. If the Department determines during the substantive review time-frame for the special license, identified in R12-4-106 and R12-4-409(A), that the stocking will ~~Applications for stocking determined by the Department to be in watersheds containing "threatened native wildlife" as defined in R12-4-401, the applicant shall submit shall be accompanied by a written proposal which shall address biological ramifications of the introduction. A determination by the Department that negative impact on Arizona wildlife may result from issuance of the permit shall be grounds for denial of a permit. The Department shall notify the applicant within 30 calendar days of receipt of the application if the written proposal is required to process the application.~~ The proposal shall include:
 - a. the purpose of the introduction;
 - b. expected benefits;
 - c. possible negative impacts;
 - d. evaluation of the ecology of "threatened native wildlife" species identified by the Department as the reason for requiring the proposal;
 - e. evaluation of potential displacement of "threatened native wildlife" identified by the Department;
 - f. evaluation of disease potential;
 - g. method for post-introduction evaluation of status and impacts.
- D.** Application for a white amur stocking license shall be made on forms provided by and available from any Department office. ~~When no written proposal pursuant to subsection C.3. of this rule is required, the Department shall issue the license or deny the application within 30 calendar days of receiving the application. When a written proposal is required pursuant to Subsection C.3. of this Rule, the Department shall issue the license or deny the application within 30 calendar days of receiving the proposal. The following information shall be provided by the applicant on the form: The applicant shall provide the following on the form:~~
 1. Name and address.

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

Authorizing statutes: A.R.S. §§ 36-132(A), 36-136(F), and 36-2352

Implementing statutes: A.R.S. §§ 36-2352 and 36-2354

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

Notice of Rulemaking Docket Opening: 5 A.A.R. 4376, November 19, 1999

Notice of Rulemaking Docket Opening: 6 A.A.R. 1033, March 17, 2000

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

Name: Doug Hirano, Bureau Chief

Address: Arizona Department of Health Services
Bureau of Health Systems Development
1740 West Adams, Room 302
Phoenix, Arizona 85007

Telephone: (602) 542-1219

Fax: (602) 542-2011

E-Mail: dhirano@hs.state.az.us

OR

Name: Kathleen Phillips, Rules Administrator

Address: Arizona Department of Health Services
Office of Administrative Rules
1740 West Adams, Room 102
Phoenix, Arizona 85007

Telephone: (602) 542-1264

Fax: (602) 542-1090

E-Mail: kphilli@hs.state.az.us

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

A.R.S. § 36-2352 requires the Director of the Arizona Department of Health Services to designate medically underserved areas in the state ("Arizona medically underserved areas"). 9 A.A.C. 24, Articles 1 and 2 implement the statute by providing the criteria under which the Director makes the designation. The Director designates these areas according to federal designation as a health professional shortage area or using an index that measures the availability of services based on number of providers, the area's geographic location, the percentage of population living at or below a designated poverty level, the health needs of the area as determined by a number of factors, and other factors that may be indicative of medically underserved areas. The current rules are outdated and unnecessarily complicated and no longer fully comply with A.R.S. § 36-2352. The proposed rulemaking will bring the rules into compliance with A.R.S. § 36-2352, update the process and criteria used in designating Arizona medically underserved areas, clarify the rules, and bring the rules into compliance with current rulemaking format and style requirements.

A.R.S. §§ 36-2353 and 36-2354 authorize the Department to assist Arizona medically underserved areas to recruit coordinating medical providers and to establish the functions of coordinating medical providers. Article 3 establishes these functions. The Department is amending Article 3 to conform to current rulemaking format and style requirements and to clarify the rule.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None

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

Not applicable

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

In 1994, the legislature completely changed the statutory criteria for designation of Arizona medically underserved areas (AzMUAs) so that a federally designated health professional shortage area (HPSA) receives automatic designation and the Department is required to designate other Arizona medically underserved areas by using an index to measure a set of indicators listed in the statute. The Department changed its program in 1994 to make the designation process consistent with the changes in statutory authority, but never changed its rules to reflect the new process. Thus, although the proposed rules for Articles 1 and 2 are a significant departure from the published rules, they do not deviate substantially from the Department's practice since 1994.

This economic impact summary thus focuses on the actual changes in Articles 1 and 2 resulting from this rulemaking, not the changes resulting from the change in agency practice that occurred in 1994 as a result of legislation. The proposed rules are designed to be consistent with current statutory authority, the Administrative Procedure Act, and current rulemaking format and style requirements.

The proposed rules for Articles 1 and 2 change the Department program by including all primary care areas in the primary care index (PCI) used to designate AzMUAs; adjusting the point scales for many of the criteria included in the PCI; setting the cut-off mark for AzMUA designation as a point score or percentage, whichever results in designation of more AzMUAs, rather than as a percentage alone; recognizing that Indian reservations do not have automatic HPSA designation; and adding time-frames and a deadline for the request for a primary care area boundary change.

The proposed rules for Article 3 add a definitions Section for the Article, clarify the existing rule, and conform the existing rule to current rulemaking format and style requirements.

The Department will incur a moderate cost for staff time to write, review, and process the rules through promulgation. The Department anticipates that the changes in the rules themselves will result in either no or a minimal additional burden on the Department. With the exception of the changes described above, the proposed rules reflect the current Department procedure. The Department anticipates that the changes will not result in any more staff time and resulting burden to the Department than does the current procedure.

The Office of the Secretary of State and the Governor's Regulatory Review Council will also bear minimal-to-moderate costs from the rulemaking process.

The Department does not anticipate that any other person will be directly burdened by the proposed rules.

It is possible that 1 or more primary care areas may lose AzMUA designation and that 1 or more primary care areas may be newly designated as AzMUAs as a result of the changes. Any primary care area that lost AzMUA designation as a result of the changes would potentially incur substantial costs, albeit indirectly, due to that loss of status. Likewise, any primary care area that became an AzMUA as a result of the changes would potentially be substantially benefited by that status, as would its residents, actual or prospective.

Areas that are designated AzMUAs potentially benefit substantially from that designation. The benefits are indirect, however, because persons within an AzMUA have to apply for the benefits that are available to areas with AzMUA status. For example, AzMUAs are eligible for funding from the Department for programs related to primary health care services and construction projects and are eligible for placement of physicians serving obligations under the Arizona Medical Student Loan Program (AMSLP). Being an AzMUA also makes an area eligible for health crisis fund monies if basic health services are unforeseeably disrupted and eligible for assistance in recruiting a coordinating medical provider (although this has never occurred). Finally, AzMUA status is a prerequisite for eligibility to establish a health service district under A.R.S. Title 48, Chapter 16, Article 1.

Residents of AzMUAs that receive public funds or receive placement of AMSLP physicians benefit from expanded access to primary health care services at discounted rates. Also, primary care providers in private practice who agree to practice in rural AzMUAs are eligible for the rural private primary care provider loan repayment program (RPPC-PLRP).

Even prospective residents of AzMUAs potentially benefit substantially from the designation. For example, the AMSLP gives preference to students who are committed to serve in AzMUAs, and the University of Arizona College of Medicine gives priority to applicants who are willing to practice in AzMUAs.

The Department anticipates that the changes in the designation process will result in few changes in the areas designated as AzMUAs. The Department ran a primary care index using both the current methodology and the methodology proposed in the rule change.

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The result was that, out of 123 total primary care areas, 1 primary care area that would have been designated as an AzMUA using the current methodology would not be designated as an AzMUA under the proposed methodology, while 3 primary care areas that would not have been designated as AzMUAs using the current methodology would be designated as AzMUAs under the proposed methodology. Otherwise, the lists were identical. It is important to note that this is no more variation than the Department experiences year to year using the current methodology.

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

Name: Doug Hirano, Bureau Chief
Address: Arizona Department of Health Services
Bureau of Health Systems Development
1740 West Adams, Room 302
Phoenix, Arizona 85007

Telephone: (602) 542-1219

Fax: (602) 542-2011

E-Mail: dhirano@hs.state.az.us

OR

Name: Kathleen Phillips, Rules Administrator
Address: Arizona Department of Health Services
Office of Administrative Rules
1740 West Adams, Room 102
Phoenix, Arizona 85007

Telephone: (602) 542-1264

Fax: (602) 542-1090

E-Mail: kphilli@hs.state.az.us

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

The Department has scheduled the following oral proceeding:

Date: October 23, 2000

Time: 10:00 a.m.

Location: Conference Rooms A and B
Arizona Department of Health Services
1740 West Adams
Phoenix, Arizona 85007

Nature: Oral Proceeding

Written comments on the proposed rulemaking or the preliminary summary of the economic, small business, and consumer impact may be submitted until the close of record, October 23, 2000, at 5:00 p.m., to either individual listed in questions 4 and 9.

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

Not applicable

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

R9-24-201: Ambulatory Care Access Project, United Hospital Fund of New York, *Final Code Specifications for: "Ambulatory Care Sensitive" Conditions, "Referral Sensitive" Surgical and Medical Conditions, "Marker" Conditions* (July 30, 1991).

13. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 24. DEPARTMENT OF HEALTH SERVICES

ARIZONA MEDICALLY UNDERSERVED AREA ~~MEDICAL~~ HEALTH SERVICES

ARTICLE 1. GENERAL

Sections

R9-24-101.	Reserved <u>Definitions</u>
R9-24-102.	Reserved <u>Time-frames</u>
R9-24-103.	Reserved
R9-24-104.	Reserved
R9-24-105.	Reserved
R9-24-106.	Reserved
R9-24-107.	Reserved
R9-24-108.	Reserved
R9-24-109.	Reserved
R9-24-110.	Reserved
R9-24-111.	Legal Authority <u>Repealed</u>
R9-24-112.	Designation <u>Repealed</u>
R9-24-113.	Definitions <u>Repealed</u>

ARTICLE 2. ~~CRITERIA~~ ARIZONA MEDICALLY UNDERSERVED AREAS

Sections

R9-24-201.	Geographic Units <u>Definitions</u>
R9-24-202.	Out-of-state Resources <u>Arizona Medically Underserved Area Designation</u>
R9-24-203.	Base Criteria <u>Primary Care Index</u>
R9-24-204.	Supplementary Criteria <u>Primary Care Area Designation</u>
R9-24-205.	Excluded Areas <u>Repealed</u>

ARTICLE 3. COORDINATING MEDICAL PROVIDERS

Sections

R9-24-301.	<u>Definitions</u>
R9-24-301 R9-24-302.	<u>Functions</u>

ARTICLE 1. GENERAL

R9-24-101. ~~Reserved~~ Definitions

In this Chapter, unless otherwise specified:

1. “Arizona medically underserved area” means a primary care area that is designated by the Secretary of United States Department of Health and Human Services as a health professional shortage area or that is designated by the Department using the methodology described in A.A.C. R9-24-203.
2. “Days” means calendar days, excluding the day of the act, event, or default from which a designated period of time begins to run and excluding the last day of the period if it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day that is not a Saturday, a Sunday, or a legal holiday.
3. “Department” means the Arizona Department of Health Services.
4. “Health professional shortage area” means a geographic region designated by the Secretary of the United States Department of Health and Human Services under 42 U.S.C. § 254e as a primary medical care health professional shortage area.
5. “Nurse practitioner” has the same meaning as “registered nurse practitioner” in A.R.S. § 32-1601.
6. “Physician” has the same meaning as in A.R.S. § 36-2351.
7. “Physician assistant” has the same meaning as in A.R.S. § 32-2501.
8. “Primary care area” means a geographic region designated as a primary care area by the Department under A.A.C. R9-24-204.

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R9-24-102. Reserved Time-frames

- A.** The overall time-frame described in A.R.S. § 41-1072 for a request for boundary change under A.A.C. R9-24-204 is 90 days. The person requesting a boundary change and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame. An extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.
- B.** The administrative completeness review time-frame described in A.R.S. § 41-1072 for a request for boundary change under A.A.C. R9-24-204 is 30 days and begins on the date that the Department receives a request for boundary change.
- 1.** The Department shall mail a notice of administrative completeness or deficiencies to the person requesting a boundary change within the administrative completeness review time-frame.
 - a.** A notice of deficiencies shall list each deficiency and the information and documentation needed to complete the request for boundary change.
 - b.** If the Department issues a notice of deficiencies within the administrative completeness review time-frame, the administrative completeness review time-frame and the overall time-frame are suspended from the date that the notice is issued until the date that the Department receives the missing information from the person requesting a boundary change.
 - c.** If the person requesting a boundary change fails to submit to the Department all of the information and documents listed in the notice of deficiencies within 30 days from the date that the Department mailed the notice of deficiencies, the Department shall consider the request for boundary change withdrawn.
 - 2.** If the Department issues an approval to the person requesting a boundary change during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- C.** The substantive review time-frame described in A.R.S. § 41-1072 is 60 days and begins on the date of the notice of administrative completeness.
- 1.** The Department shall mail written notification of approval or denial of the request for boundary change to the person requesting a boundary change within the substantive review time-frame.
 - 2.** During the substantive review time-frame, the Department may make 1 comprehensive written request for additional information, unless the Department and the person requesting a boundary change have agreed in writing to allow the Department to submit supplemental requests for information.
 - 3.** If the Department issues a comprehensive written request or a supplemental request for information, the substantive review time-frame and the overall time-frame shall be suspended from the date that the Department issues the request until the date that the Department receives all of the information requested. If the person requesting a boundary change fails to submit to the Department all of the information and documents listed in the comprehensive written request or supplemental request for information within 30 days from the date that the Department mailed the comprehensive written request or supplemental request for information, the Department shall deem the request for boundary change withdrawn.
 - 4.** The Department shall approve a request for boundary change under A.A.C. R9-24-204 unless the Department determines that the resulting primary care area would not comply with A.A.C. R9-24-204(A).

R9-24-111. Legal Authority Repealed

The Arizona Department of Health Services, pursuant to the authority granted in Title 36, Chapter 24, particularly A.R.S. §36-2352 and 36-2353, hereby adopts the Regulations in this Chapter.

R9-24-112. Designation Repealed

~~Pursuant to A. R. S. § 36-2352, the Department shall periodically designate medically underserved areas as part of the State Health Plan. Such designations shall be made in conjunction with authorized local agencies as defined in A.R.S. § 36-401, or their successor organizations. The Director, as empowered by A.R.S. § 36-124, may confer and cooperate with any or all other persons, organizations, or government agencies that have an interest in public health problems and needs in preparing and administering the State Health Plan, including the designation of medically underserved areas.~~

R9-24-113. Definitions Repealed

~~In Articles 1, 2 and 3 of this Chapter, unless the context otherwise requires:~~

- ~~1. "Clinical laboratory" means a laboratory licensed pursuant to Title 36, Chapter 4.1, a laboratory of a hospital licensed by the State, or a laboratory which is operated by the Federal government.~~
- ~~2. "Civilian population" means the total resident population excluding active duty military personnel. Dependents of active duty military personnel are included in the civilian population.~~
- ~~3. "Coordinating medical provider" means a physician or group of physicians, or any combination thereof which has entered into an agreement with a county, incorporated city or town, health service district or the Department to supervise the medical care offered at a medical clinic.~~
- ~~4. "Current" means most recently available data.~~
- ~~5. "Direction" means authoritative policy or procedural guidance for the accomplishment of a function or activity.~~
- ~~6. "Director" means Director of the Department of Health Services.~~

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7. "Full time equivalent primary care physician" means a primary care physician who spends at least 40 hours per week providing direct patient care or services, including related administrative duties, diagnosis and treatment and training provided to interns, residents, nurse practitioners, physician assistants, students and trainees while providing direct patient care and services. Each nurse practitioner or physician assistant providing at least 40 hours per week of direct patient care is considered equal to .5 full time equivalent primary care physician.
8. "General hospital" means a hospital which provides inpatient services, diagnostic and therapeutic, for a wide variety of medical conditions, both surgical and nonsurgical.
9. "Governing board" means the board of directors of health service district to be established pursuant to A.R.S. § 36-2368.
10. "Hospital" means a health care institution licensed as a hospital pursuant to Title 36, Chapter 4, or an institution performing similar functions which is operated by the Federal government.
11. "Infant death" means the death of a live born infant prior to the age of one year.
12. "Medical clinic" means a facility, whether mobile or stationary, which provides ambulatory medical care in a medically underserved area through the employment of physicians, nurses, physicians' assistants, nurse practitioners or other health care technical and paraprofessional personnel.
13. "Nurse practitioner" means a registered nurse certified by the Arizona State Board of Nursing to function in the extended role pursuant to Title 32, Chapter 15.
14. "Pharmacist" means a person registered as a pharmacist pursuant to Title 32, Chapter 18, or a person practicing as a pharmacist in a Federal health care institution.
15. "Pharmacy" means an establishment where prescription orders are compounded and dispensed by or under the direct supervision of a registered pharmacist and which is registered pursuant to Title 32, Chapter 18, or which performs similar functions as a Federally operated facility.
16. "Physician" means a person licensed pursuant to Title 32, Chapter 13 or 17, and shall include nonresident practitioners holding area permits pursuant to A.R.S. §§ 32-1426.01 or 32-1823.02, or a person practicing as a physician in a Federal institution.
17. "Physician assistant" means any person certified by the Joint Board of Medical Examiners and Osteopathic Examiners in Medicine and Surgery as a physician's assistant.
18. "Premature birth" means the live birth of an infant weighing 2500 grams (5 1/2 pounds) or less at birth.
19. "Primary care physician" means a general practitioner, family practitioner, internist, obstetrician, obstetrician-gynecologist, or pediatrician.
20. "Registered nurse" means a person licensed pursuant to Title 32, Chapter 15, or a person practicing as a registered nurse in a Federal health care institution.
21. "Supervision" means direct overseeing and inspection of the act of accomplishing a function or activity.
22. "Visit" means a physician-patient encounter involving direct service to the patient excluding phone visits.

ARTICLE 2. CRITERIA ARIZONA MEDICALLY UNDERSERVED AREAS

R9-24-201. Geographic Units

- A.** Geographic units in this Section apply to R9-24-203, Base Criteria, and R9-24-204, Supplementary Criteria, for the purpose of designating medically underserved areas. The geographic units are the Fort Apache, Hopi, Navajo, Papago and San Carlos Indian reservations and each of the counties, with the following modifications:
1. County boundaries are modified to exclude areas within the five Indian reservations listed above.
 2. Each of the Indian reservations listed above will be considered for designation in its entirety except the Navajo. The Navajo Reservation shall be divided along county lines, and each of the three resulting areas shall be considered individually for designation.
 3. The Hopi-Navajo Joint Use Area is included in the Navajo Reservation and excluded from the Hopi Reservation.
 4. The Gila Bend Indian Reservation in Maricopa County is included in the Papago Reservation and excluded from Maricopa County.
 5. The Gila River Indian Reservation in Maricopa County, Census Tract 6232, is included with Pinal County and excluded from Maricopa County.
- B.** For counties other than Pima and Maricopa, the only areas to be considered for designation are entire counties, modified along Indian reservation lines as described above, minus each community or group of closely located communities which have civilian populations of 5,000 or more and which have 100 percent or more of their estimated demand met for primary care physicians.
- C.** The following groups of 1970 U.S. Census Tracts in Maricopa County are considered separately for designation:
1. Census Tracts 405, the Wickenburg Division.
 2. Census Tracts 506 and 507, the Buckeye Division.
 3. Census Tract 7233, the Gila Bend Division, less the Indian reservation areas allocated to the Papago.
 4. Census Tracts 608-614, 715-719, 820-822 and 932-931, Sun City, Luke Air Force Base, Avondale, and vicinity.

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5. Census Tracts 303, 1036-1047 and 1052-1063, north-central Maricopa County, including portions of north Phoenix.
 6. Census Tracts 101, 202, 304, 1032-1035, 1048-1051, 1079-1083, 1110-1113, 1137, 2168-2183 and 3184-3186, north-east Maricopa County, including Scottsdale and portions of northeast Phoenix.
 7. Census Tracts 1068-1073, 1090-1103, 1120-1128 and 1144-1147, the west Phoenix and Glendale area.
 8. Census Tracts 1064-1067, 1074-1078, 1084-1089, 1104-1109, 1114-1119, 1129-1136, 1138-1143 and 1148-1151, central Phoenix.
 9. Census Tracts 1152-1167, south Phoenix and vicinity.
 10. Census Tracts 3187-3200, Tempe and vicinity.
 11. Census Tracts 4201-4226 and 5227-5231, southeast Maricopa County, including Mesa.
- D.** In addition to the Papago Reservation, the following groups of 1975 U.S. Census Tracts in Pima County are considered separately for designation:
1. Census Tracts 4403-4405, the Marana Division.
 2. Census Tracts 4603-4606 and 4705-4707, the Catalina Division.
 3. Census Tracts 4016-4019, the Tanque Verde Division.
 4. Census Tract 4102, the Benson Highway Division.
 5. Census Tracts 4302 and 4303, the Arivaca Division.
 6. Census Tracts 4900 and 5000, western Pima County, including Ajo.
 7. The balance of the county, representing the Tucson metropolitan area.

R9-24-201. Definitions

In this Article, unless otherwise specified:

1. “Ambulatory care sensitive conditions” means the illnesses listed as ambulatory care sensitive conditions in Ambulatory Care Access Project, United Hospital Fund of New York, Final Code Specifications for “Ambulatory Care Sensitive” Conditions, “Referral Sensitive” Surgical and Medical Conditions, “Marker” Conditions (July 30, 1991), which is incorporated by reference, on file with the Department and the Office of the Secretary of State, and available from United Hospital Fund, 350 Fifth Avenue, 23rd Floor, New York, NY 10118-2399. This incorporation by reference contains no future editions or amendments.
2. “Birth life expectancy” means the average life span at the time of birth as published in the most recent United States Life Tables by the National Center for Health Statistics.
3. “Family unit” means:
 - a. A group of individuals residing together who are related by birth, marriage, or adoption; or
 - b. An individual who does not reside with any individual to whom the individual is related by birth, marriage, or adoption.
4. “Full-time” means providing primary care services for at least 40 hours during the 7-day period between Sunday at 12:01 a.m. and Saturday at 12:00 a.m.
5. “Hospital” has the same meaning as in A.R.S. § 36-2351.
6. “HPSA” means health professional shortage area.
7. “Low weight birth” means live birth of an infant weighing less than 2,500 grams or 5 pounds, 8 ounces.
8. “Mobility limitation” has the same meaning as in the most recent decennial census published by the United States Census Bureau.
9. “Office of Vital Records” means the office of the Department that prepares, publishes, and disseminates vital records as defined in A.R.S. § 36-301.
10. “Population” means the total of permanent residents, according to the most recent decennial census published by the United States Census Bureau or according to the most recent Population Estimates for Arizona’s Counties and Incorporated Places published by the Arizona Department of Economic Security.
11. “Poverty level” means the annual income for a family unit of a particular size in the poverty guidelines updated annually in the Federal Register by the United States Department of Health and Human Services.
12. “Primary care index” means the document in which the Department designates primary care areas as medically underserved by using the methodology described in A.A.C. R9-24-203.
13. “Primary care provider” means a physician, physician assistant, or nurse practitioner providing direct patient care in general or family practice, general internal medicine, pediatrics, or obstetrics and gynecology.
14. “Primary care services” means health care provided by a primary care provider.
15. “Self-care limitation” has the same meaning as in the most recent decennial census published by the United States Census Bureau.
16. “Work disability” has the same meaning as in the most recent decennial census published by the United States Census Bureau.

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R9-24-202. Out-of-state Resources

In designating medically underserved areas, the Department may take into account resources located outside the State which are accessible to Arizona residents and which fall within the limits established by individual criteria and standards described in R9-24-203 and R9-24-204.

R9-24-202. Arizona Medically Underserved Area Designation

The Department shall designate as Arizona medically underserved areas those primary care areas designated as HPSAs by the Secretary of Health and Human Services and those primary care areas identified as medically underserved by the primary care index described in A.A.C. R9-24-203.

R9-24-203. Base Criteria

- A.** All areas are considered for designation first on the basis of percent demand met for primary care physicians.
- B.** An area having 85 percent or less of its estimated demand met for primary care physicians shall be designated as medically underserved by the Department.
- C.** The method utilized to determine percent demand met is as follows:
1. Data required:
 - a. Population subgroups—age by sex civilian population breakdown for each area to be considered.
 - b. Subgroup utilization rates—age by sex breakdown for average annual visits to all physicians.
 - c. Percent primary care visits—percent of total visits made to primary care physicians.
 - d. Primary care physician productivity—average annual number of visits per full time equivalent primary care physician.
 - e. Primary care physicians—total full time equivalents for each area to be considered. The Department may take into account local information regarding practices restricted to specific population subgroups, age and health status of physicians, stated intent of local physicians regarding expansion or reduction of practices, and other relevant factors when computing the full time equivalent primary care physician total for each area.
 2. Computation of percent demand met:
 - a. Compute total visits for the area's population. Multiply each population subgroup in the area by the subgroup utilization rate. Add the age/sex specific products to obtain total visits for the area:
 - i. $\text{Total Visits} = \text{Sum of (Population Subgroup} \times \text{Subgroup Utilization Rate)}$.
 - b. Compute primary care visits for the area's population. Multiply total visits by percent primary care visits:
 - i. $\text{Primary Care Visits} = \text{Total Visits} \times \text{Percent Primary Care Visits}$.
 - c. Compute demand for full time equivalent primary care physicians. Divide primary care visits by primary care physician productivity:
 - i. $\text{Demand Primary Care Visits/Primary Care Physician Productivity}$.
 - d. Compute percent demand met for primary care physicians. Divide total full time equivalent primary care physicians for the area by demand, and multiply times 100:
 - i. $\text{Percent Demand Met} = (\text{Primary Care Physicians/Demand}) \times 100$.

R9-24-203. Primary Care Index

- A.** Using the criteria in subsection (B), the Department shall generate a primary care index to designate primary care areas as Arizona medically underserved areas.
1. The Department shall calculate the value for each criterion as described in subsection (B).
 - a. After calculating the value for each criterion, the Department shall determine the points to be assigned to each value as shown in Table 1.
 - b. The total score for each primary care area is the sum of:
 - i. The points that the primary care area received for each criterion,
 - ii. The supplementary criteria score, and
 - iii. Any additional points for the sole provider or no provider score.
 2. The Department shall designate as Arizona medically underserved areas those primary care areas that score within the top 25% or that have point totals greater than or equal to 55, whichever results in the designation of more Arizona medically underserved areas.
- B.** The primary care index shall include a score for each of the following criteria for each primary care area:
1. Population-to-primary-care-provider ratio, determined by dividing the population of the primary care area by the number of primary care providers in the primary care area, using population figures from the most recent decennial census published by the United States Census Bureau and the most recent Population Estimates for Arizona's Counties and Incorporated Places published by the Arizona Department of Economic Security and primary care provider data from the Board of Medical Examiners, the Board of Osteopathic Examiners, the Arizona State Board of Nursing, and the Joint Board on the Regulation of Physician Assistants, and counting 1 full-time physician as 1.0 and 1 full-time physician assistant or nurse practitioner as .8;

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2. Travel distance to the nearest primary care provider, determined by estimating the distance in miles from the center of the most densely populated area to the nearest primary care provider by the most direct street route;
 3. Composite transportation score, determined by:
 - a. Compiling data on the following 6 indicators using the most recent decennial census published by the United States Census Bureau:
 - i. Percentage of population with annual incomes below 100% of the poverty level;
 - ii. Percentage of population over 65 years of age;
 - iii. Percentage of population under 14 years of age;
 - iv. Percentage of population that has a work disability, mobility limitation, or self-care limitation;
 - v. Percentage of population without a vehicle; and
 - vi. The noncommercial-vehicle-to-population ratio;
 - b. Calculating the statewide average value for each of the 6 indicators;
 - c. Dividing the value of each indicator for each primary care area by the statewide average value for that indicator;
 - d. Multiplying the figure calculated under subsection (B)(3)(c) for each indicator by 100; and
 - e. Averaging the 6 indicator values for each primary care area;
 4. Percentage of population with annual incomes at less than 200% of the poverty level, as reported in the most recent decennial census published by the United States Census Bureau;
 5. Percentage of population with annual incomes between 100% and 200% of the poverty level, as reported in the most recent decennial census published by the United States Census Bureau;
 6. Percentage of births uninsured, determined from the percentage of Office of Vital Records birth records reporting payment source as "self-pay" or "unknown";
 7. Ambulatory care sensitive condition hospital admissions, based on the number of hospital admissions for ambulatory care sensitive conditions per 1000 resident individuals aged 65 years or younger, determined from hospital discharge record data provided by the Bureau of Public Health Statistics;
 8. Percentage of low weight births, determined from data provided by the Office of Vital Records;
 9. Sum of the percentage of births for which the mothers reported having no prenatal care or commencing prenatal care in the 2nd or 3rd trimester and the percentage of births for which the mothers reported having 4 or fewer prenatal care visits, determined from data provided by the Office of Vital Records;
 10. Percentage of deaths at ages younger than the birth life expectancy, determined from the birth life expectancy and data provided by the Office of Vital Records;
 11. Number of infant mortalities per 1000 live births, determined from data provided by the Office of Vital Records;
 12. The supplementary criteria score, determined by assigning 2 points for each of the following indicators:
 - a. Percentage of minority population higher than the statewide average for all counties, determined from data in the most recent decennial census published by the United States Census Bureau;
 - b. Percentage of elderly population higher than the statewide average for all counties, determined from data in the most recent Population Estimates for Arizona's Counties and Incorporated Places published by the Arizona Department of Economic Security and from data in the most recent decennial census published by the United States Census Bureau; and
 - c. Average annual unemployment rate higher than the average annual statewide rate, determined from data in the most recent annual report issued by the Arizona Department of Economic Security; and
 13. The sole provider or no provider score, determined by assigning 5 points if the primary care area has only 1.0 or less than 1.0 primary care provider, counting 1 full-time physician as 1.0 and 1 full-time physician assistant or nurse practitioner as .8.
- C.** The Department shall generate a primary care index every 12 months to determine Arizona medically underserved area designations. The Department shall withdraw designation, continue designation, or designate a new Arizona medically underserved area based on the criteria in subsections (A) and (B). The Department shall publish and keep on file a list of current Arizona medically underserved areas.

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Table 1. Primary Care Index Scoring

<u>CRITERIA</u>	<u>VALUE RANGE</u>	<u>POINTS</u>
<u>Population-to-primary-care-provider ratio</u>	<u>≤ 2000:1</u> <u>2001:1 to 2500:1</u> <u>2501:1 to 3000:1</u> <u>3001:1 to 3500:1</u> <u>3501:1 to 4000:1</u> <u>> 4000:1 or no provider</u>	<u>0</u> <u>2</u> <u>4</u> <u>6</u> <u>8</u> <u>10</u>
<u>Travel distance to nearest primary care provider</u>	<u>≤ 15.0 miles</u> <u>15.1-25.0 miles</u> <u>25.1-35.0 miles</u> <u>35.1-45.0 miles</u> <u>45.1-55.0 miles</u> <u>> 55.0 miles</u>	<u>0</u> <u>2</u> <u>4</u> <u>6</u> <u>8</u> <u>10</u>
<u>Composite transportation score</u>	<u>10 highest scores</u> <u>11th-20th highest scores</u> <u>21st-30th highest scores</u> <u>31st-40th highest scores</u> <u>41st-50th highest scores</u> <u>below 50th highest score</u>	<u>10</u> <u>8</u> <u>6</u> <u>4</u> <u>2</u> <u>0</u>
<u>Percentage of population with annual income less than 200% of poverty level</u>	<u>≤ 15.0%</u> <u>15.1-25.0%</u> <u>25.1-35.0%</u> <u>35.1-45.0%</u> <u>45.1-55.0%</u> <u>>55.0%</u>	<u>0</u> <u>2</u> <u>4</u> <u>6</u> <u>8</u> <u>10</u>
<u>Percentage of population with annual income between 100% and 200% of poverty level</u>	<u>≤ 10.0%</u> <u>10.1-15.0%</u> <u>15.1-20.0%</u> <u>20.1-25.0%</u> <u>25.1-30.0%</u> <u>> 30.0%</u>	<u>0</u> <u>2</u> <u>4</u> <u>6</u> <u>8</u> <u>10</u>
<u>Percentage of uninsured births</u>	<u>≤ 6.0%</u> <u>6.1-10.0%</u> <u>10.1-14.0%</u> <u>14.1-18.0%</u> <u>18.1-22.0%</u> <u>>22.0%</u>	<u>0</u> <u>2</u> <u>4</u> <u>6</u> <u>8</u> <u>10</u>
<u>Ambulatory care sensitive condition hospital admissions</u>	<u>≤ 8.0</u> <u>8.1-12.0</u> <u>12.1-16.0</u> <u>16.1-20.0</u> <u>20.1-24.0</u> <u>≥ 24.0</u>	<u>0</u> <u>2</u> <u>4</u> <u>6</u> <u>8</u> <u>10</u>
<u>Percentage of low weight births</u>	<u>≤ 6.0%</u> <u>6.1-8.0%</u> <u>8.1-10.0%</u> <u>10.1-12.0%</u> <u>12.1-14.0%</u> <u>>14.0%</u>	<u>0</u> <u>2</u> <u>4</u> <u>6</u> <u>8</u> <u>10</u>

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<u>Sum of percentage of births with no prenatal care or prenatal care begun in 2nd or 3rd trimester and percentage of births with prenatal care visits ≤ 4</u>	≤ 15.0%	<u>0</u>
	15.1-25.0%	<u>2</u>
	25.1-35.0%	<u>4</u>
	35.1-45.0%	<u>6</u>
	45.1-55.0%	<u>8</u>
	>55.0%	<u>10</u>
<u>Percentage of deaths at ages younger than birth life expectancy</u>	≤ 40.0%	<u>0</u>
	40.1-50.0%	<u>2</u>
	50.1-60.0%	<u>4</u>
	60.1-70.0%	<u>6</u>
	70.1-80.0%	<u>8</u>
	>80.0%	<u>10</u>
<u>Number of infant mortalities per 1000 live births</u>	≤ 4.0	<u>0</u>
	4.1-6.0	<u>2</u>
	6.1-8.0	<u>4</u>
	8.1-10.0	<u>6</u>
	10.1-12.0	<u>8</u>
	>12.0	<u>10</u>
<u>Supplementary criteria score</u>	1 Criterion	<u>2</u>
	2 Criteria	<u>4</u>
	3 Criteria	<u>6</u>
<u>Sole provider or no provider score</u>	primary care provider ≤ 1.0	<u>5</u>

R9-24-204: Supplementary Criteria

- A.** Areas which do not meet the primary care physician percent demand met standard described in R9-24-123 but which obtain percent demand met scores from 86 percent through 99 percent shall be designated if they qualify according to the supplementary criteria described in this Section. Supplementary criteria are to be used solely for the purpose of designating medically underserved areas; they do not constitute standards for evaluating the delivery of medical services.
- B.** An area eligible for consideration for designation according to the supplementary criteria shall be designated medically underserved by the Department if it obtains a score of 6 points or more. Scores are determined by assigning points to the area for qualifying according to specific criteria. Points to be assigned are listed below:

POINTS	CRITERIA
2	Infant Mortality Rate
2	Accidental Death Rate
2	Motor Vehicle Accident Rate (involving injury or death)
2	Emergency Services
2	Emergency Transportation
1	Premature Birth Rate
1	Availability of Pharmacists and/or Pharmacy Services
1	Availability of Nurses
1	Availability of Hospital Facilities
1	Availability of Clinical Laboratory Services
1	Scheduled, Routine Patient Transportation Services

C. Definitions, standards and method of determination for the eleven supplementary criteria follow:

1. "Infant mortality rate".
 - a. An area having an infant mortality rate greater than the current state or national rate, whichever is less, shall receive two points toward designation.
 - b. Computation of infant mortality rate.
 - i. Infant mortality rate = (Infant deaths/live births) x 1000.
 - ii. Infant deaths and live births in the above equation are composed of data from the most recent five years for which both infant death and live birth information are available by place of residence.
 - iii. The infant mortality rate is computed to the nearest tenth.

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- iv. Infant mortality rates shall be computed for each Indian reservation area to be considered for separate designation, and for counties modified by Indian reservation boundaries. Rates for subareas within Maricopa and Pima Counties shall be the county rates except when the numbers of infant deaths and live births in subareas are sufficiently large that the addition of five infant mortality rate no greater than 5 percent.
2. "Accidental death rate".
- a. An area having an accidental death rate greater than the current state or national rate, whichever is less, shall receive two points toward designation.
 - b. Computation of accidental death rate.
 - i. $\text{Accidental death rate} = (\text{Accidental deaths} / \text{total population}) \times 100,000$.
 - ii. Accidental deaths shall be aggregated by location of accident, not by residence of deceased.
 - iii. The accidental death rate is computed to the nearest tenth.
 - iv. Accidental deaths in the above equation are composed of data from the most recent five years for which both accidental death and total population data are available.
 - v. Because of data availability, rates may be computed only for counties and counties minus any of the following twelve communities which may be in that county: Kingman, Glendale, Phoenix, Mesa, Scottsdale, Tempe, Tucson, Flagstaff, Yuma, Douglas, Prescott and Chandler.
 - vi. Rates for counties modified by reservation boundaries shall be the county rate computed after removing data for any of the twelve communities which have 100 percent or more of their demand met for primary care physicians. Rates for Indian reservations shall be an aggregation of county rates minus all communities' rates for those counties in which the reservation is located. The county rates shall be aggregated by weighting each county rate by the proportion of the total reservation population which resides in the county.
3. "Rates for motor vehicle accidents involving injury or death".
- a. An area having a motor vehicle accident rate involving either injury or death greater than the current state or national rate, whichever is less, shall receive two points toward designation.
 - b. Computation of motor vehicle accident rate.
 - i. Using the following formula, two separate rates are computed: one for accidents involving injury, and the other for accidents involving death. Vehicle miles shall be identical for both computations.
 - ii. $\text{Rate} = (\text{Motor vehicle accidents} / \text{vehicle miles}) \times 100 \text{ million}$.
 - iii. Motor vehicle accidents in the above equation are composed of data from the most recent two years for which motor vehicle accidents involving injury, motor vehicle accidents involving death and vehicle mile data from each area are available.
 - iv. The motor vehicle accident rate is computed to the nearest tenth.
 - v. Because motor vehicle mile data are currently available only for counties, rates for counties modified by reservation boundaries shall be the county rates. Rates for Indian reservations shall be computed by aggregating the county rates for those counties in which the reservation is located and weighting each county rate by the proportion of the reservation population residing in that county.
4. "Emergency services".
- a. An area whose center of population is greater than 20 miles from the closest emergency services available on call shall receive two points towards designation.
 - b. For purposes of this criterion, emergency services include, but are not limited to, hospital emergency rooms, outpatient centers, police and fire rescue units, ambulances staffed by emergency personnel, and primary care physician, nurse practitioner or physician assistant offices, if these services are available on call and provided to the general public.
5. "Emergency transportation".
- a. An area whose center of populations is greater than 35 miles from the closest source of emergency transportation available on a 24 hour per day basis shall receive two points towards designation.
 - b. For purposes of this criterion, emergency transportation includes, but is not limited to, ambulances staffed by trained emergency personnel, police and fire department rescue units and air evacuation services if available on a 24 hour per day basis and provided to the general public.
6. "Premature birth rate".
- a. An area having a premature birth rate greater than the current state or national rate, whichever is less, shall receive one point towards designation.
 - b. Computation of premature birth rate.
 - i. $\text{Premature birth rate} = (\text{Premature births} / \text{live births}) \times 1000$.
 - ii. Premature births in the above equation are composed of data from the most recent five years for which both premature birth and live birth data are available by mothers' place of residence.
 - iii. The premature birth rate is computed to the nearest tenth.

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- iv. Premature birth rates shall be computed for each major Indian reservation and county modified by an Indian reservation. Rates for subareas within Maricopa and Pima Counties shall be the county or reservation rates, except when the number of premature births and live births in the subarea are sufficiently large that the addition of five premature births to the sum of premature births produces a change in the premature birth rate no greater than 5 percent.
- 7. "Availability of pharmacists and/or pharmacy services":
 - a. For purposes of this criterion, an urban area shall be defined as any of those areas listed under R9-24-121, Subsection C. Paragraphs 4-11 and Subsection D. Paragraph 7, and a rural area shall be defined as any other geographic area listed under R9-24-121.
 - b. An urban area whose center of population is greater than five miles from the closest active pharmacist or pharmacy services provided to the general public during regular business hours shall receive one point towards designation.
 - c. A rural area containing any community of 5,000 or more population, which community's center of population is greater than five miles from the closest active pharmacist or pharmacy services provided to the general public during regular business hours, shall receive one point towards designation. For rural areas containing no community of 5,000 or more the five mile standard shall be applied to the largest community within the area.
- 8. "Availability of registered nurses". An area which contains any location currently listed as a "Shortage Area Designated for Repayment for Service as a Registered Nurse" by the Federal government (42 CFR Part 57, Subpart D, and revisions) shall receive one point towards designation.
- 9. "Availability of general hospitals". An area whose center of population is greater than 55 miles from the nearest general hospital which provides emergency services to the general public shall receive one point towards designation.
- 10. "Availability of clinical laboratories". An area whose center of population is greater than 75 miles from the nearest clinical laboratory shall receive one point towards designation.
- 11. "Scheduled, routine patient transportation services":
 - a. An area which does not have available to it scheduled, routine patient transportation services at least twice weekly shall receive one point towards designation.
 - b. For purposes of this criterion, scheduled, routine patient transportation services includes any public or private transportation except taxi service which the general public may use for nonemergency travel to and from health care facilities within a 16-hour period. Transportation services provided by volunteer groups are included if their services are provided to all members of the general public who have no other means of travel to health facilities available to them.

R9-24-204. Primary Care Area Designation

- A.** The Department shall designate primary care areas within the state that meet the following criteria:
 - 1. Each primary care area shall not be smaller than the smallest unit of census geography used on the most recent decennial census published by the United States Census Bureau; and
 - 2. The boundaries of each primary care area shall be consistent with the utilization patterns of its population for primary care services, determined by considering:
 - a. Topography;
 - b. Social, cultural, and geopolitical boundaries;
 - c. Travel patterns for the geographic area; and
 - d. Data from local planning personnel, government officials, health organizations, primary care providers, and residents of the geographic area about the type, amount, and location of primary care services used by the population.
- B.** The Department shall consider the following additional factors in determining the boundaries of each primary care area:
 - 1. Boundaries of Indian Reservations and
 - 2. Boundaries of HPSAs.
- C.** Local planning personnel, government officials, health organizations, primary care providers, or residents of a primary care area may submit to the Department a request to change the boundaries of a primary care area.
 - 1. The request shall be made in writing and shall include documentation to support the boundary change. The request shall be submitted by October 1 to be considered for inclusion in the designation process for the following calendar year.
 - 2. The time-frames for the request for change of boundaries are set forth in A.A.C. R9-24-102.

R9-24-205. Excluded Areas Repealed

Areas with a percent demand met score of 100 percent or greater and areas not qualifying according to the criteria described in R9-24-203 or R9-24-204 shall not be designated as medically underserved by the Department.

ARTICLE 3. COORDINATING MEDICAL PROVIDERS

R9-24-301. Definitions

In this Article, unless otherwise specified:

1. “CMP” means coordinating medical provider, as defined in A.R.S. § 36-2351.
2. “Medical clinic” has the same meaning as in A.R.S. § 36-2351.
3. “Medical personnel” means physicians, physician assistants, nurse practitioners, and nurses of a medical clinic.
4. “Nurse” means an individual licensed as a graduate, professional, or registered nurse or as a practical nurse under A.R.S. Title 32, Chapter 15.
5. “Support services” means drug prescription services, social services, and provision of durable medical equipment.

~~R9-24-301~~ **R9-24-302. Functions**

- A. ~~In addition to conforming to all other related Arizona statutory and regulatory requirements, the coordinating medical provider~~ A CMP shall:
1. ~~Be directly involved in planning for the delivery of medical services within the~~ Arizona medically underserved area covered by the agreement.;
 2. ~~Assure~~ Ensure access to medical and support services, either directly or by referral, for the residents of the ~~medically underserved~~ Arizona medically underserved area.;
 3. ~~In conjunction with the nurse practitioners and physician assistants under his direction, develop~~ Develop written protocols ~~which outline that identify areas for in which nurse practitioners and physician assistants under the CMP’s supervision may use independent judgment on the part of the nurse practitioners and the physician assistants.;~~
 4. ~~Have final approval in the selection of nurse practitioners and physician assistants working under his direction~~ the CMP’s supervision.;
 5. ~~Have authority over and responsibility for the medical direction of all nurse practitioners and physician assistants under his direction~~ the CMP’s supervision.;
 6. ~~Arrange to evaluate~~ Evaluate medical care provided by nurse practitioners and physician assistants under ~~his direction~~ the CMP’s supervision through face-to-face contact at least ~~four times once per month~~ week.;
 7. ~~Recommend specific areas of medical education, including instruction in referral sources, and shall schedule coverage to allow for the continuing medical education of all nurse practitioners and physicians assistants under his direction~~ medical personnel at the medical clinic; and
 8. ~~Meet at least annually with the governing board~~ organization that owns and operates the medical clinic to evaluate the program and ~~to devise methods to maximize the efficiency and improve the quality of the~~ medical care provided by the medical personnel of the medical clinic.
- B. ~~Nothing in these requirements is intended to contradict the minimum requirements for nurse practitioners, physician assistants and physicians required by Arizona law and regulation. These requirements may supplement the basic ones~~ requirements of Arizona statutes and rules for licensure, but in no case are they ~~These requirements are not intended to reduce or eliminate~~ replace other requirements of practice.