

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

PREAMBLE

1. Sections Affected

R12-4-101
R12-4-102
R12-4-104
R12-4-107
R12-4-114
R12-4-115
R12-4-609

Rulemaking Action

Amend
Amend
Amend
Amend
Amend
Amend
Amend

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

Authorizing statutes: A.R.S. §§ 17-101, 17-333(A), 17-234, and 41-1005(A)(2) for R12-4-101; A.R.S. §§ 17-333, 17-342, 17-232, and 17-345 for R12-4-102; A.R.S. §§ 17-231(A)(2), 17-231(A)(3), and 17-231(A)(8) for R12-4-104 and R12-4-107; A.R.S. § 17-332 for R12-4-114; A.R.S. §§ 17-231 and 17-239 for R12-4-115; and A.R.S. § 17-231(A)(1) for R12-4-609

Implementing statutes: A.R.S. §§ 17-101, 17-333(A), 17-234, and 41-1005(A)(2) for R12-4-101; A.R.S. §§ 17-333, 17-342, 17-232, and 17-345 for R12-4-102; A.R.S. §§ 17-231(A)(2), 17-231(A)(3), and 17-231(A)(8) for R12-4-104 and R12-4-107; A.R.S. § 17-332 for R12-4-114; A.R.S. § 17-239 for R12-4-115; and A.R.S. §§ 17-234, 38-431.02, and 41-1005(A)(2) for R12-4-609

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

Notice of Rulemaking Docket Opening: 7 A.A.R. 4000, September 7, 2001

Notice of Public Meeting on Open Rulemaking Docket: 7 A.A.R. 4004, September 7, 2001

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 W. Greenway
Phoenix, AZ 85023-4399

Telephone: (602) 789-3289

Fax: (602) 789-3677

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

Rule changes proposed for R12-4-101, R12-4-102, R12-4-104, R12-4-107, R12-4-114, and R12-4-609 are largely administrative in nature. The only costs of the proposed changes are those associated with the rulemaking process itself. The Department will benefit from consistent implementation of associated rule changes, while the public will

benefit from having improved rules that are clear, concise, and more easily understandable. Specific amendments are as follows:

R12-4-101. Definitions

The purpose of R12-4-101 is to define the terms used in Game and Fish Commission rules (Title 12, Chapter 4) and Commission orders establishing hunting and fishing seasons. The proposed rulemaking adds the following definition: "Restricted nonpermit-tag" means a tag issued to a hunter pool applicant for a supplemental hunt under R12-4-115. The rulemaking also makes technical corrections and drafting style changes to make the rule language consistent with the current requirements for rulemaking language and style.

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

The purpose of R12-4-102 is to prescribe fees, within statutory confines, to cover necessary Department expenditures. The Game and Fish Department receives no appropriation from the State General Fund, but is supported by those fees prescribed in this rule. The proposed rulemaking adds a provision that will allow the Director to reduce fees for population management hunts if necessary under R12-4-115. This will help to ensure that all tags are issued and that the Department can meet its management goals. The proposed rulemaking also makes technical corrections and drafting style changes to make the rule language consistent with the current requirements for rulemaking language and style.

R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Drawing

The purpose of R12-4-104 is to prescribe application procedures and methods of issuance for "hunt permit-tags," meaning a tag for a hunt for which a Commission order has assigned a hunt number. R12-4-104 sets forth the procedures for obtaining a hunt permit-tag through a "drawing." The drawing is necessary because there are more persons wishing to hunt a particular species in a particular area by a particular method of take than there are available permits for that species. The drawing is intended to ensure that this limited number of tags is distributed fairly (note: R12-4-114 contains information directly relevant to the Department's responsibility).

The proposed rulemaking:

- Adds a provision to the rule to allow an applicant to apply for a hunt permit tag electronically over the internet.
- Clarifies that in the case of Department error in the issuing of a hunt permit-tag, only applicants that would have been successful based on the random number of their application are eligible for the issuance of these tags.
- Replaces existing subsection (C)(9)(b) with new subsection (K)(2), which clarifies regulations for genera that have multiple hunts within a single calendar year.
- Makes technical corrections and drafting style changes to make the rule language consistent with the current requirements for rulemaking language and style.

R12-4-107. Bonus Point System

The purpose of R12-4-107 is to improve the drawing odds for previously unsuccessful bighorn sheep, antelope, elk, buffalo, and deer applicants, within statutory confines and the rules governing the big game drawing. This method is used, in lieu of others, because it does not preclude a person with no bonus points from having a chance at being drawn for an available hunt permit-tag.

The proposed rulemaking amends the rule to clarify that bonus points will only be gained or lost through the computerized hunt permit-tag draw (which excludes restricted nonpermit-tags issued through the hunter pool from the bonus point system). The rulemaking also makes technical corrections and drafting style changes to make the rule language consistent with the current requirements for rulemaking language and style.

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

The purpose of R12-4-114 is to prescribe those duties related to the issuance of tags that are solely the Department's (note: R12-4-104 contains information directly relevant to the drawing applicant's responsibility). The proposed rule-making makes administrative housekeeping changes to clarify the requirements of the rule and to make the rule language consistent with the current requirements for rulemaking language and style.

R12-4-115. Depredation Hunts

The purpose of R12-4-115 is to prescribe the administrative procedures for depredation hunts for big game under A.R.S. § 17-239. The proposed rulemaking makes the following amendments to the rule to facilitate the implementation of the Department's Elk Harvest Management strategy:

- Changes the name of the rule to Supplemental Hunts and Hunter Pool.
- Defines supplemental hunts to include depredation hunts, emergency seasons (using existing language from R12-4-609(B)(3), and population management hunts.
- Adds a new definition for "hunter pool."
- Adds new language to delineate the requirements for the Commission and Department to implement population management hunts.
- Adds new language to delineate the requirements for the Commission and Department to reduce restricted nonpermit-tag fees for population management hunts determined to be less desirable. This provision is designed to ensure that all tags are issued and that the Department can meet its wildlife management goals.
- Replace all existing references to "depredation tags" with "restricted nonpermit-tags" (note: depredation tags will no longer exist).
- Consolidates exemptions currently found in R12-4-609(B)(3)(b) and (c) for emergency seasons into existing exemptions within R12-4-115. The exemptions will now apply to all supplemental hunts.
- Adds language to the rule to clarify that the 10% cap for nonresidents applies to restricted nonpermit-tags.
- Makes technical corrections and drafting style changes to make the rule language consistent with the current requirements for rulemaking language and style.

R12-4-609. Commission Orders; Emergency Seasons

The purpose of R12-4-609 is to prescribe a public notice process that is designed to comply with the legal requirements of A.R.S. § 38-431.02 and which will also ensure that adequate public notice is given for those public meetings where the Commission will consider Commission orders. The rule also defines exemptions to the public notice requirements of A.R.S. § 38-431.02 for Commission orders that establish depredation hunts under R12-4-115; special seasons under A.R.S. § 17-346 and R12-4-120; and Emergency seasons for emergencies constituting an immediate threat to the health, safety, or management of wildlife or its habitat, and emergencies constituting an immediate threat to public health or safety.

The proposed rulemaking makes administrative housekeeping changes to the rule language to make the rule consistent with the new provisions of R12-4-115, and makes technical corrections and drafting style changes to make the rule language consistent with the current requirements for rulemaking language and style.

6. A reference to any study that the agency relied on in its evaluation of or justification for the proposed rules 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 rules are necessary to promote a statewide interest if the rules 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:

R12-4-101. Definitions

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

R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Drawing

R12-4-107. Bonus Point System

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

R12-4-609. Commission Orders; Emergency Seasons

Rule changes proposed for R12-4-101, R12-4-102, R12-4-104, R12-4-107, R12-4-114, and R12-4-609 are largely administrative in nature, made necessary by additional rule changes in this package. The only costs of the proposed changes are those associated with the rulemaking process itself. The Department will benefit from consistent implementation of associated rule changes, while the public will benefit from having improved rules that are clear, concise, and more easily understandable. There will not be any added costs to the persons, agencies, or political subdivisions of this state directly affected by the implementation and enforcement of the proposed rulemaking, and there will not be any additional costs or reduction in revenues to businesses resulting from these rule amendments. There is no anticipated effect on the revenues or payroll expenditures of employers in the state as a consequence of the proposed rulemaking. Similarly, no impact to small businesses is anticipated as a result of the proposed rule changes to R12-4-101, R12-4-102, R12-4-104, R12-4-107, R12-4-114, and R12-4-609. The Department has determined that the benefits of the proposed rulemaking outweigh any costs.

The following is a summary of the anticipated economic impact for the various proposed rule changes for R12-4-104:

- The proposed rule change to clarify the means by which an applicant can apply for a hunt permit-tag electronically over the internet. This is an administrative change only, designed to facilitate the sale of hunt permit-tags over the internet. This proposed change will benefit customers by giving them another option for applying for hunt permit-tags. It will likewise benefit the Department and the applicant by automating the application process, reducing application errors, and thereby reducing the volume of mail and walk-in traffic to Department offices.
- The proposed rule change to clarify the issuing of hunt permit-tags in the case of Department error is designed to provide clear notice to the public about the Department's procedure for issuing these tags. The proposed rule change will benefit the public and the Department by clarifying this issue, and no economic impact beyond the cost of the rulemaking is anticipated.
- The proposed rule change to revise existing subsection (C)(9)(b) to clarify and simplify the regulations for genera that have multiple hunts within a single calendar year is designed to give the Commission and the Department maximum flexibility in the scheduling of hunting opportunities. If additional hunting opportunities are made available at some future date as a consequence of this rule change, the public will benefit from increased recreational choices, and the Department may see an increase in revenue from the increased sale of licenses and permits. It is impossible for the Department to determine or forecast specific numbers at this time.

The Department has determined that the benefits of the proposed rulemaking for R12-4-101, R12-4-102, R12-4-104, R12-4-107, R12-4-114, and R12-4-609 outweigh any costs.

R12-4-115. Depredation Hunts

The proposed rule changes to R12-4-115 will establish a hunter pool for supplemental hunts for the purposes of achieving habitat or population management objectives. The proposed rule change will allow hunters to be used to quickly remove elk that are negatively impacting private property or habitat, resulting in landowners or land management agencies getting relief from the problems being caused by elk. The implementation of the proposed rulemaking will enhance the Department's ability to meet population and habitat management objectives. The Department will incur limited additional costs to issue restricted nonpermit-tags and to provide law enforcement personnel to oversee supplemental hunts. Equipment and employees to complete these tasks are already in place, so the increased costs to the Department will be minimal. The proposed rule changes will impose no new requirements on small businesses, but will instead enable small businesses to provide additional goods and services to hunters. The proposed rule changes will streamline the process the Department uses to place hunters in the field, and should ultimately result in reduced costs for the Department's elk management efforts. The Department has determined that the benefits of the proposed rulemaking for R12-4-115 outweigh any costs.

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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: Mark E. Naugle, Manager, Rules and Risk Management
Address: Arizona Game and Fish Department DORR
2221 W. Greenway
Phoenix, AZ 85023-4399
Telephone: (602) 789-3289
Fax: (602) 789-3677

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

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

Date: Friday, December 6, 2002
Time: To be announced. The Commission Meeting Agenda will be available to the public on November 15, 2002. Copies of the Commission Meeting Agenda may be obtained by contacting the following person:
Mark E. Naugle, Manager, Rules and Risk Management
Arizona Game and Fish Department DORR
2221 W. Greenway
Phoenix, AZ 85023-4399
Telephone: (602) 789-3289
Fax: (602) 789-3677
Location: Wildlife Building – Arizona State Fairgrounds
1826 W. McDowell
Phoenix, AZ

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 W. Greenway, Phoenix, AZ 85023, (602) 789-3290. Requests should be made as early as possible to allow sufficient time to arrange for accommodation.

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 W. Greenway, Phoenix, AZ 85023, (602) 789-3290, or the U.S. Fish and Wildlife Service, 4040 N. Fairfax Dr., Suite 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:

None

13. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

Section
R12-4-101. Definitions
R12-4-102. Fees for Licenses, Tags, Stamps, and Permits
R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Drawing
R12-4-107. Bonus Point System
R12-4-114. Issuance of Nonpermit-tags and Hunt ~~Permit-Tags~~ Permit-tags

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R12-4-115. ~~Depredation Hunts~~ Supplemental Hunts and Hunter Pool

ARTICLE 6. RULES OF PRACTICE BEFORE THE COMMISSION

Section

R12-4-609. Commission Orders; ~~Emergency Seasons~~

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

R12-4-101. Definitions

A. In addition to the definitions provided in A.R.S. § 17-101, R12-4-401, and R12-4-501, the following definitions apply to this Chapter, unless the context otherwise requires:

1. "Artificial lures and flies" means man-made devices intended as visual attractants for fish and shall not include living or dead organisms or edible parts thereof, natural or prepared food stuffs, artificial salmon eggs, artificial corn, or artificial marshmallows.
 2. "Commission order" means a document adopted by the Commission which may do any or all of the following: ~~Open~~ open, close or alter seasons and open areas for taking wildlife; specify wildlife which may or may not be taken; set bag or possession limits for wildlife; or set the number of permits available for limited hunts.
 3. "Crayfish net" means a net not to exceed 24 inches on a side or in diameter that is retrieved by means of a hand-held line.
 4. "Hunt area" means a game management unit, portion of unit, or group of units opened to hunting by a particular hunt number.
 5. "Hunt number" means the number assigned by Commission order to any hunt area where a limited number of hunt permits is available.
 6. "Hunt permits" means the number of hunt permit-tags made available to the public as a result of a Commission order.
 7. "Hunt permit-tag" means a tag for a hunt for which ~~the a~~ a Commission ~~order~~ order has assigned a hunt number.
 8. "Identification number" means a number assigned to each applicant or licensee by the Department, as described in R12-4-111.
 9. "License dealer" means a business authorized to sell hunting, fishing and other licenses pursuant to R12-4-105.
 10. "Live baitfish" means any species of live freshwater fish designated by Commission ~~Order~~ order as lawful for use in taking aquatic wildlife pursuant to R12-4-313.
 11. "Management unit" means an area established by the Commission for management purposes.
 12. "Minnow trap" means a trap with dimensions not to exceed 12 inches in depth, 12 inches in width and 24 inches in length.
 13. "Muzzle-loading handgun" means a firearm intended to be fired from the hand, incapable of firing fixed ammunition, having a single barrel and single chamber, and loaded through the muzzle with black powder or synthetic black powder and a single projectile.
 14. "Muzzle-loading rifle" means a weapon intended to be fired from the shoulder, incapable of firing fixed ammunition, having a single barrel and single chamber, and loaded through the muzzle with black powder or synthetic black powder and a single projectile.
 15. "Nonpermit-tag" means a tag for a hunt for which ~~the a~~ a Commission ~~order~~ order has not assigned a hunt number, and where the number of tags is not limited.
 16. "Restricted nonpermit-tag" means a tag issued to a hunter pool applicant for a supplemental hunt under R12-4-115.
 - ~~16-17.~~ "Simultaneous fishing" means the taking of fish by two lines and not to exceed two hooks or two artificial lures or flies per line.
 - ~~17-18.~~ "Sink box" means a low floating device, having a depression affording the hunter a means of concealment beneath the surface of the water.
 - ~~18-19.~~ "Tag" means the authorization that an individual is required to obtain from the Department under A.R.S. Title 17 and these rules before taking certain wildlife.
 - ~~19-20.~~ "Waterdog" means the larval or metamorphosing stage of salamanders.
 - ~~20-21.~~ "Wildlife area" means an area established pursuant to ~~R12-4-109~~ 12 A.A.C. 4, Article 8.
- B. ~~When~~ If the following terms are used in a Commission order, ~~these~~ the following definitions apply:
1. "Antlered" means having an antler fully erupted through the skin and capable of being shed.
 2. "Bearded turkey" means a turkey with a beard that extends beyond the contour feathers of the breast.
 3. "Buck antelope" means a male pronghorn antelope with a horn longer than its ear.
 4. "Bull elk" means an antlered elk.
 5. "Ram" means any male bighorn sheep, excluding male lambs.

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

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

Persons purchasing the licenses, tags, stamps, or permits listed in this Section shall pay the prescribed fees at the time of application, or the fees prescribed by the Director under R12-4-115.

	Fee effective July 1, 2000	Fee effective January 1, 2001
Hunting and Fishing License Fees		
Class A, General Fishing License • Resident • Nonresident Pursuant to A.R.S. § 17-333(A)(1), the fee for this license issued in November or December of the year for which the license is valid is 1/2 price; that includes 1/2 of the surcharge prescribed as authorized by A.R.S. § 17-345.	\$12.00 \$38.00	\$18.00 \$51.50
Class B, Four-month Fishing License • Nonresident	\$22.00	\$37.50
Class C, Five-day Fishing License • Nonresident	\$18.50	\$26.00
Class D, One-day Fishing License • Resident or Nonresident	\$8.00	\$12.50
Class E, Colorado River Only Fishing License • Nonresident	\$32.50	\$42.50
Class F, Combination Hunting and Fishing License • Resident Adult • Nonresident Adult • Resident or Nonresident Youth. Fee applies before and through the calendar year of the applicant's 20th birthday.	\$34.00 \$100.00 \$18.00	\$44.00 \$177.50 \$25.50
Class G, General Hunting License • Resident • Nonresident	\$18.00 \$85.50	\$25.50 \$113.50
Class H, Three-day Hunting License • Nonresident	\$38.00	\$51.50
• Resident Youth Group Two-day Fishing License	\$25.00	\$25.00
Class U, Urban Fishing License • Resident or Nonresident	\$12.00	\$16.00
Hunt Permit-tag Fees		
Antelope • Resident • Nonresident	\$59.50 \$299.50	\$59.50 \$299.50
Bear • Resident • Nonresident	\$13.00 \$183.00	\$13.00 \$183.00
Bighorn Sheep • Resident • Nonresident	\$179.50 \$915.00	\$179.50 \$915.00
Buffalo • Adult Bulls or Any Buffalo • Resident • Nonresident • Adult Cows • Resident • Nonresident	\$750.00 \$3,750.00 \$450.00 \$2,250.00	\$750.00 \$3,750.00 \$450.00 \$2,250.00
• Yearling • Resident	\$240.00	\$240.00

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• Nonresident	\$1,200.00	\$1,200.00
• Yearling or Cow		
• Resident	\$450.00	\$450.00
• Nonresident	\$2,250.00	\$2,250.00
Deer and Archery Deer		
• Resident	\$17.50	\$17.50
• Nonresident	\$108.50	\$108.50
Elk		
• Resident	\$71.50	\$71.50
• Nonresident	\$366.00	\$366.00
Javelina and Archery Javelina		
• Resident	\$11.00	\$11.00
• Nonresident	\$63.00	\$63.00
Mountain Lion		
• Resident	\$13.00	\$13.00
• Nonresident	\$183.00	\$183.00
Turkey and Archery Turkey		
• Resident	\$10.00	\$10.00
• Nonresident	\$50.50	\$50.50
Sandhill Crane		
• Resident or Nonresident	\$5.00	\$5.00
Nonpermit-tag Fees		
Antelope		
• Resident	\$50.00	\$59.50
• Nonresident	\$250.00	\$299.50
Bear		
• Resident	\$11.00	\$13.00
• Nonresident	\$150.00	\$183.00
Bighorn Sheep		
• Resident	\$150.00	\$179.50
• Nonresident	\$750.00	\$915.00
Buffalo		
• Adult Bulls or Any Buffalo		
• Resident	\$750.00	\$750.00
• Nonresident	\$3,750.00	\$3,750.00
• Adult Cows		
• Resident	\$450.00	\$450.00
• Nonresident	\$2,250.00	\$2,250.00
• Yearling		
• Resident	\$240.00	\$240.00
• Nonresident	\$1,200.00	\$1,200.00
• Yearling or Cow		
• Resident	\$450.00	\$450.00
• Nonresident	\$2,250.00	\$2,250.00
Deer and Archery Deer		
• Resident	\$14.50	\$17.50
• Nonresident	\$75.50	\$108.50
Elk		
• Resident	\$60.00	\$71.50
• Nonresident	\$300.00	\$366.00
Javelina and Archery Javelina		
• Resident	\$9.50	\$11.00
• Nonresident	\$50.50	\$63.00
Mountain Lion		

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• Resident	\$11.00	\$13.00
• Nonresident	\$150.00	\$183.00
Turkey and Archery Turkey		
• Resident	\$8.50	\$10.00
• Nonresident	\$50.50	\$50.50
Stamps and Special Use Permit Fees		
Arizona Colorado River Special Use Permit Stamp. For use by California fishing licensees, resident or nonresident.	\$3.00	\$3.00
Arizona Colorado River Special Use Permit Stamp. For use by Nevada fishing licensees, resident or nonresident.	\$3.00	\$3.00
Arizona Lake Powell Stamp. For use by resident Utah licensees.	\$3.00	\$3.00
Bobcat Permit Tag. For resident or nonresident.	\$2.00	\$2.00
State Waterfowl Stamp. Validates resident or nonresident Class F, G, or H license for ducks, geese, and swans.	\$7.50	\$7.50
State Migratory Bird Stamp, as prescribed in A.R.S. § 17-333.03. Resident or nonresident.	\$3.00	\$3.00
Trout Stamp. When affixed to the back of the license, validates Class A license for trout.		
• Resident	\$10.00	\$10.50
• Nonresident	\$10.00	\$49.50
Two-Pole Stamp. When affixed to the back of a Class A, B, C, D, E, F, Pioneer or Urban fishing license, allows simultaneous fishing as defined in R12-4-101.	\$4.00	\$4.00
Other License Fees		
Falconer License	\$75.00	\$75.00
Field Trial License	\$5.00	\$5.00
Fur Dealer's License	\$100.00	\$100.00
Guide License		
• Resident or Nonresident	\$100.00	\$100.00
License Dealer's License	\$75.00	\$75.00
Minnow Dealer's License	\$30.00	\$30.00
Private Game Farm License	\$40.00	\$40.00
Shooting Preserve License	\$100.00	\$100.00
Taxidermist License	\$50.00	\$50.00
Trapping License		
• Resident	\$10.00	\$10.00
• Nonresident	\$50.00	\$50.00
• Resident Juvenile	\$10.00	\$10.00
White Amur Stocking License	\$100.00	\$100.00
Wildlife Hobby License	\$5.00	\$5.00
Zoo License	\$100.00	\$100.00
Administrative Fees		
Duplicate Fee. Duplicates are not issued for Trout Stamps, Arizona Colorado River Special Use Permits, Arizona Colorado River Special Use Permit Stamps, Arizona Lake Powell Stamps, State Migratory Bird Stamps, or State Waterfowl Stamps.	\$3.00	\$3.00
Permit Application Fee	\$5.00	\$5.00
Kaibab North Special Deer Hunting Permit, resident or nonresident	\$5.00	\$5.00

R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Drawing

- A. For the purposes of this Section, "group" means all applications contained in a single envelope ~~that is provided as part of the Hunt Permit tag Application Form~~ or submitted electronically over the internet as part of the same application. No more than ~~4~~four individuals may apply as a group except that no more than ~~2~~two individuals may apply as a group for bighorn sheep. Nonresidents, see subsection R12-4-114(D).

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- B.** Each An applicant, including each member of a group, applying for a hunt permit-tag shall apply using a Hunt Permit-tag Application Form, available at Department offices, the Department's internet web site, and license dealers and received at times and locations established by the hunt permit-tag application schedule that is published annually by the Department and available at Department offices, the Department's internet web site, and license dealers.
- C.** Each An applicant, including each member of a group, shall sign the Hunt Permit-tag Application Form, or provide permission to another person to sign the application form for them and provide the following information: name, address, residency status, and date of birth. If applying electronically over the internet, an applicant shall attest to, or provide permission to another person to attest to, the information electronically provided. In addition:
1. Each applicant, including each member of a group, shall include the applicant's social security number, as required under A.R.S. §§ 25-320(K) and 25-502(E), and the applicant's identification number, if different from the social security number on the Hunt Permit-tag Application Form.
 2. Each applicant, including each member of a group, licensed to take wildlife in this state shall include the number of the applicant's class F or G hunting license for the year in which the hunt will take place, the number of the applicant's complimentary pioneer license, or the number of the applicant's disabled veteran's license on the Hunt Permit-tag Application Form, or:
 - a. Each applicant, including each member of a group, not licensed for the year in which the hunt will take place shall complete the License Application portion of the Hunt Permit tag Application Form, providing the applicant's name, identification number, address, class of license for which application is made, residency status, length of Arizona residency (if applicable), date of birth, sex, weight, height, and color of hair and eyes.
 - b. Each unlicensed juvenile applying for a hunt other than big game and not required to have a license shall indicate "juvenile" in the space provided for the license number on the Hunt Permit tag Application Form.
 3. Each applicant, including each member of a group, shall enclose as part of the hunt permit-tag application, fees as set in R12-4-102 for the following:
 - a. The fee for the appropriate hunt permit-tag;
 - b. A permit application fee;
 - e. If a license is requested, fee for the license.
 4. Each payment enclosed as part of the hunt permit tag application shall be made payable to the Arizona Game and Fish Department by certified check, cashier's check, money order, or personal check or draft. Cash shall not be accepted.
 5. Each applicant, including each member of a group, shall apply for a specific hunt by the current hunt number. If all hunts selected by the applicant are filled at the time the application is processed in the Drawing, the Department shall deem the application unsuccessful.
 6. Each applicant, including each member of a group, shall make all hunt choices within 1 application for the same genus.
 7. Applications for different genera of wildlife shall not be included in the same envelope.
 8. All members of a group shall apply for the same hunt numbers and in the same order of preference. The Department shall not issue a hunt permit tag to any group member unless sufficient hunt permit tags are available for all group members. If the Department rejects any member of a group for any reason, the Department shall reject all other members of the group.
 9. Each applicant, including each member of a group, shall submit only 1 valid application per genus of wildlife for any calendar year, except:
 - a. When the bag limit is 1 per calendar year, an unsuccessful applicant may re-apply for remaining hunt permit tags in unfilled hunt areas, as specified in the hunt permit tag application schedule published annually by the Department.
 - b. Turkey and buffalo hunters with a hunt permit tag for the spring season who are unsuccessful in the spring season may apply for a hunt permit tag for the fall season.
 - e. When the bag limit is more than 1 per calendar year, any person may apply as specified in the hunt permit tag application schedule published annually by the Department for remaining hunt permit tags in unfilled hunt areas.
 10. It is unlawful for any person to apply for a bighorn sheep or buffalo hunt permit tag when that person has taken the bag limit for that species.
 11. To participate in the bonus point system, applicants shall comply with R12-4-107.
- D.** Each applicant shall provide the following information on the Hunt Permit-tag Application Form:
1. Name, address, residency status, and date of birth;
 2. The applicant's social security number, as required under A.R.S. §§ 25-320(K) and 25-502(E), and the applicant's Department identification number, if different from the social security number on the Hunt Permit-tag Application Form;
 3. Each applicant licensed to take wildlife in this state shall include the number of the applicant's license for the year in which the hunt will take place;

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4. Each applicant not licensed for the year in which the hunt will take place shall complete the License Application portion of the Hunt Permit-tag Application Form, providing the applicant's name, Department identification number, address, class of license for which application is made, residency status, length of Arizona residency (if applicable), date of birth, sex, weight, height, and color of hair and eyes; and
 5. Each unlicensed juvenile applying for a hunt other than big game and not required to have a license shall indicate "juvenile" in the space provided for the license number on the Hunt Permit-tag Application Form.
- E.** Each applicant shall enclose as part of the hunt permit-tag application, fees as set in R12-4-102 for the following:
1. The fee for the appropriate hunt permit-tag, unless application is submitted online;
 2. A permit application fee; and
 3. If a license is requested, a fee for the license.
- F.** Each applicant shall enclose payment as part of the hunt permit-tag application, made payable, in U.S. currency, to the Arizona Game and Fish Department by certified check, cashier's check, money order, or personal check. If applying electronically over the internet or telephone, an applicant shall include as a part of the hunt permit-tag application, payment by valid credit card.
- G.** Each applicant shall apply for a specific hunt by the current hunt number. If all hunts selected by the applicant are filled at the time the application is processed in the Drawing, the Department shall deem the application unsuccessful.
- H.** Each applicant shall make all hunt choices within one application for the same genus.
- I.** Applications for different genera of wildlife shall not be included in the same envelope.
- J.** All members of a group shall apply for the same hunt numbers and in the same order of preference. The Department shall not issue a hunt permit-tag to any group member unless sufficient hunt permit-tags are available for all group members. If the Department rejects any member of a group for any reason, the Department shall reject all other members of the group.
- K.** Each applicant shall submit only one valid application per genus of wildlife for any calendar year, except:
1. If the bag limit is one per calendar year, an unsuccessful applicant may re-apply for remaining hunt permit-tags in unfilled hunt areas, as specified in the hunt permit-tag application schedule published annually by the Department.
 2. For genera that have multiple hunts within a single calendar year, hunters that successfully draw a hunt permit-tag during an earlier season may apply for a later season for the same genus if they have not taken the bag limit for that genus during a preceding hunt in the same calendar year.
 3. If the bag limit is more than one per calendar year, any person may apply as specified in the hunt permit-tag application schedule published annually by the Department for remaining hunt permit-tags in unfilled hunt areas.
- L.** It is unlawful for any person to apply for a bighorn sheep or buffalo hunt permit-tag when that person has taken the bag limit for that species.
- M.** To participate in the bonus point system, an applicant shall comply with R12-4-107.
- ~~**N.** Any Hunt Permit-tag Application Form not prepared or submitted in accordance with this ~~rule~~ Section, or not prepared in a legible manner, is not valid and shall be rejected and all fees refunded. If the Department rejects ~~any an~~ application from any member of a group, the Department shall reject all applications from the group.~~
- ~~**O.** Any hunt permit-tag issued for an application that is subsequently found not to be in accordance with this ~~rule~~ Section is invalid.~~
- ~~**P.** ~~Hunt~~ The Department shall mail hunt permit-tags ~~shall be mailed~~ to successful applicants. ~~Overpayments~~ The Department shall return overpayments and hunt permit-tag and license fees received with ~~an~~ unsuccessful ~~applications~~ application shall be returned to the applicant designated "A", as shown on the Hunt Permit-tag Application Form. Permit application fees received with valid applications shall not be refunded.~~
- ~~**Q.** If the Director determines that Department error resulted in the rejection of an application for a hunt permit-tag, the Director may authorize additional hunt permit-tags in order to correct the error, provided the issuance of additional permits will have no significant impact on the wildlife population to be hunted and the application would have otherwise been successful based on its random number. ~~Any~~ An applicant who is denied a hunt permit-tag under this procedure may appeal to the Commission as provided under A.R.S. Title 41, Chapter 6, Article 10.~~
- ~~**H.** This rule is effective January 1, 2000.~~

R12-4-107. Bonus Point System

- A.** The bonus point system grants each person ~~+~~ one entry in each drawing for elk, buffalo, bighorn sheep, antelope, or deer for each bonus point which that person has accumulated under this ~~rule~~ Section. Each bonus point entry is in addition to the entry normally granted by R12-4-104. When processing "group" applications as defined in R12-4-104, the Department shall use the average number of bonus points accumulated by the persons in the group, rounded to the nearest whole number. If the average is .5, the total will be rounded up to the next highest number.
- B.** The Department shall award ~~+~~ one bonus point each time a person submits a valid but unsuccessful application for a hunt permit-tag, provided that:
 1. The application is not for hunt permit-tags left over after the drawing which are available on a first-come, first-served basis as prescribed in R12-4-114; and

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2. ~~Prior to~~ Before the drawing, the ~~person~~ applicant has purchased a hunting license valid for the year in which the hunt will take place. The applicant shall either provide the hunting license number on the application, or submit an application and fees for the license with the drawing application, indicating that the applicant is to be issued the license even if not drawn.
- C. Each bonus point accumulated is valid only for the genus designated on the unsuccessful application.
- D. Except for permanent bonus points awarded for hunter education, all of a person's accumulated bonus points for a genus are forfeited ~~when if~~:
 1. The person is issued a hunt permit-tag for that genus in a computer drawing; or
 2. ~~When the~~ The person fails to apply for a hunt permit-tag for that genus for 5 ~~five~~ consecutive years.
- E. ~~An applicant issued first-come hunt permit-tags under R12-4-114 after the computer drawing will not lose bonus points for those tags, and a valid but unsuccessful applicant for first-come hunt permit-tags remaining after the computer drawing will not gain bonus points.~~
- ~~E.F.~~ E. The Department shall award ~~4~~ one permanent bonus point for each genus upon a person's ~~4th~~ first graduation from the Department's Arizona Hunter Education Course or for serving as a Department hunter education instructor.
 1. The Department shall credit ~~persons~~ a person who graduated after January 1, 1980, but ~~prior to~~ before January 1, 1991, or ~~persons~~ a person certified by the Department as an active hunter education ~~instructors~~ instructor after January 1, 1980, with ~~4~~ one permanent bonus point for each genus if the person provides the following information on a form available from the Department: Department identification number; name; address; residency status and length of Arizona residency, if applicable; date of birth; sex; weight; height; color of hair and eyes; and, for ~~persons~~ a person other than ~~instructors~~ an instructor, the month and year of graduation from the Department's Arizona Hunter Education Course.
 2. An instructor or a person who has graduated shall submit the required form 30 days prior to a drawing's application date deadline, specified in the hunt permit-tag application schedule, in order for the bonus point to be counted by the Department in that drawing.
- ~~F.G.~~ F. The Department shall ~~place each~~ make an applicant's total number of accumulated bonus points ~~accumulated available on the applicant's notice of unsuccessful application~~ Department's web site or IVR telephone system. If the applicant disagrees with the total, the applicant shall provide previous notices or proof of compliance with subsection (E) to prove Department error. In the event of an error, the Department shall correct the applicant's record.
- ~~G.H.~~ G. The Department shall record bonus points under ~~each~~ an applicant's Department identification number and the genus on the application. The Department shall not transfer bonus points between persons or genera.
- ~~H.~~ H. ~~This rule is effective January 1, 1999.~~

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

- A. In accordance with A.R.S. § 17-332 and the provisions of this ~~rule~~ Section, the Department shall annually provide numbered tags for sale to the public. ~~Each~~ The Department shall ensure that each tag includes a transportation and shipping permit as prescribed in A.R.S. §§ 17-332 and 17-371. ~~Tags are and that each tag is made of tear-resistant material with an adhesive back covered by a detachable paper backing and that clearly identify, when issued, identifies~~ identifies the animal for which the tag is valid.
- B. ~~When~~ If the Commission establishes a big game season for which a hunt number is not assigned, ~~license dealers and the~~ Department offices or its authorized agent, or both, shall sell nonpermit-tags.
 1. To obtain a nonpermit-tag, an applicant shall provide to a license dealer or Department office the applicant's name, address, and Department identification number.
 2. An applicant shall not apply for or obtain nonpermit-tags in excess of the bag limit prescribed by the Commission when it established the season for which the nonpermit-tags are valid.
- C. ~~When~~ If the number of hunt permits for a species in a particular hunt area must be limited, a Commission order establishes a hunt number for that hunt area, and a hunt permit-tag is required to take the species in that hunt area.
 1. To apply for a hunt permit-tag, an applicant shall submit an application ~~pursuant to~~ under R12-4-104.
 2. The Department ~~shall uses~~ use the following procedure to determine whether a hunt permit-tag will be issued to an applicant:
 - a. The Department ~~shall reserves~~ reserve a maximum of 10% of the hunt permits for each hunt number ~~for elk, buffalo, bighorn sheep, and antelope~~ to issue to persons and groups who have bonus points ~~which that~~ that have been issued according to R12-4-107.
 - b. The Department ~~shall issues~~ issue the reserved hunt permit-tags for hunt numbers designated by eligible applicants as their ~~4th~~ first or ~~2nd~~ second choices. The Department ~~shall issues~~ issue the reserved hunt permit-tags by random selection:
 - i. First, to eligible applicants with the greatest number of bonus points for that genus.
 - ii. Next, if there are reserved hunt permit-tags remaining, to eligible applicants with the next greatest number of bonus points for that genus.

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- iii. If there are still tags remaining, to the next eligible applicants with the next greatest number of bonus points; continuing until all of the reserved tags have been issued or until there are no more applicants for that hunt number who have bonus points.
 - c. ~~First~~ The Department shall ensure that the first selection from all unreserved hunt permit-tags is by random drawing.
 - d. ~~When~~ If the bag limit established by Commission order is more than ~~4~~ one per calendar year, or ~~when~~ if there are hunt permit-tags remaining unissued after the random drawings, the Department shall ensure that these hunt permit-tags are available on a set date on a 1st first-come, 1st first-served basis by mail or over the counter from Department offices as specified in the hunt permit-tag application schedule published annually by, and available from, the Department.
- D.** The Department shall ensure that no more than 10% of the total available bighorn sheep or buffalo hunt permit-tags in any calendar year are issued to nonresidents and that no more than 50% nor more than ~~2~~ two bighorn sheep or buffalo hunt permit-tags in any hunt number are issued to nonresidents.
- E.** The Department shall ensure that no more than 10% of the total available hunt permit-tags are issued to nonresidents for the following hunts, except that when hunt numbers have 10 or less available hunt permit-tags, no more than ~~4~~ one hunt permit-tag is issued to a nonresident:
- 1. All hunts for bull elk; ~~and~~
 - 2. All hunts for antlered deer north of the Colorado River.
- F.** ~~This rule is effective January 1, 1997.~~

R12-4-115. Depredation Hunts Supplemental Hunts and Hunter Pool

- A.** For the purposes of this rule ~~Section~~, a “depredation hunt” is a season established by the Commission for the purpose of ~~removing depredated wildlife pursuant to A.R.S. § 17-239.~~ the following definitions apply:
- 1. “Management objectives” means goals, recommendations, or guidelines contained in Commission-approved wildlife management plans, which include hunt guidelines, operational plans, or hunt recommendations;
 - 2. “Hunter pool” means a file of applications for supplemental hunts; and
 - 3. “Supplemental hunt” means a season established by the Commission for the following purposes:
 - a. Take of depredated wildlife under A.R.S. § 17-239;
 - b. Take of wildlife under an Emergency Season if the Commission adopts, amends, or repeals a Commission order for reasons constituting an immediate threat to the health, safety, or management of wildlife or its habitat or to public health or safety; or
 - c. Take of wildlife under a population management hunt if the Commission has prescribed restricted nonpermit-tags by Commission order for the purpose of meeting management objectives because regular seasons are not, have not been, or will not be sufficient or effective to achieve management objectives.
- B.** For the purposes of authorizing a population management hunt, the Commission through Commission order shall open a season or seasons and prescribe a maximum number of restricted nonpermit-tags that the Director may issue under this Section.
- C.** The Director shall implement a population management hunt under the open season or seasons prescribed in subsection (B) if the Director finds that:
- 1. Regular seasons have not met or will not meet management objectives;
 - 2. Take of wildlife is necessary to meet management objectives; and
 - 3. Issuance of a specific number of restricted nonpermit-tags is likely to meet management objectives.
- D.** To implement a population management hunt under subsection (B), the Director shall do the following:
- 1. Select season dates, within the range of dates prescribed by the Commission through Commission order;
 - 2. Select specific hunt areas, within the range of hunt areas prescribed by the Commission through Commission order;
 - 3. Select the legal animal, within the range of legal animals prescribed by the Commission through Commission order;
 - 4. Determine the number of restricted nonpermit-tags that will be issued from the maximum number of tags prescribed by the Commission through Commission order; and
 - 5. Reduce restricted nonpermit-tag fees up to 75% for population management hunts if the normal fee structure will not generate adequate participation from applicants in the hunter pool.
- E.** The Director shall not issue more restricted nonpermit-tags than the maximum number prescribed by the Commission through Commission order.
- ~~B-E.~~** ~~To participate in a depredated hunt supplemental hunt, a person shall obtain a depredated tag restricted non-permit tag issued pursuant to as prescribed by this rule Section. A depredated tag restricted non-permit tag is valid only for the depredated supplemental hunt for which it is issued.~~
- ~~C-G.~~** ~~The Department or its authorized agent shall maintain a hunter pool file of applications for depredated tags supplemental hunts. The file hunter pool shall be purged and renewed annually, but the Department may advertise for and accept new applications as needed. When If the Commission establishes a depredated supplemental hunt, and the number of hunters in the supplemental hunt must be limited, the Department or its authorized agent shall randomly select applicants from the~~

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current hunter pool file. The Department or its authorized agent shall attempt to contact each randomly-selected applicant by telephone at least three times during a 24-hour period. If ~~the an~~ applicant cannot be contacted or cannot participate in the hunt, the Department or its authorized agent shall return the application ~~shall be returned to the file~~ hunter pool and ~~another drawn draw another application~~. The Department or its authorized agent shall draw no more applications after the number of ~~deprecation tags established by the Commission~~ restricted nonpermit-tags prescribed in subsection (C) (4) have been issued.

~~D.H.~~ Applicants for deprecation tags shall submit the following information on a form available from the Department. Only the permit application fee prescribed in R12-4-102 shall be included with the application form. Neither a current hunting license number nor a fee or application for a hunting license shall be required with the application form. “Group” applications as prescribed in R12-4-104 shall not be accepted.

An applicant for a supplemental hunt shall submit the permit application fee prescribed in R12-4-102 along with the following information on a form available from the Department or its authorized agent:

1. Name, address, whether a resident or nonresident, and date of birth;
2. Daytime and evening telephone numbers; and
3. The species ~~which~~ that the applicant would like to hunt if drawn.

I. Neither a current hunting license number nor a fee or application for a hunting license is required with the supplemental hunt application form. The Department shall not accept group applications, as described in R12-4-104, for supplemental hunts.

~~E.I.~~ A hunter pool applicant who is drawn and who wishes to participate in a deprecation supplemental hunt may shall submit the following to the Department to obtain the deprecation tag as follows a restricted nonpermit-tag:

1. Submitting the The fee for the tag; as prescribed ~~in~~ by R12-4-102, or as prescribed by subsection (C)(5) if the fee has been reduced; and
2. Providing the The number of the applicant’s hunting license, valid for the year of the ~~deprecation~~ supplemental hunt.
3. Deprecation tags shall be reserved by the Department for any applicant only for the period of time specified by the Department when contact is made. Tags not purchased within the specified period of time shall be reserved for another applicant drawn from the current file pursuant to this rule. Successful applicants who do not purchase a tag after being contacted and agreeing to purchase the tag shall be removed from the current file.

K. The Department reserves a restricted nonpermit-tag for an applicant only for the period of time specified by the Department when contact is made with the applicant. A restricted nonpermit-tag not purchased within the specified period of time shall be issued to another applicant drawn from the current hunter pool as prescribed by this Section. The Department or its authorized agent shall remove from the current hunter pool the application of any successful applicant who does not purchase a tag after being contacted and agreeing to purchase the tag.

~~F.L.~~ The provisions of ~~R12-4-309~~ R12-4-104, R12-4-107, R12-4-114, and R12-4-609 shall do not apply to deprecation supplemental hunts. ~~A~~ A supplemental hunt application submitted in accordance with this Section rule shall does not invalidate any application for a hunt permit-tag. A person shall not be issued both a deprecation tag and a hunt permit tag for the same genus for the same calendar year unless the bag limit for that genus equals or exceeds two. The issuance of a restricted nonpermit-tag does not authorize an individual to exceed the bag limit established by the Commission for that calendar year.

G. This rule is effective January 1, 1993.

M. The Department shall ensure that no more than 10% of the total available restricted nonpermit-tags issued for population management hunts are issued to nonresidents for the following hunts, except that if population management hunts have ten or fewer available restricted nonpermit-tags, no more than one restricted nonpermit-tag shall be issued to a nonresident:

1. All hunts for bull elk, and
2. All hunts for antlered deer north of the Colorado River.

ARTICLE 6. RULES OF PRACTICE BEFORE THE COMMISSION

R12-4-609. Commission Orders; ~~Emergency Seasons~~

A. Except as provided in subsection (B):

1. At least 20 calendar days ~~prior to~~ before a meeting where the Commission will consider a Commission order, the Department shall issue a public announcement of the proposed Commission order to print and ~~electronics~~ electronic media in accordance with A.R.S. § 38-431.02.
2. The announcement shall contain the date, time, and location of the Commission meeting where ~~these recommendations~~ the Commission order will be considered and a statement that the public may attend and present written comments at or before the hearing.
3. The announcement shall also state that ~~copies~~ a copy of any proposed Commission ~~orders~~ order ~~will be~~ is available for public inspection at the Department offices in Phoenix, Pinetop, Flagstaff, Kingman, Yuma, Tucson, and Mesa 10 calendar days ~~prior to~~ before the meeting.

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- B. The requirements of subsection (A) do not apply to Commission orders establishing:
1. ~~Depredation Supplemental~~ hunts as prescribed in R12-4-115, and
 2. Special seasons for persons possessing special license tags issued under A.R.S. § 17-346 and R12-4-120.
 3. ~~Emergency seasons when the Commission adopts, amends, or repeals a Commission order for emergency reasons constituting an immediate threat to the health, safety, or management of wildlife or its habitat or public health or safety.~~
 - a. ~~When the number of hunters to participate in an emergency big game season must be limited, hunters may be randomly selected from the list of applicants established pursuant to R12-4-115; the Department may advertise for and accept new applications as needed.~~
 - b. ~~The restrictions in R12-4-309 do not apply to an emergency season.~~
 - c. ~~The provisions of R12-4-104, R12-4-107, and R12-4-114 do not apply to an emergency season.~~
- C. The Department shall publish the content of all Commission orders and make them available to the public without charge.

NOTICE OF PROPOSED RULEMAKING

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;
SECURITIES REGULATION**

CHAPTER 4. CORPORATION COMMISSION – SECURITIES

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R14-4-116 | 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. § 44-1821
Implementing statute: A.R.S. § 44-1891
Constitutional authority: Arizona Constitution Article XV §§ 6 and 13
- 3. A list of all previous notices appearing in the Register addressing the proposed rules:**
Notice of Rulemaking Docket Opening: 8 A.A.R. 2400, May 31, 2002
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|------------|--|
| Name: | Sharleen A. Day, Associate General Counsel |
| Address: | Arizona Corporation Commission, Securities Division
1300 W. Washington, 3rd Floor
Phoenix, AZ 85007-2996 |
| Telephone: | (602) 542-4242 |
| Fax: | (602) 594-7421 |
- 5. An explanation of the rules, including the agency's reasons for initiating the rules:**
A.A.C. R14-4-116 ("rule 116") formally identifies and incorporates by reference certain policy statements issued by the North American Securities Administrators Association ("NASAA") regarding the registration of securities. The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") requires issuers registering securities to comply with the terms of these policy statements. The Commission proposes to amend rule 116 to add the NASAA Guidelines for General Obligation Financing by Religious Denominations and the NASAA Statement of Policy Regarding Church Bonds. The NASAA Guideline for General Obligation Financing by Religious Denominations will be the standard of review for debt issued by a denomination for the purpose of funding projects of various affiliated churches or related religious organizations. The Statement of Policy Regarding Church Bonds will be the standard of review for debt issued by individual religious entities to fund projects associated with the individual entity. States coordinate in the drafting of NASAA guidelines and adopt them in order to facilitate uniformity among the states regarding the standards imposed on applicants for registration of securities. The Division believes that the proposed adoption of these two NASAA guidelines will benefit both the industry and potential investors by providing appropriate and consistent registration standards.

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6. 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:

The economic, small business, and consumer impact statement for the amendments to Section R14-4-116 (“the rule”) analyzes the costs, savings, and benefits that accrue to the Commission, the office of the attorney general, the regulated public, and the general public. With the adoption of the proposed rule amendment, the impact on established Commission procedures, Commission staff time, and other administrative costs is minimal. The estimated additional cost to the office of the attorney general is minimal. The benefits provided by the rule amendment are nonquantifiable. The rule should benefit the Commission’s relations with the regulated public because it provides definite standards for registration of certain types of securities offerings. The public will benefit from the continuation of certain standards for registered securities offerings. The Commission anticipates that the proposed rulemaking will not significantly increase monitoring, recordkeeping, or reporting burdens on businesses or persons. The costs of implementation or enforcement are only marginally increased.

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: Sharleen A. Day, Associate General Counsel
Address: Arizona Corporation Commission, Securities Division
1300 W. Washington, 3rd Floor
Phoenix, AZ 85007-2996
Telephone: (602) 542-4242
Fax: (602) 594-7421

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:

Date: October 22, 2002
Time: 9:30 a.m.
Location: Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007
Nature: Oral proceeding. Subsequent to the oral proceeding, the Arizona Corporation Commission will take final action at an open meeting with respect to the making of the proposed rule.

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

None

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

All the following are policy statements issued by the North American Securities Administrators Association and published in the CCH Blue Sky Reporter. All references to the policy statements are located in R14-4-116(A).

- Guidelines for general obligation financing by religious organizations, adopted April 17, 1994
- Statement of policy regarding church bonds, adopted April 14, 2002

13. The full text of the rule follows:

TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS;
SECURITIES REGULATION

CHAPTER 4. CORPORATION COMMISSION – SECURITIES

ARTICLE 1. IN GENERAL RELATING TO THE SECURITIES ACT

Section

R14-4-116. NASAA Statements of Policy

ARTICLE 1. IN GENERAL RELATING TO THE SECURITIES ACT

R14-4-116. NASAA Statements of Policy

- A. Unless otherwise provided in A.R.S. Title 44, Chapter 12, Article 7, Securities or transactions that fall within one or more of the following North American Securities Administrators Association (NASAA) statements of policy shall comply with the requirements of those statements of policy to qualify for registration or renewal under A.R.S. Title 44, Chapter 12, Article 7. This Section shall not apply to the registration of securities under A.R.S. § 44-1901.
1. Statement of policy regarding loans and other material affiliated transactions, amended November 18, 1997.
 2. Registration of asset-backed securities, adopted October 25, 1995.
 3. NASAA mortgage program guidelines, adopted September 10, 1996.
 4. Registration of commodity pool programs, adopted on September 21, 1983, effective January 1, 1984; amended and adopted August 30, 1990.
 5. Equipment programs, adopted on November 20, 1986, effective January 1, 1987, amended April 22, 1988, and October 24, 1991.
 6. Registration of oil and gas programs, adopted on September 22, 1976, amended October 12, 1977, October 31, 1979, April 23, 1983, July 1, 1984, September 3, 1987, September 14, 1989, and October 24, 1991.
 7. Statement of policy regarding real estate investment trusts, revised and adopted on September 29, 1993.
 8. Real estate programs, last revised September 29, 1993.
 9. Statement of policy regarding unequal voting rights, adopted and effective October 24, 1991.
 10. Omnibus Guidelines, adopted on March 29, 1992.
 11. Guidelines for general obligation financing by religious denominations, adopted April 17, 1994.
 12. Statement of policy regarding church bonds, adopted April 14, 2002.
- B. The statements of policy listed in subsection (A) are incorporated by reference. The incorporated statements of policy do not contain later editions or amendments, ~~made after the effective date of this Section.~~ The statements of policy are published in *NASAA Reports* by Commerce Clearing House, Inc., 4025 West Peterson Avenue, Chicago, Illinois 60646. Copies are also available from NASAA, 10 G Street, N.E., Suite 710, Washington D.C. 20002, and at the Office of the Secretary of State and the Commission.

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

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

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R17-4-401 | New Section |
| R17-4-402 | Amend |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
- Authorizing statute: A.R.S. § 28-366
- Implementing statutes: A.R.S. §§ 28-4143 through 28-4145
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
- Notice of Rulemaking Docket Opening: 8 A.A.R. 2904, July 12, 2002

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

Name: George R. Pavia, Department Rules Supervisor
Address: Administrative Rules Unit
Department of Transportation, Mail Drop 507M
3737 N. 7th Street, Suite 160
Phoenix, AZ 85014-5079
Telephone: (602) 712-8446
Fax: (602) 241-1624
E-mail: gpavia@dot.state.az.us

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at www.dot.state.az.us/about/rules/index.htm.

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

R17-4-402 will amend the agency's rule regulating restricted permits after financial responsibility suspension and reinstatement at the end of a suspension period. R17-4-401 will be a new Section of definitions applicable to all of 17 A.A.C. 4, Article 4. This rulemaking arises from action promised in a five-year rule review (F-98-0401) approved by the Governor's Regulatory Review Council on May 5, 1998.

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

The agency is not relying on any study in this rulemaking.

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

Not applicable

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

R17-4-401, a Section of definitions, saves agency employee and inquiring private parties time and effort in clarifying the meaning of terms used within Article 4 of this Chapter.

R17-4-402 will provide substantial benefits to insurance carriers that issue SR22 insurance policies with a minimum of administrative costs to write the policies and transmit certification of SR22s written to the Division. ADOT-MVD will experience costs for administering the program partially for a mandatory insurance unit staff to provide oversight to ensure SR22 insurance policies are kept current. This oversight activity is just one of a variety of functions the mandatory insurance unit performs under an aggregate annual budget for all assigned functions. Since, Service Arizona (ADOT-MVD's interactive internet service) now provides for reinstatement fee payment, there will probably moderate annual costs incurred to maintain this online service for the customer's convenience. Private persons whose driving privileges are suspended under applicable statutes, will incur minimal fee costs for reinstatement and minimal to moderate costs for maintaining the mandatory SR22 for the required three-year period. The valid SR22 will also provide the insured an opportunity to obtain a restricted work-school permit to ease the burden of the full suspension. Finally, the overwhelming benefit and principal reason for this Section's provisions is to attempt to ensure the statewide integrity of financial responsibility for Arizona's motoring public.

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

An interested party may direct any questions concerning the preliminary economic impact statement to the agency official listed in item #4.

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:

No oral proceeding is scheduled for this rulemaking. An interested party may request an oral proceeding by notifying the agency official listed in item #4. If no oral proceeding is requested, the public record in this rulemaking will close at 4:30 p.m. on October 11, 2002.

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

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

None

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION

TITLE, REGISTRATION, AND DRIVER LICENSES

ARTICLE 4. DRIVER LICENSES

Section

R17-4-401. ~~Reserved Definitions~~

R17-4-402. ~~Financial Responsibility Suspension; Restricted License and Restricted Registration~~ Restricted Permit During a Financial Responsibility (Accident) Suspension

ARTICLE 4. DRIVER LICENSES

R17-4-401. ~~Reserved Definitions~~

The following definitions apply to this Article unless otherwise specified:

1. “Division” means the Arizona Department of Transportation, Motor Vehicle Division.
2. “Financial responsibility (accident) suspension” means suspension by the Division of:
 - a. The Arizona driver license or driving privilege of each owner of a vehicle that:
 - i. Lacks the coverage required by A.R.S. § 28-4135, and
 - ii. Is involved in an accident in Arizona; and
 - b. The Arizona registration of a vehicle specified under subsection (A)(2)(a), unless the Division receives proof the vehicle was sold.
3. “Proof the vehicle was sold” means submission to the Division of a verbal or written statement with the following information:
 - a. The seller’s name (must be a person identified in Division records as an owner of the vehicle).
 - b. The VIN.
 - c. The sale date, and
 - d. The purchaser’s name and address.
4. “Restricted permit” means written permission from the Division for:
 - a. A person subject to a financial responsibility (accident) suspension to operate a motor vehicle only:
 - i. Between the person’s home and workplace.
 - ii. During work-related activities, and
 - iii. Between the person’s home and school; and
 - b. A vehicle with an Arizona registration subject to a financial responsibility (accident) suspension to be operated only:
 - i. Between the home and workplace of a person specified under subsection (A)(4)(a).
 - ii. During the work-related activities of a person specified under subsection (A)(4)(a), and
 - iii. Between the home and school of a person specified under subsection (A)(4)(a).
5. “State” means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.
6. “VIN” or “vehicle identification number” is defined in A.R.S. § 13-4701(4).
7. “Withdrawal action” means a Division action that invalidates a person’s Arizona driving privilege or a vehicle’s Arizona registration.

R17-4-402. ~~Financial Responsibility Suspension; Restricted License and Restricted Registration~~ Restricted Permit During a Financial Responsibility (Accident) Suspension

~~A.~~ Definitions:

1. “Prohibitive Action” means any other action taken pursuant to rule or statute, except A.R.S. § 28-1256.02, which prohibits the issuance of either the applicant’s driving privileges or vehicle registration privileges.
2. “Proof of Insurance” means those items identified in A.R.S. § 28-1253(A) as acceptable evidence of financial responsibility.
3. “Restricted License” means a driver’s license restricted to travel during the licensee’s course of employment or between the licensee’s place of employment and residence and its use limited to specified periods of the day or night according to the licensee’s employment schedule.

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4. "Restricted Registration" means a motor vehicle registration restricted to travel during the owner's course of employment or between the owner's place of employment and residence and its use limited to specified periods of the day or night according to the owner's employment schedule.

B. Restricted License and Restricted Registration-

1. Any person whose driving privileges or vehicle registration privileges or both are suspended pursuant to A.R.S. § 28-1256.02 may apply to the Motor Vehicle Division for a restricted license or a restricted registration or both.
2. The restricted license or restricted registration shall only be issued as long as there is no prohibitive action.
3. To receive the restricted license or restricted registration, the applicant shall surrender the applicant's current driver's license, if any, and file proof of insurance in accordance with A.R.S. §§ 28-1251(A) and 28-1253(A).
4. The restricted license and restricted registration shall expire at the end of the suspension period.

C. Reinstatement-

1. At the end of the suspension period, the applicant may apply to the Motor Vehicle Division for the reinstatement of the applicant's driving and vehicle registration privileges.
2. Driving privileges and vehicle registration privileges shall not be reinstated until proof of financial responsibility in accordance with A.R.S. Title 28, Chapter 7, Article 4 is filed with the Motor Vehicle Division. This proof of future financial responsibility is required to be maintained for the 3-year period following the ending date of the suspension.
3. A fee of \$10 for the reinstatement of driving privileges and a fee of \$25 for the reinstatement of vehicle registration privileges shall be paid at the time of application for reinstatement.

A. For a restricted permit, valid to the last day of a financial responsibility (accident) suspension, the applicant shall:

1. Have no withdrawal action other than the financial responsibility (accident) suspension;
2. Provide an SR22 Certificate of Insurance as proof of future financial responsibility that must be kept in force for three years after the effective date of the financial responsibility (accident) suspension;
3. Pay the \$10 driving privilege reinstatement fee as appropriate under A.R.S. § 28-4144(C)(2)(b); and
4. For a vehicle specified under subsection (A)(2)(a):
 - a. Pay the \$25 vehicle registration reinstatement fee as appropriate under A.R.S. § 28-4144(C)(2)(b), or
 - b. Provide proof the vehicle was sold;
5. Pay the driving privilege reinstatement application fee under A.R.S. § 28-3002(A)(2), determined by the applicant's age on the application date; and
6. Satisfy any applicable subsection (C) requirement.

B. In addition to the subsection (A) requirements, if an applicant for a restricted permit during a financial responsibility (accident) suspension:

1. Needs a duplicate Arizona driver license:
 - a. The applicant shall pay the \$4 duplicate driver license application fee under A.R.S. § 28-3002(A)(7), and
 - b. The Division shall issue a duplicate license to the applicant;
2. Wants to obtain an Arizona driver license:
 - a. The applicant shall:
 - i. Comply with A.R.S. §§ 28-3153 and 28-3158; and
 - ii. Pay the original application fee under A.R.S. § 28-3002(A)(2), determined by the applicant's age on the application date; and
 - b. The Division shall issue a driver license to the applicant; or
3. Needs to renew an Arizona driver license:
 - a. The applicant shall:
 - i. Comply with A.R.S. §§ 28-3153, 28-3158, and 28-3171; and
 - ii. Pay the renewal application fee under A.R.S. § 28-3002(A)(2), determined by the applicant's age on the application date; and
 - b. The Division shall issue a renewal license to the applicant.

C. At the end of the financial responsibility (accident) suspension:

1. The Division shall remove the driving privilege restriction from the Arizona driving record of a person issued a restricted permit; and
2. The person issued a restricted permit may purchase, for the amount established by A.R.S. § 28-446, a copy or certified copy of the person's Arizona driving record showing an unrestricted driving privilege.

NOTICE OF PROPOSED RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

**CHAPTER 8. DEPARTMENT OF ENVIRONMENTAL QUALITY
WASTE MANAGEMENT**

PREAMBLE

1. Sections Affected

	<u>Rulemaking Action</u>
R18-8-260	Amend
R18-8-261	Amend
R18-8-262	Amend
R18-8-264	Amend
R18-8-265	Amend
R18-8-266	Amend
R18-8-268	Amend
R18-8-270	Amend
R18-8-271	Amend
R18-8-273	Amend

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

Authorizing statutes: A.R.S. §§ 41-1003 and 49-104

Implementing statute: A.R.S. § 49-922

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

Notice of Rulemaking Docket Opening: 7 A.A.R. 1489, April 6, 2001

Notice of Proposed Rulemaking: 7 A.A.R. 4233, September 28, 2001

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

Name: Denise L. McConaghy
Address: Arizona Department of Environmental Quality, Waste Programs Division
1110 W. Washington
Phoenix, AZ 85007
Telephone: (602) 771-4110 or (800) 234-5677, enter 771-4110 (Arizona only)
Fax: (602) 771-4138
TTD: (602) 771-4829
E-mail: mcconaghy.denise@ev.state.az.us

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

Reason for initiating the rule:

The Arizona Department of Environmental Quality (ADEQ) is amending the state's hazardous waste rules to incorporate the text of federal regulations for the purpose of obtaining re-authorization of the state's hazardous waste management program by the United States Environmental Protection Agency (EPA). The state's hazardous waste rules are generally comprised of the federal regulations authorized by Subtitle C of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984, which are incorporated by reference. The hazardous waste rules are well established and have been effective since 1984. These amendments cover changes in the federal regulations promulgated between July 2, 1999 and July 1, 2000.

Explanation of the rule:

Subsection (A) of Sections R18-8-260, R18-8-261, R18-8-262, R18-8-264, R18-8-265, R18-8-266, R18-8-268, R18-8-270, and R18-8-273 incorporate by reference the federal regulations published in 40 CFR 260 through 262, 264

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through 266, 268, 270, and 273 as of July 1, 2000. This proposed rulemaking amends the existing language by replacing July 1, 1999 with July 1, 2000 in the incorporations by reference.

Modifications to the text that is incorporated by reference are intended to make the language consistent with state terminology, and do not substantively change the content. For example, the federal regulations incorporated by reference refer to the "EPA," the implementing agency, but since Arizona is authorized to implement and enforce the program contained in the incorporated regulations, "EPA" is usually replaced with "ADEQ" when referring to the implementing agency. Because the changes to the federal regulations generally tailor the language to ADEQ, the changes to the incorporated text are not intended to have additional impact beyond the federal regulation.

Incorporating the federal regulations is required for EPA to fund Arizona's hazardous waste management program, and complies with A.R.S. § 49-922. EPA requires that Arizona be re-authorized annually to manage the federal hazardous waste program instead of the EPA administering the program in Arizona. ADEQ received final RCRA authorization in 1985 and continues to apply for re-authorization to comply with changes to federal regulations. Adoption of federal regulations also promotes compliance uniformity among states. Most of the federal regulations incorporated by reference in this rulemaking are required for re-authorization.

Descriptions of the federal rules incorporated by reference:

64 FR 36466 -- Hazardous Waste Management System; Modification of the Hazardous Waste Program; Hazardous Waste Lamps; Final Rule.

EPA is adding spent hazardous waste lamps to the federal list of universal wastes regulated under the Resource Conservation and Recovery Act (RCRA). Universal waste handlers are subject to less stringent standards for storing, transporting and collecting these wastes. EPA has concluded that regulating spent hazardous waste lamps as universal waste under 40 CFR 273 will lead to better management of these lamps and will facilitate compliance with hazardous waste requirements. This rule streamlines the Subtitle C management requirements for hazardous waste lamps.

64 FR 52828 -- NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Final Rule.

This rule promulgates revised standards for hazardous waste incinerators, hazardous waste burning cement kilns and hazardous waste burning lightweight aggregate kilns. These standards are promulgated under joint authority of the Clean Air Act (CAA) and RCRA. The standards limit emissions of chlorinated dioxins and furans, other toxic organic compounds, toxic metals, hydrochloric acid, chlorine gas and particulates. These standards reflect the performance of Maximum Achievable Control Technologies (MACT) as specified by CAA. These MACT standards will result in increased protection to human health and the environment.

64 FR 63209 -- NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Final Rule.

This rule clarifies EPA's intention associated with the Notification of Intent to Comply and Progress Report requirements of the revised standards for Hazardous Waste Combustors. In addition, this rule corrects a typographical error in the comparable fuels specification table and an omission pertaining to residue testing requirements in the Hazardous Waste Combustors Rule dated September 30, 1999.

64 FR 56469 -- Land Disposal Restrictions Phase IV: Final Rule Promulgating Treatment Standards for Metal Wastes and Mineral Processing Wastes; Mineral Processing Secondary Materials and Bevill Exclusion Issues; Treatment Standards for Hazardous Soils, and Exclusion of Recycled Wood Preserving Wastewaters.

On May 11, 1999 EPA published technical amendments correcting the Land Disposal Restrictions (LDR) Phase IV final rule. EPA corrected two minor typographical errors and one omission, along with three other errors in the original May 26, 1998 LDR final rule.

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65 FR 12378 -- 180-Day Accumulation Time under RCRA for Waste Water Treatment Sludges from the Metal Finishing Industry; Final Rule.

As part of the Common Sense Initiative, EPA is finalizing a cleaner, cheaper and smarter opportunity for environmental protection for the metal finishing industry. This rule allows large quantity generators of F006 sludges (from the treatment of electroplating wastewaters) up to 180 days, or in some cases, up to 270 days, to accumulate F006 waste without a hazardous waste storage permit or interim status, provided that these generators recycle the F006 waste through metals recovery and meet certain conditions.

65 FR 14472 -- Organobromine Production Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Listing of CERCLA Hazardous Substances, Reportable Quantities; Final Rule.

This rule vacates the regulatory provisions governing the identification of certain wastes as listed hazardous wastes. EPA is amending its regulations to conform with an order issued by the United States Court of Appeals for the District of Columbia Circuit in *Great Lakes Chemical Corp. v. EPA* (No. 98-1312). The order vacated EPA regulations listing certain organobromine wastes as hazardous substances under RCRA. EPA is also modifying the land disposal restrictions treatment standards of 40 CFR 268 by deleting these wastes and the associated treatment standards. EPA is also vacating the reportable quantity requirements for these notifications. Under the Court's order, and the amended rule, the vacated hazardous waste listings and regulatory requirements based on those listings are to be treated as if they were never in effect.

65 FR 36365 -- Organobromine Production Wastes; Petroleum Refining Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Final Rule and Correcting Amendments.

This rule corrects errors that appeared in the March 17, 2000 final rule (65 FR 14472) that vacated the regulatory provisions governing the identification of certain organobromine production wastes as listed hazardous wastes under RCRA. This rule also corrects a typographical error that appeared in the August 6, 1998 final rule listing four types of waste in the petroleum refining industry as hazardous. The new rule creates no new regulatory requirements.

Department-initiated Changes

R18-8-260(F)

The Department is amending this rule to insert a previous omission in its amendment of the definition of "facility" in 40 CFR § 260.10. This action adds item (3) in 40 CFR 260.10, "Facility" as subsection (c) in R18-8-260(F)(3).

R18-8-265(J)

The Department is amending this rule to correct a clerical error in its amendment of 40 CFR 265.93. Reference to "paragraph (3)" in 40 CFR § 265.93 is replaced by "paragraph (a)."

R18-8-271(Q)

The Department is amending this rule to comply with the requirements of A.R.S. Title 41, Chapter 6, Article 10 regarding Uniform Administrative Hearing Procedures.

R18-8-260(N)

The Department is adding this rule to require that the fees authorized under A.R.S. § 49-931(A) be paid annually by small quantity hazardous waste generators and quarterly by large quantity hazardous waste generators.

R18-8-273

The Department is amending this Section to replace the state language with the text of the Federal Regulations, by incorporation.

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

- a. 64 FR 36466 -- Hazardous Waste Management System; Modification of the Hazardous Waste Program; Hazardous Waste Lamps; Final Rule
- b. 64 FR 52828 -- NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Final Rule.
- c. 64 FR 56469 -- Land Disposal Restrictions Phase IV: Final Rule Promulgating Treatment Standards for Metal Wastes and Mineral Processing Wastes; Mineral Processing Secondary Materials and Bevill Exclusion Issues; Treatment Standards for Hazardous Soils, and Exclusion of Recycled Wood Preserving Wastewaters.
- d. 65 FR 12378 -- 180-Day Accumulation Time under RCRA for Waste Water Treatment Sludges from the Metal Finishing Industry; Final Rule.
- e. 65 FR 14472 -- Organobromine Production Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Listing of CERCLA Hazardous Substances, Reportable Quantities; Final Rule.
- f. 65 FR 36365 -- Organobromine Production Wastes; Petroleum Refining Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Final Rule and Correcting Amendments.

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; this rule will not diminish a previous grant of authority of a political subdivision.

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

Identification of the proposed rulemaking:

This rulemaking pertains to incorporations of the text of federal regulations to include changes in the federal regulations promulgated between July 2, 1999 and July 1, 2000, in compliance with A.R.S. § 49-922. The rulemaking amends rules that are codified in Title 18, Chapter 8, Article 2.

Brief summary of the information included in the economic impact statement:

Introduction:

ADEQ updates the hazardous waste rules annually to be eligible for Resource Conservation and Recovery Act (RCRA) re-authorization by EPA to administer the federal hazardous waste program. Maintaining authorization to administer the hazardous waste program also enables ADEQ to remain in compliance with A.R.S. § 49-922, which requires the Department to adopt rules implementing a program that is equivalent to and consistent with federal hazardous waste regulations.

Impact of the incorporation of federal regulations:

64 FR 36466 - Hazardous Waste Management System; Modification of the Hazardous Waste Program; Hazardous Waste Lamps; Final Rule.

With this rule, EPA added spent hazardous waste lamps to the list of universal wastes. Handlers of universal wastes are subject to less stringent standards for storing, transporting and collecting these wastes. EPA has concluded that regulating spent hazardous waste lamps as universal waste under 40 CFR 273 will lead to better management of these lamps and will facilitate compliance with hazardous waste requirements. This rule also streamlines the management requirements for hazardous waste lamps and supports energy conservation efforts. Arizona already regulates hazardous waste lamps as a universal waste.

64 FR 52828 - NESHAPS: Hazardous Air Pollutants for Hazardous Waste Combustors; Final Rule.

This rule promulgates revised standards for hazardous waste incinerators, hazardous waste burning cement kilns and hazardous waste burning lightweight aggregate kilns. These standards are being promulgated under joint authority of

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the Clean Air Act and RCRA. The standards limit emissions of chlorinated dioxins and furans, other toxic organic compounds, toxic metals, hydrochloric acid, chlorine gas and particulate matter. These standards reflect the performance of Maximum Achievable Control Technologies (MACT) as specified by CAA. These MACT standards will result in increased protection to human health and the environment over existing RCRA standards.

64 FR 63209 - NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Final Rule.

This rule clarifies EPA's intention associated with the Notification of Intent to Comply and Progress Report requirements of the Revised Standards for Hazardous Waste Combustors. In addition, this rule corrects a typographical error in the comparable fuels specification table and an omission pertaining to residue testing requirements in the Hazardous Waste Combustors Rule dated September 30, 1999.

64 FR 56469 - Land Disposal Restrictions Phase IV: Final Rule Promulgating Treatment Standards for Metal Wastes and Mineral Processing Wastes; Mineral Processing Secondary Materials and Bevill Exclusion Issues; Treatment Standards for Hazardous Soils, and Exclusion of Recycled Wood Preserving Wastewaters.

On May 11, 1999, EPA published technical amendments correcting the Land Disposal Restrictions (LDR) Phase IV final rule. EPA corrected two minor typographical errors and one omission in the May 11, 1998 rule, along with three other errors in the original May 26, 1998, LDR final rule that are incorporated in this rulemaking.

65 FR 12378 - 180-Day Accumulation Time under RCRA for Waste Water Treatment Sludges from the Metal Finishing Industry; Final Rule.

As part of the Common Sense Initiative, EPA is finalizing a cleaner, cheaper and smarter opportunity for environmental protection for the metal finishing industry. This rule allows large quantity generators of F006 sludges (certain sludges from the treatment of electroplating wastewaters) up to 180 days (or up to 270 days, as applicable) to accumulate F006 waste without a hazardous waste storage permit or interim status, provided that these generators recycle the F006 waste through metals recovery and meet certain conditions.

65 FR 14472 - Organobromine Production Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Listing of CERCLA Hazardous Substances, Reportable Quantities; Final Rule.

This rule vacates the regulatory provisions governing the identification of certain wastes as listed hazardous wastes. EPA is amending its regulations to conform with an order issued by the United States Court of Appeals for the District of Columbia Circuit in *Great Lakes Chemical Corp. v. EPA* (No. 98-1312). The order vacated EPA regulations listing certain organobromine wastes as hazardous substances under RCRA. EPA is also modifying the land disposal restrictions treatment standards of 40 CFR 268 by deleting these wastes and the associated treatment standards. In addition, EPA is vacating the reportable quantity requirements for these notifications. Under the Court's order, and as amended in this rule, the vacated hazardous waste listings and regulatory requirements based on those listings are to be treated as though they were never in effect.

65 FR 36365 - Organobromine Production Wastes; Petroleum Refining Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Final Rule and Correcting Amendments.

This rule corrects errors that appeared in the March 17, 2000, final rule (65 FR 14472) that vacated the regulatory provisions governing the identification of certain organobromine production wastes as listed hazardous wastes under RCRA. This rule also corrects a typographical error that appeared in the August 6, 1998 final rule listing four types of waste in the petroleum refining industry as hazardous. The new rule creates no new regulatory requirements.

Persons directly affected by the rule:

64 FR 36466 -- Hazardous Waste Management System; Modification of the Hazardous Waste Program; Hazardous Waste Lamps; Final Rule.

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There are four categories of participants in the universal waste management system:

- a. Large quantity handlers of universal waste or LQHUU (those who handle > 5,000 kilograms of total universal waste at one time);
- b. Small quantity handlers of universal waste or SQHUU (those who handle < 5,000 kilograms of total universal waste at one time);
- c. Transporters of universal waste; and
- d. Owners and operators of treatment, storage and disposal facilities (TSDs), also known as destination facilities.

This rule has no incremental economic impact because Arizona already regulates spent hazardous waste lamps.

64 FR 52828 - NESHAPS: Hazardous Air Pollutants for Hazardous Waste Combustors; Final Rule.

The revised standards are for owners or operators of:

- a. Hazardous waste incinerators;
- b. Hazardous waste burning cement kilns; and
- c. Hazardous waste burning lightweight aggregate kilns.

None of these facilities currently exist in Arizona, therefore, there will be no economic impacts of this rule on facilities in the state.

64 FR 63209 - NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Final Rule.

The rule pertains to requirements of the revised standards for hazardous waste combustors.

None of these facilities currently exist in Arizona, therefore, there will be no economic impacts of this rule on facilities in the state.

64 FR 56469 -- Land Disposal Restrictions Phase IV: Final Rule Promulgating Treatment Standards for Metal Wastes and Mineral Processing Wastes; Mineral Processing Secondary Materials and Bevill Exclusion Issues; Treatment Standards for Hazardous Soils, and Exclusion of Recycled Wood Preserving Wastewaters.

This rule pertains to treatment standards for metal wastes and mineral processing wastes.

Since this rule merely makes corrections to two minor typographical as well as minor errors of omission, there are no associated incremental economic impacts.

65 FR 12378 - 180-Day Accumulation Time under RCRA for Waste Water Treatment Sludges from the Metal Finishing Industry; Final Rule.

This rule affects the large quantity generators (LQGs), transporters, recyclers and owners or operators of destination facilities of F006 hazardous wastes (sludges from the treatment of electroplating wastewaters). LQGs are defined as facility owners who generate more than 1,000 kilograms of hazardous waste in a calendar month. This rule is expected to have no adverse economic impact.

65 FR 14472 -- Organobromine Production Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Listing of CERCLA Hazardous Substances, Reportable Quantities; Final Rule.

EPA published a final rule (63 FR 24596), which listed as hazardous wastes under RCRA, two wastes generated by the organobromine production industry. These two wastes and the associated treatment standards are now deleted, as are the reportable quantity requirements for these notifications. This rule is expected to have no adverse economic impact.

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65 FR 36365 -- Organobromine Production Wastes; Petroleum Refining Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Final Rule and Correcting Amendments.

This rule corrects errors that appeared in the March 17, 2000 final rule (65 FR 14472) that vacated the regulatory provisions governing the identification of certain organobromine production wastes as listed hazardous wastes under RCRA. This rule also corrects a typographical error that appeared in the August 6, 1998 final rule listing four types of waste in the petroleum refining industry as hazardous. The new rule creates no new regulatory requirements, and therefore, no economic impact.

Cost-benefit analysis

Costs and benefits to state agencies

The Arizona Department of Environmental Quality is the implementing agency for these rules. No additional full-time equivalent employees (FTEs) will be required to implement these rules updates, and the Department does not anticipate any increases in costs or revenues. State agencies that are regulated entities will incur the same costs and benefits as businesses in the private sector. No new costs to regulated agencies are expected.

Costs and benefits to political subdivisions of the state:

Municipalities and counties that are regulated entities and owners or operators of transport, storage and disposal (TSD) facilities include the owners of a destination facility (defined as a facility that treats, disposes of, or recycles universal wastes), which are subject to all hazardous waste requirements. Political subdivisions of the state that are regulated entities will incur the same costs and benefits as businesses in the private sector. No new costs to regulated political subdivisions are expected.

Costs and benefits to private businesses, including small businesses:

64 FR 36466 - Hazardous Waste Management System; Modification of the Hazardous Waste Program; Hazardous Waste Lamps; Final Rule.

The addition of mercury-bearing spent lamps to the universal waste regulations is considered a deregulatory action and imposes fewer requirements on generators and transporters of lamps than the hazardous waste management standards. Inasmuch as Arizona already regulates hazardous waste lamps, there are no anticipated incremental costs for this rulemaking.

The EPA conducted an economic assessment of this rule. The assessment addressed only mercury-containing fluorescent lamps. EPA estimates that non-fluorescent lamps represent approximately 0.8 to 1.7% of the total universe of lamps included in this rule. The comparatively negligible proportion of other hazardous waste lamps is not expected to appreciably affect the economic impact estimates.

The EPA economic assessment indicates that total national annualized costs of compliance and disposal under the current rule is estimated at \$80.01 million and \$54.37 million under the high and low compliance scenarios. Under the final rule, these costs are projected at \$78.52 million for the high compliance scenario; and \$56.14 million for the low compliance scenario. The costs are close in the high compliance scenario because transportation and disposal costs, which account for about 76% of total costs, are virtually the same. Under the low compliance scenario, costs under the proposed rule are higher than under the current rule because of the higher compliance rate assumed under the universal waste scheme. EPA also examined compliance and disposal costs under the conditional exclusion option. Aggregate annualized costs under this option are estimated at \$73.9 million for the high compliance scenario; and \$52.6 million for the low compliance scenario. Recycling facilities may benefit indirectly due to the proposed rule. Benefits may result from additional revenues for firms owning or operating recycling facilities.

64 FR 52828 - NESHAPS: Hazardous Air Pollutants for Hazardous Waste Combustors; Final Rule.

EPA has determined that this rule does not represent a significant regulatory action, and that annualized social costs for this rule range from \$50 million to \$63 million for the final standards. To develop industry compliance cost estimates, EPA modeled combustion units based on source category and size, and estimated engineering costs for the air

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pollution control devices needed to achieve the proposed standards. The regulatory impact analysis also examined average total annual compliance costs per combustion unit. This indicator was designed to assess the relative impact of the rule on each facility type in the combustion universe.

While no one-to-one relationship exists between emissions and risk, EPA inferred that the proposed rule will reduce dioxin levels in foods over time, and therefore, reduce the likelihood of adverse health effects including cancer. The rule will also result in reduced mercury emissions. Mercury is a concern in both occupational and environmental settings. Human exposures to methyl mercury occur primarily from ingestion of fish. None of these facilities currently exist in Arizona, therefore, there will be no economic impacts of this rule on facilities in the state.

64 FR 63209 - NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Final Rule.

Since this rule merely corrects typographical errors and clarifies EPA's intention associated with the Notification of Intent to Comply and Progress Report requirements of the NESHAPS final rule, this rule does not fit the definition of "significant regulatory action", and no incremental costs are anticipated.

64 FR 56469 - Land Disposal Restrictions Phase IV: Final Rule Promulgating Treatment Standards for Metal Wastes and Mineral Processing Wastes; Mineral Processing Secondary Materials and Bevill Exclusion Issues; Treatment Standards for Hazardous Soils, and Exclusion of Recycled Wood Preserving Wastewaters.

The LDR Phase IV final rule promulgated treatment standards for contaminated soil. EPA has determined that this rule has no significant regulatory impact. In addition, this rule does not impose any enforceable duty or significant or unique impact on regulated entities, and therefore, no incremental cost increases.

65 FR 12378 - 180-Day Accumulation Time under RCRA for Waste Water Treatment Sludges from the Metal Finishing Industry; Final Rule.

RCRA established a national objective of "minimizing the generation of hazardous waste and the land disposal of hazardous waste by encouraging process substitutions, materials recovery, properly conducted recycling, reuse and treatment." In accordance with this objective, EPA has developed regulations to promote legitimate recycling of solid and hazardous waste while protecting human health and the environment against the development and use of unsafe or sham recycling practices.

This rule promotes materials recovery and reduces land disposal of sludges from the treatment of electroplating wastewaters (F006) for large quantity generators by allowing them up to 180 days (or 270 days, as applicable) to accumulate F006 onsite without a RCRA permit or interim status, subject to specified conditions.

EPA has estimated cost savings associated with this rule (180-day accumulation time, or 270 days where transport distance exceeds 200 miles) for LQGs of F006 waste. The agency evaluated two options in completing its economic analysis: Option 1 evaluated a maximum accumulation of 17.7 tons (16,000 kilograms) of material in a 180-day period (or 270 days); Option 2 evaluated a maximum accumulation of 22 tons (20,000 kilograms) in a 180-or 270-day period. The total annual incremental savings is estimated between \$3.9 million and \$5.0 million for Option 1, and between \$4.2 million and \$5.3 million for Option 2. The savings may result from reducing the total number of shipments of F006 waste off-site for recycling; and from lower transportation costs per ton since the fixed cost portion of transportation is less for a full truck as compared to a partial truck load.

EPA also performed a qualitative benefits assessment for the rule. The agency concluded that the shift from land disposal to recycling should result in a conservation of natural resources associated with minerals extraction, including reduced water and energy inputs and reduced solid waste (for example, slag, tailings) outputs. Other benefits expected include conservation of hazardous waste landfill capacity, reduced balance of payments for non-ferrous mineral commodities, and conservation of strategic metals.

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65 FR 14472 - Organobromine Production Wastes; Petroleum Refining Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Listing of CERCLA Hazardous Substances, Reportable Quantities; Final Rule.

This rule has no regulatory impact because it merely reflects the current legal status of the regulations. The effect of vacating the hazardous waste listing of these wastes is to clarify that the wastestreams are not subject to the hazardous waste management and treatment standards under RCRA. They are also not subject to emergency notification requirements for releases of hazardous substances into the environment. This rule is deregulatory, and as such, no significant economic impacts have been identified.

65 FR 36365 - Organobromine Production Wastes; Petroleum Refining Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions, Final Rule and Correcting Amendments.

This rule merely corrects errors in the Federal Register. EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has concluded that this rule has no significant regulatory impact since the amendments to RCRA hazardous waste management regulations only correct errors in CFR documents. Therefore, there are no anticipated economic impacts of this rule on either public or private entities.

Costs and benefits to residents and consumers:

The primary benefit of this rule for residents and consumers pertain to their intended public health effects. However, in selected instances, there are economic impacts that are positive for regulated entities and any reduction in costs may be passed on to their customers and the general public.

For example, in the case of the Hazardous Waste Lamp rule, a positive effect is anticipated because, although these lamps are already regulated in Arizona, economic benefits in the form of cost savings are expected to accrue to regulated entities. The addition of spent lamps to the universal waste regulations is considered deregulatory, and imposes fewer requirements and costs on the affected generators and transporters of spent lamps. From the public health standpoint, EPA research indicates that hazardous waste lamp mismanagement, without government intervention, could lead to market failures. These, in turn, will lead to disposal activities resulting in unnecessarily high releases of mercury into the environment. Fluorescent lamps contain a small amount of mercury that emits light when stimulated with electrical current. When a fluorescent lamp breaks, the mercury in the lamp is released into the environment and may cause health risks. Neurotoxicity is the health effect of most concern to people; death, impaired growth and development and behavioral abnormalities may affect fish, birds and mammals.

Reduction of rule impacts on small businesses:

ADEQ did not consider any reduction of rule impacts on small businesses because separate standards for large businesses are not considered legally feasible.

Probable impact of the rule on private and public employment

These rules are not expected to create any significant incremental impacts on private or public employment.

Probable effect of the rule on state revenues

No additional fees are to be charged by ADEQ or other state agency by this rule; hence, there are no expected economic impacts on state revenues.

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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: Ren Willis-Frances, Manager, Rules and Risk Assessment Unit
Address: Arizona Department of Environmental Quality
1110 W. Washington, 4th Floor
Phoenix, AZ 85007
Telephone: (602) 771-4109 or (800) 234-5677, enter 771-4109 (Arizona only)
Fax: (602) 771-2302
TTD: (602) 771-4829
E-mail: willis-frances.ren@ev.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:

Date: October 8, 2002
Time: 9:30 a.m. to 11:30 a.m.
Location: Arizona Department of Environmental Quality
1110 W. Washington, Suite 250
Phoenix, AZ 85007
Nature: Public hearings on the proposed rules, with opportunity for formal comments for the record. (Please call (602) 771-4795 for special accommodations pursuant to the Americans with Disabilities Act.)

The close of the written comment period will be at 5:00 p.m., October 11, 2002. Submit comments to the individual identified in item #4.

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:

<u>Federal Citation</u>	<u>State Citation</u>
40 CFR 260	R18-8-260
40 CFR 261	R18-8-261
40 CFR 262	R18-8-262
40 CFR 264	R18-8-264
40 CFR 265	R18-8-265
40 CFR 266	R18-8-266
40 CFR 268	R18-8-268
40 CFR 270	R18-8-270
40 CFR 124	R18-8-271
40 CFR 273	R18-8-273

13. The full text of the rules follows:

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 8. DEPARTMENT OF ENVIRONMENTAL QUALITY

WASTE MANAGEMENT

ARTICLE 2. HAZARDOUS WASTES

Section

R18-8-260. Hazardous Waste Management System: General
R18-8-261. Identification and Listing of Hazardous Waste
R18-8-262. Standards Applicable to Generators of Hazardous Waste
R18-8-264. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

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- R18-8-265. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
- R18-8-266. Standards for the Management of Specific Hazardous Wastes and Specific Hazardous Waste Management Facilities
- R18-8-268. Land Disposal Restrictions
- R18-8-270. The Hazardous Waste Permit Program
- R18-8-271. Procedures for Permit Administration
- R18-8-273. Standards for Universal Waste Management

ARTICLE 2. HAZARDOUS WASTES

R18-8-260. Hazardous Waste Management System: General

- A. Federal and state statutes and regulations cited in these rules are those adopted as of July 1, ~~1999~~ 2000, unless otherwise noted. 40 CFR 124, 260 through 266, 268, 270 and 273 or parts thereof, are adopted by reference when so noted. Federal statutes and regulations that are cited within 40 CFR 124, 260 through 270, and 273 that are not adopted by reference may be used as guidance in interpreting federal regulatory language.
- B. No Change
- C. All of 40 CFR 260 and the accompanying appendix, as amended as of July 1, ~~1999~~ 2000, (and no future editions), with the exception of §§ 260.1(b)(4) through (6), 260.20(a), 260.21, 260.22, 260.30, 260.31, 260.32, and 260.33, are incorporated by reference and modified by the following subsections of R18-8-260 and are on file with the Department of Environmental Quality (DEQ) and the Office of the Secretary of State.
- D. No Change
 - 1. No Change
 - 2. No Change
 - a. No Change
 - i. No Change
 - ii. No Change
 - b. No Change
 - i. No Change
 - ii. No Change
 - iii. No Change
 - iv. No Change
 - c. No Change
 - i. No Change
 - ii. No Change
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 - f. No Change
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 - ii. No Change
 - iii. No Change
 - iv. No Change
 - v. No Change

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E. No Change

1. No Change
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7. No Change
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 - i. No Change
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25. No Change
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27. No Change
28. No Change
29. No Change
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31. No Change
32. No Change

F. No Change

1. No Change
2. No Change
3. No Change
 - a. No Change
 - b. No Change
 - c. Notwithstanding subsection (b) of this definition, a remediation waste management site is not a facility that is subject to 40 CFR 264.101 (as incorporated by R18-8-264), but is subject to corrective action requirements if the site is located within such a facility.
4. No Change
5. No Change
6. No Change
 - a. No Change
 - b. No Change

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7. “Universal waste” means any of the hazardous wastes that are subject to universal waste requirements in 40 CFR 273 (as incorporated by reference by R18-8-273) and described in 40 CFR 273.2 through 40 CFR 273.4 and in A.A.C. ~~R18-8-273(D) and R18-8-273(E).~~

- G. No Change
- H. No Change
- I. No Change
- J. No Change
- K. No Change
- L. No Change
- M. No Change
- 1. No Change
- 2. No Change
- 3. No Change

N. Hazardous Waste generation fees must be paid pursuant to A.R.S. § 49-931. ADEQ will send an invoice to Large Quantity Generators quarterly and Small Quantity Generators annually. Invoices must be paid within 30 days of the postmark on the invoice.

R18-8-261. Identification and Listing of Hazardous Waste

A. All of 40 CFR 261 and accompanying appendices, as amended as of July 1, ~~1999~~ 2000 (and no future editions), are incorporated by reference and modified by the following subsections of R18-8-261 and are on file with the DEQ and the Office of the Secretary of State.

- B. No Change
- C. No Change
- D. No Change
- E. No Change
- F. No Change
- G. No Change
- H. No Change
- I. No Change
- J. No Change
- K. No Change

~~**L.** § 261.9, titled “Requirements for Universal Waste” is amended by adding paragraph (d):
(d) Mercury-containing wastelamps as described in R18-8-273.~~

~~**M.L.** No Change~~

~~**N.** § 261.32 is amended by deleting the following~~

~~Primary Copper:~~

~~K064. Acid plant blowdown slurry/sludge resulting from the thickening of blowdown slurry from primary copper production;~~

~~Primary lead:~~

~~K065. Surface impoundment solids contained in and dredged from surface impoundments at primary lead smelting facilities;~~

~~Primary Zinc:~~

~~K066. Sludge from treatment of process wastewater and/or acid plant blowdown from primary zinc production;~~

~~Ferroalloys:~~

~~K090. Emission control dust or sludge from ferrochromiumsilicon production;~~

~~K091. Emission control dust or sludge from ferrochromium production.~~

R18-8-262. Standards Applicable to Generators of Hazardous Waste

A. All of 40 CFR 262 and the accompanying appendix, as amended as of July 1, ~~1999~~ 2000, (and no future editions), are incorporated by reference and modified by the following subsections of R18-8-262, and are on file with the DEQ and the Office of the Secretary of State.

- B. No Change
- 1. No Change
- 2. No Change
- 3. No Change
- C. No Change
- D. No Change
- E. No Change
- F. No Change

- G. No Change
- H. No Change
- I. No Change
 - 1. No Change
 - 2. No Change
- J. No Change
- K. No Change
- L. No Change
- M. No Change

R18-8-264. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

- A. All of 40 CFR 264 and accompanying appendices, as amended as of July 1, ~~1999~~ 2000, (and no future editions), with the exception of §§ 264.1(d) and (f), 264.149 - 264.150, and 264.301(l), are incorporated by reference, and modified by the following subsections of R18-8-264, and are on file with the DEQ and the Office of the Secretary of State.
- B. No Change
- C. No Change
- D. No Change
 - 1. No Change
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- E. No Change
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- O. No Change
 - 1. No Change
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 - 3. No Change
 - 4. No Change
 - 5. No Change
 - 6. No Change

R18-8-265. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

- A. All of 40 CFR 265 and accompanying appendices, as amended as of July 1, ~~1999~~ 2000 (and no future editions), with the exception of §§ 265.1(c)(2), 265.1(c)(4), 265.149, 265.150, and 265.430, are incorporated by reference and modified by the following subsections of R18-8-265, and are on file with the DEQ and the Office of the Secretary of State.
- B. No Change
- C. No Change
- D. No Change
 - 1. No Change
 - 2. No Change
- E. No Change
- F. No Change
- G. No Change
- H. No Change
- I. No Change
- J. § 265.90, titled “Applicability”, paragraphs (a) and (d)(1), and § 265.93, titled “Preparation, evaluation, and response”, paragraph ~~(a)~~ (a) (as incorporated by R18-8-265), are amended by deleting the following phrase: “within 1 year”; and § 265.90, titled “Applicability”, paragraph (d)(2) (as incorporated by R18-8-265), is amended by deleting the following phrase: “Not later than 1 year”.

- K. No Change
 - 1. No Change
- L. No Change
- M. No Change

R18-8-266. Standards for the Management of Specific Hazardous Wastes and Specific Hazardous Waste Management Facilities

- A. All of 40 CFR 266 and accompanying appendices as amended as of July 1, ~~1999~~ 2000 (and no future editions), are incorporated by reference and are on file with the DEQ and the Office of the Secretary of State.
- B. § 266.100, entitled “Applicability” paragraph ~~(b)~~ (c) is amended as follows:
 - ~~(b)~~(c)The following hazardous wastes and facilities are not subject to regulation under this subpart:
 - (1) Used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in subpart C of part 261 [(as incorporated by R18-8-261)] of this Chapter. Such used oil is subject to regulation under [A.R.S. §§ 49-801 through 49-818] rather than this subpart;
 - (2) Gas recovered from hazardous or solid waste landfills when such gas is burned for energy recovery;
 - (3) Hazardous wastes that are exempt from regulation under §§ 261.4 and 261.6(a)(3)(iii)-(iv) [(as incorporated by R18-8-261)] of this Chapter, and hazardous wastes that are subject to the special requirements for conditionally exempt small quantity generators under § 261.5 [(as incorporated by R18-8-261)] of this Chapter; and
 - (4) Coke ovens, if the only hazardous waste burned is EPA Hazardous Waste No. K087, decanter tank tar sludge from coking operations.

R18-8-268. Land Disposal Restrictions

All of 40 CFR 268 and accompanying appendices, as amended as of July 1, ~~1999~~ 2000 (and no future editions), with the exception of Part 268, Subpart B, are incorporated by reference and are on file with the DEQ and the Office of the Secretary of State.

R18-8-270. The Hazardous Waste Permit Program

- A. All of 40 CFR 270, as amended as of July 1, ~~1999~~ 2000 (and no future editions), with the exception of §§ 270.1(a), 270.1(c)(1)(i), 270.3, 270.10(g)(1)(i), 270.60(a) and (b), and 270.64, is incorporated by reference and modified by the following subsections of R18-8-270 and is on file with the DEQ and the Office of the Secretary of State.
- B. No Change
 - 1. No Change
 - a. No Change
 - b. No Change
 - c. No Change
 - 2. No Change
 - a. No Change
 - b. No Change
- C. No Change
- D. No Change
- E. No Change
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- Q.** No Change
- R.** No Change

R18-8-271. Procedures for Permit Administration

- A.** No Change
- B.** No Change
- C.** No Change
- D.** No Change
- E.** No Change
- F.** No Change
- G.** No Change
- H.** No Change
- I.** No Change
- J.** No Change
- K.** No Change
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- O.** No Change
- P.** No Change
- Q.** § 124.19, entitled “Appeal of RCRA, UIC, and PSD permits”, is replaced by the following:
 - (1) ~~Within 30 days after a RCRA final permit decision (or a decision under § 270.29 (as incorporated by R18-8-270(A)) to deny a permit for the active life of a RCRA hazardous waste management facility or unit) has been issued under § 124.15 (as incorporated by R18-8-271(N)), any person who filed comments on that draft permit or participated in the public hearing may petition the Director to review any condition of the permit decision. Any person who failed to file comments or failed to participate in the public hearing on the draft permit may petition for administrative review only to the extent of the changes from the draft to the final permit decision. The 30-day period within which a person may request review under this subsection begins with the service of notice of the Director’s action unless a later date is specified in that notice. The petition shall include a statement of the reasons supporting that review, including a demonstration that any issues being raised were raised during the public comment period (including any public hearing) and when appropriate, a showing that the condition in question is based on:~~
 - (1) A finding of fact or conclusion of law which is clearly erroneous, or
 - (2) An exercise of discretion or an important policy consideration which the Director should, in his or her discretion, review.
 - (b) ~~Within 30 days following the filing of the petition for review, the Director shall issue an order either granting or denying the petition for review. To the extent review is denied, the conditions of the final permit decision become final agency action.~~

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- (e) To the extent that review of the permit is granted, a hearing shall be held pursuant to A.R.S. Title 41, Chapter 6, Article 6 and 18 A.A.C. 1, Article 2.
- (d) For purposes of judicial review of agency decisions made pursuant to this Section, final agency action occurs when a final permit is issued or denied by the Director and agency review procedures are exhausted or the times for initiating review procedures have passed.

A final permit decision (or a decision under § 270.29 (as incorporated by R18-8-270(A)) to deny a permit for the active life of a RCRA hazardous waste management facility or unit) issued under § 124.15 (as incorporated by R18-8-271(N)) is an appealable agency action as defined in A.R.S. § 49-1092 and is subject to appeal under A.R.S. Title 41, Chapter 6, Article 10.

- R. No Change
- S. No Change
- T. No Change

R18-8-273. Standards for Universal Waste Management

- ~~A.~~ All of 40 CFR 273, as amended as of July 1, 1999 2000 (and no future editions), is incorporated by reference ~~and modified by the following subsections of R18-8-273 and are~~ and is on file with the DEQ and the Office of the Secretary of State.
- ~~B.~~ § 273.1, entitled "Scope" paragraph (a) is amended by adding the following:
 - (4) Mercury-containing lamps as described in R18-8-273(D).
- ~~C.~~ Applicability mercury-containing lamps. The requirements of this Section apply to persons managing mercury-containing lamps as described in subsection (D), except those listed in subsection (C)(1)(a).
 - 1. Lamps not regulated under this Section. The requirements of this Section do not apply to persons managing the following lamps:
 - a. Lamps that are not yet wastes under 40 CFR 261 (as incorporated by R18-8-261). Subsection (C)(2) describes when lamps become wastes.
 - b. Lamps that are not hazardous wastes. A lamp is a hazardous waste if it exhibits 1 or more of the characteristics identified in 40 CFR 261, Subpart C (as incorporated by R18-8-261).
 - 2. Generation of waste lamps:
 - a. A used or spent mercury-containing lamp becomes a waste on the date it is removed from service.
 - b. An unused mercury-containing lamp becomes a waste on the date the handler decides to discard it.
- ~~D.~~ § 273.6, entitled "Definitions" is amended by adding the following definition: "Mercury-containing lamp" means the bulb or tube portion of a lighting device specifically designed to produce radiant energy, most often in the ultraviolet (UV), visible, and infrared (IR) regions of the electromagnetic spectrum. Four common mercury-containing lamps are fluorescent lamps, sodium-vapor lamps, high- and low-pressure mercury vapor lamps, and high intensity discharge (HID) lamps.
- ~~E.~~ § 273.6, entitled "Definitions" is amended by adding the following to the definition of universal waste:
 - (d) Mercury-containing lamps as described in subsection (D) in this Section.
- ~~F.~~ § 273.13, entitled "Waste management" is amended by adding paragraph (d) as follows:
 - (d) Universal waste lamps. A small quantity handler of universal waste shall manage universal waste lamps in a way that prevents releases of any universal waste or component of any universal waste to the environment, as follows:
 - (1) A small quantity handler shall manage universal waste lamps in a way that minimizes lamp breakage. The small quantity handler shall:
 - (i) Contain unbroken lamps in packaging that will minimize breakage during normal handling, and
 - (ii) Contain broken lamps in packaging that will minimize releases of lamp fragments and residues.
 - (2) A small quantity handler of universal waste lamps shall immediately contain all releases of residues from hazardous waste lamps.
 - (3) A small quantity handler of universal waste lamps shall determine whether any materials (that is, mercury, residues, or other solid wastes) resulting from the release exhibit a characteristic of hazardous waste, and if so, shall manage the waste in accordance with all applicable requirements in 40 CFR 260 through 272 (as incorporated by R18-8-260 through R18-8-271).
 - (4) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state, or local solid waste regulations.
 - (5) A small quantity handler of universal waste may remove mercury-containing arc tubes from universal waste lamps if the handler:
 - (i) Removes the arc tubes in a manner designed to prevent breakage of the arc tubes;
 - (ii) Removes the arc tubes only over or in a containment device (for example, a tray or pan sufficient to contain any mercury released from an arc tube in case of breakage);
 - (iii) Ensures that a mercury clean up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken arc tubes from the containment device to a container that meets the requirements of 40 CFR 262.34 (as incorporated by R18-8-262);

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- (iv) Immediately transfers any mercury resulting from spills or leaks from broken arc tubes from the containment device to a container that meets the requirements of 40 CFR 262.34 (as incorporated by R18-8-262);
- (v) Ensures that the area in which arc tubes are removed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
- (vi) Ensures that employees removing arc tubes are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;
- (vii) Stores removed arc tubes in closed, non-leaking containers that are in good condition and are no greater than 5 gallons in size; and
- (viii) Before shipment, minimizes empty space in containers either by the addition of packing material on top of the arc tubes or by filling the containers to minimize the empty space.

G. § 273.14, entitled "Labeling/marketing" is amended by adding paragraph (e) as follows:

- (e) A universal waste lamp, or a container in which the lamps are contained shall be labeled or marked clearly with any 1 of the following phrases: "Universal Waste Mercury Lamp(s)," or "Waste Mercury Lamp(s)," or "Used Mercury Lamp(s)."

H. § 273.33, entitled "Waste management" is amended by adding paragraph (d) as follows"

(d) Universal waste lamps. A large quantity handler of universal waste shall manage universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:-

- (1) A large quantity handler shall manage universal waste lamps in a way that minimizes lamp breakage. The large quantity handler shall:
 - (i) Contain unbroken lamps in packaging that will minimize breakage during normal handling, and
 - (ii) Contain broken lamps in packaging that will minimize releases of fragments and residues.
- (2) A large quantity handler of universal lamps shall immediately contain all releases of residues from hazardous waste lamps.
- (3) A large quantity handler of universal waste lamps shall determine whether any materials (that is, mercury, residues, or other solid wastes) resulting from the release exhibit a characteristic of hazardous waste, and if so, shall manage the waste in accordance with all applicable requirements in 40 CFR 260 through 272 (as incorporated by R18-8-260 through R18-8-271).
- (4) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state, or local solid waste regulations.
- (5) A large quantity handler of universal waste may remove mercury-containing arc tubes from universal waste lamps if the handler:
 - (i) Removes the arc tubes in a manner designed to prevent breakage of the arc tubes;
 - (ii) Removes the arc tubes only over or in a containment device (for example, a tray or pan sufficient to contain any mercury released from an arc tube in case of breakage);
 - (iii) Ensures that a mercury clean up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken arc tubes from the containment device to a container that meets the requirements of 40 CFR 262.34 (as incorporated by R18-8-262);
 - (iv) Immediately transfers any mercury resulting from spills or leaks from broken arc tubes from the containment device to a container that meets the requirements of 40 CFR 262.34 (as incorporated by R18-8-262);
 - (v) Ensures that the area in which arc tubes are removed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
 - (vi) Ensures that employees removing arc tubes are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;
 - (vii) Stores removed arc tubes in closed, non-leaking containers that are in good condition and are no greater than 5 gallons in size; and
 - (viii) Before shipment, minimizes empty space in containers either by the addition of packing material on top of the arc tubes or by filling the containers to minimize the empty space.

I. § 273.34, entitled "Labeling/marketing" is amended by adding paragraph (e), as follows:

- (e) Universal waste lamps (that is, each lamp), or a container in which the lamps are contained, shall be labeled or marked clearly with any 1 of the following phrases: "Universal Waste Mercury Lamp(s)," or "Waste Mercury Lamp(s)," or "Used Mercury Lamp(s)."

J. § 273.60, entitled "Applicability" is amended by adding paragraph (e) as follows:

- (e) The owner or operator of a destination facility that manages mercury-containing waste lamps as a universal waste, is in operation as of the effective date of this rule, and required to submit a hazardous waste permit application shall submit Parts A and B of the application no later than 180 days following the effective date of this rule. Until such time that the Director takes final action on the application, the facility shall manage universal waste lamps in accordance with the document entitled "Arizona Department of Environmental Quality Compliance Agreement for a Mercury-Containing Waste Lamps Processing/Recycling Facility."