

NOTICES OF EMERGENCY RULEMAKING

Under the Administrative Procedure Act, an agency may determine that adoption, amendment, or repeal of a rule is necessary for immediate preservation of the public health, safety, or welfare and the notice and public participation requirements are impracticable. Under this determination, the agency may adopt the rule as an emergency and submit it to the Attorney General for review. The Attorney General approves the rule and then files it with the Secretary of State. The rule remains in effect for 180 days. An emergency rule may be renewed for one 180-day period if the requirements of A.R.S. § 41-1026 are met. If the emergency rule is not renewed or the rule is not permanently adopted by the end of the 180-day period, the emergency rule expires and the text of the rule returns to its former language, if any.

NOTICE OF EMERGENCY RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

PREAMBLE

- 1. Sections Affected**
R12-4-125
- Rulemaking Action**
New Section
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):**
Authorizing statute: A.R.S. § 17-231
Implementing statute: A.R.S. § 17-316(A)
- 3. The effective date of the rule:**
November 4, 2004

On October 18, 2004, the Tucson Regional Office of the Arizona Game and Fish Department received the hunt list for the 2004 Archery Sandhill Crane hunt for game management units (GMU's) 30A, 30B, 31, and 32. The list contained the name of an individual who has a demonstrated propensity through prior actions to disrupt wildlife management activities. This individual is allegedly a member of the Earth First Environmental Activist group and a convicted felon currently on federal probation. This individual has also been described as a long-time leader within the Animal Liberation Front, a criminal enterprise that the FBI classifies as America's most dangerous domestic terrorism threat. In addition, the Department has credible information indicating that other individuals may engage in conduct designed to sabotage the upcoming 2004 Sandhill Crane hunt, with activities planned to harass those hunters participating in the hunt. The Commission anticipates that such conduct will result in physical confrontations and injury between hunters and individuals opposed to hunting. In response to this threat, the Commission proposes to designate portions of GMUs 30A, 30B, 31 and 32 on public land to allow for enforcement of A.R.S. § 17-316. This statute authorizes a peace officer to order individuals to desist from prohibited conduct and to leave an area. Moreover, A.R.S. § 17-316 specifically prohibits the intentional interference of a hunt by harassing, driving or disturbing game animals. Although a peace officer can respond to potential threats through statutes prohibiting disorderly conduct, the disorderly conduct statutes do not address all the conduct prohibited by A.R.S. § 17-316. Therefore, the Commission finds that establishing a designated hunt area as required by A.R.S. § 17-316 is necessary to appropriately respond to a public safety concern. The Commission is pursuing an emergency rule with an immediate effectiveness of this rulemaking in order to preserve the public peace, health, and safety, as stated in A.R.S. § 41-1026(A)(1) and A.R.S. § 41-1032(A)(1).
- 4. Is this rulemaking a renewal of a previous emergency rulemaking?**
No
- 5. The name and address of agency personnel with whom person may communicate regarding the rule:**
Name: Dana Yost, Executive Staff Asst.
Address: 2221 W. Greenway Rd.
Phoenix, AZ 85023
Telephone: (602) 789-3281
Fax: (602) 789-3299
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**

On October 18, 2004, the Tucson Regional Office of the Arizona Game and Fish Department received the hunt list for the 2004 Archery Sandhill Crane hunt for game management units (GMU's) 30A, 30B, 31, and 32. The list contained the name of an individual who has a demonstrated propensity through prior actions to disrupt wildlife management activities. This individual is allegedly a member of the Earth First Environmental Activist group and a convicted felon currently on federal probation. This individual has also been described as a long-time leader within the Animal Liberation Front, a criminal enterprise that the FBI classifies as America's most dangerous domestic terrorism threat. In addition, the Department has credible information indicating that other individuals may engage in conduct designed to sabotage the upcoming 2004 Sandhill Crane hunt, with activities planned to harass those hunters participating in the hunt. The Commission anticipates that such conduct will result in physical confrontations and injury between hunters and individuals opposed to hunting. In response to this threat, the Commission proposes to designate portions of GMUs 30A, 30B, 31 and 32 on public land to allow for enforcement of A.R.S. § 17-316. This statute authorizes a peace officer to order individuals to desist from prohibited conduct and to leave an area. Moreover, A.R.S. § 17-316 specifically prohibits the intentional interference of a hunt by harassing, driving or disturbing game animals. Although a peace officer can respond to potential threats through statutes prohibiting disorderly conduct, the disorderly conduct statutes do not address all the conduct prohibited by A.R.S. § 17-316. Therefore, the Commission finds that establishing a designated hunt area as required by A.R.S. § 17-316 is necessary to appropriately respond to a public safety concern. The Commission is pursuing an emergency rule with an immediate effectiveness of this rulemaking in order to preserve the public peace, health, and safety, as stated in A.R.S. § 41-1026(A)(1) and A.R.S. § 41-1032(A)(1).

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 summary of the economic, small business, and consumer impact:

Other than regular enforcement costs to the Department, none

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

Not applicable

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

Not applicable

11. An explanation of the situation justifying the rule's making as an emergency rule:

The Department holds that the situation described in Item 6 qualifies as meeting the criteria for emergency rulemaking established in A.R.S. § 41-1026(A)(1). This rulemaking will respond to a public safety threat by having the means to take enforcement measures to address conduct that would likely precipitate physical confrontation between hunters and individuals opposed to hunting.

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This rule is in response to a need to preserve public health and safety during a scheduled hunt that ends November 16, 2004. The use of the regular rulemaking process would be ineffective because the time to respond to a threat to public health and safety will have passed by the time the Commission could complete regular rulemaking. Therefore, an emergency rulemaking is necessary to timely preserve the public health and safety.

12. The date of the Attorney General's approval of the emergency rule:

The Department anticipates that the Attorney General will approve of the emergency rule upon submission.

13. The full text of the rule follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

Section

R12-4-125. Designated Hunt Areas

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

R12-4-125. Designated Hunt Areas

- A.** For the purposes of this Section, "hunt area" means an area of public land designated under A.R.S. § 17-316 that authorizes a peace officer to take enforcement actions against individuals that interfere with lawful hunts.
- B.** The Department is establishing the following game management units, as described in R12-4-108, as designated hunt areas for the purposes stated in A.R.S. § 17-316(A):
1. Unit 30A;
 2. Unit 30B;
 3. Unit 31; and
 4. Unit 32.
- C.** This rule is effective and enforceable from October 29 to November 16, 2004.