

# NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

## NOTICE OF FINAL RULEMAKING

### TITLE 6. ECONOMIC SECURITY

#### CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY

##### SOCIAL SERVICES

*Editor's Note: The following Notice of Final Rulemaking was reviewed per Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 1508.) The Governor's Office authorized the notice to proceed through the rulemaking process on October 3, 2011.*

[R12-103]

### PREAMBLE

- | <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|--|--------------------------|
| R6-5-6701  | Repeal                   |
| R6-5-6701  | New Section              |
| R6-5-6702  | Repeal                   |
| R6-5-6702  | New Section              |
| R6-5-6703  | Repeal                   |
| R6-5-6703  | New Section              |
| R6-5-6704  | Repeal                   |
| R6-5-6704  | New Section              |
| R6-5-6705  | Repeal                   |
| R6-5-6705  | New Section              |
| R6-5-6706  | Amend                    |
| R6-5-6707  | Amend                    |
| R6-5-6708  | Repeal                   |
| R6-5-6708  | New Section              |
| R6-5-6709  | Repeal                   |
| R6-5-6709  | New Section              |
| R6-5-6710  | Repeal                   |
| R6-5-6710  | New Section              |
| R6-5-6711  | Repeal                   |
| R6-5-6711  | New Section              |
| R6-5-6712  | New Section              |
- 2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**  
Authorizing statute: A.R.S. § 41-1954(A)(3)  
Implementing statute: A.R.S. § 8-142
- 3. The effective date of the rules:**  
August 6, 2012
- 4. Citations to all related notices published in the *Register* to include the *Register* as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**  
Notice of Rulemaking Docket Opening: 17 A.A.R. 1307, July 15, 2011  
Notice of Proposed Rulemaking: 17 A.A.R. 2446, December 9, 2011
- 5. The agency's contact person who can answer questions about the rulemaking:**  
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Notices of Final Rulemaking

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

The Department of Economic Security is repealing old adoption subsidy rules and replacing them with new rules that accurately reflect the program's current policies. These rules address all aspects of the Adoption Subsidy Program, including eligibility, requesting benefits, termination of services, and appeals.

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

None

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

Not applicable

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

The Department foresees no economic impact on small businesses or consumers as a result of these rules. These rules do not expand or reduce eligibility for the Adoption Subsidy Program. No new special needs categories are included in these rules; no existing special needs categories have been deleted in these rules. No services to the population of children served by the Adoption Subsidy Program have been added or eliminated.

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

The Department has not made any substantial and substantive changes since the Notice of Proposed Rulemaking was published on December 9, 2011, other than minor clarifying typographical and formatting changes that were made at the recommendation of Council staff. The Department decided to delete the definition of "ALTCS" as it was not necessary and was not used in the body of the rules. In addition, the Department decided to delete the definition of "health service professional" that was used in two places in the body of the rules, and use the broader term "qualified professional" throughout to provide clarity and consistency. The Department also added the terms "directly" and "and psychological" in R6-5-6708(A) to conform the language to A.R.S. § 8-161.

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

None

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

Not applicable

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

None

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

Section 473 of Social Security Act is applicable to the subject of the rule. The federal law provides the criteria for a child to be eligible for Title IV-E federal funding of the adoption subsidy. The rules follow the eligibility criteria in the federal law. State statute and the rules are not more stringent than the federal law.

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

None

Notices of Final Rulemaking

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

None

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

Not applicable

**15. The full text of the rules follows:**

**TITLE 6. ECONOMIC SECURITY**

**CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY  
SOCIAL SERVICES**

**ARTICLE 67. ADOPTION SUBSIDY**

Sections

- R6-5-6701. ~~Objective~~ Definitions
- R6-5-6702. ~~Authority~~ Eligibility Criteria
- R6-5-6703. ~~Description of Services~~ Eligibility Determination
- R6-5-6704. ~~Definitions~~ Adoption Subsidy Agreement
- R6-5-6705. ~~Policy~~ Medical, Dental, and Mental Health Subsidy
- R6-5-6706. ~~Types of~~ Maintenance Subsidy
- R6-5-6707. ~~Certification of the Child for Adoption~~ Special Services Subsidy
- R6-5-6708. ~~Adoptive Parents Application for Subsidy~~ Nonrecurring Adoption Expenses
- R6-5-6709. ~~Department Responsibility~~ Annual Review; Reporting Change
- R6-5-6710. ~~Revisions~~ Termination of Adoption Subsidy
- R6-5-6711. ~~Case Management~~ New or Amended Adoption Subsidy Agreement
- R6-5-6712. Appeals

**ARTICLE 67. ADOPTION SUBSIDY**

**R6-5-6701. ~~Objective~~ Definitions**

~~Adoption subsidy is a program which provides monetary assistance and special services for children who otherwise may not be adopted, making it possible to secure permanent legal homes with qualified adoptive parent applicants who meet adoption agency standards with one exception: that being the financial ability to support the child(ren).~~

In addition to the definitions in A.R.S. § 8-141, the following definitions apply in this Article:

1. “Adoption/CPS Specialist” means the Department or private agency staff person who is responsible for managing the child’s case prior to the adoption finalization.
2. “Adoption subsidy” means the same as in A.R.S. § 8-141 and may include one or more of the following:
  - a. Medical, dental, and mental health subsidy;
  - b. Maintenance subsidy;
  - c. Special services subsidy; and
  - d. Reimbursement of nonrecurring adoption expenses.
3. “Adoption Subsidy Program” means a unit within the Division of Children, Youth and Families designated to administer adoption subsidy.
4. “Adoptive parent” means an adult whom the court has certified or approved to adopt a child, or an adult who has adopted a child.
5. “Adoption subsidy supervisor” means a Department employee who is responsible for the Adoption Subsidy Program within defined geographic areas and whom the Department has authorized to approve an adoption subsidy agreement.
6. “AHCCCS” means the Arizona Health Care Cost Containment System, which is the state’s program for medical assistance available under Title XIX of the Social Security Act and state public insurance statutes, A.R.S. Title 36, Chapter 29.
7. “AHCCCS hospital reimbursement system” means the payment structure that AHCCCS uses to pay for inpatient and outpatient hospital services.
8. “Complete adoption subsidy application” means a packet containing:
  - a. A Department-provided “Adoptive Family Subsidy Application” form that the adoptive parent and the Adoption/CPS Specialist and Adoption/CPS Specialist supervisor have completed and signed.
  - b. The supporting documentation and information requested in the “Adoptive Family Subsidy Application.”

Notices of Final Rulemaking

9. “Debilitating” means a lifelong, progressive, or fatal condition characterized by physical, mental, or developmental impairment that impedes an individual’s ability to function independently.
10. “Department” or “DES” means the Arizona Department of Economic Security.
11. “Diagnose” means to identify a physical, psychological, social, educational, or developmental condition according to the accepted standards of the medical, mental health, or educational professions.
12. “Emergency situation” means a circumstance that, if unaddressed, would be detrimental to a child’s life, health, or safety.
13. “Foster Family Care payment” means a monetary payment the Department makes to a foster parent to provide substitute care for a child when the child’s own family cannot care for the child for a temporary or extended period of time.
14. “Office of Appeals” means the Department’s independent, quasi-judicial, administrative hearing body, which includes hearing officers appointed under A.R.S. § 41-1992(A).
15. “Qualified professional” means a practitioner licensed or certified by the state of Arizona or another state to evaluate and diagnose conditions or provide medical, dental, mental health, or educational services.
16. “Racial or ethnic factors” means Black, Hispanic, Native American, Asian, or other heritage that has been determined to be a barrier to a child being adopted.
17. “Sibling relationship” means two or more children who are related by blood or by law, and whom the same family has adopted.
18. “Special allowance” means funds provided for clothing or personal expenses, therapeutic or personal attendant care, and other specialized payments such as emergency clothing, education, and gift allowances.
19. “Special needs” means one or more of the following conditions which existed before the finalization of adoption:
  - a. Physical, mental or developmental disability.
  - b. Emotional disturbance.
  - c. High risk of physical or mental disease.
  - d. High risk of developmental disability.
  - e. Age of six or more years at the time of application for an adoption subsidy.
  - f. Sibling relationship.
  - g. Racial or ethnic factors.
  - h. High risk of severe emotional disturbance if removed from the care of his foster parents.
  - i. Any combination of the special needs described in this paragraph. (A.R.S. § 8-141)
20. “SSI” means supplemental security income, a direct government benefit available under Title XVI of the Social Security Act.
21. “Standard of care” means a medical or psychological procedure or process that is accepted as treatment for a specific illness, injury, medical or psychological condition through custom, peer review, or consensus by the professional medical or mental health community.
22. “Title IV-E” means section 473 of Title IV of the Social Security Act, 42 U.S.C. 673, which establishes the federal adoption assistance program.
23. “Title XIX” means Medicaid, as defined by Section 1900, Title XIX, of the Social Security Act, 42 U.S.C. 1396.
24. “Title XX” means the Social Services Block Grant, as defined by Section 2001, Title XX, of the Social Security Act, 42 U.S.C. 1397.
25. “Undiagnosed pre-existing special need condition” means a physical, mental or developmental disability or emotional disturbance that existed before a court finalized the child’s adoption and that a qualified professional did not confirm before the child’s adoption.

**R6-5-6702. Authority Eligibility Criteria**

The adoption subsidy program is authorized under A.R.S. Title 8, Chapter 1, Article 2, Sections 8-141 through 8-145.

- A.** An Arizona child shall be eligible for adoption subsidy when the child is:
  1. In the care, custody, and control of the Department or other public or private child welfare agency licensed in Arizona, or was previously adopted and received adoption subsidy;
  2. Legally free for adoption;
  3. Legally present in the United States; and
  4. Determined to be a child with special needs as defined by Title IV-E of the Social Security Act and A.R.S. Title 8, Chapter 1, Article 2. To meet the requirements, the Department shall determine that:
    - a. The child cannot or should not be returned to the parent’s home;
    - b. The child cannot be placed with adoptive parents without adoption subsidy due to a specific factor, condition, or special need of the child; and
    - c. A reasonable but unsuccessful effort was made to place the child without an adoption subsidy, unless the Department determined that it was not in the child’s best interest to place the child with another family because of the child’s significant emotional ties with the prospective adoptive parents while in their care as a foster child.
- B.** To qualify for Title IV-E adoption subsidy, a child shall also meet the additional eligibility criteria required in 42 U.S.C. 673(a)(2).

**R6-5-6703. ~~Description of Services~~ Eligibility Determination**

Depending on the needs of the child, the subsidy may be for special services and/or money payments and for a limited period or until the child is 18 years of age, or for any combination thereof.

- A.** The adoptive parent shall submit a complete adoption subsidy application to the Department Adoption Subsidy Program prior to the finalization of the adoption. An application is complete when the Adoption Subsidy Program receives the application and all supporting documentation. Documentation may vary according to the conditions of the child and may include the recommendations of qualified professionals.
- B.** The Department shall review the application and determine eligibility according to the following:
  - 1. The Department shall approve eligibility for adoption subsidy if a child meets the eligibility criteria listed in R6-5-6702. If the Department approves eligibility, the Department shall create an adoption subsidy agreement that the adoptive parent and the adoption subsidy supervisor or designee shall sign before the court enters the final order of adoption.
  - 2. The Department shall deny eligibility for adoption subsidy if a child does not meet the eligibility criteria listed in R6-5-6702. If the Department denies adoption subsidy, the Department shall send notice to the adoptive parent that explains the reason for denial, the applicant's right to appeal, and the time-frame to file an appeal.

**R6-5-6704. ~~Definitions~~ Adoption Subsidy Agreement**

- A.** ~~"Adoption subsidy." Providing monetary assistance and/or special services to secure permanent legal homes for children who otherwise may not be adopted.~~
- B.** ~~"Adoptive parents." Any adult or adults who are residents of Arizona, whether married, unmarried or legally separated, who qualify to adopt children or have adopted children.~~
- C.** ~~"Adoptive parents of another state." Any adult or adults who are residents of a state other than Arizona who qualify to adopt children, or have adopted children, according to the laws of that state.~~
- D.** ~~"Child." Any person under the age of 18 years who is legally free for adoption, who has either become emotionally attached to the prospective adoptive parents while in their care as a foster child or who otherwise may not be adopted because of any of the following special circumstances:
  - 1. *Physical or mental disability.*
  - 2. *Emotional disturbance.*
  - 3. *High risk of physical or mental disease.*
  - 4. *Age.*
  - 5. *Sibling relationship.*
  - 6. *Racial or ethnic factors.*
  - 7. *Any combination of circumstances described by paragraph (1) through (6).* (A.R.S. § 8-141).~~
- E.** ~~"Foster parents." Any adult or adults maintaining a foster home.~~
- F.** ~~"Money payments." Monthly subsistence payments for the child.~~
- G.** ~~"Special services subsidy." Payment to adoptive parents or to the provider of services for expenses incurred in the provision of medical/dental, psychiatric/psychological, special education/day treatment and other services to meet the pre-existing or otherwise indicated health-related needs or risks of the child.~~
- A.** The Department shall create an adoption subsidy agreement that lists the scope and nature of the subsidies provided, including:
  - 1. The child's documented pre-existing conditions;
  - 2. The types of subsidy approved;
  - 3. The amount or rates as applicable to the types of subsidy approved; and
  - 4. The specific terms and conditions of the agreement.
- B.** The adoption subsidy agreement shall become effective if the following occurs prior to the finalization of the adoption:
  - 1. The adoptive parent signs the agreement and returns it to the Department Adoption Subsidy Program, and
  - 2. The adoption subsidy supervisor or designee signs the agreement.

**R6-5-6705. ~~Policy~~ Medical, Dental, and Mental Health Subsidy**

- A.** ~~Foster parents interested in adopting a child in their home or any other persons interested in adopting a child who is in custody of the Department or a licensed child-placing agency in Arizona, may apply to the Department of Economic Security to have the child certified for adoption subsidy.~~
- B.** ~~A child who is in the custody of the Department or a licensed child-placing agency in Arizona when eligibility for subsidy is certified shall remain eligible and may receive subsidy, regardless of the domicile or residence of the adopting parents at the time of application for adoption, placement, legal order of adoption or thereafter.~~
- C.** ~~All persons approved for the program as adoptive parents must meet adoption agency standards, with one exception; that being the financial ability to support the child.~~
- D.** ~~The child for whom subsidy is to be considered must be:
  - 1. ~~In the custody of the Department and a ward of the court or in the custody of a licensed child-placing agency in Arizona.~~~~

Notices of Final Rulemaking

2. Legally free for adoption.
- ~~E.~~ An adoption subsidy agreement must be signed prior to entry the order of adoption.
- ~~F.~~ An adoption subsidy may:
  1. Commence at any time after subsidy is approved and the child has been placed for adoption.
  2. Vary with the needs due to the special circumstance of the adopted child and with the availability of other resources.
  3. Continue as long as the needs of the child exist and the child is a legal dependent of the adoptive parents, but not beyond 18 years of age.
  4. Be for special services only.
  5. Be for money payments only.
  6. Be for special services and money payments.
  7. Not exceed money payments allowable for foster family care.
  8. Include, in the case of a special service, the reasonable fee for the service rendered.
- ~~G.~~ All direct benefits available to the child shall be subtracted from the subsidy. Such benefits include, but are not limited to the following: Social Security, A.S.I., Veterans Administration, Tribal and Insurance Benefits.
- ~~H.~~ There shall be an annual review by the Department of all continuing subsidies to ascertain the need for continuing or adjusting the subsidy.
- ~~I.~~ The adoption subsidy will be suspended if the child is placed in the care, custody, and control of an agency or individual other than the adoptive parents or custody, and control of an agency or individual other than the adoptive parents or if the child's needs no longer exist. In the event the child is placed in foster care the subsidy shall be suspended for that period of time when the child is out of the home. The subsidy may be resumed upon the child's return to the home if the need still exists.
- ~~J.~~ In the event the adoptive parents move out of state, the subsidy shall be continued so long as the child's need is confirmed and documented in the child's record.
- ~~K.~~ All records regarding subsidized adoption shall be confidential and may be disclosed only in accordance with the state laws and/or regulations of the Department of Economic Security.

Adoption subsidy provides medical, dental, and mental health subsidy in the form of AHCCCS/Medicaid coverage to a child in the Adoption Subsidy Program who is determined eligible for AHCCCS/Medicaid. The relevant agency in the state in which the child resides determines AHCCCS/Medicaid eligibility.

**R6-5-6706. Types of Maintenance Subsidy**

- ~~A.~~ Money payments
  1. Amount and method of payment.
    - a. Money payments shall not exceed the current rate for foster family care and shall be automatically adjusted whenever foster family care rates are changed.
    - b. The subsidy shall be paid on a monthly basis and be issued to the adoptive parents.
  2. Duration
    - a. Time limited subsidy: Payments for a specified period of time.
    - b. Long term subsidy: Payments for an unspecified period of time which may extend until the child reaches the age of 18.
    - c. Delayed subsidy: Entering into an agreement on anticipated future needs for money payments.
- ~~B.~~ Special services subsidy
  1. Children to be considered for special services subsidy shall include:
    - a. Children with a known, pre-existing condition which will require treatment or surgery after adoptive placement and/or after the legal order of adoption.
    - b. Children who, because of their genetic background, medical or social history, face a recognized high risk that a related physical or mental condition may later develop.
  2. Services covered include, but are not limited to:
    - a. Treatment of medical, dental and emotional conditions.
    - b. Other health related services such as physical therapy, rehabilitation training, speech and hearing therapy, and purchase or rental of wheelchairs, braces, crutches, prostheses, glasses and hearing aids.
  3. Limitation
    - a. Evaluation must be made on the adoptive parents' medical and hospital insurance and of other public and voluntary community services (such as Crippled Children's Services) to determine whether treatment and related costs can be covered by one or more of the existing health programs. Available resources must be utilized. Verification must be recorded in the case record. If these resources fully cover the child's special needs, subsidy may still be approved to guarantee continued services to the child should the availability of insurance or other resources fail in the future.
    - b. The subsidy shall not include provision for payment of routine medical care or health problems that occur subsequent to the final order of adoption.
    - c. Evaluation must be made of Public School District Special Education Programs to determine whether they can

Notices of Final Rulemaking

meet the child's educational needs. In cases where the School District certifies that no appropriate program is provided but cannot pay any or all of the cost of Special Education in a non-public school program, the Department may supplement or pay full tuition. The non-public school must be certified by the Arizona State Department of Public Education for such Special Education. Before this payment may be approved, all authorized methods for payment by the Public School and the Department of Education must be exhausted. Verified information must be documented in the Case Record.

4. Amount and method of payment
  - a. The amount of the subsidy for health related services shall be limited to a usual, customary and reasonable fee for the service rendered.
  - b. The amount of subsidy for day treatment or special education shall be no more than the total monthly tuition less any amount which can be paid by the school and any amount which may be paid through voucher by the State Department of Education.
  - e. The subsidy payments will be made directly to the adoptive parents, who will then pay the provider. Exception: In the event of high cost health related services, such as hospitalization and surgery, if the adoptive parents prefer not to handle these large sums of money, payment may be made directly to the provider.
- A.** Maintenance subsidy is the monthly payment paid to the custodial adoptive parent to assist with the costs directly related to meeting the adopted child's needs, including but not limited to child care, health insurance co-payments and deductibles, and supplemental educational services for the child. It is not expected to cover all the daily living expenses of the adopted child. The Department and the adoptive parent shall negotiate the amount of maintenance subsidy based on a child's current special needs and the family's circumstances.
  1. As required by A.R.S. § 8-144(B), the amount of the maintenance subsidy shall not exceed the payments allowable under foster family care, not including special allowances.
  2. The Department shall deduct private or public monetary benefits, such as benefits received through Title II of the Social Security Act, paid to the child from the monthly maintenance subsidy, as allowed under state or federal law. The adoptive parents shall report the receipt of any monetary benefits for the child to the Adoption Subsidy Program.
- B.** Payment of Maintenance Subsidy
  1. The Department shall not begin maintenance subsidy payments prior to the effective date of the adoption subsidy agreement.
  2. The Department shall issue maintenance subsidy payments monthly to the adoptive parent as specified in the adoption subsidy agreement.
- C.** Renegotiation of the Maintenance Rate
  1. The Department or the adoptive parent may initiate a change in the maintenance subsidy rate if there are changes in the child's needs.
  2. The adoptive parent shall provide the Department with documentation supporting the requested change in the maintenance subsidy rate.
  3. If the child is in the care or custody of an agency or individual other than the adoptive parents, the Department shall request, and the adoptive parents shall provide, documentation of the adoptive parents' continued legal and financial responsibility for the child.

**R6-5-6707. Certification of the Child for Adoption Special Services Subsidy**

- A.** The child with special needs shall be evaluated by qualified specialists as to the medical/dental, psychiatric/psychological, developmental/educational, and other health related services needed. This shall be done prior to selection of an adoptive family.
- B.** The child who has become emotionally attached to his foster parents shall:
  1. Be currently in a foster home which meets the standards for certification for adoption; except for the financial ability to support the child; and;
  2. Have a psychiatric or psychological evaluation which indicates the child has established such significant emotional ties with the foster parents as to be unable to readily accept another family; or;
  3. Have established such a meaningful relationship with the foster parents that the most appropriate plan is adoption by the foster parents, as determined by the Social Services Worker and Social Services Supervisor.
- C.** The child with special needs due to age; sibling relationship; and/or racial or ethnic factors may also be certified for adoption subsidy when such factors impede the child's adoptive placement.
- D.** The Social Services Worker responsible for case planning for the child shall, after obtaining comprehensive evaluation of the child's needs, complete the required forms to request Department certification of the child as appropriate for adoption subsidy.
- E.** Reasons for which the child is certified may change at anytime after subsidy is approved and the child has been placed for adoption, but prior to entry of the order of adoption.
- F.** The Department will approve or deny each request for certification.
- G.** Approval of the child for subsidy may be completed before the child is placed in an adoptive home.
- H.** The adoptive family must apply and be approved before payment may be made on behalf of the child.

Notices of Final Rulemaking

- A. Special services subsidy is financial assistance for extraordinary, infrequent, or uncommon needs related to a special needs condition specified in the adoption subsidy agreement.
- B. Special services shall be:
  - 1. Related to a special needs condition listed in the adoption subsidy agreement;
  - 2. Necessary to improve or maintain the adopted child's functioning as documented by an appropriate qualified professional. The Adoption Subsidy Program shall review the documentation at least annually;
  - 3. Provided by a qualified professional;
  - 4. Provided in the least restrictive environment and as close as possible to the family's residence;
  - 5. In accordance with the "Standard of Care"; and
  - 6. Not otherwise covered by or provided through maintenance subsidy, medical subsidy, dental subsidy, mental health subsidy, or other resources for which the adopted child is eligible.
- C. The adoptive parent shall submit the special services request to the Adoption Subsidy Program and receive approval from the Adoption Subsidy Program prior to the adoptive parent's incurring the specified expense. The request shall include:
  - 1. Documentation from a qualified professional that the service is necessary; and
  - 2. Documentation that the adoptive parent had requested the service and the service provider had denied the request or documentation that the service is not available from other potential funding sources, such as AHCCCS/Medicaid, private insurance, school district, or other community resources.
- D. Special services subsidy shall not include:
  - 1. Payment for services to meet needs other than the pre-existing special needs conditions specifically listed in the adoption subsidy agreement;
  - 2. Payment for medical or dental services usually considered to be routine, such as well-child checkups, immunizations, and other services not related to the child's special needs conditions in the adoption subsidy agreement;
  - 3. Payment for health-related services that are not medically necessary, as determined by a qualified professional;
  - 4. Payment for social or recreational services such as routine child care, dance lessons, sports fees, camps, and similar services; and
  - 5. Payment for educational services that are not necessary to meet the special needs conditions specifically listed in the adoption subsidy agreement, or the services for which the school district is responsible.
- E. The Department may request an independent review by a qualified professional of a special services request to determine the necessity for medical, dental, psychological, or psychiatric testing or services, or to evaluate the appropriateness of the treatment plan or placement.
- F. The Department shall issue reimbursements to the adoptive parent for approved special services. If requested by the adoptive parent due to the adoptive parent's inability to pay, the Department may pay the service provider directly.
- G. Special services subsidy reimbursement is limited as follows:
  - 1. The Department shall reimburse in-state and out-of-state inpatient and outpatient hospital services according to the AHCCCS hospital reimbursement system, as required by A.R.S. § 8-142.01(A), if the adoptive parent has obtained prior approval for the service from the Department. Prior approval is not required in an emergency situation.
  - 2. The Department shall not reimburse special services subsidy amounts in excess of the rates allowed by the Department or AHCCCS. The Department shall use the lowest applicable rates as established by AHCCCS, the DES Comprehensive Medical and Dental Plan (CMDP), or rates established by the Adoption Subsidy Program to be customary and reasonable.
  - 3. The Department shall not pay for requests that the adoptive parent or provider submits more than nine months after the date of service for which the adoptive parent or provider requests payment.

**R6-5-6708. ~~Adoptive Parents Application for Subsidy~~ Nonrecurring Adoption Expenses**

- ~~A. The adoptive parents shall be court certified or approved as an adoptive home.~~
- ~~B. It shall be determined that appropriate resources for placement of the child have been considered and carefully evaluated, and that the adoptive family wishing to apply shall be considered the most appropriate placement for the specific child(ren).~~
- ~~C. The adoptive parents shall submit a written application on forms provided by the Department.~~
- ~~D. The Department must make a decision to approve or deny the application within 30 days after the application is received.~~
- A. Nonrecurring adoption expenses are reasonable and necessary expenses directly related to the legal process of adopting a child with special needs. Allowable expenses include adoption fees, court costs, attorney's fees, fingerprinting fees, home study fees, costs for physical and psychological examinations, costs for placement supervision, and travel expenses necessary to complete the adoption. The Adoption Subsidy Program does not cover expenses related to visiting and placing the child.
- B. Reimbursement of nonrecurring adoption expenses is subject to the limitations in A.R.S. § 8-164 and to actual documented expenses not to exceed \$2000 per child.
- C. To be eligible for reimbursement of nonrecurring adoption expenses, the child shall meet the requirements of A.R.S. § 8-163.



Notices of Final Rulemaking

**R6-5-6709. Department Responsibility Annual Review: Reporting Change**

- A.** The Department shall:
1. Advise adoptive parents that adoption subsidy is available for children meeting the following special circumstances:
    - a. Physical or mental disability
    - b. Emotional disturbance
    - c. High risk of physical or mental disease
    - d. Age
    - e. Sibling relationship
    - f. Racial or ethnic factors
    - g. Any combination of circumstances described by subparagraphs (a) through (f).
  2. Advise adoptive parents regarding subsidy prior to preplacement visit between child and potential adoptive parents.
  3. After the placement of a certified child in the adoptive home, evaluate the adoptive family's medical and hospital insurance and address the limitations of the agreement.
  4. Approve and sign the Agreement between the Department of Economic Security and adoptive parents regarding Subsidy Payments.
- B.** Shall accept application to have child certified for adoption subsidy:
1. Determine child's eligibility for subsidy.
  2. Approve or disapprove the application submitted by the adoptive parents regarding Subsidy Payments.
- C.** If the child is determined eligible, the Application will be approved and the adoptive parents shall be asked to sign the Agreement.
- D.** If the application for a subsidy is disapproved, the Department shall send a decision letter within ten days of making the decision stating the reason(s) for disapproval and the fact the applicant has a right to appeal.
- E.** Subsidy payments may begin when the certified child is placed for adoption and the subsidy is approved.
- A.** Each year, the Department shall send a review form to the adoptive parent requesting that the parent provide:
1. Information indicating that the parent remains legally and financially responsible for the child;
  2. Information on any change in benefits, such as benefits received through Title II of the Social Security Act;
  3. Information on any change in circumstances, including changes in residence, marital status, educational status, or other similar changes; and
  4. A description of any changes in the child's special needs conditions that are listed in the adoption subsidy agreement.
- B.** The adoptive parent shall provide the Department with the requested information within 30 days of the adoptive parent's receipt of the review form.
- C.** The adoptive parent shall notify the Department in writing within five calendar days when any of the following occurs:
1. The adoptive parent is no longer legally responsible for the child.
  2. The adoptive parent is no longer providing support to the child.
  3. The child is no longer residing in the adoptive parent's home.
  4. The child has graduated from high school or obtained a general equivalency degree (GED).
  5. The child has married, or
  6. The child has joined the military.

**R6-5-6710. Revisions Termination of Adoption Subsidy**

If at any time the circumstances of the child or the family change materially, the original agreement shall be reviewed at that time and may be modified at the request of the family or the Department.

The Department shall terminate an adoption subsidy when any of the following occurs:

1. The child turns 18 years old and is not enrolled in and attending high school or a program leading to a high school diploma or general equivalency degree (GED);
2. The child is aged 18 through 21, has been continuously enrolled in school, and either drops out of school, graduates from high school, or obtains a general equivalency degree (GED);
3. The child's 22nd birthday;
4. The adoptive parent is no longer legally responsible for the child;
5. The adoptive parent is no longer providing support to the child;
6. The child marries;
7. The child joins the military;
8. The special needs conditions of the child no longer exist; or
9. The adoptive parent requests termination.

**R6-5-6711. Case Management New or Amended Adoption Subsidy Agreement**

- A.** The case shall remain open as long as the child continues to be approved for subsidy. The functions and responsibilities of the Department will be limited to documenting need and making subsidy payments.
- B.** Confidentiality. The files and regulations of the Department regarding the disclosure and use of confidential information concerning the client, as set forth in A.A.C. Title 6, Chapter 5, Article 23, "Safeguarding for Records and Information"

Notices of Final Rulemaking

shall apply to all services provided under this Article.

- ~~C.~~ Appeals. The rules and regulations of the Department set forth in A.A.C. Title 6, Chapter 5, Article 25, "Complaints and Appeals" shall apply to all services provided under this Article.
- ~~D.~~ Civil rights. The rules and regulations of the Department set forth in A.A.C. Title 6, Chapter 5, Article 26, "Civil Rights" shall apply to all services provided under this Article.
- ~~E.~~ Closing the service. The service will be closed when the child is no longer approved for subsidy.

An adoptive parent may apply for a new or amended adoption subsidy agreement after the adoption is final only upon documentation of an undiagnosed pre-existing special need condition that existed before the finalization of the adoption.

1. The adoptive parent shall send the Department a written request for adoption subsidy with documentation from a qualified professional diagnosing the special need condition and confirming that it existed before the final order of adoption.
2. The adoptive parent and the Department shall follow the procedures in R6-5-6703 for processing applications and determining eligibility.
3. If the Department finds that the child has an undiagnosed pre-existing special need condition that, if diagnosed prior to the adoption, would have met the eligibility criteria listed in R6-5-6702, the Department shall grant a new subsidy or amend the adoption subsidy agreement to cover this condition.

**R6-5-6712. Appeals**

- A. When the Department denies, reduces, or terminates an adoption subsidy, the Department shall send the adoptive parent written notice of the action and the parent's right to appeal.
- B. The notice shall contain:
  1. An explanation of the action taken and the reason for the action.
  2. A statement of the adoptive parent's right to appeal the action, and
  3. The time-frame for filing an appeal.
- C. The request for appeal shall:
  1. Specify the action being appealed;
  2. The reasons for the appeal; and
  3. A brief summary of why the Department's action was erroneous, unlawful, or improper.
- D. The Office of Appeals shall conduct the appeal pursuant to A.R.S. § 8-145.
- E. The rules of the Department in Article 24 of this Chapter apply to all services provided under this Article.

**NOTICE OF FINAL RULEMAKING**

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 4. GAME AND FISH COMMISSION**

*Editor's Note: The following Notice of Final Rulemaking was exempt from Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 1508.)*

[R12-102]

**PREAMBLE**

- 1. Article, Part, or Section Affected (as applicable)      Rulemaking Action**

R12-4-108	Amend
R12-4-301	Re-number
R12-4-301	New Section
R12-4-318	Amend
R12-4-321	Re-number
R12-4-321	Amend
- 2. Citations to the agency's statutory authority to include the authorizing statute (general) and the implementing statute (specific):**

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

Implementing statute: A.R.S. §§ 13-3107, 13-3108, 17-102, 17-231(A)(1), 17-231(A)(3), 17-231(B)(2), 17-234, 17-235, 17-301, 17-307, 17-333, 17-346, and 17-371(D)
- 3. The effective date of the rules:**

January 1, 2013

Notices of Final Rulemaking

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

Not applicable

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

The Commission proposes the rulemaking become effective on January 1, 2013. This delayed effective date will allow the Department the time needed to ensure all affected publications, applications, tags, permits, and licenses are revised before rulemaking becomes effective.

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

Notice of Rulemaking Docket Opening: 18 A.A.R. 107, January 13, 2012

Notice of Proposed Rulemaking: 18 A.A.R. 69, January 13, 2012

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

Name: Craig McMullen, Wildlife Recreation Branch Chief

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

Telephone: (623) 236-7188

Fax: (623) 236-7903

E-mail: CMcMullen@azgfd.gov

Please visit the AZGFD web site to track progress of this rule and any other agency rulemaking matters at [http://www.azgfd.gov/inside\\_azgfd/rules/rulemaking\\_updates.shtml](http://www.azgfd.gov/inside_azgfd/rules/rulemaking_updates.shtml).

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

The Commission proposes to amend R12-4-108, R12-4-301, and R12-4-318 and adopt a new rule. R12-4-301 will be renumbered to R12-4-321 and is amended to implement recent legislative amendments to A.R.S. §§ 13-3107 and 13-3108, which transferred the authority to regulate the use of firearms for the take of wildlife within municipal boundaries to the Arizona Game and Fish Commission. The Commission submits this rulemaking to the Secretary of State's office in accordance with the exemption authorized under item 4 of Executive Order 2011-05 State Regulatory Rule-making Moratorium.

Legislative amendments to A.R.S. §§ 13-3107 and 13-3108 transferred the authority to regulate the use of firearms for the take wildlife within municipal boundaries to the Arizona Game and Fish Commission. Laws 2010, 2nd Regular Session, Ch. 19 modified statutory prohibitions pertaining to the firearms related ordinances, rules or taxes that may be enacted or enforced by a political subdivision of the state and retroactively nullified any firearms related ordinance or rule that is inconsistent with, or more restrictive than, state law. In addition, Laws 2011, 1st Regular Session, Ch. 349 prohibits political subdivisions from limiting the lawful taking of wildlife during an open season established by the Commission unless the ordinance, rule or regulation is consistent with statute and Commission rules and Orders.

Currently, the Commission divides the state into 47 units for the purpose of managing wildlife. These units are known as game management units or hunt areas and are composed of state, federal, military, and private land. These units define legally huntable areas and are essential to the Department's licensing, hunt permit tag and law enforcement operations. Hunters purchase permit tags and non-permit-tags (tag) that authorize the individual to hunt in a game management unit, portion of a unit, or group of units that is open to hunting and rely on the unit boundary descriptions provided in R12-4-108.

The Department's Geographic Information Systems (GIS) Unit, in consultation with regional personnel, conducted a review of the existing Management Units. The GIS Unit compared existing land ownership and land use documents to the Department's GIS datasets. As a result of the new legislation and the internal review of game management units, the Commission proposes to amend R12-4-108 to update landmark references and incorporate the boundaries of one game management unit into two other adjacent units.

The Commission proposes to renumber R12-4-301 to R12-4-321 and establish a new rule providing definitions for terms used within Article 3.

The Commission proposes to amend R12-4-318 to establish a limited weapon pneumatic season and a limited weapon hand or hand-held implement season, when prescribed under R12-4-304 as lawful for the species hunted. These amendments are proposed to allow an individual to lawfully take small game and reptiles in a city, county, or

Notices of Final Rulemaking

town park or preserve. In addition, the Commission also proposes the following amendments to R12-4-318: including falconry as a method of take during an archery-only season as this request has been asked for by public stakeholders during hunt guideline discussions; exempting falconers hunting with exotic raptors from falconry license established under R12-4-422 to bring the rule into alignment with statutory amendments to A.R.S. § 17-236; establishing a “restricted” season in which an individual may use any approved method or device authorized under R12-4-304, except pursuit with dogs to ensure harvest objectives for bear and mountain lion are not exceeded; and clarifying Junior-only hunt age requirements to increase opportunity for those hunters nearing their 18th birthday and reduce confusion regarding eligibility for Juniors-only hunts. In addition, the rule is amended to remove language that prohibited the possession of certain weapons to comply with statutory amendments resulting Laws 2012, 2nd Regular Session, Ch. 225.

The Commission proposes to renumber and amend R12-4-301. The new number is R12-4-321 and the Commission proposes to amend the rule to establish that all city, county, and town parks and preserves are closed to hunting, unless authorized by Commission Order. The rule further states that a city, county, or town may, when not in conflict with a Commission Order or rule, restrict hunting or trapping within a 1/4 mile of certain populated areas, require an individual to declare the intention to hunt. In addition, the rule is amended to clarify that an individual may only take wildlife in city, county, or town parks when the park is open to visitors.

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

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

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

Not applicable

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

The Commission anticipates the proposed rulemaking will benefit the regulated community and the Department by replacing archaic information and aligning the rule with statute. In addition, the rulemaking will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated.

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

R12-4-108 is revised to update landmark references to maintain consistency between subsections within the rule.

R12-4-301 is revised to remove the definition for the term “personal protection handgun” to comply with recent legislative amendments to A.R.S. § 17-305 resulting from Laws 2012, 2nd Regular Session, Ch. 225.

R12-4-318(C) is revised to remove language that prohibited an individual from possessing certain weapons to comply with new legislation, A.R.S. § 17-305 resulting from Laws 2012, 2nd Regular Session, Ch. 225.

R12-4-321 is revised to include “towns” to ensure all municipal parks and preserves are included.

Minor grammatical and formatting changes were made at the request of G.R.R.C. staff.

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

The Department did not receive any public or stakeholder comments in response to the proposed rulemaking.

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

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

The rule does not require a general permit.

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

The subject matters covered in the rulemaking (definitions, seasons, municipal and county parks, and unit boundaries) are governed by state law rather than any corresponding federal law.

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

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

Notices of Final Rulemaking

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

Not applicable

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

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

**15. The full text of the rules follows:**

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 4. GAME AND FISH COMMISSION**

**ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS**

Section

R12-4-108. Management Unit Boundaries

**ARTICLE 3. TAKING AND HANDLING OF WILDLIFE**

Section

R12-4-301. Definitions

R12-4-318. Seasons for Lawfully Taking Wild Mammals, Birds, and Reptiles

~~R12-4-301-R12-4-321.~~ Restrictions for Taking Wildlife in City, County, or Town Parks and Preserves ~~Maricopa County Parks~~

**ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS**

**R12-4-108. Management Unit Boundaries**

A. No change

1. No change
2. No change
3. No change
4. No change

B. The state is divided into units for the purpose of managing wildlife. Each unit is identified by a number, or a number and letter. For the purpose of this Section, Indian reservation land contained within any management unit is not under the jurisdiction of the Arizona Game and Fish Commission or the Arizona Game and Fish Department. ~~See R12-4-117.~~

C. Management unit descriptions are as follows:

Unit 1 – Beginning at the New Mexico state line and U.S. Hwy 60; west on U.S. Hwy 60 to Vernon Junction; southerly on the Vernon-McNary road (FR 224) to the ~~Fort~~ White Mountain Apache Indian Reservation boundary; east and south along the reservation boundary to Black River; east and north along Black River to the east fork of Black River; north along the east fork to Three Forks; and continuing north and east on the Three Forks-Williams Valley-Alpine Rd. (FR 249) to U.S. Hwy 180; east on U.S. Hwy 180 to the New Mexico state line; north along the state line to U.S. Hwy 60.

No change

No change

No change

No change

Unit 3B – Beginning at Snowflake; southerly along AZ Hwy 77 to U.S. Hwy 60; southwesterly along U.S. Hwy 60 to the ~~Fort~~ White Mountain Apache Indian Reservation boundary; easterly along the reservation boundary to the Vernon-McNary Rd. (FR 224); northerly along the Vernon-McNary Rd. to U.S. Hwy 60; west on U.S. Hwy 60 to AZ Hwy 61; northeasterly on AZ Hwy 61 to AZ Hwy 180A; northerly on AZ Hwy 180A to Concho-Snowflake Rd.; westerly on the Concho-Snowflake Rd. to Snowflake.

No change

Unit 4A – Beginning on the boundary of the Apache-Sitgreaves National Forest with the Coconino National Forest at the Mogollon Rim; north along this boundary (Leonard Canyon) to East Clear Creek; northerly along East Clear Creek to AZ Hwy 99; north on AZ Hwy 99 to AZ Hwy 87; north on AZ Hwy 87 to Business I-40 (3rd St.); west on Business I-40 (3rd St.) to Hipkoe Dr.; northerly on Hipkoe Dr. to I-40; west on I-40 to mp 221.4; north to the southwest corner of the Navajo Indian Reservation ~~Boundary~~ boundary; east along the Navajo Indian Reservation ~~Bound-ary~~ boundary to the Little Colorado River; southerly along the Little Colorado River to Chevelon Creek; southerly

Notices of Final Rulemaking

along Chevelon Creek to Woods Canyon; westerly along Woods Canyon to Woods Canyon Lake Rd.; ~~southeasterly~~ westerly and southerly along the Woods Canyon Lake Rd. to the Mogollon Rim; westerly along the Mogollon Rim to the boundary of the Apache-Sitgreaves National Forest with the Coconino National Forest.

Unit 4B – Beginning at AZ Hwy 260 and the Sitgreaves National Forest boundary with the Tonto National Forest; northeasterly on AZ Hwy 260 to AZ Hwy 277; northeasterly on AZ Hwy 277 to Hwy 377; northeasterly on AZ Hwy 377 to AZ Hwy 77; northeasterly on AZ Hwy 77 to I-40 Exit 286; northeasterly along the westbound lane of I-40 to Exit 292; north on AZ Hwy 77 to the Navajo Indian Reservation boundary; west along the reservation boundary to the Little Colorado River; southerly along the Little Colorado River to Chevelon Creek; southerly along Chevelon Creek to Woods Canyon; westerly along Woods Canyon to Woods Canyon Lake Rd.; westerly and southerly along the Woods Canyon Lake Rd. to the Mogollon Rim; easterly along the Mogollon Rim to AZ Hwy 260.

No change

Unit 5B – Beginning at Lake Mary-Clint's Well Rd. (FH3) and Walnut ~~Creek Canyon~~ Canyon (mp 337.5 on FH3); southeasterly on FH3 to AZ Hwy 87; northeasterly on AZ Hwy 87 to FR 69; westerly and northerly on FR 69 to I-40 (Exit 233); west on I-40 to Walnut ~~Creek Canyon~~ Canyon (mp 210.2); southwesterly along Walnut ~~Creek Canyon~~ Canyon to Walnut Canyon National Monument; southwesterly along the northern boundary of the Walnut Canyon National Monument to Walnut ~~Creek Canyon~~ Canyon; southwesterly along Walnut ~~Creek Canyon~~ Canyon to FH3 (mp 337.5).

Unit 6A - Beginning at the junction of U.S. Hwy 89A and FR 237; southwesterly on U.S. Hwy 89A to the Verde River; southeasterly along the Verde River to Childs; easterly on the Childs-Strawberry Rd. to Fossil Creek north on the creek to Fossil Springs; southeasterly on FS trail 18 (Fossil Spring Trail) to the top of the rim; northeasterly on the rim to Nash Point on the Tonto-Coconino National Forest boundary; easterly along this boundary to AZ Hwy 87; northeasterly on AZ Hwy 87 to Lake Mary-Clint's Well Rd. (FH3); northwesterly on FH3 to FR 132; southwesterly on FR 132 to FR 296; southwesterly on FR 296 to FR 296A; southwesterly on FR 296A to FR 132; northwesterly on FR 132 to FR 235; westerly on FR 235 to Priest Draw; southwesterly along the bottom of Priest Draw to FR 235; westerly on FR 235 to FR 235A; westerly on FR 235A to FR 235; southerly on FR 235 to FR 235K; northwesterly on FR 235K to FR 700; northerly on FR 700 to Mountainaire Rd.; west on Mountainaire Rd. to FR 237; westerly on FR 237 to U.S. Hwy 89A except those portions that are sovereign tribal lands of the Yavapai-Apache Nation.

No change

Unit 7 – Beginning at the junction of AZ Hwy 64 and I-40 (in Williams); easterly on I-40 to FR 171 (mp 184.4 on I-40); northerly on FR 171 to the Transwestern Gas Pipeline; easterly along the Transwestern Gas Pipeline to FR 420 (Schultz Pass Rd.); northeasterly on FR 420 to U.S. Hwy 89; ~~north on across~~ U.S. Hwy 89 to FR 545; east on FR 545 to the Sunset Crater National Monument; easterly along the southern boundary of the Sunset Crater National Monument to FR 545; east on FR 545 to the 345 KV transmission lines 1 and 2; southeasterly along the power lines to I-40 (mp 212 on I-40); east on I-40 to mp 221.4; north to the southwest corner of the Navajo Indian Reservation boundary; northerly and westerly along the reservation boundary to the Four Corners Gas Line; southwesterly along the Four Corners Gas Line to U.S. Hwy 180; west on U.S. Hwy 180 to AZ Hwy 64; south on AZ Hwy 64 to I-40.

No change

No change

No change

Unit 11M – Beginning at the junction of Lake Mary-Clint's Well Rd. (FH3) and Walnut ~~Creek Canyon~~ Canyon (mp 337.5 on FH3); northeasterly along Walnut ~~Creek Canyon~~ Canyon to the Walnut Canyon National Monument boundary; northeasterly along the northern boundary of the Walnut Canyon National Monument to Walnut ~~Creek Canyon~~ Canyon; northeasterly along Walnut ~~Creek Canyon~~ Canyon to I-40 (mp 210.2); east on I-40 to the 345 KV transmission lines 1 and 2 (mp 212 on I-40); north and northeasterly along the power line to FR 545 (Sunset Crater Rd.); west along FR 545 to the Sunset Crater National Monument boundary; westerly along the southern boundary of the Sunset Crater National Monument to FR 545; west on FR 545 to U.S. Hwy 89; ~~south on across~~ U.S. Hwy 89 to FR 420 (Schultz Pass Rd.); southwesterly on FR 420 to the Transwestern Gas Pipeline; westerly along the Transwestern Gas Pipeline to FR 171; south on FR 171 to I-40 (mp 184.4 on I-40); east on I-40 to a point just north of the eastern boundary of Camp Navajo (mp 188.5 on I-40); south along the eastern boundary of Camp Navajo to the southeast corner of Camp Navajo; southeast approximately 1/3 mile to the forest road in section 33; southeasterly along the forest road to FR 231 (Woody Mountain Rd.); easterly on FR 231 to FR 533; southerly on FR 533 to U.S. Hwy 89A; southerly on U.S. Hwy 89A to FR 237; northeasterly on FR 237 to Mountainaire Rd.; easterly on Mountainaire Rd. to FR 700; southerly on FR 700 to FR 235K; southeasterly on FR 235K to FR 235; northerly on FR 235 to FR 235A; easterly on FR 235A to FR 235; easterly on FR 235 to Priest Draw; northeasterly along the bottom of Priest Draw to FR 235; easterly on FR 235 to FR 132; southeasterly on FR 132 to FR 296A; northeasterly on FR 296A to FR 296; northeasterly on FR 296 to FR 132; northeasterly on FR 132 to FH3; southeasterly on FH3 to Walnut ~~Creek Canyon~~ Canyon (mp 337.5 on FH3).

No change

Notices of Final Rulemaking

No change

Unit 13A – Beginning on the western edge of the Hurricane Rim at the Utah state line; southerly along the western edge of the Hurricane Rim to Mohave County Rd. 5 (the Mt. Trumbull Rd.); west along Mohave County Rd. 5 to the town of Mt. Trumbull (Bundyville); south from the town of Mt. Trumbull (Bundyville) on Mohave County Rd. 257 to BLM Rd. 1045; south on BLM Rd. 1045 to where it crosses Cold Spring Wash near Cold Spring Wash Pond; south along the bottom of Cold Spring Wash to Whitmore Wash; southerly along the bottom of Whitmore Wash to the Colorado River; easterly along the Colorado River to Kanab Creek; northerly along Kanab Creek to the Utah state line; west along the Utah state line to the western edge of the Hurricane Rim; except those portions that are sovereign tribal lands of the Kaibab Band of Paiute Indians.

Unit 13B -- Beginning on the western edge of the Hurricane Rim at the Utah state line; southerly along the western edge of the Hurricane Rim to Mohave County Rd. 5 (the Mt. Trumbull Rd.); west along Mohave County Rd. 5 to the town of Mt. Trumbull (Bundyville); south from the town of Mt. Trumbull (Bundyville) on Mohave County Rd. 257 to BLM Rd. 1045; south on BLM Rd. 1045 to where it crosses Cold Spring Wash near Cold Spring Wash Pond; south along the bottom of Cold Spring Wash to Whitmore Wash; southerly along the bottom of Whitmore Wash to the Colorado River; westerly along the Colorado River to the Nevada state line; north along the Nevada state line to the Utah state line; east along the Utah state line to the western edge of the Hurricane Rim.

No change

No change

No change

No change

Unit 16A – Beginning at Kingman Exit 48 on I-40; south and west on I-40 to ~~AZ U.S.~~ Hwy 95 (Exit 9); southerly on ~~AZ U.S.~~ Hwy 95 to the Bill Williams River Rd. ~~(milepost 161.4)~~; easterly along the Bill Williams River Rd. to ~~Mineral Wash Rd.~~; ~~continuing easterly along the Bill Williams~~ and Santa Maria rivers to U.S. Hwy 93; north and west on U.S. Hwy 93 and I-40 to Kingman (Exit 48).

Unit 16B – Beginning at I-40 on the Colorado River; southerly along the Arizona-California state line to the Bill Williams River; east along the Bill Williams River to ~~AZ U.S.~~ Hwy 95; north on ~~AZ U.S.~~ Hwy 95 to I-40 (Exit 9); west on I-40 to the Colorado River.

No change

No change

No change

No change

No change

Unit 19B – Beginning at the intersection of U.S. Hwy 89 and AZ Hwy 69 ~~northwesterly through Prescott~~, west on Gurley St. to Grove Ave.; north on the Grove Ave. to Miller Valley Rd.; northwest on the Miller Valley Rd. to Iron Springs Rd.; northwest on the Iron Springs Rd. to the junction of Williamson Valley Rd. and Iron Springs Rd.; northerly on the Williamson Valley-Prescott-Seligman Rd. (FR 6, Williamson Valley Rd.) to AZ Hwy 66 at Seligman; east on Crookton Rd. (AZ Hwy 66) to I-40 (Exit 139); east on I-40 to U.S. Hwy 89; south on U.S. Hwy 89 to the junction with AZ Hwy 69; except those portions that are sovereign tribal lands of the Yavapai-Prescott Tribe.

Unit 20A – Beginning at the intersection of U.S. Hwy 89 and AZ Hwy 69; ~~northwest west on Gurley St. to Grove Ave.~~; north on the Grove Ave. to Miller Valley Rd., northwest on the Miller Valley Rd. to Iron Springs Rd., west and south on the Iron Springs-Skull Valley-Kirkland Junction Rd. to U.S. Hwy 89; continue south and easterly on the Kirkland Junction-Wagoner-Crown King-Cordes Rd. to Cordes, from Cordes southeast to I-17 (Exit 259); north on the southbound lane of I-17 to AZ Hwy 69; northwest on AZ Hwy 69 to junction of U.S. Hwy 89 at Prescott; except those portions that are sovereign tribal lands of the Yavapai-Prescott Tribe.

No change

No change

No change

Unit 22 – Beginning at the junction of the Salt and Verde Rivers; north along the Verde River to Childs; easterly on the Childs-Strawberry Rd. to Fossil Creek; north on the creek to Fossil Springs; southeasterly on FS trail 18 (Fossil Spring Trail) to the top of the rim; northeasterly on the rim to Nash Point on the Tonto-Coconino National Forest boundary along the Mogollon Rim; ~~easterly along this boundary to the Tonto-Sitgreaves National Forest boundary~~; easterly along this boundary to Tonto Creek; southerly along the east fork of Tonto Creek to the spring box, north of the Tonto Creek Hatchery, and continuing southerly along Tonto Creek to the Salt River; westerly along the Salt River to the Verde River; except those portions that are sovereign tribal lands of the Tonto Apache Tribe and the Fort

Notices of Final Rulemaking

McDowell Mohave-Apache Community.

Unit 23 – Beginning at the confluence of Tonto Creek and the Salt River; northerly along Tonto Creek to the spring box, north of the Tonto Creek Hatchery, on Tonto Creek; northeasterly along the east fork of Tonto Creek to the Tonto-Sitgreaves National Forest boundary along the Mogollon Rim; east along this boundary to the ~~Fort~~ White Mountain Apache Indian Reservation boundary; southerly along the reservation boundary to the Salt River; westerly along the Salt River to Tonto Creek.

Unit 24A – Beginning on AZ Hwy 177 in Superior; southeasterly on AZ Hwy 177 to the Gila River; northeasterly along the Gila River to the San Carlos Indian Reservation boundary; easterly, westerly and northerly along the reservation boundary to the Salt River; southwesterly along the Salt River to AZ Hwy 288; southerly on AZ Hwys 288 and ~~88~~ 188 to U.S. Hwy 60; southwesterly on U.S. Hwy 60 to AZ Hwy 177.

Unit 24B – Beginning on U.S. Hwy 60 in Superior; northeasterly on U.S. Hwy 60 to AZ Hwy ~~88~~ 188; northerly on AZ Hwys ~~88~~ 188 and 288 to the Salt River; westerly along the Salt River to ~~Bush Hwy at the Blue Point Bridge~~; westerly on ~~Bush Hwy to the Usery Pass Rd. (Ellsworth Rd.)~~; southerly on the ~~Usery Pass Rd.~~ to the Tonto National Forest ~~Boundary~~ boundary near Granite Reef Dam; southeasterly along Forest boundary to Forest Route 77 (Peralta Rd.); southwesterly on Forest Route 77 (Peralta Rd.) to U.S. Hwy 60; easterly on U.S. Hwy 60 to Superior.

Unit 25M – Beginning at 115th Ave. and the Gila River; easterly to the western boundary of the Gila Indian Reservation; southeasterly along the reservation boundary in AZ Hwy 347 (Maricopa Rd.); south on AZ Hwy 347 (Maricopa Rd.) to AZ Hwy 84; east on AZ Hwy 84 to Stanfield; south on the Stanfield-Cocklebur Rd. to the Tohono O'odham (Papago) Indian Reservation; easterly along the reservation boundary to Battaglia Rd.; east on Battaglia Rd. to Toltec Rd.; north on Toltec Rd. to I-10 (Exit 203); southeasterly on I-10 to AZ Hwy 87 (Exit 211); north on AZ Hwy 87 to AZ Hwy 287 north of Coolidge; east on AZ Hwy 287 to AZ Hwy 79; north on AZ Hwy 79 to U.S. Hwy 60; northwesterly on U.S. Hwy 60 to the Meridian Extension (Maricopa-Pinal County Line); south on the Meridian Extension (Maricopa-Pinal County Line) to Empire Blvd.; west on Empire Blvd. to the Gila Indian Reservation boundary; north and west along the Gila River Indian Reservation boundary to 115th Ave; except those portions that are sovereign tribal lands of the Gila River Indian Community and the Ak-Chin Indian Community.

Unit 25M – Beginning at the junction of 51st Ave. and I-10; west on I-10 to AZ Loop 303, northeasterly on AZ Loop 303 to I-17; north on I-17 to Carefree Hwy; east on Carefree Hwy to Cave Creek Rd.; northeasterly on Cave Creek Rd. to the Tonto National Forest boundary; easterly and southerly along the Tonto National Forest boundary to Fort McDowell Yavapai Nation boundary; northeasterly along the Fort McDowell Yavapai Nation boundary to the Verde River; southerly along the Verde River to the Salt River; southwesterly along the Salt River to the Tonto National Forest boundary; southerly along the Tonto National Forest boundary to Bush Hwy/Power Rd.; southerly on Bush Hwy/Power Rd. to AZ Loop 202; easterly, southerly, and westerly on AZ Loop 202 to the intersection of Pecos Rd. at I-10; west on Pecos Rd. to the Gila River Indian Community boundary; northwesterly along the Gila River Indian Community boundary to 51st Ave; northerly on 51st Ave to I-10; except those portions that are sovereign tribal lands.

Unit 26M – Beginning at the junction of I-17 and New River Rd. (Exit 232); west on New River Rd. to AZ Hwy 74; west on AZ Hwy 74 to the junction with U.S. Hwy 93; southeasterly on U.S. Hwy 93 to the Beardsley Canal; southwesterly along the Beardsley Canal to Indian School Rd.; west on Indian School Rd. to Jackrabbit Trail; south on Jackrabbit Trail to I-10 (Exit 121); west on I-10 to Oglesby Rd. (Exit 112); south on Oglesby Rd. to AZ Hwy 85; south on AZ Hwy 85 to the Gila River; east along the Gila River to 115th Ave., north on 115th Ave. to I-10; west along I-10 to Litchfield Rd.; north on Litchfield Rd. to Bell Rd.; east on Bell Rd. to the New River; north along the New River to the Carefree Hwy; east along Carefree Hwy to Cave Creek Rd.; northeast along Cave Creek Rd. to Pima Rd.; south on Pima Rd. to Loop 101; south on loop 101 to the Salt River; easterly along the Salt River to the Tonto National Forest boundary; southeasterly to Usery Pass Rd.; north on Usery Pass Rd. to Bush Hwy; easterly on Bush Hwy to the Salt River at the Blue Point Bridge; westerly along the Salt River to the Verde River; northerly along the Verde River to the Tonto National Forest boundary; northwesterly along this boundary to Fig Springs Rd.; southwesterly on Fig Springs Rd.; west to New River Rd. to I-17 (Exit 232); except those portions that are sovereign tribal lands of the Salt River Pima-Maricopa Indian Community and the Fort McDowell Mohave-Apache Community.

Unit 26M – Beginning at the junction of I-17 and New River Rd. (Exit 232); southwesterly on New River Rd. to AZ Hwy 74; westerly on AZ Hwy 74 to U.S. Hwy 93; southeasterly on U.S. Hwy 93 to the Beardsley Canal; southwesterly on the Beardsley Canal to Indian School Rd.; west on Indian School Rd. to Jackrabbit Trail; south on Jackrabbit Trail to I-10 (Exit 121); west on I-10 to Oglesby Rd. (Exit 112); south on Oglesby Rd. to AZ Hwy 85; south on AZ Hwy 85 to the Gila River; northeasterly along the Gila River to the Gila River Indian Community boundary; southeasterly along the Gila River Indian Community boundary to AZ Hwy 347 (John Wayne Parkway); south on AZ Hwy 347 (John Wayne Parkway) to AZ Hwy 84; east on AZ Hwy 84 to Stanfield; south on the Stanfield-Cocklebur Rd. to the Tohono O'odham Nation boundary; easterly along the Tohono O'odham Nation boundary to Battaglia Rd.; east on Battaglia Rd. to Toltec Rd.; north on Toltec Rd. to I-10 (Exit 203); southeasterly on I-10 to AZ Hwy 87 (Exit 211); north on AZ Hwy 87 to AZ Hwy 287 north of Coolidge; east on AZ Hwy 287 to AZ Hwy 79; north on AZ Hwy 79 to



Notices of Final Rulemaking

U.S. Hwy 60; northwesterly on U.S. Highway 60 to Peralta Rd.; northeasterly along Peralta Rd. to the Tonto National Forest boundary; northwesterly along the Tonto National Forest boundary to the Salt River; northeasterly along the Salt River to the Verde River; northerly along the Verde River to the Tonto National Forest boundary; northwesterly along the Tonto National Forest boundary to Fig Springs Rd.; southwesterly on Fig Springs Rd. to New River Rd.; west on New River Rd. to I-17 (Exit 232); except Unit 25M and those portions that are sovereign tribal lands.

Unit 27 – Beginning at the New Mexico state line and AZ Hwy 78; southwest on AZ Hwy 78 to U.S. Hwy 191; north on U.S. Hwy 191 to ~~San Carlos Morenci-Clifton~~ Lower Eagle Creek Rd. (Pump Station Rd.); west on ~~San Carlos Morenci-Clifton~~ the Lower Eagle Creek Rd. (Pump Station Rd.) to Eagle Creek; north along Eagle Creek to the San Carlos Apache Indian Reservation boundary; north along the San Carlos Apache Indian Reservation boundary to Black River; northeast along Black River to the East Fork of Black River; northeast along the East Fork of Black River to Three Forks-Williams Valley-Alpine Rd. (FR 249); easterly along Three Forks-Williams Valley-Alpine Rd. to U.S. Hwy 180; southeast on U.S. Hwy 180 to the New Mexico state line; south along the New Mexico state line to AZ Hwy 78.

Unit 28 – Beginning at I-10 and the New Mexico state line; north along the state line to AZ Hwy 78; southwest on AZ Hwy 78 to U.S. Hwy 191; northwest on U.S. Hwy 191 to Clifton; westerly on the ~~Clifton Morenci-San Carlos~~ the Lower Eagle Creek Rd. (Pump Station Rd.) to Eagle Creek; northerly along Eagle Creek to the San Carlos Indian Reservation boundary; southerly and west along the reservation boundary to U.S. Hwy 70; southeast on U.S. Hwy 70 to U.S. Hwy 191; south on U.S. Hwy 191 to I-10 Exit 352; easterly on I-10 to the New Mexico state line.

No change

No change

No change

No change

No change

No change

No change

No change

Unit 35A – Beginning on the U.S.-Mexico border at the San Pedro River; west along the border to ~~the Lochiel-Canelo Pass-Elgin~~ Lochiel Rd.; north ~~on the Lochiel-Canelo Pass-Elgin~~ on Lochiel Rd. to Patagonia San Rafael Rd.; north on the Patagonia San Rafael Rd. to San Rafael Valley-FS 58 Rd.; north on the San Rafael Valley-FS 58 Rd. to Christian Ln.; north on the Christian Ln. to Ranch Rd.; east and north on the Ranch Rd. to FR 799-Canelo Pass Rd.; northeasterly on the FR 799-Canelo Pass Rd. to AZ Hwy 83; northwesterly on the AZ Hwy 83 to Elgin Canelo Rd.; northeasterly on the Elgin-Canelo Rd. to Upper Elgin Rd.; north on the Upper Elgin Rd. to AZ Hwy 82; easterly on AZ Hwy 82 to the San Pedro River; south along the San Pedro River to the U.S.-Mexico border.

Unit 35B – Beginning at Grand Avenue (U.S. Hwy 89) at the U.S.-Mexico border in Nogales; east along the U.S.-Mexico border to ~~the Lochiel-Canelo Pass-Elgin~~ Lochiel Rd.; north on the ~~Lochiel-Canelo Pass-Elgin~~ Lochiel Rd. to Patagonia San Rafael Rd.; north on the Patagonia San Rafael Rd. to San Rafael Valley-FS 58 Rd.; north on the San Rafael Valley-FS 58 Rd. to Christian Ln.; north on the Christian Ln. to Ranch Rd.; east and north on the Ranch Rd. to FR 799-Canelo Pass Rd.; northeasterly on FR 799-Canelo Pass Rd. to AZ Hwy 83; northwesterly on the AZ Hwy 83 to Elgin Canelo Rd.; north on the Elgin Canelo Rd. to Upper Elgin Rd.; north on the Upper Elgin Rd. to AZ Hwy 82; southwest on AZ Hwy 82 to Grand Avenue; southwest on Grand Avenue to the U.S.-Mexico border.

Unit 36A – Beginning at the junction of Sandario Rd. and AZ Hwy 86; southwesterly on AZ Hwy 86 to AZ Hwy 286; southerly on AZ Hwy 286 to the ~~Arivaca~~ Arivaca-Sasabe Rd.; ~~easterly~~ southeasterly on the ~~Arivaca~~ Arivaca-Sasabe Rd. to the town of Arivaca; from the town of Arivaca northeasterly on the Arivaca Rd. to I-19; north on I-19 to the southern boundary of the San Xavier Indian Reservation boundary; westerly and northerly along the reservation boundary to the Sandario road alignment; north on Sandario Rd. to AZ Hwy 86.

Unit 36B – Beginning at I-19 and Grand Avenue (U.S. Hwy 89) in Nogales; southwest on Grand Avenue to the U.S.-Mexico border; west along the U.S.-Mexico border to AZ Hwy 286; north on AZ Hwy 286 to the ~~Arivaca~~ Arivaca-Sasabe Rd.; ~~east~~ southeasterly on the ~~Arivaca~~ Arivaca-Sasabe Rd. to the town of Arivaca; from the town of Arivaca northeasterly on the Arivaca Rd. to I-19; south on I-19 to Grand Avenue (U.S. Hwy 89).

No change

No change

No change

No change

Unit 39 – Beginning at AZ Hwy 85 and the Gila River; east along the Gila River to the western boundary of the Gila

Notices of Final Rulemaking

River Indian Reservation; southeasterly along the reservation boundary to AZ Hwy 347 (~~Maricopa Rd.~~ John Wayne Parkway); south on AZ Hwy 347 (~~Maricopa Rd.~~ John Wayne Parkway) to AZ Hwy 84; east on AZ Hwy 84 to Stanfield; south on the Stanfield-Cocklebur Rd. to I-8; westerly on I-8 to Exit 87; northerly on the Agua Caliente Rd. to the Hyder Rd.; northeasterly on Hyder Rd. to 555th Ave.; north on 555th Ave. to Lahman Rd.; east on Lahman Rd., which becomes Agua Caliente Rd.; northeasterly on Agua Caliente Rd. to Old Hwy 80; northeasterly on Old Hwy 80 to Arizona Hwy 85; southerly on AZ Hwy 85 to the Gila River; except those portions that are sovereign tribal lands of the Tohono O'odham Nation and the Ak-Chin Indian Community.

No change

No change

Unit 41 – Beginning at I-8 and ~~AZ U.S.~~ Hwy 95 (in Yuma); easterly on I-8 to exit 87; northerly on the Agua Caliente Rd. to the Hyder Rd.; northeasterly on Hyder Rd. to 555th Ave.; north on 555th Ave. to Lahman Rd.; east on Lahman Rd., which becomes Agua Caliente Rd.; northeasterly on Agua Caliente Rd. to Old Hwy 80; northeasterly on Old Hwy 80 to Arizona Hwy 85; northerly on AZ Hwy 85 to Oglesby Rd.; north on Oglesby Rd. to I-10; westerly on I-10 to Exit 45; southerly on Vicksburg-Kofa National Wildlife Refuge Rd. to the Refuge boundary; easterly, southerly, westerly, and northerly along the boundary to the Castle Dome Rd.; southwestly on the Castle Dome Rd. to U.S. Hwy 95; southerly on U.S. Hwy 95 to I-8.

No change

Unit 43A – Beginning at ~~AZ U.S.~~ Hwy 95 and the Bill Williams River; west along the Bill Williams River to the Arizona-California state line; southerly to the south end of Cibola Lake; northerly and easterly on the Cibola Lake Rd. to U.S. Hwy 95; south on U.S. Hwy 95 to the Stone Cabin-King Valley Rd. (King Rd.); east along the Stone Cabin-King Valley Rd. (King Rd.) to the west boundary of the Kofa National Wildlife Refuge; northerly along the refuge boundary to the Crystal Hill Rd. (Blevens Rd.); northwestly on the Crystal Hill Rd. (Blevens Rd.) to U.S. Hwy 95; northerly on U.S. Hwy 95 to the Bill Williams River; except those portions that are sovereign tribal lands of the Colorado River Indian Tribes.

Unit 43B – Beginning at the south end of Cibola Lake; southerly along the Arizona-California state line to I-8; south-easterly on I-8 to U.S. Hwy 95; easterly and northerly on U.S. Hwy 95 to the Castle Dome road; northeast on the Castle Dome Rd. to the Kofa National Wildlife Refuge boundary; north along the refuge boundary to the Stone Cabin-King Valley Rd. (King Rd.); west along the Stone Cabin-King Valley Rd. (King Rd.) to U.S. Hwy 95; north on U.S. Hwy 95 to the Cibola Lake Rd.; west and south on the Cibola Lake Rd. to the south end of Cibola Lake; except those portions that are sovereign tribal lands of the Quechan Tribe.

Unit 44A – Beginning at U.S. Hwy 95 and the Bill Williams River; south along U.S. Hwy 95 to AZ Hwy 72; south-easterly on AZ Hwy 72 to Vicksburg; south on the Vicksburg-Kofa National Wildlife Refuge Rd. to I-10; easterly on I-10 to the Salome-Hassayampa Rd. (Exit 81); northwestly on the Salome-Hassayampa Rd. to Eagle Eye Rd.; northeasterly on Eagle Eye Rd. to Aguila; east on U.S. Hwy 60 to AZ Hwy 71; northeasterly on AZ Hwy 71 to U.S. Hwy 93; northwestly on U.S. Hwy 93 to the Santa Maria River; westerly along the Santa Maria and Bill Williams rivers to U.S. Hwy 95; except those portions that are sovereign tribal lands of the Colorado River Indian Tribes.

Unit 44B – Beginning at ~~Quartzite Quartzsite~~; south on U.S. Hwy 95 to the Crystal Hill Rd. (Blevens Rd.); east on the Crystal Hill Rd. (Blevens Rd.) to the Kofa National Wildlife Refuge; north and east along the refuge boundary to the Vicksburg-Kofa National Wildlife Refuge Rd.; north on the Vicksburg-Kofa National Wildlife Refuge Rd. to AZ Hwy 72; northwest on AZ Hwy 72 to U.S. Hwy 95; south on U.S. Hwy 95 to ~~Quartzite Quartzsite~~.

Unit 45A – Beginning at the junction of the Stone Cabin-King Valley Rd. (King Rd.) and Kofa National Wildlife Refuge boundary; east on the Stone Cabin-King Valley Rd. (King Rd.) to O-O Junction; north from O-O Junction on the Kofa Mine Rd. to the Evening Star Mine; north on a line over Polaris Mountain to ~~Midwell~~ Midwell-Alamo Spring-Kofa Cabin Rd. (Wilbanks Rd.); north on the Midwell-Alamo Spring-Kofa Cabin Rd. (Wilbanks Rd.) to the El Paso Natural Gas Pipeline Rd.; north on a line from the junction to the north boundary of the Kofa National Wildlife Refuge; west and south on the boundary line to Stone Cabin-King Valley Rd. (King Rd.).

Unit 45B – Beginning at O-O Junction; north from O-O Junction on the Kofa Mine Rd. to the Evening Star Mine; north on a line over Polaris Mountain to ~~Midwell~~ Midwell-Alamo Spring-Kofa Cabin Rd. (Wilbanks Rd.); north on the Midwell-Alamo Spring-Kofa Cabin Rd. (Wilbanks Rd.) to the El Paso Natural Gas Pipeline Rd.; north on a line from the junction to the north Kofa National Wildlife Refuge boundary; east to the east refuge boundary; south and west along the Kofa National Wildlife Refuge boundary to the Stone Cabin-King Valley Rd. (Wellton-Kofa Rd./Ave 40E); north and west on the Stone Cabin-King Valley Rd. (Wellton-Kofa Rd./Ave 40E) to O-O Junction.

Unit 45C – Beginning at the junction of the Stone Cabin-King Valley Rd. (King Rd.) and Kofa National Wildlife Refuge; south, east, and north along the refuge boundary to the Stone Cabin-King Valley Rd. (King Rd.); north and west on the Stone Cabin-King Valley Rd. (King Rd.) to the junction of the Stone Cabin-King Valley Rd. (King Rd.) and Kofa National Wildlife Refuge boundary.

Notices of Final Rulemaking

No change

No change

Unit 47M—Beginning at the junction of I-17 and the Carefree Hwy; east along the Carefree Hwy to Cave Creek Rd; northeast along Cave Creek Rd. to Pima Rd.; south on Pima Rd. to Loop 101; south on Loop 101 to the Salt River; easterly along the Salt River to the Tonto National Forest boundary; northeasterly to the Tonto National Forest boundary; southeasterly along the Forest boundary to Forest Rd. 77 (Peralta Rd.); southwesterly on Forest Road 77 (Peralta Rd.) to U.S. Hwy 60; northwesterly on U.S. Hwy 60; to the Meridian Extension (Maricopa-Pinal County Line); south on the Meridian Extension (Maricopa-Pinal County Line) to Empire Blvd.; west on Empire Blvd. to the Gila River Indian Reservation boundary; north and west along the Gila River Indian Reservation boundary to the Gila River; west along the Gila River to 115th Ave.; north on 115th Ave. to I-10; west along I-10 to Litchfield Rd.; north on Litchfield Rd. to Bell Rd.; east on Bell Rd. to the New River; north along the New River to the Carefree Hwy; east along Carefree Hwy to I-17.

~~D.~~ This Section is effective July 1, 2006.

ARTICLE 3. TAKING AND HANDLING OF WILDLIFE

**R12-4-301. Definitions**

In addition to the definitions provided under A.R.S. § 17-101, the following definitions apply to this Article unless otherwise specified:

“Dip net” means any net, excluding the handle, that is no greater than 3 feet in the greatest dimension, hand-held, and non-motorized; and the motion of the net is caused by the physical effort of the individual.

**R12-4-318. Seasons for Lawfully Taking Wild Mammals, Birds, and Reptiles**

- A. Methods of lawfully taking wild mammals and birds during seasons designated by Commission ~~order~~ Order as “general” seasons are designated ~~in~~ under R12-4-304. ~~Restrictions designated in subsection (C) do not apply to general seasons.~~
- B. Methods of lawfully taking big game during seasons designated by Commission ~~order~~ Order as “special” are designated ~~in~~ under R12-4-304. “Special” seasons are open only to individuals who possess ~~a~~ a special big game license ~~tags issued~~ tag authorized under A.R.S. § 17-346 and R12-4-120.
- C. When designated by Commission ~~order~~ Order, the following seasons have specific requirements and lawful methods of take more restrictive than those for general and special seasons, as prescribed in this Section. While taking the species authorized by the season:
  - 1. ~~An individual participating in a “muzzleloader” season shall not use or possess any firearm other than muzzle-loading rifles or muzzle-loading handguns, as defined under R12-4-101. Individuals participating in a “muzzleloader” season may possess a non-hunting handgun for personal protection. It is unlawful to take any wildlife with this handgun while participating in a “muzzleloader” season. For the purposes of this Section, a non-hunting handgun is defined as a handgun with a barrel length of six inches or less that does not have a scope or any type of electronic sight.~~
  - 2. ~~An individual participating in an “archery-only” season may only use or possess a bow and arrow as prescribed under R12-4-304 and shall not use or possess any other weapons, including crossbows or bows with a device that holds the bow in a drawn position except as authorized under R12-4-216. Individuals participating in an “archery-only” season may possess a non-hunting handgun for personal protection. It is unlawful to take any wildlife with this handgun while participating in an “archery-only” season. For the purposes of this Section, a non-hunting handgun is defined as a handgun with a barrel length of six inches or less that does not have a scope or any type of electronic sight.~~
  - 3. ~~An individual participating in a “handgun, archery, and muzzleloader (HAM)” season may only use or possess any or all of the following: handguns, muzzle-loading rifles as defined in R12-4-101, crossbows, and bows and arrows as prescribed in R12-4-304.~~
  - 4. ~~An individual who possesses a valid tag for a bear season between January 1 and July 31 shall not use dogs to take bear.~~
  - 5. ~~An individual participating in a “pursuit-only” season may use dogs to pursue bears, mountain lions, or raccoons as designated by Commission order, but shall not kill or capture the quarry. An individual participating in a “pursuit-only” season shall possess and, at the request of Department personnel, produce a valid hunting license and any required tag for taking the animal pursued, even though there shall be no kill.~~
  - 6. ~~An individual participating in a “limited weapon” season may only use or possess the following methods or devices for taking wildlife, when authorized under R12-4-304 as lawful for the species hunted:~~
    - a. ~~Any trap except foothold steel traps;~~
    - b. ~~Bow and arrow;~~
    - e. ~~Capture by hand;~~
    - d. ~~Crossbow;~~
    - e. ~~Falconry;~~
    - f. ~~Hand-propelled projectiles;~~
    - g. ~~Nets;~~

Notices of Final Rulemaking

- h. Pneumatic weapons, or
  - i. Slingshots.
7. An individual participating in a “limited weapon shotgun” season may only use or possess the following methods or devices for taking wildlife, when authorized under R12-4-304 as lawful for the species hunted:
- a. Any trap except foothold steel traps;
  - b. Bow and arrow;
  - e. Capture by hand;
  - d. Crossbow;
  - e. Falconry;
  - f. Hand-propelled projectiles;
  - g. Nets;
  - h. Pneumatic weapons;
  - i. Shotgun shooting shot or slug, or
  - j. Slingshots.
8. An individual participating in a “limited weapon shotgun shooting shot” season may only use or possess the following methods or devices for taking wildlife, when authorized under R12-4-304 as lawful for the species hunted:
- a. Any trap except foothold steel traps;
  - b. Bow and arrow;
  - e. Capture by hand;
  - d. Crossbow;
  - e. Falconry;
  - f. Hand-propelled projectiles;
  - g. Nets;
  - h. Pneumatic weapons;
  - i. Shotgun shooting shot, or
  - j. Slingshots.
9. An individual participating in a “limited weapon rimfire” season may only use or possess the following methods or devices for taking wildlife, when authorized under R12-4-304 as lawful for the species hunted:
- a. Any trap except foothold steel traps;
  - b. Bow and arrow;
  - e. Capture by hand;
  - d. Crossbow;
  - e. Falconry;
  - f. Hand-propelled projectiles;
  - g. Nets;
  - h. Pneumatic weapons;
  - i. Rifled firearms using rimfire cartridges;
  - j. Shotgun shooting shot or slug, or
  - k. Slingshots.
10. An individual participating in a “falconry only” season shall be a falconer either licensed under R12-4-422 or exempted under R12-4-407, and use no method of take except falconry.
11. An individual may participate in a “juniors only hunt” up to and throughout the calendar year of the individual’s 17th birthday, provided the individual meets the requirements prescribed under A.R.S. § 17-335.
12. An individual participating in a “CHAMP” season shall be a challenged hunter access/mobility permittee under R12-4-217.
13. An individual participating in a “raptor capture” season shall be a falconer licensed under R12-4-422 unless exempt under R12-4-407.
1. An individual participating in a “CHAMP” season shall be a challenged hunter access/mobility permit holder as established under R12-4-217.
2. An individual under the age of 18 who meets the requirements prescribed under A.R.S. § 17-335 may participate in a “juniors-only hunt.” A youth hunter whose 18th birthday occurs during a “juniors-only hunt” for which the hunter has a valid permit or tag may continue to participate for the duration of that “juniors-only hunt.”
3. An individual participating in a “pursuit-only” season may use dogs to pursue bears, mountain lions, or raccoons as designated by Commission Order, but shall not kill or capture the quarry. An individual participating in a “pursuit-only” season shall possess and, at the request of Department personnel, produce a valid hunting license and any required tag for taking the animal pursued, even though there shall be no kill.
4. An individual participating in a “restricted season” may use any lawful method authorized for a specific species under R12-4-304, except dogs may not be used to pursue the wildlife for which the season was established.
5. An individual participating in an “archery-only” season shall not use any other weapons, including crossbows or

Notices of Final Rulemaking

- bows with a device that holds the bow in a drawn position, except as authorized under R12-4-216. An individual participating in an “archery-only” season may only use the following methods or devices:
- a. Bows and arrows as prescribed under R12-4-304, and
  - b. Falconry.
6. An individual participating in a “handgun, archery, and muzzleloader (HAM)” season may only use one or more of the following methods or devices:
- a. Bows and arrows as prescribed under R12-4-304.
  - b. Crossbows as prescribed under R12-4-304 or bows to be drawn and held with an assisting device.
  - c. Handguns, and
  - d. Muzzle-loading rifles as defined under R12-4-101.
7. An individual participating in a “muzzleloader” season shall not use any firearm other than muzzle-loading rifles or muzzle-loading handguns, as defined under R12-4-101.
8. An individual participating in a “limited weapon” season may only use one or more of the following methods or devices for taking wildlife, when authorized under R12-4-304 as lawful for the species hunted:
- a. Any trap except foothold traps.
  - b. Bow and arrow.
  - c. Capture by hand.
  - d. Crossbows as prescribed under R12-4-304 or bows to be drawn and held with an assisting device.
  - e. Dogs.
  - f. Falconry.
  - g. Hand-propelled projectiles.
  - h. Nets.
  - i. Pneumatic weapons, or
  - j. Slingshots.
9. An individual participating in a “limited weapon hand or hand-held implement” season may only use one or more of the following methods or devices for taking wildlife, when prescribed under R12-4-304 as lawful for the species hunted:
- a. Catch-pole.
  - b. Hand.
  - c. Snake hook, or
  - d. Snake tongs.
10. An individual participating in a “limited weapon-pneumatic” season may only use one or more of the following methods or devices for taking wildlife, when prescribed under R12-4-304 as lawful for the species hunted:
- a. Capture by hand.
  - b. Dogs.
  - c. Falconry.
  - d. Hand-propelled projectiles.
  - e. Nets.
  - f. Pneumatic weapons discharging a single projectile .22 caliber or smaller, or
  - g. Slingshots.
11. An individual participating in a “limited weapon-rimfire” season may only use one or more of the following methods or devices for taking wildlife, when authorized under R12-4-304 as lawful for the species hunted:
- a. Any trap except foothold traps.
  - b. Bow and arrow.
  - c. Capture by hand.
  - d. Crossbows as prescribed under R12-4-304 or bows to be drawn and held with an assisting device.
  - e. Dogs.
  - f. Falconry.
  - g. Hand-propelled projectiles.
  - h. Nets.
  - i. Pneumatic weapons.
  - j. Rifled firearms using rimfire cartridges.
  - k. Shotgun shooting shot or slug, or
  - l. Slingshots.
12. An individual participating in a “limited weapon-shotgun” season may only use one or more of the following methods or devices for taking wildlife, when authorized under R12-4-304 as lawful for the species hunted:
- a. Any trap except foothold traps.
  - b. Bow and arrow.
  - c. Capture by hand.

Notices of Final Rulemaking

- d. Crossbows as prescribed under R12-4-304 or bows to be drawn and held with an assisting device.
  - e. Dogs.
  - f. Falconry.
  - g. Hand-propelled projectiles.
  - h. Nets.
  - i. Pneumatic weapons.
  - j. Shotgun shooting shot or slug, or
  - k. Slingshots.
13. An individual participating in a "limited weapon-shotgun shooting shot" season may only use one or more of the following methods or devices for taking wildlife, when authorized under R12-4-304 as lawful for the species hunted:
- a. Any trap except foothold traps.
  - b. Bow and arrow.
  - c. Capture by hand.
  - d. Crossbows as prescribed under R12-4-304 or bows to be drawn and held with an assisting device.
  - e. Dogs.
  - f. Falconry.
  - g. Hand-propelled projectiles.
  - h. Nets.
  - i. Pneumatic weapons.
  - j. Shotgun shooting shot, or
  - k. Slingshots.
14. An individual participating in a "falconry-only" season shall be a falconer licensed under R12-4-422 unless exempt under A.R.S. § 17-236(C) or R12-4-407. A falconer participating in a "falconry-only" season shall use no other method of take except falconry.
15. An individual participating in a "raptor capture" season shall be a falconer licensed under R12-4-422 unless exempt under R12-4-407.

**R12-4-301. R12-4-321. Restrictions for Taking Wildlife in City, County, or Town Parks and Preserves Maricopa County Parks**

- A.** Lands and water within the boundaries of all Maricopa County parks are open to hunting and trapping when a Commission order establishes an open season. Individuals may use only the following methods of take:
- 1. Archery hunting, when lawful for the wildlife taken under R12-4-304.
  - 2. Shotguns shooting shot, when taking small game, predatory, furbearing, and nongame animals during quail season in Lake Pleasant, White Tank Mountains, McDowell Mountain, and Estrella Mountain regional park, subject to subsection (F).
- B.** An individual is prohibited from using rifled firearms within all Maricopa County parks except to take deer during deer seasons established by Commission order with concurrence of the Maricopa County Recreation Services Department.
- C.** An individual shall not trap within any Maricopa County park except under the provisions of A.R.S. § 17-239, or when the Maricopa County Recreation Services Department and the Arizona Game and Fish Department determine that wildlife numbers need to be reduced in a park area because of a danger to the public or other wildlife.
- D.** An individual shall not hunt within 1/4 mile of any developed picnic area, boat ramp, shooting range, golf course, or other recreational area developed for public use.
- E.** Individuals entering any Maricopa County park for the purpose of hunting shall declare their intention of hunting and pay any fees required by Maricopa County Recreation Services Department at an entry station when entering the park, if the park has an entry station in operation.
- F.** This rule does not authorize an individual to use a method of take that is prohibited by a city ordinance.
- A.** All city, county, and town parks and preserves are closed to hunting, unless open by Commission Order.
- B.** Unless otherwise provided under Commission Order or rule, a city, county, or town may:
- 1. Limit or prohibit any individual from hunting or trapping within 1/4 mile of any:
    - a. Developed picnic area.
    - b. Developed campground.
    - c. Boat ramp.
    - d. Shooting range.
    - e. Occupied structure, or
    - f. Golf course.
  - 2. Require an individual entering a city, county, or town park or preserve, for the purpose of hunting, to declare the individual's intent to hunt when entering the park or preserve, if the park or preserve has an entry station in operation.
  - 3. Allow an individual to take wildlife in a city, county, or town park or preserve only during the posted park or preserve hours.

NOTICE OF FINAL RULEMAKING

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

Editor's Note: The following Notice of Final Rulemaking was reviewed per Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 1508.) The Governor's Office authorized the notice to proceed through the rulemaking process on October 4, 2011.

[R12-107]

PREAMBLE

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
R19-3-201	Amend
R19-3-202	Amend
R19-3-202.01	New Section
R19-3-202.02	New Section
R19-3-202.03	New Section
R19-3-202.04	New Section
R19-3-202.05	New Section
R19-3-202.06	New Section
R19-3-203	Amend
R19-3-204	Amend
R19-3-204.01	New Section
R19-3-204.02	New Section
R19-3-204.03	New Section
R19-3-204.04	New Section
R19-3-205	Amend
R19-3-206	Amend
R19-3-207	Amend
R19-3-208	Amend
R19-3-209	Amend
R19-3-210	Amend
R19-3-211	Amend
R19-3-212	Amend
R19-3-213	Amend
R19-3-214	Amend
R19-3-215	Amend
R19-3-216	Amend
R19-3-217	Amend

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

Authorizing statutes: A.R.S. § 5-504(B) and after 6/30/12, A.R.S. § 5-554(B)

Implementing statutes: A.R.S. §§ 5-512 and 5-504(C) and after 6/30/12, A.R.S. §§ 5-562 and 5-554(C)

**3. The effective date of the rules:**

August 7, 2012

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

Notice of Rulemaking Docket Opening: 17 A.A.R. 2281, November 4, 2011

Notice of Proposed Rulemaking: 18 A.A.R. 490, February 10, 2012

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

Name: Trish Phillips, Deputy Director

Address: Arizona State Lottery  
4740 E. University Drive  
Phoenix, AZ 85034

Telephone: (480) 921-4481

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Notices of Final Rulemaking

E-mail: TPhillips@azlottery.gov  
or  
Name: Pam DiNunzio, Budget Manager  
Address: Arizona State Lottery  
4740 E. University Drive  
Phoenix, AZ 85034  
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**6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

Article 2, Retailers, prescribes the requirements and procedures for Arizona retail businesses that sell Lottery game products. The rules explain common retailer provisions such as: licensure requirements regarding the sale and payment of Lottery games; retailer conduct including the revocation, suspension or renewal of retailer licenses; hearing procedures; stolen tickets procedures; and Lottery-conducted compliance investigations.

The Lottery is amending these rules to revise outdated provisions, strengthen requirements in the licensing and compliance processes, and provide greater flexibility for the Lottery to expand the retailer network, enhance product lines, and structure retailer compensation. Amendments have also been made to improve the clarity and understandability of the rules.

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

The Lottery used industry reference materials to gauge the impact instant tab games might have on the Lottery's traditional instant scratch product. The Lottery used LaFleur's World Almanac as a source for industry comparisons. This publication tracks, among other data, sales performance by product across all lottery jurisdictions. The Lottery was able to review historical sales of states offering the pull tab (instant tab) product line to determine the likely impact on other game products for the Arizona Lottery. This information is available for review at the Lottery's Phoenix office.

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

Not applicable

**9. The economic, small business, and consumer impact:**

***1. Identification of the proposed rulemaking.***

The rules for Article 2, Retailers, describe various requirements and procedures for retail businesses to sell Lottery game products. As the Lottery continues to develop strategies for increasing sales and distributions, it is important the retailer rules support these future endeavors. The ability to implement new initiatives in a timely manner is essential to maximize revenue potential. These rules are intended to provide the Lottery with greater flexibility to expand the retailer base, product lines, promotions, and services. This rulemaking also revises outdated provisions, eliminates unnecessary provisions, reorganizes Sections to provide a more usable reference tool for retailers, and strengthens compliance requirements, which protects the interests of the Lottery player and maintains the integrity of the Lottery.

Conduct Frequency: There is no specific conduct this rulemaking is designed to change.

***2. Persons who will be directly affected by, bear the costs of, or directly benefit from the proposed rulemaking.***

The Lottery anticipates this rulemaking will primarily impact the agency and approximately 2,800 Lottery retailers.

***3. Cost-benefit Analysis.***

***a. Probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the proposed rulemaking, including the number of new full-time employees necessary to implement and enforce the proposed rules.***

Costs to the Lottery related to this rulemaking include application/licensing, product printing/distribution, and administration associated with revenue collection, compliance, and customer service. All costs are included within the agency's appropriated budget and retailers pay a license fee that allows the Lottery to recover costs for that service. Overall, this rulemaking is expected to benefit the Lottery as discussed below:

Product Provisions: As part of this rulemaking, the Lottery will establish a new instant tab license that will permit those retailers to sell only the instant tab product. This benefits the Lottery by allowing expansion of the retailer base and the potential to generate additional revenue for the state. Preliminary estimates indicate that with approximately



Notices of Final Rulemaking

250 licensed instant tab retailers, the Lottery could generate \$13-\$14 million in sales, based on current instant tab sales levels for charitable organizations. The Lottery will incur incremental administrative processing costs for retailers that apply for this new license in addition to the printing and distribution of the instant tab product. Licensing expenses will be offset by the fee received from the applicant; printing and distribution expenses are expected to cost less than three cents per ticket and are included within the agency's appropriated budget. Unlike traditional retailers, those retailers holding an instant tab license will receive no Lottery sales representative support and will not be integrated into the Lottery's retailer accounting system. Consequently, the Lottery will not incur administrative accounting costs, sales representative time and travel costs, or on-line vendor contract costs as incurred with full-product retailers. The Lottery contracts with a distributor to deliver instant tab tickets, invoice retailers, and remit payment to the Lottery. The distributor must also provide the Lottery with routine reports, including inventory status, orders received, orders shipped, and all related financial information. The Lottery does not anticipate any added expenses as a result of this new license; all costs will be covered within the existing budget from product revenues.

The Lottery may authorize retailers to sell Lottery tickets at a designated promotional event as established in R19-3-203(3). This will allow the Lottery to partner with retailers to conduct certain events, thereby expanding the Lottery's statewide presence without the need to staff the event with Lottery personnel. The Lottery will conserve staff resources and retailers will have the opportunity to generate additional sales commissions, thus benefiting both the Lottery and its retail partners.

**Compliance:** The Lottery will benefit from the strengthening of several compliance provisions. For instance, a retailer's license may be revoked for paying a prize at less than winning value, advising a player that a winning ticket is not a winner, selling unactivated instant tickets on three or more occasions within a 12-month period, and selling tickets while suspended for insufficient funds. These actions can adversely affect players who may not receive full prize winnings or cannot be paid a prize because the ticket is not active in the Lottery's system. Retailers are permitted two occasions of selling unactivated tickets without penalty; this allows for honest mistakes regarding activation procedures and is consistent with Lottery collection policies regarding insufficient funds. However, failing to activate instant ticket packs can also be used as a technique to delay billing for those packs. These rules will deter this behavior. Additionally, the rules currently prohibit a retailer from selling a ticket or paying a prize to oneself. This rule has been expanded to include playing the Lottery while on duty and failing to pay for the ticket prior to playing, in support of findings identified in the Lottery's 2010 Performance Audit. The Lottery may also take emergency action to suspend sales if a retailer sells a ticket to someone using an electronic benefits card, pays a prize at less than winning value, sells a ticket at greater than face value, or sells an altered or expired ticket. These revised compliance provisions serve to protect the integrity of the Lottery and the interests of players.

The Lottery does not expect an increase in the number of license revocations as a result of these compliance provisions. The rule amendments respond to questions from retailers and players, as well as trends reported in the industry. The rules clarify certain issues and make voluntary compliance through education easier, while allowing the Lottery to take enforcement action if warranted. The vast majority of retailers comply with Lottery rules and regulations, with compliance incidents occurring at only a few locations. There have been very few enforcement actions in relation to the Lottery's 2,800 retailers, typically amounting to less than 1% of the retailer base annually.

The rules include a new Section that governs retailer use of the Lottery logo and trademarks. This rule benefits the Lottery by ensuring consistent and appropriate use of Lottery logos and trademarks, which are items directly associated with the image of the agency.

This rulemaking revises the timing related to minimum sales requirements. It repeals the annual requirement for providing minimum sales criteria to each retailer and replaces it with providing notification to retailers a minimum of 30 days before the effective date of any change. The previous rule proved cumbersome to administer and was not an efficient use of staff resources, especially since minimum sales requirements may not change every year. Retailers will be notified if sales requirements are adjusted to reflect changing Lottery costs. This will benefit the Lottery by reducing the administrative burden of routinely providing sales minimums while still ensuring that retailers receive information as necessary.

**Compensation:** As part of this rulemaking, retailer compensation will become a function of Lottery Commission approval, as authorized by A.R.S. §§ 5-504(C)(7) and 5-554(C)(7), rather than detailed in rule. Retailer compensation rates of at least 5.5%, but no more than 8%, are currently authorized in A.R.S. §§ 5-505(A)(4) and 5-555(A)(4). Using the Lottery Commission to approve retailer compensation will provide greater flexibility in applying variable rates in certain circumstances, consistent with the intent of statute. For instance, the Lottery could more easily implement various bonus or incentive rates to promote incremental sales. A variable rate structure may also provide the opportunity to implement commission rates based on achieving specific sales levels. At this point, the Lottery has no immediate intent to adjust the base commission rate of 6.5%, but the rule will also provide for flexibility in base rates if warranted. For example, a higher commission might be paid on instant tab sales since this product is more labor-intensive. Conversely, a lower rate might be justified for selling limited Lottery products, corresponding with the reduced effort required.

Making retailer compensation a function of the Lottery Commission will allow for timely introduction of any future retailer promotions or rate adjustments. The Lottery will benefit from the ability to implement more timely promotional initiatives, the potential to increase sales, and the ability to structure compensation that corresponds more

closely with product requirements. In FY11, the overall retailer compensation rate was 6.7% of sales. This overall percentage is not expected to change significantly with the implementation of a variable rate structure.

The Lottery does not anticipate a significant increase in administrative costs as a result of a revised compensation structure. The Lottery routinely presents the Lottery Commission with proposals for its consideration and approval. Any compensation adjustments would be handled as a routine agenda item. Similarly, communicating information to retailers is a common occurrence and providing details related to compensation should not noticeably impact costs. The Lottery may incur some programming expenses associated with implementing variable compensation rates, but these costs should not be substantial and will be absorbed in the existing appropriation.

Other Agencies/FTE: The rules have no identifiable impact on other agencies. The Lottery does not anticipate the need to hire any additional full-time employees; current staff resources will be used to implement the proposed rules.

***b. Probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the proposed rulemaking.***

This rulemaking will not have any identifiable economic impact on political subdivisions of the state.

***c. Probable costs and benefits to businesses directly affected by the proposed rulemaking, including any anticipated effect on the revenues or payroll expenditure of employers who are subject to the proposed rulemaking.***

Businesses impacted by these rules are existing Lottery retailers or retail establishments that choose to apply for a license to sell Lottery products. Lottery retailers are also the only small businesses impacted by this rulemaking. Costs to retailers include application/licensing fees and administrative costs associated with selling Lottery products. These costs are recovered by the commission retailers earn on each sale. The rules are expected to benefit retailers, both large and small, as outlined below:

General: The existing rules are cumbersome and not user-friendly for Lottery personnel or retailers. As such, R19-3-202 and R19-3-204 have been broken into smaller Sections and reordered. Additionally, equipment requirements in R19-3-205 now eliminate unnecessary text and consolidate certain provisions. These changes improve the understandability of the rules and make it a more useful reference document for retailers and Lottery staff.

Licensing: Retailers will benefit from certain application provisions that have been revised or eliminated. An application for license will no longer require expected sales volume, specific information related to financial solvency, or information related to pending litigation or judgments. The Lottery has not found these provisions useful in practice and the agency has sufficient methods in place to verify financial stability of applicants to protect the Lottery's interests. Similarly, the provision allowing an expired license to be renewed within one year of expiration has been removed since the Lottery actively works with retailers on renewals, which makes this rule unnecessary. Retailers are no longer required to post a copy of its Lottery license in a conspicuous place. This will benefit certain retailers that have limited store space and found it problematic to comply with this rule. Retailers must continue to post the authorized Lottery retailer decal provided by the Lottery and retain a copy of the license on the premise but are no longer required to display the license. The proposed amendments more accurately reflect actual practice and will help simplify licensing procedures for retailers.

A new provision, R19-3-202.04(D), explains that a retailer may voluntarily surrender its license. Although this has always been an option, it was not always evident to retailers, resulting in questions to the Lottery. The rule benefits retailers by clarifying there is no set time period that a retailer must agree to sell Lottery products or retain a Lottery license.

Small Businesses: All retailers must submit a licensing fee, but small retailers may derive a slightly greater benefit from reduced licensing requirements since these retailers typically have fewer administrative resources available to devote to the application process.

Product Provisions: Retailers will benefit from the ability to conduct periodic promotional events authorized by the Lottery in R19-3-203(3). Retailers earn \$.065 per each \$1 transaction; conducting specific promotional events provides retailers with the opportunity to earn additional commissions on sales generated at the event.

Businesses with an establishment not conducive to selling all Lottery products will have the option to obtain an instant tab license at the determination of the business. The instant tab product provides certain businesses, such as age-controlled establishments, with the opportunity to generate incremental revenue with a Lottery product more suitable to their business environment. Initial estimates indicate these retailers as a whole could generate between \$13-14 million in instant tab sales annually. This equates to approximately \$845,000-\$910,000 in commissions, assuming the base retailer compensation rate of 6.5%. There should be no impact to sales or commissions for traditional retailers since they are not typically in direct competition with instant tab retailers. This is consistent with historical information from other states that indicates instant tab games have not affected traditional product sales. The retail environments, for example, are typically different, as are the types of Lottery products offered for sale. Instant tab games will likely be sold in age-controlled environments, while conventional retail locations (e.g. grocery chains, convenience stores) sell the Lottery's instant scratch games, a product that retailers holding only an instant tab license cannot sell. Instant scratch tickets generated sales of \$373.5 million last fiscal year, as compared to projected annual instant tab sales of \$13-14 million.

Notices of Final Rulemaking

Instant tab licensees will have to comply with fewer licensing requirements. They will not have to provide evidence of financial solvency or an authorization agreement for fund transfers. Retailers holding an instant tab license will remit payments to the Lottery's authorized distributor and the distributor assumes any financial risk. The Lottery still retains authority under R19-3-213 with respect to sales of Lottery game products. In the event of a dispute regarding an instant tab ticket, the remedy would be replacement of the disputed ticket with a ticket or tickets of equivalent price from any current game. This is consistent with existing procedures for the Lottery's instant scratch games and on-line games.

As established in R19-3-205, retailers holding a charitable organization or instant tab license may use Lottery-authorized vending machines to sell the instant tab product. Although prize redemptions must be sight-validated by the retailer as provided by R19-3-705, sales can be conducted through a product vending machine. This benefits retailers who may not always have sufficient staff resources available to perform sales transactions. All retailers are still required to establish loss prevention policies and have the machines visible to retail personnel to prevent operation by anyone under the age of 21. A requirement that the vending machine must be operational during the retailer's entire regular business hours has been added as a condition for using a Lottery product vending machine, which helps maximize sales from these machines.

Small Businesses: Although all retailers will benefit from the opportunity to earn additional commissions, small retailers are more likely to derive a financial benefit from the ability to conduct promotional events authorized by the Lottery or the option to obtain an instant tab license. Similarly, the ability to sell instant tab tickets using a Lottery product vending machine will benefit all retailers, but should especially benefit small businesses that are more likely to have limited staffing resources.

Compliance: The rules have been amended to enhance various compliance requirements. The reasons a retailer's license may be revoked have been expanded to include paying a prize at less than winning value, informing a player that a winning ticket is not a winner, playing while on duty, failing to pay for the ticket prior to playing, selling unactivated instant tickets on three or more occasions within a 12-month period, or selling tickets while suspended for insufficient funds. The list of conditions under which the Lottery may take emergency action to suspend a retailer's sales has also been strengthened. These additional circumstances include selling a ticket to a person using an electronic benefits card, selling an altered or expired ticket, selling a ticket at greater than face value, or paying less than the full prize value. These activities are a cause for Lottery action in order to deter conduct of this nature. The amendments serve to protect the Lottery and players and will only impact retailers who violate these conditions.

In addition, R19-3-215(D) has been amended to prohibit a retailer from charging a fee when the retailer chooses to pay a prize by money order. This form of payment is sometimes used when the retailer does not have sufficient funds to pay the player at the time of redemption. In some instances, retailers have been charging the player for the cost of the money order; this practice deprives the player of the full prize value. Absorbing any fees associated with money orders represents a minimal business cost to the retailer. A retailer also has the option of referring prize winnings from \$101 up to \$599 to a Lottery office for redemption.

The Lottery's obligation for providing minimum sales requirements to retailers has been revised from annually to a minimum of 30 days prior to any change. Newly licensed retailers will receive this information as part of a standard retailer information packet. This has a neutral impact on retailers since the rule only changes the timing for distribution of this information. Retailers benefit from the knowledge that this requirement remains the same unless notified differently. Although no longer specified in rule, the Lottery will continue to provide resources to assist retailers in achieving minimum sales requirements.

Small Businesses: All retailers are expected to adhere to compliance requirements in the interest of protecting the Lottery and Lottery players. Only small retailers that violate the rules will be affected. However, the Lottery will continue to provide resources to assist small businesses when possible. For instance, with respect to minimum sales requirements, Lottery sales representatives can devote additional time to small retailers to facilitate sales growth.

Compensation: Retailers currently earn 6.5% for each transaction and are eligible for an additional .5% based on meeting specified performance criteria. Lottery statutes provide for retailer compensation rates of at least 5.5% but no more than 8%. Retailers may benefit from the opportunity to earn additional compensation through implementation of various commissions, bonuses, and incentives. The Lottery currently has no plans to adjust the base rate for full product retailers, so the expected impact is either neutral or positive for these retailers. A lower commission might conceivably be implemented in the future for a select group of retailers (e.g. those that only sell limited Lottery products) but this would be commensurate with the comparative effort involved. Conversely, a higher rate may be justified for Lottery products that are more labor-intensive, such as instant tab tickets.

A more flexible compensation structure will acknowledge the efforts of retailers by allowing superior performance to be rewarded. The goal of this strategy is to provide an incentive for retailers to excel, not to penalize retailers. All retailers will be treated equitably and receive proper notification before the implementation of any new rate or rates. The rules provide for retailer notification at least 30 days prior to any change in compensation. Retailers would be informed of any new commissions, bonuses, or incentives via various communication channels, including electronic messages on all Lottery terminals, a mailed letter of notification, and through the assigned sales representative. There should be no additional administrative costs to retailers as a result of this compensation strategy. Full-product retail-

Notices of Final Rulemaking

ers will also continue to be eligible to receive an additional commission for meeting performance criteria. In FY11, retailers earned almost \$39 million in Lottery game commissions, with an overall compensation rate of 6.7%.

*Small Businesses:* The possible implementation of various commission, bonus, or incentive rates is expected to either benefit small retailers or have no impact. These retailers will continue to earn the standard base commission with the opportunity to earn incremental commissions for specific promotions.

**4. Probable impact on private and public employment in businesses, agencies, and political subdivisions of the state directly affected by the proposed rulemaking.**

This rulemaking is not expected to have any identifiable economic impact on private and public employment.

**5. Probable cost and benefit to private persons and consumers who are directly affected by the proposed rulemaking.**

There are no costs to consumers or the general public associated with the adoption of these rules. Consumers who are also Lottery players will potentially benefit from enhanced product or service offerings and strengthened compliance provisions.

**6. Probable effect on state revenues.**

Revenue generated from Lottery game sales and retailer license fees are deposited into the Lottery Fund. In FY11, total game sales were \$583.5 million and approximately \$80,000 was collected in license fees. There may be a moderate increase of about \$11,000 in license revenues as a result of offering the instant tab license; however, the fees only allow the Lottery to recover the actual cost of providing the service.

A percentage of Lottery game revenue is returned to the state to fund various beneficiary programs as specified in A.R.S. §§ 5-522 and 5-572. The Lottery returned \$146.3 million to state beneficiaries in FY11. Preliminary estimates indicate the Lottery could generate approximately \$13-\$14 million and return about \$2.9-\$3.1 million to the state annually if the instant tab product expands to non-traditional retail establishments. However, any decision to expand this product line will be made in conjunction with the Governor's Office. Although an exact amount cannot be calculated, the state will also benefit from any incremental revenue retailers generate as a result of conducting promotional events or participating in specified Lottery incentive programs.

**7. Less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking.**

An alternative would be to maintain the current rules. However, this will hinder the Lottery's efforts to grow sales and state distributions. The Lottery requires greater flexibility in order to implement strategic initiatives to increase revenue, which is not possible under the current rules. The existing rules also do not address several important compliance issues that can impact the Lottery and Lottery players.

The agency believes there are no alternative or less costly methods for achieving the purpose of the rulemaking. Retailers will have reduced requirements with respect to the licensing process, which minimizes the burden on potential applicants, while still providing the Lottery with sufficient administrative licensing information. Similarly, revising the timing for providing minimum sales requirements to retailers will lessen the administrative burden for the Lottery. Strengthened retailer compliance requirements serve to protect the interests of the Lottery and player; these benefits outweigh any inconvenience. The Lottery is not requesting additional financial or personnel resources to achieve the purpose of the proposed rules.

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

Various grammatical, technical, and clarifying changes were made at the request of Governor's Regulatory Review Council staff. The Lottery made minor changes to the economic impact statement to improve clarity and understandability. In addition, the Lottery corrected R19-3-201(6) and R19-3-202.03(4) to reflect the controlling person must be at least 21 years of age, instead of over the age of 21. There are no substantive changes between the proposed rules and the final rules.

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

The Lottery invited both chain store retailers and independent retailers to review and comment on the proposed rules. The rules and an additional summary document of the most significant changes were available on the Lottery's web site. The agency received written comments from three persons regarding the proposed rulemaking. The comments and the Lottery's responses are outlined below:

**Comment:** A representative from Terrible's Convenience Stores asked if there was anything the company needed to do.

**Response:** The Lottery responded that retailer input was welcomed on the proposed rules, but not required. No further comments were received. No change is needed in response to this comment.

**Comment:** A representative from Bob's Variety commented on the following:

- 1) The quality of retailers could become watered down as a result of instant tab retailers.

Notices of Final Rulemaking

- 2) There are no figures regarding how much traditional Lottery locations will lose as a result of adding instant tab retailers.
- 3) There could be a loss in the quality and training of staff for the customer (with respect to instant tab retailers).
- 4) A retailer may sometimes hire an employee who is not completely honest. A retailer should not be punished for the rule violation of an employee.
- 5) The commission for retailers should be around 8% to compensate for the labor involved in selling tickets.

**Response:** 1) All prospective retailers are required to complete the Lottery's licensing process, so the quality of retailers should remain intact and consistent. No changes have been made to the rule in response to this comment.

2) There should be little to no sales impact for traditional retailers since they are not typically in direct competition with instant tab retailers. The retail environments are likely to be different, as are the types of Lottery products offered for sale. Instant scratch tickets will represent the majority of the Lottery's inventory and sales, while instant tab tickets will represent a much smaller portion. Historical information from other states indicates the instant tab product has not affected traditional product sales. Language has been added to the Economic Impact Statement to clarify this point.

3) The Lottery's authorized representative will provide training for instant tab retailers to ensure appropriate customer service levels are maintained. No changes have been made to the rule in response to this comment.

4) The Lottery recognizes that unfortunate situations may occur with respect to employees and will consider the circumstances and retailer's history in the event of a rule violation. However, the licensee is ultimately the person accountable with respect to rule provisions. The Lottery is responsible for preserving the integrity of its reputation and products and will take appropriate action if deemed necessary. No changes have been made to the rule in response to this comment.

5) The strategic goals of the Lottery and the available budget will be used to determine compensation percentages and any such information will be presented to the Lottery Commission for its decision. No changes have been made to the rule in response to this comment.

**Comment:** A representative from Circle K asked if the Lottery could provide highlights of the proposed rules.

**Response:** The Lottery had prepared a summary of changes by Section and provided this document as requested. No further comments were received. No change is needed in response to this comment.

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

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

As excepted under A.R.S. § 41-1037(A)(2), licensing of retailers is required by A.R.S. §§ 5-512 and 5-572.

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

Not applicable

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

No analysis submitted.

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

None

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

Not applicable

**15. The full text of the rules follows:**

**TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING**

**CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION**

**ARTICLE 2. RETAILERS**

Section

Notices of Final Rulemaking

- R19-3-201. Definitions
- R19-3-202. Retailer's Application ~~and~~ for License
- R19-3-202.01. Prerequisites to Issue or Renew a License
- R19-3-202.02. Time-frame for Licensure
- R19-3-202.03. Denial of License Application
- R19-3-202.04. Duration and Renewal of License
- R19-3-202.05. Display of License and Point-of-sale Material
- R19-3-202.06. Use of Lottery Logo and Trademark
- R19-3-203. Direct and Promotional Sales ~~by Lottery~~
- R19-3-204. Revocation, Suspension, or Renewal Denial of Retailer's License
- R19-3-204.01. Procedure for Requesting a Hearing
- R19-3-204.02. Lottery Determination of Need for Emergency Action
- R19-3-204.03. Appealing a Final Administrative Decision of the Lottery
- R19-3-204.04. Surrender of Lottery Equipment and Property Upon Revocation
- R19-3-205. Lottery-issued Equipment
- R19-3-206. Retailer Training
- R19-3-207. Compliance Investigations
- R19-3-208. Penalties
- R19-3-209. Notice and Service
- R19-3-210. Reportable Events
- R19-3-211. Change of Ownership or Business Location
- R19-3-212. Retailer Compensation
- R19-3-213. Ticket Sales to Players
- R19-3-214. Payments to Lottery
- R19-3-215. Prize Validation and Payment
- R19-3-216. Distribution and Return of Instant Tickets
- R19-3-217. Unaccounted for and Stolen Instant Scratch Tickets

ARTICLE 2. RETAILERS

**R19-3-201. Definitions**

In this Article, unless the context otherwise requires:

1. "Act" means A.R.S. Title 5, Chapter ~~5~~ 5.1, Article ~~4~~ 2.
2. "Activated" means the process taken by retailers to make a pack of instant scratch tickets valid for sale to the general public.
3. "Chapter" means Arizona Administrative Code, Title 19, Chapter 3.
- ~~2-4.~~ "Charitable Organization" means an organization including not more than one auxiliary, to which the United States Internal Revenue Service has issued a letter of determination of the organization's tax-exempt status, and the organization has operated for charitable purposes in Arizona for at least two years.
- ~~3-5.~~ "Controlling agent" means a stockholder, director, officer, managerial employee, or other person directly or indirectly controlling or operating the retailer's business.
6. "Controlling person" means a person at least 21 years of age accountable for the Lottery license.
- ~~4-7.~~ "Flare" means the board or placard that accompanies each package of instant tab tickets and that has printed on or affixed to it the following information:
  - a. Game name,
  - b. Serial number,
  - c. Ticket count,
  - d. Prize structure, and
  - e. Cost per play.
- ~~5-8.~~ "Instant scratch ticket" means an instant game ticket where the protective covering is made of latex or another substance that is scratched off.
- ~~6-9.~~ "Instant tab ticket" means an instant game ticket where the protective covering is a perforated paper tab that is opened. Instant tab ticket is the brand name for Arizona Lottery pull tabs.
- ~~7-10.~~ "License" means:
  - a. "Full product license" means a license to sell ~~any product~~ the products authorized by the Lottery.
  - b. "Charitable organization license" means a license issued to a qualified charitable organization to sell only instant tab tickets.
  - c. "Instant tab license" means a license to sell only instant tab tickets.
11. "Limited license" means a license issued by the Lottery that restricts the type of Lottery products sold, methods of selling, methods of validating Lottery products, or the type of applicant that qualifies for a Lottery license.

Notices of Final Rulemaking

12. “Local premise manager” means a person who resides in Arizona that manages or is responsible for the operation of a premise or a number of premises.
13. “Minor” means an individual under the age of 18.
14. “On-line ticket” means a ticket purchased through a network of Lottery-authorized equipment linked to a central computer that records the wagers.
- ~~8-~~15. “Partial pack of tickets” means less than a complete pack of consecutively numbered and connected tickets. ~~If a pack is broken into individual tickets, each individual ticket is considered a partial pack.~~
- ~~9-~~16. “Premises ~~Premise~~ manager” means the contact representative for a specific premise of a business or charitable organization.
17. “Pull tab” means an instant game ticket where the protective covering is a perforated paper tab that is opened to reveal the predetermined winning and non-winning symbols.
18. “Raffle” means the selling of numbered tickets, where each ticket has an equal chance of winning a prize in a random drawing held after the completion of all ticket sales.
- ~~10-~~19. “Retailer” means a licensed provider of sales and redemptions services for Lottery products. A retailer may hold a full product license, a charitable organization license, an instant tab license, or ~~both~~ a combination of licenses.
20. “Retailer bonus” means a sum of money credited to the retailer in addition to the retailer commission for specific actions or efforts in selling or validating Lottery products.
21. “Retailer commission” means a retailer incentive designed to maximize the sale of Lottery products by establishing a specific percent of the sales price of each ticket sold as payment for services in selling Lottery tickets.
22. “Retailer compensation” means all types of cash and noncash compensation to the retailer for selling Lottery tickets.
23. “Retailer compensation profile” means the written document in which the Lottery Commission authorizes the Director to issue an order that contains all the fundamentals required by these rules for retailer compensation including commission, bonus, and incentive compensation to be credited to Lottery retailers.
24. “Retailer incentive” means cash and non-cash methods to motivate action by the Lottery retailer to stimulate sales.
25. “Sales benchmark” means sales objectives established by the Lottery based upon previous performance.
- ~~11-~~26. “Ticket” means one or more Lottery game plays.
- ~~12-~~27. “Validation” means confirmation of a winning Lottery ticket.

**R19-3-202. Retailer’s Application ~~and~~ for License**

~~A.~~ A person interested in obtaining All applicants shall provide the Director with the following to apply for a license to sell Lottery tickets shall:

1. Submit to the Director a ~~A~~ verified application on forms prescribed by the Director containing the following information:
  - a. The applicant’s name, and if different, the trade name of the business premise, address of the physical location of the place of business, the mailing address if different, and phone number;
  - b. The applicant’s current transaction privilege tax license number issued under A.R.S. § 42-5005 and federal taxpayer identification number issued by the Internal Revenue Service and recorded on Form W-9;
  - c. Certification that access to the applicant’s business ~~location~~ complies with the Americans with Disabilities Act;
  - d. Marketing and sales information on the forms provided by the Lottery. The information required includes ~~expected volume of sales~~, the number of cash registers, hours of operation, products presently offered for sale, and the approximate daily volume of customers entering the place of business;
  - e. Evidence ~~that the applicant’s~~ the applicant operates a business with other products or services ~~are not exclusively unrelated to~~ lottery products or services concerning lotteries;
  - f. Financial relationship and any outstanding debt ~~with~~ owed to the state of Arizona, any of its political subdivisions, or the United States government;
  - g. Evidence ~~that~~ the applicant for a full product license is financially solvent. The evidence may include ~~any one~~ either of the following:
    - ~~i.~~ Equity or unencumbered assets in real estate or personal property, other than goodwill and intellectual property, in an amount of \$100,000 or more;
    - ~~ii.~~ Evidence the applicant has established business credit, has a record of meeting its business debts as they became due for the last three consecutive years immediately preceding the date of application, and does not have outstanding legal actions, judgments, or tax liens; or
    - ~~iii.~~ ii. Personal guarantee, in writing, of applicant’s Lottery account signed by a guarantor and the guarantor’s spouse, if community property is being used to guarantee the account, or by the guarantor only, if guarantor provides proof that the guarantee is based on sole and separate property.
  - h. An Electronic Funds Transfer Authorization agreement showing a valid bank account number for the full product applicant from which the Lottery will withdraw any amounts due; ~~and~~
  - i. Name, case number, court designation, and type of action for any pending litigation or judgments for which the ~~full product applicant may potentially be held financially responsible.~~
2. If the applicant does business as a sole proprietorship or partnership:

Notices of Final Rulemaking

- a. The name, home address, and home phone number of each owner or partner, including spouse if community property owner, unless applicant provides proof that the business is sole property separate from the community;
  - b. Written authorization and tax identification number for the business entity and Social Security number of each applicant in order to obtain a credit search check from a credit reporting agency; and
  - c. A completed, authorized fingerprint card for the applicant. If any general partner is a corporation, a fingerprint card is required under subsection ~~(A)(4)~~ (4).
3. If the applicant does business as a limited liability partnership (“LLP”) or a limited liability company (“LLC”):
    - a. The name, home address, and home phone number of each partner or member;
    - b. Written authorization and a tax identification number to perform a credit search check; and
    - c. A completed, authorized fingerprint card for each partner or member.
  4. If the applicant does business as a corporation:
    - a. The name, corporate address, and corporate phone number of each officer and director; and the name, home address, and home phone number of the responsible local premise manager who is the contact representative for the applicant’s corporate location in Arizona;
    - b. Written authorization and a tax identification number to perform a credit search check; and
    - c. A completed, authorized fingerprint card for the appropriate responsible local premise manager.
  5. If the applicant does business as a charitable organization:
    - a. A copy of the organization charter or formation, documentation of current membership status in the organization, and, if applicable, the authorization of the auxiliary;
    - b. The name, home address, and home phone number of each officer and local premise manager, or if an auxiliary, of each officer and local premise manager of the auxiliary;
    - c. A letter of determination issued in the organization’s name by the United States Internal Revenue Service verifying the organization’s tax-exempt status;
    - d. A completed, authorized fingerprint card for each officer and local premise manager, or if an auxiliary, of each officer and local premise manager of the auxiliary; and
    - e. Evidence ~~that~~ the charitable organization has maintained a premise within the state of Arizona for the two years immediately preceding the date of application.
  6. If the Lottery licenses an applicant under subsection ~~(A)(1)(g)(iii)~~ (1)(g)(ii), the guarantor shall provide a written authorization to perform a credit search check. If the guarantee is based on community property, the guarantor and guarantor’s spouse shall provide written authorization for the Lottery to perform a credit search check.
  7. ~~Submit an~~ An application fee of \$45.00 and the following fees, if applicable:
    - a. If any individual listed on the personal questionnaire has resided outside the state of Arizona within the last 10 years, a fingerprint fee per individual as set by the Department of Public Safety.
    - b. If the applicant does business as a corporation, limited liability company, limited liability partnership, or a partnership, a credit check fee of \$22.
  8. If the applicant is a business with more than one ~~current~~ currently licensed location, the application fee for the new location shall be pro-rated at \$1.25 per month from the application date until the date the other licenses are due for renewal under ~~R19-3-202(H)(2)(e)~~ R19-3-202.04(B)(3).
- B. Prerequisites to obtain or renew a license.**
- 1- Evidence ~~that the applicant is of good character and reputation. The Lottery may find that a person lacks good character and reputation if it determines that the person has committed any act which, if committed by a licensed retailer, would be grounds for suspension or revocation of a license granted by the state of Arizona;~~
  - 2- ~~An applicant, a director or officer of a corporation, member of a limited liability company, or charitable organization shall not have had a business license required by statute in Arizona or any other state suspended or revoked within the last 12 months;~~
  - 3- ~~An applicant, a director or officer of a corporation, member of a limited liability company, or charitable organization shall not have had a Lottery license denied or revoked at the address and location of the applicant’s place of business for reasons other than noncompliance with the Americans with Disabilities Act, and shall not have sold Lottery products without being licensed within one year of the person’s date of application;~~
  - 4- ~~An applicant for a full product license shall have demonstrated financial solvency based on the information provided in the application, credit search, or pending litigation, if any, or tax liens, if any.~~
- C. The Lottery shall not issue a license to an applicant if any of the following applies:**
- 1- The applicant is a minor, a partnership or LLP in which one of the partners is a minor, an LLC in which one of the members is a minor, or a corporation in which a corporate officer, director, or manager of Lottery sales is a minor;
  - 2- The organization is an adult-oriented business as defined in A.R.S. § 13-1422 or displays sexually explicit material in violation of A.R.S. § 13-3507;
  - 3- The applicant provides deferred presentment services defined in A.R.S. § 6-1251; or
  - 4- The applicant has sold an Arizona Lottery product without a license, or operated gaming machines or equipment that are required to be licensed, without a license.



Notices of Final Rulemaking

- D.** Residency requirement. To obtain a license, an applicant shall be one of the following:
1. A resident of Arizona;
  2. A corporation incorporated in Arizona or authorized to do business in Arizona;
  3. A limited liability company authorized to do business in Arizona in which a member or manager resides in Arizona;
  4. A partnership in which at least one of the general partners resides in Arizona;
  5. A limited liability partnership in which at least one of the partners resides in Arizona; or
  6. A charitable organization authorized to do business in Arizona.
- E.** Time frame for licensure.
1. The Director shall finish an administrative completeness review within 15 days from the date of receipt of the application and fee prescribed in subsection (A):
    - a. The Director shall issue a notice of administrative completeness to the applicant if no deficiencies are found in the application.
    - b. If the application is incomplete or the fee is not submitted, the Director shall provide the applicant with a written notice that includes a comprehensive list of the missing information. The 15-day time frame for completion of the administrative completeness review is suspended from the date the notice of incompleteness is sent until the applicant provides the Director with all missing information.
    - c. If the Director does not provide the applicant with notice regarding administrative completeness, the application shall be deemed complete 15 days after receipt by the Director.
  2. An applicant with an incomplete application shall submit all of the missing information within 20 days of service of the notice of incompleteness.
  3. If an applicant fails to submit a complete application within the time allowed, the Director shall close the applicant's file. An applicant whose file is closed and who later wishes to obtain a license shall apply again according to this Section.
  4. From the date on which the administrative completeness review of an application is finished, the Director shall complete a substantive review of the applicant's qualifications in no more than 75 days:
    - a. If an applicant is found to be ineligible, the Director shall issue a written notice of denial to the applicant.
    - b. If an applicant is found to be eligible for a full product license or a charitable organization license, the Director shall issue a license to the applicant permitting the applicant to engage in business as a retailer under the terms of this Chapter.
    - c. If the Director finds deficiencies during the substantive review of an application, the Director shall issue a written request to the applicant for additional information.
    - d. The 75-day time frame for substantive review is suspended from the date of a written request for additional information until the date that all information is received.
    - e. If the applicant and the Director mutually agree in writing, the 75-day substantive review time frame may be extended once for no more than 18 days.
  5. For the purpose of A.R.S. § 41-1072 et seq., the Director establishes the time frames for a license to sell Lottery tickets:
    - a. Administrative completeness review time frame: 15 days.
    - b. Substantive review time frame: 75 days.
    - c. Overall time frame: 90 days.
  6. If the Director does not provide the applicant with written notice granting or denying a license within the overall time frame, the Director shall refund the applicant's application fee within 30 days after the expiration of the overall time frame or the time frame extension.
- F.** Display of license and point-of-sale material.
1. A license issued under this Chapter shall be signed by the Director or the Director's designated representative. A retailer shall post the license or a copy of the license held by the retailer in a conspicuous place on the premises where the retailer sells Lottery products.
  2. A retailer shall prominently display its license, the Americans with Disabilities Act Notice, Arizona Problem Gambling Helpline toll-free telephone number, and the Authorized Retailer Notice.
  3. A retailer holding a charitable organization license shall prominently display the flare for each instant tab game currently on sale at or near the point of sale.
  4. A violation of this subsection is grounds for disciplinary action according to the provisions of R19-3-204.
- G.** As a condition of licensure, each retailer shall agree to release, indemnify, defend, and hold harmless, the Lottery, its directors, officers, and employees, from and against any and all liability, damage, cost, claim, loss, or expense, including, without limitation, reasonable attorney's fees and disbursements, resulting from or arising by reason of loss of use, temporary or permanent cessation of Lottery equipment, or terminal operations. This should not be construed in any way to affect the rights of the retailer to recover for losses caused by any third party.
- H.** Duration and renewal of license.
1. A license issued under this Chapter shall expire three years from the license issuance date by operation of law.

Notices of Final Rulemaking

2. A retailer may renew a license to sell Lottery tickets by submitting to the Director a verified application for renewal of the current license on forms prescribed by the Director containing the information required in R19-3-202(A), (B), and (D). By filing an application for renewal, a retailer holding a full product license authorizes the Lottery to collect a \$45.00 renewal fee by an electronic transfer of funds from the bank account from which the Lottery regularly bills the retailer. A retailer holding a charitable organization license shall submit cash, check, or a money order with its renewal application.
  - a. An application for renewal of a Lottery license received by the Director or deposited in the United States mail postage prepaid on or before the renewal date, shall authorize the retailer to continue to operate until actual issuance of the renewal license.
  - b. The Director may refuse to renew a license according to the provisions of R19-3-204.
  - e. A retailer holding more than one license may elect to renew all licenses on the same date. If more than one license is renewed under this subsection, the application fee shall be pro rated at \$1.25 per month from the license expiration date until the next renewal date of the other licenses held by the same retailer.
3. A license issued under this Chapter that has expired by operation of law for failure to renew may be activated and renewed within one year of its expiration by filing the required application of renewal and payment of the application renewal fee provided for in this Chapter. If a license has been suspended for one or more years for failure to renew, a new application for license must be made and a new license issued according to this Chapter.
4. A license issued under this Chapter is subject to termination by the Director according to the provisions of this Chapter before the expiration date.

**R19-3-202.01. Prerequisites to Issue or Renew a License**

- A.** Evidence the applicant is of good character and reputation. The Lottery may find that a person lacks good character and reputation if it determines the person has committed any act which, if committed by a licensed retailer, would be grounds for suspension or revocation of a license granted by the state of Arizona.
- B.** An applicant, a director or officer of a corporation, member of a limited liability company, or charitable organization shall not have had a business license required by statute in Arizona or any other state suspended or revoked within the last 12 months.
- C.** An applicant, a director or officer of a corporation, member of a limited liability company, or charitable organization shall not have had a Lottery license denied or revoked at the address and location of the applicant's place of business for reasons other than noncompliance with the Americans with Disabilities Act, and shall not have sold Lottery products without being licensed within one year of the person's date of application.
- D.** An applicant for a full product license shall have demonstrated financial solvency based on the information obtained through the application, credit check, or pending litigation, if any, or tax liens, if any.
- E.** An applicant shall be one of the following to fulfill residency requirements:
  1. A resident of Arizona.
  2. A corporation incorporated in Arizona or authorized to do business in Arizona.
  3. A limited liability company authorized to do business in Arizona in which a member or manager resides in Arizona.
  4. A partnership in which at least one of the general partners resides in Arizona.
  5. A limited liability partnership in which at least one of the partners resides in Arizona, or
  6. A charitable organization authorized to do business in Arizona.
- F.** As a condition of licensure, each retailer shall agree to release, indemnify, defend, and hold harmless, the Lottery, its commissioners, officers, and employees, from and against any and all liability, damage, cost, claim, loss, or expense, including, without limitation, reasonable attorney's fees and disbursements, resulting from or arising by reason of loss of use, temporary or permanent cessation of Lottery equipment, or terminal operations. This should not be construed in any way to affect the rights of the retailer to recover for losses caused by any third party.

**R19-3-202.02. Time-frame for Licensure**

- A.** For the purpose of A.R.S. §§ 41-1072 through 41-1079, the Director establishes the time-frames for a license to sell Lottery tickets:
  1. Administrative completeness review time-frame: 15 days.
  2. Substantive review time-frame: 75 days.
  3. Overall time-frame: 90 days.
- B.** The Director shall finish an administrative completeness review within 15 days from the date of receipt of the application and fees prescribed in R19-3-202.
  1. The Director shall issue a notice of administrative completeness to the applicant if no deficiencies are found in the application.
  2. If the application is incomplete or the fee is not submitted, the Director shall provide the applicant with a written notice that includes a comprehensive list of the missing or deficient information.
  3. The 15-day time-frame for the administrative completeness review is suspended from the date the notice of incompleteness is sent until the applicant provides the Director with all missing information.

Notices of Final Rulemaking

4. If the Director does not provide the applicant with notice regarding administrative completeness, the application shall be deemed complete 15 days after receipt by the Director.
- C. An applicant shall respond to a request for missing information within 20 days of notice of incompleteness.
- D. If an applicant fails to submit a complete application within the time allowed, the Director may close the applicant's file. An applicant whose file is closed and who later wishes to obtain a license shall apply again according to R19-3-202.
- E. From the date on which the administrative completeness review of an application is finished, the Director shall complete a substantive review of the applicant's qualifications in no more than 75 days.
  1. If an applicant is found to be ineligible, the Director shall issue a written notice of denial to the applicant.
  2. If an applicant is found to be eligible for a license, the Director shall issue a license to the applicant permitting the applicant to engage in business as a retailer under the terms of this Chapter.
  3. If the Director finds deficiencies during the substantive review of an application, the Director shall issue a written request to the applicant for additional information.
  4. The 75-day time-frame for substantive review is suspended from the date of a written request for additional information until the date that all information is received.
  5. If the applicant and the Director mutually agree in writing, the 75-day substantive review time-frame may be extended once for no more than 18 days.
- F. If the Director does not provide the applicant with written notice granting or denying a license within the overall time-frame, the Director shall refund the applicant's application fee within 30 days after the expiration of the overall time-frame or the time-frame extension.

**R19-3-202.03. Denial of License Application**

The Lottery shall not issue a license to an applicant if any of the following applies:

1. The applicant is a minor, a partnership or LLP in which one of the partners is a minor, an LLC in which one of the members or managers is a minor, or a corporation in which a corporate officer, director, or manager of Lottery sales is a minor;
2. The organization is an adult-oriented business as defined in A.R.S. § 13-1422 or displays sexually explicit material in violation of A.R.S. § 13-3507;
3. The applicant has sold a Lottery product without a license, or operated gaming machines or equipment that are required to be licensed, without a license; or
4. The applicant fails to have a controlling person at least 21 years of age.

**R19-3-202.04. Duration and Renewal of License**

- A. A license issued under this Chapter shall expire three years from the license issuance date by operation of law.
- B. A retailer may renew a license to sell Lottery tickets by submitting to the Director a verified application for renewal of the current license on forms prescribed by the Director containing the information required in R19-3-202 and R19-3-202.01. By filing an application for renewal, a retailer holding a full product license authorizes the Lottery to collect a \$45.00 renewal fee by an electronic transfer of funds from the bank account from which the Lottery regularly bills the retailer. A retailer holding a charitable organization license or instant tab license shall submit cash, check, or a money order with its renewal application.
  1. An application for renewal of a Lottery license received by the Director or deposited in the United States mail postage prepaid on or before the renewal date shall authorize the retailer to continue to operate until actual issuance of the renewal license.
  2. The Director may refuse to renew a license according to the provisions of R19-3-204.
  3. A retailer holding more than one license may elect to renew all licenses on the same date. If more than one license is renewed under this subsection, the application fee shall be pro-rated at \$1.25 per month from the license expiration date until the next renewal date of the other licenses held by the same retailer.
- C. A license issued under this Chapter is subject to termination by the Director according to the provisions of this Chapter.
- D. A retailer may voluntarily surrender a license unless an investigation or action has been initiated against the retailer.

**R19-3-202.05. Display of License and Point-of-sale Material**

- A. A retailer shall conspicuously display to the public that it is a licensed Lottery retailer. A retailer may do this by:
  1. Posting the Lottery license in a prominent place on the premises; or
  2. Posting the authorized Lottery retailer decal in a prominent place in public view, and retaining a copy of the license on the premise, available upon request.
- B. A retailer shall prominently display the Americans with Disabilities Act Notice and Arizona Problem Gambling Helpline toll-free telephone number.
- C. A retailer holding a charitable organization license or instant tab license shall prominently display the flare for each instant tab game currently on sale at or near the point of sale.
- D. A violation of this subsection is grounds for disciplinary action according to the provisions of R19-3-204.

Notices of Final Rulemaking

**R19-3-202.06. Use of Lottery Logo and Trademark**

- A.** A retailer may not use the logos, trademarks, or other advertising materials of the Lottery without prior written permission or authorization of the Lottery, except for materials provided to the retailer by the Lottery.
- B.** A retailer shall not display or publish on the licensed premises material which may be considered derogatory or adverse to the operation or dignity of the Lottery or the state of Arizona. A retailer shall remove any such materials from the licensed premise upon request of the Lottery.

**R19-3-203. Direct and Promotional Sales by Lottery**

- A.** The Lottery may sell Lottery tickets at its main office, or any branch it establishes in the state, or any promotional event.
- B.** The Lottery may sell Lottery tickets at any promotional event.
- C.** The Lottery may authorize a licensed retailer to sell Lottery tickets at an auxiliary premise for a promotional event.

**R19-3-204. Revocation, Suspension, or Renewal Denial of Retailer's License**

- A.** A license may be revoked, suspended, or denied renewal by the Director for any of the following reasons:
  - 1. The retailer violates a provision of the ~~criminal~~ laws of the state of Arizona, or the United States, ~~or the regulations of the Lottery~~, which could be punished by jail time or imprisonment, ~~revocation or suspension of a Lottery license, or involves moral turpitude~~;
  - 2. The retailer offers to sell a Lottery ticket, sells a Lottery ticket, or pays a prize on any winning Lottery ticket to a person ~~younger than~~ under 21 years old of age;
  - 3. The retailer sells a Lottery ticket in any transaction to a person using a public assistance voucher issued by any public entity or an electronic benefits transfer card issued by the Arizona Department of Economic Security ~~to purchase the Lottery ticket or sells a Lottery ticket to a person during the same transaction in which the person uses a public assistance voucher issued by any public entity or an electronic benefits card issued by the Department of Economic Security to purchase any goods in addition to the Lottery ticket~~;
  - 4. The retailer ~~does not meet the~~ fails to maintain minimum sales requirements or does not follow the guidelines ~~specified in writing by the Director established by the Lottery~~. The Lottery shall provide minimum sales requirements and guidelines to each retailer annually: to retailers at least 30 days prior to the effective change date; ~~The Lottery may also post this information on the Lottery's web site for review. The minimum sales requirements and guidelines shall include:~~
    - a. The formula used to determine the minimum sales requirements and guidelines for the specified time period;
    - b. Resources available to assist retailers in achieving minimum sales requirements and guidelines; and
    - e. The process the Lottery will initiate if a retailer fails to achieve the minimum sales requirements or follow the specified guidelines.
  - 5. The retailer commits an act that impairs the retailer's reputation for honesty and integrity;
  - 6. The retailer sells a ticket at a price greater than face value;
  - 7. The retailer pays less than the full prize value of the ticket at validation;
  - 8. The retailer advises a player that a winning ticket presented for validation was not a prize winner;
  - 9. The retailer sells tickets not activated for sale on three or more occasions within any 12-month period;
  - 10. The retailer sells a ticket while license is suspended for insufficient funds;
  - ~~6-11.~~ The retailer does not make purchase or redemption of Lottery tickets convenient and readily accessible to the public;
  - ~~7-12.~~ The retailer provides to the Lottery a statement, representation, warranty, or certificate that the Lottery determines is false, incorrect, incomplete, or omits relevant information;
  - ~~8-13.~~ The retailer's actions cause two payments to be returned to the Lottery for insufficient funds in a 12-month period;
  - ~~9-14.~~ The retailer becomes insolvent, unable or unwilling to pay debts, or is declared bankrupt;
  - ~~10-15.~~ The retailer, or an officer, director, partner, LLC member of the LLC or manager, controlling agent, or local premise manager of the retailer:
    - a. Is convicted of a felony, felony theft that is designated as a misdemeanor, misdemeanor theft, embezzlement, or a crime involving gambling or fraudulent schemes and artifices; or
    - b. Is the subject of a civil order, judgment, or decree of a federal or state authority for misrepresentation, consumer fraud, or any other fraud;
  - ~~11-16.~~ Facts are discovered which, if known at the time the retailer's license was issued or renewed, would have been grounds to deny licensure;
  - ~~12-17.~~ The retailer adds a minor as an owner, partner, or officer of the business;
  - ~~13-18.~~ The retailer, or an officer, employee, or agent of the retailer ~~sells a ticket or pays a prize to oneself, to any entity either wholly owned or partially owned by the retailer, or any entity with 10 percent or more of the same shareholders, partners, or members of the LLC as the retailer~~; does any of the following:
    - a. Plays any Lottery game while working.
    - b. Fails to purchase or validate the ticket from another on-duty employee or through a Lottery product vending machine, or
    - c. Fails to pay for the ticket prior to playing the Lottery game.

Notices of Final Rulemaking

- ~~14-19.~~ The retailer, or an officer, employee, or agent of the retailer sells any Lottery product for consideration other than U.S. currency, check, credit card, debit card or, if a player requests, the exchange of a winning Lottery ticket;
- ~~15-20.~~ The retailer, or an officer, employee, or agent of the retailer sells a Lottery ticket by telephone, mail, fax, on the internet, or on premises ~~other than the one listed on the retailer's license~~ not authorized by the Lottery;
- ~~16-21.~~ The retailer, or an officer, employee, or agent of the retailer sells an altered Lottery ticket, an expired Lottery ticket, or a Lottery ticket after the announced end of the game;
- ~~17-22.~~ The retailer fails to display the ~~license~~, Authorized Retailer Notice, which includes the Americans with Disabilities Act Notice; and Arizona Problem Gambling Helpline toll-free telephone number; ~~or Authorized Retailer Notice~~;
- ~~18-23.~~ The retailer fails to report a change event defined in R19-3-210;
- ~~19-24.~~ The retailer fails to comply or cooperate with an investigation concerning Arizona state laws, Lottery regulations, or denies access to Lottery personnel;
- ~~20.~~ ~~The retailer sells a ticket at a price greater than face value~~;
- ~~24-25.~~ The retailer holding a charitable organization license or instant tab license fails to prominently display the flare for each instant tab game currently on sale ~~at or~~ within public view near the point of sale; ~~or~~
- ~~22-26.~~ The retailer holding a charitable organization license no longer qualifies as a charitable organization or its letter of determination of tax-exempt status is suspended or revoked; or
- ~~27.~~ The retailer fails to comply with the rules governing its license.
- ~~B.~~ The Director may on the Director's own motion, and shall on an allegation of a violation of a provision of the laws of the state of Arizona, the regulations of the Lottery, or the written complaint of any person, investigate an act of a retailer within 30 days after receiving the information. The Director may temporarily suspend a license under an emergency action, and impose specific conditions on a retailer during the suspension and commence an action to permanently revoke a license issued under this Article if the retailer is found to have committed an act or omission listed in subsection (A). An investigation of a violation of Lottery rules may be initiated by action of the Director or by a written complaint of any person.
- ~~1.~~ An investigation initiated by a written complaint shall be investigated within 30 days of receiving the complaint.
- ~~2.~~ During an investigation the Director may temporarily suspend a license under an emergency action, or impose specific conditions on a retailer.
- ~~C.~~ The Lottery shall mail or hand-deliver An action to suspend or revoke a license shall be initiated by a notice of action to the retailer to suspend or revoke a license. Notice may be made by mail, hand-delivery, or electronic mail with a copy by regular mail. Written notice Notice to the retailer is effective notice if it is sent or hand-delivered to the address in the application or the last address provided under R19-3-210.
- ~~D.~~ Emergency action:
- ~~1.~~ The Director may disable a retailer's on-line terminal, suspend sales of Lottery games, or remove tickets if the public welfare is threatened pending a proceeding for revocation, suspension, or denial of renewal, in the following circumstances:
- ~~a.~~ The retailer's bank account has insufficient funds when the Lottery's regularly scheduled electronic transfer of the retailer's account is returned by the bank as insufficient funds or closed account and the retailer does not immediately pay the insufficiency;
- ~~b.~~ The retailer fails to comply or cooperate with an investigation concerning Arizona state laws or Lottery regulations;
- ~~c.~~ The retailer, or corporate officer, director, partner, LLC member, or premises manager is charged with a felony, felony theft that is designated as a misdemeanor, misdemeanor theft, or a crime involving gambling or fraudulent schemes and artifices.
- ~~2.~~ A retailer who receives a Notice of Intent to Revoke a Retailer's License with a finding of emergency action shall:
- ~~a.~~ Immediately cease all sales of Lottery products, and
- ~~b.~~ Surrender the license and all other Lottery property and products upon request by the Director's representative.
- ~~3.~~ If the retailer fails to settle the financial account and surrender the license and all other Lottery property and products, the Director shall take steps allowed by law to secure payment and return of Lottery products and property.
- ~~4.~~ The Director shall notify the retailer in writing within five days of taking an emergency action that an expedited hearing or informal conference may be obtained before the Office of Administrative Hearings under R2-19-103 and R2-19-110.
- ~~E.~~ Procedure for hearings: A retailer may request a hearing before the Office of Administrative Hearings regarding a revocation, suspension, or license denial. The procedures and requirements set forth in A.R.S. Title 41, Chapter 6, Article 10 apply to hearings under this subsection.
- ~~F.~~ Procedure for filing an appeal of a final administrative decision:
- ~~1.~~ An appeal to the Lottery Commission is deemed an optional motion for rehearing.
- ~~a.~~ A Notice of Appeal to the Lottery Commission shall be filed within 10 days of receipt of the final administrative decision. The Notice shall contain:

Notices of Final Rulemaking

- i. A copy of the Director's final administrative decision, and
  - ii. The alleged factual or legal error in the final administrative decision from which the appeal is taken.
  - b. A person appealing the decision of the Director may file a written brief stating the position on the appeal within 30 days after receipt of the decision being appealed.
  - e. The Lottery may file a response brief within 15 days after receipt of the appellant's brief.
  - d. The Lottery Commission may rule based on the written briefs, or if requested, may provide for oral argument.
  - e. The Lottery Commission shall make its ruling on the appeal on the record.
  - f. A final decision of the Lottery Commission is subject to judicial review under A.R.S. Title 12, Chapter 7, Article 6.
2. A decision of the Director accepting, modifying, or rejecting the recommended decision of the Administrative Law Judge is a final administrative decision subject to judicial review under A.R.S. Title 12, Chapter 7, Article 6.
- G. Revocation of a license.**
- 1. A retailer who receives a notice of the final administrative decision revoking the license shall:
    - a. Immediately cease all sales of Lottery products, and
    - b. Surrender the license and all other Lottery property and products upon request of the Director's representative.
  - 2. If the retailer fails to settle the financial account and surrender the license and all other Lottery property and products, the Director shall take all steps allowed by law to secure payment and the return of Lottery products and property.

**R19-3-204.01 Procedure for Requesting a Hearing**

- A.** A retailer may request a hearing on any notice to revoke or suspend a Lottery license.
- B.** The hearing shall be held before the Office of Administrative Hearings. The procedures and requirements set forth in A.R.S. Title 41, Chapter 6, Article 10 apply to hearings under this subsection.
- C.** The Director may accept, modify, reject, or allow the recommended decision of the Administrative Law Judge to become final by expiration of time. This is a final administrative decision of the Lottery.

**R19-3-204.02 Lottery Determination of Need for Emergency Action**

- A.** The Director may determine the need for emergency action to disable a retailer's Lottery-issued equipment, suspend sales of Lottery games, or remove tickets if the public welfare is threatened pending a proceeding for revocation, suspension, or denial of renewal, in the following circumstances:
  - 1. The retailer's bank account has insufficient funds when the Lottery's regularly-scheduled electronic transfer of the retailer's account is returned by the bank as insufficient funds or closed account and the retailer does not immediately pay the insufficiency;
  - 2. The retailer fails to comply or cooperate with an investigation concerning Arizona state laws or Lottery regulations;
  - 3. The retailer, or officer, director, partner, LLC member or manager, controlling agent, or local premise manager is charged with a felony, felony theft that is designated as a misdemeanor, misdemeanor theft, embezzlement, or a crime involving gambling or fraudulent schemes and artifices;
  - 4. The retailer sells a Lottery ticket in any transaction to a person using a public assistance voucher issued by any public entity or an electronic benefits transfer card issued by the Arizona Department of Economic Security;
  - 5. The retailer sells an altered or expired ticket;
  - 6. The retailer sells a ticket at a price greater than face value; or
  - 7. The retailer pays less than the full prize value of the ticket at validation.
- B.** A retailer who receives a Notice of Intent to Revoke a Retailer's License with a finding of emergency action shall:
  - 1. Immediately cease all sales of Lottery products, and
  - 2. Surrender the license and all other Lottery property and products upon request by the Director's representative.
- C.** The Director shall notify the retailer in writing within five days of taking an emergency action that an expedited hearing or informal conference may be obtained before the Office of Administrative Hearings under A.A.C. R2-19-103 and A.A.C. R2-19-110.
- D.** If the retailer fails to settle the financial account and surrender the license and all other Lottery property and products, the Director shall take steps allowed by law to secure payment and return of Lottery property and products.

**R19-3-204.03 Appealing a Final Administrative Decision of the Lottery**

- A.** An optional motion for rehearing may be made to the Lottery Commission by filing a Notice of Appeal to the Lottery Commission within 10 days of receipt of the final administrative decision.
  - 1. The notice shall contain:
    - a. A copy of the Director's final administrative decision, and
    - b. The alleged factual or legal error in the final administrative decision from which the appeal is taken.
  - 2. A person appealing the decision of the Director may file a written brief stating the factual and legal position on the appeal within 30 days after receipt of the decision being appealed.
  - 3. The Lottery may file a response brief within 15 days after receipt of the appellant's brief.
  - 4. The Lottery Commission may rule based on the written briefs, or if requested, may provide for oral argument.
  - 5. The Lottery Commission shall make its ruling on the appeal on the record.

Notices of Final Rulemaking

- 6. A decision of the Lottery Commission is a final administrative decision subject to judicial review under A.R.S. Title 12, Chapter 7, Article 6.
- B.** A direct appeal of a final decision of the Director under R19-3-204.01(C) may be taken for judicial review pursuant to A.R.S. Title 12, Chapter 7, Article 6.

**R19-3-204.04 Surrender of Lottery Equipment and Property Upon Revocation**

- A.** A retailer who receives a final administrative decision revoking the license shall:
  - 1. Immediately cease all sales of Lottery products; and
  - 2. Surrender the license and all other Lottery equipment, property, and products upon request of the Director's representative.
- B.** If the retailer fails to settle the financial account and surrender the license and all other Lottery property and products, the Director shall take all steps allowed by law to secure payment and the return of Lottery property and products.

**R19-3-205. Lottery-issued Equipment**

- A.** Retailers holding a charitable organization license ~~with~~ or instant tab license shall not be issued Lottery equipment to sell or validate Lottery products, but may use an authorized Lottery product vending machine in accordance with subsection (C).
- B.** Retailers holding a full product license shall only sell or validate Lottery products using authorized Lottery-issued equipment in accordance with the Act and this Chapter.
  - 1. Equipment location. A retailer holding a full product license shall:
    - ~~a.1. Locate~~ A retailer shall locate the equipment at a site approved by the Lottery ~~within the place of business~~ and shall not move the equipment from that site without prior approval from the Lottery.
    - ~~b.2. Ensure that~~ A retailer shall ensure electrical service to the equipment location is installed according to the specifications established by the Lottery. ~~The retailer holding a full product license shall pay monthly charges for electrical service~~ The cost of electrical service shall be the responsibility of the retailer.
  - 2. Equipment conversion:
    - a. ~~If the Lottery deems it necessary, the Lottery shall modify its on-line or instant gaming system by:~~
      - i. ~~Changing equipment or accessories, or~~
      - ii. ~~Converting to another on-line or instant gaming system.~~
    - ~~b.3. A retailer holding a full product license shall assist~~ shall cooperate with the Lottery to the extent reasonable and practicable to accomplish a modification of the ~~on-line or instant gaming system~~ any modifications to the equipment or systems in a timely and economical fashion.
    - ~~3.4. The Lottery shall not be liable for damages of any kind due to interruption or failure of any Lottery-issued or authorized equipment.~~
    - 4. Equipment care. A retailer holding a full product license shall at all times:
      - ~~a.5. Operate~~ A retailer shall operate the Lottery-issued equipment and accessories only in the ordinary course of its Lottery business and only according to the requirements established by the Lottery; ~~and,~~
      - ~~b.6. Exercise~~ A retailer shall exercise diligence and care to prevent ~~failures and malfunctions of, and~~ damage to the Lottery-issued equipment and other property of the Lottery, or property of Lottery contractors.
    - 5. Equipment maintenance. A retailer holding a full product license shall:
      - ~~a.7. Maintain~~ A retailer shall maintain the Lottery-issued equipment and accessories in a clean and orderly condition; ~~and~~
      - b. ~~Replace paper stock in the equipment as necessary, and~~
      - e. ~~Minimize equipment downtime by:~~
        - ~~i.8. Notifying~~ A retailer shall minimize equipment downtime by notifying the Lottery or its contractor immediately of any equipment failure, malfunction, damage, or accident; ~~and,~~
        - ~~ii.9. Making~~ A retailer shall make the equipment available for repair, adjustment, or replacement at all times during the retailer's regular business hours ~~of the retailer holding a full product license.~~
    - 6. Equipment supplies. A retailer holding a full product license shall:
      - ~~a.10. Order~~ A retailer shall order and use equipment supplies exclusively from the Lottery or its designated contractor. ~~The Lottery shall furnish equipment supplies, at no cost, to the retailer holding a full product license; and,~~
      - b. ~~Maintain a sufficient inventory of Lottery equipment supplies.~~
      - 11. A retailer shall install and use only approved Lottery paper stock specifically assigned to the retailer.
  - C.** Retailers holding a full product license may sell tickets using its ~~an~~ authorized Lottery product vending machine in accordance with the Act and this Chapter.
    - 1. A retailer holding a full product license shall establish ~~safeguards~~ loss prevention policies to ensure that Lottery product vending machines are not operated by persons under ~~the legal~~ 21 years of age to purchase Lottery tickets.
    - 2. The Lottery product vending machine shall ~~remain operational during the retailer's regular business hours~~ and be placed in an area ~~of the store that:~~ visible to retail personnel and easily accessible to players.
      - a. ~~Is visible to store personnel and players, and~~
      - b. ~~Is easily accessible to players.~~

Notices of Final Rulemaking

3. A retailer holding a full product license shall maintain an adequate supply of instant scratch or instant tab tickets for the Lottery product vending machine.

**R19-3-206. Retailer Training**

- A. A retailer holding a full product license shall participate in training provided by the Lottery in the operation of Lottery equipment and sale of Lottery products, ~~which. Training~~ may take place at a retailer's place of business.
- B. A retailer holding a full product license shall ensure ~~that~~ all employees selling Lottery products or operating Lottery equipment are properly trained in these areas and have access to all materials provided by the Lottery relating to the sales and promotion of Lottery products and the operation of Lottery equipment.
- C. A retailer holding a full product license shall be responsible for: any compensation and other associated costs payable to employees for participation in Lottery training courses and instruction.
  - ~~1- Any compensation payable to employees for participation in Lottery training courses and instruction, and~~
  - ~~2- All other costs associated with employee training.~~
- D. A retailer holding a full product license shall provide all employees operating Lottery equipment with copies of the procedures ~~manuals~~ manual, bulletins, and technical materials furnished to the retailer by the Lottery or its contractors.
- E. A retailer holding a charitable organization license or instant tab license shall ensure ~~that~~ all employees ~~and~~ or volunteers selling instant tab tickets ~~have received proper training provided by the Lottery~~ are properly trained.

**R19-3-207. Compliance Investigations**

- A. A retailer shall comply with all provisions of the Act and this Chapter. The Lottery may conduct inspections to verify compliance and, if necessary, order an audit or investigation of the business ~~for verification.~~
- B. A retailer shall allow investigations ~~during the retailer's regular business hours~~ by authorized Lottery investigators during the retailer's regular business hours to determine whether the retailer is complying with the provisions of the Act and this Chapter.
- C. A retailer shall keep all ~~invoices, records, bills and other papers and documents~~ documentation relating to the purchase, sale, and validation of Lottery products that are kept in the normal course of business for tax purposes for three years. ~~These records and papers~~ This documentation shall be easily accessible to the Lottery-authorized investigator for examination or audit. ~~The retailer may use non-paper types of storage, such as microfiche and the retailer may store records at a central location.~~

**R19-3-208. Penalties**

- A. The Director shall assess a civil penalty against a retailer for any of the following acts ~~of the retailer:~~
  1. Offering to sell or selling a Lottery ticket to any person who is under 21 years of age; or
  2. Selling a Lottery ticket in any transaction to a person ~~who uses either~~ using a public assistance voucher issued by any public entity or an electronic benefits transfer card issued by the Arizona Department of Economic Security ~~to purchase the ticket or share; or~~
  3. ~~Selling a Lottery ticket during the same transaction in which a person uses either a public assistance voucher issued by any public entity or an electronic benefits transfer card issued by the Arizona Department of Economic Security to purchase any goods in addition to the Lottery ticket.~~
- B. The Director shall, on the written complaint of any person, ~~and shall~~ or upon receipt of information indicating ~~that~~ a retailer has committed an act listed in subsection (A), investigate ~~an~~ the act ~~of the retailer listed in subsection (A) or acts.~~ The Director shall give notice to the retailer as provided in A.R.S. §§ 41-1092.03 and 41-1092.04 of imposition of a civil penalty if the Director finds ~~that~~ the retailer has committed such an act ~~listed in subsection (A).~~ The civil penalty for A violation of an act listed in subsection (A) is a civil penalty in the amount of:
  1. ~~In an amount up~~ Up to \$300 for the first violation within a 12-month period;
  2. ~~In an amount more~~ More than \$300 and up to \$500 for the second violation within a 12-month period; and
  3. ~~In an amount more~~ More than \$500 and up to \$1,000 for the third violation within a 12-month period.
- C. A retailer against whom a penalty is assessed shall pay the penalty to the Lottery by the 31st day after the retailer receives notice of imposition of the civil penalty, if the retailer does not request a hearing as provided in subsection (D).
- D. A retailer may request a hearing regarding imposition of a civil penalty. The procedures and requirements set forth in A.R.S. Title 41, Chapter 6, Article 10 apply to hearings under this subsection.
- E. A decision of the Director accepting, modifying, or rejecting the recommended decision of the Administrative Law Judge is a final administrative decision subject to judicial review under A.R.S. Title 12, Chapter 7, Article 6.
  1. If the retailer decides not to seek judicial review of the Director's final administrative decision, the retailer shall pay the civil penalty to the Lottery by the 36th day after the retailer receives the Director's decision.
  2. If the retailer decides to seek judicial review of the Director's final administrative decision, the retailer shall pay the civil penalty to the Lottery by the 36th day after the date of the Superior Court's decision.
  3. If the retailer decides to appeal the Superior Court's decision, the retailer shall pay the civil penalty to the Lottery by the 36th day after the date of the decision on appeal.
  4. A retailer shall pay interest at the rate provided in A.R.S. § 44-1201 from the date final judgment assessing a civil penalty is entered until satisfaction of the judgment.



Notices of Final Rulemaking

**R19-3-209. Notice and Service**

Service shall be deemed made by the Lottery for any notice, decision, order, subpoena, or other process when the document or a copy is delivered to the retailer, premise manager, guarantor, or the attorney of record, or is deposited as certified mail in the United States Postal Service, addressed to the retailer or guarantor at the address listed on the application for license or as ~~noticed~~ reported as a change event under R19-3-210.

**R19-3-210. Reportable Events**

- A.** A retailer shall report the following events to the Lottery in writing ~~at least a minimum of~~ at least a minimum of 10 business days before the event ~~or as otherwise specified in this Section:~~
1. ~~Change in business location of the licensed premise;~~
  2. ~~Sale of ownership of the business, merger, or acquisition of the licensed entity;~~
  3. ~~Death of a retailer holding a full product license within 10 business days after the death occurs;~~
  4. ~~3. Addition or removal of a partner in a partnership or a limited liability partnership; Addition, removal, or change of address or phone number of the following persons:~~
    - a. ~~A partner in a partnership or a limited liability partnership;~~
    - b. ~~A member or manager in a limited liability company;~~
    - c. ~~An officer holding the position or functional equivalent of president, secretary, or treasurer of a corporation; or~~
    - d. ~~A controlling agent, local premise manager, or designated corporate contact representative.~~
  5. ~~4. Substantial change in ownership of a non-public corporation with unencumbered assets of less than \$100,000 by a transfer of stock (equity) that removes a shareholder that holds 10% or more of a corporation or adds a shareholder that holds 10% or more of a corporation~~ A charge of felony, felony theft that is designated as a misdemeanor, misdemeanor theft, embezzlement, or a crime involving gambling or fraudulent schemes and artifices that is brought against any person listed in subsection (3);
  6. ~~Merger or acquisition of the licensed entity;~~
  7. ~~Addition or removal of a member in a limited liability company;~~
  8. ~~Addition or removal of a controlling agent, premise manager, or designated corporate contact representative;~~
  9. ~~5. Divorce or legal separation action filed by an individual retailer holding a full product license a sole proprietor or partner licensed as a retailer, or retailer's spouse, if the licensed entity is a sole proprietorship or a partnership;~~
  10. ~~6. Retailer or guarantor becomes insolvent, files bankruptcy, or a receivership is ordered;~~
  11. ~~Retailer or guarantor files bankruptcy;~~
  12. ~~Retailer is sued for a monetary judgment;~~
  13. ~~7. Change in bank account from which the Lottery's electronic funds transfers are made; or~~
  14. ~~Change in mailing address or phone number of retailer or guarantor;~~
  15. ~~The applicant, a director or officer of a corporation, a member of a limited liability company, or a local premise manager is charged with a felony, felony theft designated as a misdemeanor, misdemeanor theft, embezzlement, or a crime involving gambling; or~~
  16. ~~8. Revocation, suspension, or other action against a charitable organization's letter of determination of tax-exempt status.~~
- B.** A retailer shall report to the Lottery in writing the death of a sole proprietor or partner licensed as a retailer within 10 business days after the death occurs.

**R19-3-211. Change of Ownership or Business Location**

A license is not assignable or transferable. A license authorizes the entity described in the application to sell Lottery tickets only at the specific premise ~~stated on the license~~ authorized by the Lottery.

1. ~~If there is a change of ownership; as reportable in R19-3-210(A)(1) through (3) or R19-3-210(B), change of business location, or for changes listed in R19-3-210(1) through R19-3-210(7) a criminal charge as reportable in R19-3-210(A)(4), the retailer shall:~~
  - a. ~~Surrender the license to the Director on the date of the event;~~
  - b. ~~Not sell any additional Lottery tickets; and~~
  - c. ~~Not allow the sale of Lottery products under a subcontract.~~
2. ~~If the retailer does not notify the Lottery of a change in ownership or business location at least 10 business days before the change, the retailer may not receive credit for any activated partial packs of tickets.~~
3. ~~The new owner shall apply for a license according to R19-3-202.~~

**R19-3-212. Retailer Compensation**

- A.** ~~The Lottery shall pay a retailer holding a full product license commission of six and one-half percent of the price of each Lottery ticket sold. Retailer compensation shall be set within the statutory limits by a retailer compensation profile ordered by the Lottery Commission. Each retail compensation profile shall contain the following information:~~
1. Retailer compensation profile number;
  2. Specific type of retailer compensation: commission, bonus, or other incentive;
  3. The retailer group to which the retailer commission, bonus, or other incentive applies;

Notices of Final Rulemaking

4. Criteria required to qualify for the commission, bonus, or other incentive;
  5. Duration of the retailer commission, bonus, or other incentive;
  6. Targeted games, if any; and
  7. Special features, if any.
- B. ~~In addition to the compensation specified in subsection (A), the Lottery shall pay an incentive of up to one-half percent on the price of each ticket sold by a retailer holding a full product license who meets specifications established in writing by the Director. The written specifications shall be provided to the retailer holding a full product license before the incentive program begins. The category of retailer commissions, bonuses, or other incentives shall be one or more of the following:~~
1. Full product license basic commission rate,
  2. Limited license basic commission rate,
  3. Sales benchmark rate,
  4. Game product rate,
  5. Promotional incentive or bonus rate,
  6. Temporary incentive or bonus rate, or
  7. Alternate incentive or bonus rate.
- C. ~~A retailer holding a charitable organization license shall receive a commission of 20 percent of the price of each instant tab ticket purchased as reflected in the price of each instant tab ticket sold to the retailer. This commission rate applies only to instant tab tickets and is in lieu of compensation authorized in subsections (A) and (B). More than one retailer commission, bonus, or other incentive may run concurrently.~~
- D. ~~The Lottery shall not pay a retailer a commission on sales transactions that are prohibited by any state or federal statute or rule. Promotion bonuses or incentives may be held during a designated period, specific days of the week, specific hours of the day, or a combination thereof.~~
- E. The Commission shall approve and the Director shall distribute a schedule of available retailer compensation to licensed retailers at least 30 days prior to its effective date and shall post it on the Lottery web site. A technological problem or failure that either prevents the posting of the retailer commission, bonus, or other incentive on the Lottery web site or that temporarily or permanently prevents the use of all or part of the web site does not preclude the authorization of the retailer compensation.

**R19-3-213. Ticket Sales to Players**

- A. A retailer shall sell only the type of Lottery products authorized by its Lottery-issued license.
- ~~1-B.~~ The Director may require a retailer to sell any one or any combination of Lottery game products based on the retailer's license.
2. ~~The Director may require a retailer holding a full product license to sell instant tickets as a condition of selling on-line tickets.~~
- ~~B.~~ ~~A retailer holding a full product license shall only sell or validate Lottery products using authorized Lottery-issued equipment in accordance with the Act and this Chapter.~~
- C. ~~Other than informing a player of publicly available game odds, a~~ A retailer shall not make any representation to a player regarding a likelihood to win, a guaranteed return on a percentage of purchases, or better chances or odds of winning.
- D. On-line tickets.
1. All on-line ticket sales are final. If a retailer holding a full product license accepts a returned on-line ticket from a player or generates an on-line ticket ~~that is~~ refused by the player and the retailer does not resell the ticket, the Lottery shall deem the on-line ticket to be owned by the retailer.
  2. A retailer holding a full product license shall not devote more than 15 consecutive minutes of sales to an on-line game purchase by any single player if other customers are waiting to make a purchase.
  3. A retailer holding a full product license shall ~~not permit the only use of facsimiles or copies of selection slips, or other materials, that are not printed or approved by the Lottery or methods authorized by the Lottery to generate plays selected by the player. Plays may be entered by using the Lottery equipment touch screen or by using a selection slip provided by the Lottery and hand-marked by the player.~~
- E. Instant scratch tickets.
1. All instant scratch ticket sales are final.
  2. A retailer holding a full product license shall sell instant scratch tickets within each pack in sequential order.
  3. A retailer holding a full product license shall not sell an instant scratch ticket after the announced end of game.
- F. All instant tab ticket sales are final.

**R19-3-214. Payments to Lottery**

- A. Money collected from the sale of Lottery tickets by retailers holding a full product license are trust monies required to be collected for the benefit of the state and shall be paid to the Lottery according to subsection (B).
- B. A retailer holding a full product license shall pay for ticket sales in the following manner:
1. Pay to the Lottery each Friday, by an electronic funds transfer, the amount due from the sale of ~~its~~ Lottery tickets for the seven-day period ending at the close of business on the previous Saturday.

Notices of Final Rulemaking

2. The amount due ~~from a retailer holding a full product license~~ for on-line tickets means the retailer's gross on-line sales revenue, minus any promotional tickets, prize winnings paid out by the retailer, the retailer's sales commission, and plus or minus any accounting or prize adjustments.
  3. The amount due ~~from a retailer holding a full product license~~ for instant scratch tickets is based on billing for instant ticket packs issued to a retailer with billing occurring 45 days after a pack is activated, or after 85% of winning tickets in the pack are validated, whichever occurs first, minus any promotional tickets, returned tickets, prize winnings paid out by the retailer, the retailer's sales commission, and plus or minus any accounting or prize adjustments.
  4. The retailer ~~holding a full product license~~ shall deposit funds in a timely manner into a bank account from which the electronic funds transfer will be made to the Lottery.
    - a. The retailer ~~holding a full product license~~ shall provide the Lottery with an electronic funds transfer authorization showing a valid bank account number from which the amounts due the Lottery will be transferred, and
    - b. The retailer ~~holding a full product license~~ shall notify the Lottery of any bank account changes within a minimum of 10 business days before the effective date of the change.
  5. If a retailer's payment from a retailer holding a full product license is returned to the Lottery for any reason, the retailer shall deliver a certified check, cashier's check, or money order, or make a direct deposit for the amount due to the Lottery's bank account within 24 hours of notification. Additionally, if the retailer's payment is returned to the Lottery:
    - a. The Director may require that the Lottery retailer's Lottery-issued equipment at a retailer holding a full product license be disabled;
    - b. The Director may revoke, suspend, or deny renewal of the retailer's license according to R19-3-204;
    - c. The Director may require ~~the~~ payment for instant scratch tickets upon activating the pack for sale; and
    - d. The Director may require the return of the retailer's current inventory of instant scratch tickets and suspend further delivery of instant scratch tickets.
- C. A retailer holding a charitable organization license or instant tab license shall pay the Lottery's authorized representative for instant tab tickets.

**R19-3-215. Prize Validation and Payment**

- A. A retailer holding a full product license shall provide prize validation and payment services for instant scratch tickets or on-line tickets to any Lottery claimant regardless of where the ticket was purchased.
- B. A retailer holding a full product license shall pay all winning prizes for instant scratch tickets or on-line tickets up to and including \$100, and may pay all winning prizes from \$101 up to and including \$599.
  1. A winning instant scratch ticket shall satisfy the validation criteria in R19-3-705 and R19-3-706 and have a proper validation receipt issued by the terminal Lottery-authorized equipment.
  2. A winning on-line ticket shall satisfy the validation criteria in R19-3-406 and R19-3-407 and have a proper validation receipt issued by the terminal Lottery-authorized equipment.
- C. A retailer ~~holding a charitable organization license~~ selling instant tab tickets shall pay all winning prizes for tickets sold at its location.
  1. A winning instant tab ticket shall satisfy the validation criteria in R19-3-705(A) and (B)(1) through (8), and contain the necessary play, prize, and win symbol captions that enable visual confirmation of a prize.
  2. Prizes shall not be paid by the Lottery or by another retailer.
- D. Prizes shall be paid by cash, check, money order, or if requested by the player, by Lottery tickets. If a retailer pays a prize with a money order, any associated fees shall be paid by the retailer.

**R19-3-216. Distribution and Return of Instant Tickets**

- A. The Lottery or its authorized representative shall distribute instant scratch tickets and accept returned instant scratch tickets as follows:
  1. Distribute to each retailer holding a full product license the quantity of tickets on which the Lottery and the retailer agree, based on the retailer's anticipated sales volume.
  2. Collect full and partial packs of tickets during a game if the Lottery and ~~the~~ a retailer holding a full product license determine ~~that~~ the retailer's sales for a specific game are minimal.
  3. Collect full and partial packs of tickets when a game is ended. The Lottery shall announce the ending date of a game and communicate this information to all retailers holding a full product license in a timely manner.
  4. Credit to ~~the~~ a retailer holding a full product license, in the billing period following the receipt of the Lottery-authorized returned tickets, the net dollar value of any unopened full packs and any partial packs of tickets.
- B. The Lottery or its authorized representative shall distribute instant tab tickets and shall not accept returns of instant tab tickets.

**R19-2-217. Unaccounted for and Stolen Instant Scratch Tickets**

- A. All Lottery tickets issued to a retailer holding a full product license shall be the property of the retailer until their return is acknowledged by the Lottery. The Lottery is not responsible for lost tickets.
- B. ~~The~~ A retailer holding a full product license shall report stolen Lottery tickets to the local law enforcement agency and the

Notices of Final Rulemaking

Lottery Investigations unit within one hour from the time the theft occurs or the theft first could have been discovered. The retailer shall:

- 1. Provide a copy of the written police report to the Lottery.
2. Cooperate in any investigation and prosecution of the theft.
3. Sign an affidavit providing the details as known by the retailer.
4. Maintain and report current game, pack, and ticket inventory.
C. If the a retailer holding a full product license sustains a loss from stolen tickets, the retailer's insurance is the loss payee.
D. If the a retailer holding a full product license has insufficient insurance to pay for the retailer's loss and the retailer complies with subsection (B), the Lottery will credit the retailer's account for stolen instant tickets that are stolen as follows:
1. The Lottery shall credit all charges against the account of the retailer holding a full product license for the stolen tickets if the Lottery determines that the theft was from a source not associated with the retailer or by an unknown party.
2. The Lottery shall credit 50% of the charges against the account of the retailer holding a full product license for the stolen tickets if the Lottery determines that the theft was from an employee, manager, officer, director, or a relative with access to Lottery tickets.
3. Each retailer holding a full product license is limited to no more than two stolen ticket credit requests within any 12-month period.
E. The Lottery shall not issue a credit for stolen tickets if the Lottery finds that the a retailer holding a full product license was negligent or did not enforce reasonable loss-prevention procedures to protect tickets, ticket processing, and ticket accounting.
F. If a prize claim is made against a ticket that has been reported as stolen or a ticket unaccounted for by the a retailer holding a full product license, the Lottery shall hold the prize money in trust pending the findings of an investigation by an appropriate law enforcement agency.

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

Editor's Note: The following Notice of Final Rulemaking was exempt from Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 1508.)

[R12-101]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action
R20-5-601 Amend
R20-5-602 Amend
2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statutes (specific):
Authorizing statute: A.R.S. § 23-405(4)
Implementing statute: A.R.S. § 23-410
3. The effective date of the rules:
August 7, 2012
a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032 (A)(1) through (5):
The effective date of this final rule package will be 60 days after the date it is filed with the Secretary of State.
b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later day and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):
Not applicable
4. Citations to all related notices published in the Register to include the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:

Notices of Final Rulemaking

Notice of Rulemaking Docket Opening: 17 A.A.R. 2347, November 18, 2011

Notice of Proposed Rulemaking: 18 A.A.R. 99, January 13, 2012

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

Name: William M. Wright  
Address: Division of Occupational Safety and Health  
Industrial Commission of Arizona  
800 W. Washington St., Suite 203  
Phoenix, AZ 85007  
Telephone: (602) 542-1695  
Fax: (602) 542-1614  
E-mail: wright.william.m@dol.gov

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

The Industrial Commission of Arizona is exempt from the Governor's rulemaking moratorium. In order to conform to the Federal Occupational Safety and Health Standards as required by Section 18(c) of the Federal Occupational Safety and Health Act of 1970 requiring state administered occupational safety and health programs to adopt standards that are at least as effective as those adopted by the U.S. Department of Labor, the Industrial Commission is amending R20-5-601 and R20-5-602, by incorporating by reference, amendments from 29 CFR 1926 and 29 CFR 1910, as published in *Federal Register* 76 FR 33590-33612, June 8, 2011 and became a final rule effective July 8, 2011.

This standards improvement project is the third in a series of rulemaking actions to improve and streamline OSHA standards. This rulemaking action removes and revises individual requirements within the rules that are confusing, outdated, and duplicative or inconsistent.

The new rule will result in several changes to OSHA's existing respiratory protection standard, including aligning air cylinders testing requirements for self-contained breathing apparatuses with U.S. Department of Transportation regulations, clarifying that aftermarket cylinders meet National Institute of Occupational Safety and Health (NIOSH) quality assurance requirements and clarifying that the provisions of Appendix D, which contains information for employers using respirators when not required under the standards, mandatory if the employee chooses to use a respirator. Other changes to result from the new rule will include updating the definition of the term "potable water" to be consistent with current Environmental Protection Agency standards instead of the former and outdated Public Health Service Corp.'s definition, remove outdated requirements that hand dryers use warm air because new technology allows employers to use hand drying products that do not involve hot or warm air and removing two medical record requirements from the commercial diving standard because the standard no longer requires medical examinations. Updates also will include deleting a number of requirements for employers to transmit exposure and medical records to NIOSH, and updates to the sling standard by requiring that employers use only slings marked with the manufacturer's loading information.

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

None

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

Not applicable

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

The Federal Occupational Safety and Health Administration have determined that the final standard is not economically significant regulatory action under Executive Order 12866. OSHA also determines that the final standard is not a major rule under the Congressional Review Act and that the rule does not have a significant impact on small entities. This final rule deletes and revises a number of provisions in existing standards and removes or reduces several current requirements from employers. The purpose of this new rule is to reduce burden on employers, or provide employers with compliance flexibility, while maintaining the same level of protection for employees.

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

None

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

Notices of Final Rulemaking

The Arizona Division of Occupational Safety and Health did not receive any written or oral comments concerning this rule.

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

Not applicable

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

Not applicable

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

Not applicable

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

Not applicable

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

29 CFR 1926 The Federal Occupational Safety and Health Standards for Construction and 29 CFR 1910 The Federal Occupational Safety and Health Standards for General Industry with amendments as of July 8, 2011. This incorporation by reference will appear in R20-5-601 and R20-5-602.

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

Not applicable

**15. The full text of the rules follows:**

**TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE**

**CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA**

**ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH STANDARDS**

Section

R20-5-601. The Federal Occupational Safety and Health Standards for Construction, 29 CFR 1926

R20-5-602. The Federal Occupational Safety and Health Standards for General Industry, 29 CFR 1910

**ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH STANDARDS**

**R20-5-601. The Federal Occupational Safety and Health Standards for Construction, 29 CFR 1926**

Each employer shall comply with the standards in the Federal Occupational Safety and Health Standards for Construction, as published in 29 CFR 1926, with amendments as of ~~August 9, 2010~~, July 8, 2011, incorporated by reference. Copies of these referenced materials are available for review at the Industrial Commission of Arizona and may be obtained from the United States Government Printing Office, Superintendent of Documents, Washington, D.C. 20402. These standards shall apply to all conditions and practices related to construction activity by all employers, both public and private, in the state of Arizona. This incorporation by reference does not include amendments or editions to 29 CFR 1926 published after ~~August 9, 2010~~. July 8, 2011.

**R20-5-602. The Federal Occupational Safety and Health Standards for General Industry, 29 CFR 1910**

Each employer shall comply with the standards in Subparts B through Z inclusive of the Federal Occupational Safety and Health Standards for General Industry, as published in 29 CFR 1910, with amendments as of ~~June 15, 2010~~, July 8, 2011, incorporated by reference. Copies of these reference materials are available for review at the Industrial Commission of Arizona and may be obtained from the United States Government Printing Office, Superintendent of Documents, Washington, D.C. 20402. These standards shall apply to all conditions and practices related to general industry activity by all employers, both public and private, in the state of Arizona; provided that this ~~rule~~ Section shall not apply to those conditions and practices which are the subject of R20-5-601. This incorporation by reference does not include amendments or editions to 29 CFR 1910 published after ~~June 15, 2010~~. July 8, 2011.