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# Arizona Administrative REGISTER

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**Vol. 25, Issue 17** **~ Administrative Register Contents ~** **April 26, 2019**

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# From the Publisher

## ABOUT THIS PUBLICATION

The paper copy of the *Administrative Register* (A.A.R.) is the official publication for rules and rulemaking activity in the state of Arizona.

Rulemaking is defined in Arizona Revised Statutes known as the Arizona Administrative Procedure Act (APA), A.R.S. Title 41, Chapter 6, Articles 1 through 10.

The Office of the Secretary of State does not interpret or enforce rules published in the *Arizona Administrative Register* or *Code*. Questions should be directed to the state agency responsible for the promulgation of the rule as provided in its published filing.

The *Register* is cited by volume and page number. Volumes are published by calendar year with issues published weekly. Page numbering continues in each weekly issue.

In addition, the *Register* contains the full text of the Governor's Executive Orders and Proclamations of general applicability, summaries of Attorney General opinions, notices of rules terminated by the agency, and the Governor's appointments of state officials and members of state boards and commissions.

## ABOUT RULES

Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number). Rules activity published in the *Register* includes: proposed, final, emergency, expedited, and exempt rules as defined in the APA.

Rulemakings initiated under the APA as effective on and after January 1, 1995, include the full text of the rule in the *Register*. New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.

## WHERE IS A "CLEAN" COPY OF THE FINAL OR EXEMPT RULE PUBLISHED IN THE *REGISTER*?

The *Arizona Administrative Code* (A.A.C) contains the codified text of rules. The A.A.C. contains rules promulgated and filed by state agencies that have been approved by the Attorney General or the Governor's Regulatory Review Council. The *Code* also contains rules exempt from the rulemaking process.

The printed *Code* is the official publication of a rule in the A.A.C., and is prima facie evidence of the making, amendment, or repeal of that rule as provided by A.R.S. § 41-1012. Paper copies of rules are available by full Chapter or by subscription. The *Code* is posted online for free.

## LEGAL CITATIONS AND FILING NUMBERS

On the cover: Each agency is assigned a Chapter in the *Arizona Administrative Code* under a specific Title. Titles represent broad subject areas. The Title number is listed first; with the acronym A.A.C., which stands for the *Arizona Administrative Code*; following the Chapter number and Agency name, then program name. For example, the Secretary of State has rules on rulemaking in Title 1, Chapter 1 of the *Arizona Administrative Code*. The citation for this chapter is 1 A.A.C. 1, Secretary of State, Rules and Rulemaking

Every document filed in the office is assigned a file number. This number, enclosed in brackets, is located at the top right of the published documents in the *Register*. The original filed document is available for 10 cents a page.

Arizona Administrative Register

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**Administrative Register**
This publication is available online for free at www.azsos.gov.

**Administrative Code**
A price list for the *Arizona Administrative Code* is available online. You may also request a paper price list by mail. To purchase a paper Chapter, contact us at (602) 364-3223.

**PUBLICATION DEADLINES**
Publication dates are published in the back of the *Register*. These dates include file submittal dates with a three-week turnaround from filing to published document.

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# Participate in the Process

### Look for the Agency Notice

Review (inspect) notices published in the *Arizona Administrative Register*. Many agencies maintain stakeholder lists and would be glad to inform you when they proposed changes to rules. Check an agency's website and its newsletters for news about notices and meetings.

Feel like a change should be made to a rule and an agency has not proposed changes? You can petition an agency to make, amend, or repeal a rule. The agency must respond to the petition. (See A.R.S. § 41-1033)

### Attend a public hearing/meeting

Attend a public meeting that is being conducted by the agency on a Notice of Proposed Rulemaking. Public meetings may be listed in the Preamble of a Notice of Proposed Rulemaking or they may be published separately in the *Register*. Be prepared to speak, attend the meeting, and make an oral comment.

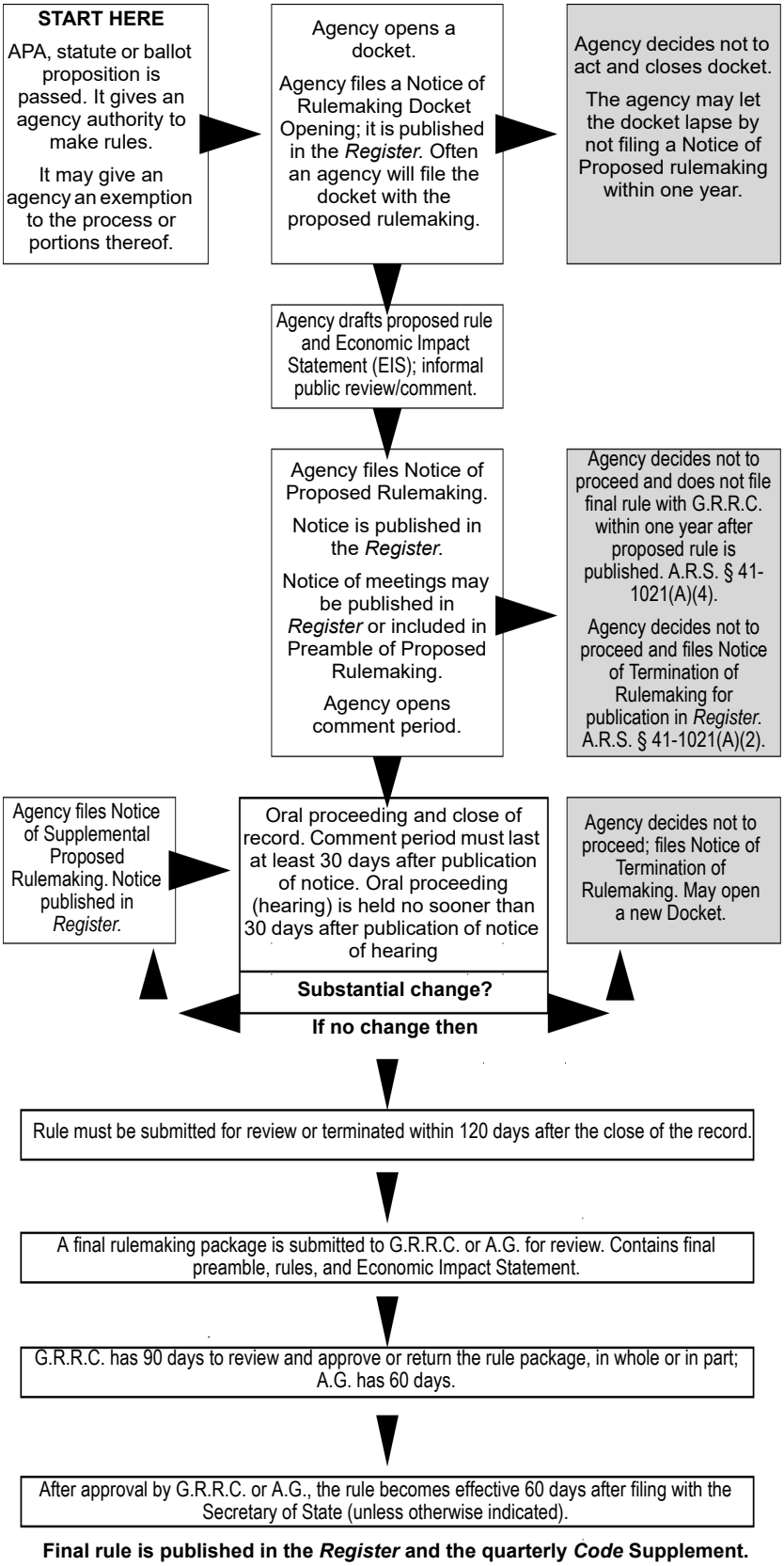
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

### Write the agency

Put your comments in writing to the agency. In order for the agency to consider your comments, the agency must receive them by the close of record. The comment must be received within the 30-day comment timeframe following the *Register* publication of the Notice of Proposed Rulemaking.

You can also submit to the Governor's Regulatory Review Council written comments that are relevant to the Council's power to review a given rule (A.R.S. § 41-1052). The Council reviews the rule at the end of the rulemaking process and before the rules are filed with the Secretary of State.

## Arizona Regular Rulemaking Process



## Definitions

***Arizona Administrative Code* (A.A.C.):** Official rules codified and published by the Secretary of State's Office. Available online at www.azsos.gov.

***Arizona Administrative Register* (A.A.R.):** The official publication that includes filed documents pertaining to Arizona rulemaking. Available online at www.azsos.gov.

**Administrative Procedure Act (APA):** A.R.S. Title 41, Chapter 6, Articles 1 through 10. Available online at www.azleg.gov.

**Arizona Revised Statutes (A.R.S.):** The statutes are made by the Arizona State Legislature during a legislative session. They are complied by Legislative Council, with the official publication codified by Thomson West. Citations to statutes include Titles which represent broad subject areas. The Title number is followed by the Section number. For example, A.R.S. § 41-1001 is the definitions Section of Title 41 of the Arizona Administrative Procedures Act. The "§" symbol simply means "section." Available online at www.azleg.gov.

**Chapter:** A division in the codification of the *Code* designating a state agency or, for a large agency, a major program.

**Close of Record:** The close of the public record for a proposed rulemaking is the date an agency chooses as the last date it will accept public comments, either written or oral.

**Code of Federal Regulations (CFR):** The *Code of Federal Regulations* is a codification of the general and permanent rules published in the *Federal Register* by the executive departments and agencies of the federal government.

**Docket:** A public file for each rulemaking containing materials related to the proceedings of that rulemaking. The docket file is established and maintained by an agency from the time it begins to consider making a rule until the rulemaking is finished. The agency provides public notice of the docket by filing a Notice of Rulemaking Docket Opening with the Office for publication in the *Register*.

**Economic, Small Business, and Consumer Impact Statement (EIS):** The EIS identifies the impact of the rule on private and public employment, on small businesses, and on consumers. It includes an analysis of the probable costs and benefits of the rule. An agency includes a brief summary of the EIS in its preamble. The EIS is not published in the *Register* but is available from the agency promulgating the rule. The EIS is also filed with the rulemaking package.

**Governor's Regulatory Review (G.R.R.C.):** Reviews and approves rules to ensure that they are necessary and to avoid unnecessary duplication and adverse impact on the public. G.R.R.C. also assesses whether the rules are clear, concise, understandable, legal, consistent with legislative intent, and whether the benefits of a rule outweigh the cost.

**Incorporated by Reference:** An agency may incorporate by reference standards or other publications. These standards are available from the state agency with references on where to order the standard or review it online.

**Federal Register (FR):** The *Federal Register* is a legal newspaper published every business day by the National Archives and Records Administration (NARA). It contains federal agency regulations; proposed rules and notices; and executive orders, proclamations, and other presidential documents.

**Session Laws or "Laws":** When an agency references a law that has not yet been codified into the Arizona Revised Statutes, use the word "Laws" is followed by the year the law was passed by the Legislature, followed by the Chapter number using the abbreviation "Ch.", and the specific Section number using the Section symbol (§). For example, Laws 1995, Ch. 6, § 2. Session laws are available at www.azleg.gov.

**United States Code (U.S.C.):** The Code is a consolidation and codification by subject matter of the general and permanent laws of the United States. The Code does not include regulations issued by executive branch agencies, decisions of the federal courts, treaties, or laws enacted by state or local governments.

## Acronyms

A.A.C. – *Arizona Administrative Code*

A.A.R. – Arizona Administrative Register

APA – Administrative Procedure Act

A.R.S. – Arizona Revised Statutes

CFR – *Code of Federal Regulations*

EIS – Economic, Small Business, and Consumer Impact Statement

FR – *Federal Register*

G.R.R.C. – Governor's Regulatory Review Council

U.S.C. – *United States Code*

## About Preambles

The Preamble is the part of a rulemaking package that contains information about the rulemaking and provides agency justification and regulatory intent.

It includes reference to the specific statutes authorizing the agency to make the rule, an explanation of the rule, reasons for proposing the rule, and the preliminary Economic Impact Statement.

The information in the Preamble differs between rulemaking notices used and the stage of the rulemaking.

# NOTICES OF PROPOSED RULEMAKING

This section of the *Arizona Administrative Register* contains Notices of Proposed Rulemaking.

A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same *Register* issue.

When an agency files a Notice of Proposed Rulemaking under the *Administrative Procedure Act* (APA), the notice is published in the *Register* within three weeks of filing. See the publication schedule in the back of each issue of the *Register* for more information.

Under the APA, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any oral proceedings for making, amending, or repealing any rule (A.R.S. §§ 41-1013 and 41-1022).

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency that promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

## NOTICE OF PROPOSED RULEMAKING

### TITLE 18. ENVIRONMENTAL QUALITY

### CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY AIR POLLUTION CONTROL

[R19-69]

### PREAMBLE

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

R18-2-101 — Amend

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

Authorizing statute: A.R.S. §§ 49-104(A)(1) and (A)(10), 49-404(A)

Implementing statute: A.R.S. §§ 49-425(A), 49-426

**3. 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: 25 A.A.R. 1113, April 26, 2019 (*in this issue*)

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


Name: Zachary Dorn

Address: Arizona Department of Environmental Quality
Air Quality Division, AQIP Section
1110 W. Washington St.
Phoenix, AZ 85007

Telephone: (602) 771-4585 (This number may be reached in-state by dialing 1-800-234-5677 and entering the seven digit number.)

Fax: (602) 771-2299

E-mail: dorn.zachary@azdeq.gov


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

**Summary.**

The purpose of this rulemaking is to remedy a deficiency identified by the United State Environmental Protection Agency (EPA) in Arizona's nonattainment New Source Review (NNSR) rules. The Arizona Department of Environmental Quality (ADEQ) must adopt rules defining a significant emission rate (SER) for ammonia, as a precursor to fine particulate matter ("$PM_{2.5}$"), under the NNSR program to comply with federal requirements. This rulemaking action is required to secure full approval of Arizona's NSR rules into the state implementation plan (SIP) and avoid sanctions under the federal Clean Air Act (CAA). Therefore, ADEQ is proposing to amend the definition of "significant" in R18-2-101(131) to include an emission rate for ammonia in $PM_{2.5}$ nonattainment areas within the State of Arizona.

**Legal Background.**

Under section 110(a)(1) of the CAA, each state is obligated to submit a "plan which provides for implementation, maintenance and enforcement of" the national ambient air quality standards (NAAQS). The CAA goes on to require that SIPs:

> Include a program to provide for the . . . regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D of [Title I of the CAA].

42 U.S.C. § 7410(a)(2)(C). State and federal regulations adopted under this section are commonly referred to as "new source

review" programs because they apply to newly constructed and modified, as opposed to existing, sources. The CAA divides NSR requirements into those that apply to attainment areas (Part C requirements) and those that apply to nonattainment areas (Part D requirements). This rulemaking focuses on Part D of Title I of the CAA.

Part D of Title I of the CAA establishes an NSR program for major sources and modifications in nonattainment areas. This program is known as "Nonattainment New Source Review" (NNSR). Under Subpart 1 of Part D, a major source is defined as any source that emits, or has the potential to emit, 100 tons per year or more of a pollutant for which the area has been designated nonattainment. Subpart 4 of Part D establishes specific requirements for NNSR in $PM_{10}$ and $PM_{2.5}$ nonattainment areas.

Permit applicants subject to NNSR requirements under Part D must demonstrate that a major source or modification will comply with the lowest achievable emission rate (LAER) and that reductions in emissions from the same source or other sources will offset any emissions increases from the new or modified source.

**CAA Sanctions.**

Under the CAA and federal regulations, if EPA disapproves any element of a plan submitted under Title I, Part D of the CAA relating to nonattainment areas, and the plan deficiencies are not corrected within 18 months after the effective date of the disapproval, major sources subject to NNSR will have to offset emissions increases at a ratio of 2 to 1. 42 U.S.C. § 7509(a), (b)(2); 40 CFR § 52.31(d)(1). If the deficiencies remain uncorrected for an additional six months, the state loses most federal highway funds in the affected area. 42 USC § 7509(a), (b)(1); 40 CFR § 52.31(d)(1). If imposed, the sanctions will apply to nonattainment areas under ADEQ's jurisdiction and the pollutants covered by the plan and will remain in effect until EPA finds that a revised plan corrects the deficiencies. 40 CFR § 52.31(b)(3),(d)(2), (5).

Additionally, EPA is required to adopt a federal implementation plan (FIP) within 24 months following the disapproval of *any* SIP if the deficiencies are not corrected and approved. 42 U.S.C. § 7410(c). ADEQ therefore must correct *all* deficiencies identified in the 2016 limited disapproval and the 2018 conditional approval, described below, in order to avoid sanctions and a FIP.

**Arizona's Previous NSR Rulemaking, SIP Revision, and EPA's Decisions.**

Below is a timeline of events relevant to this rulemaking:

On June 6, 2012, ADEQ adopted comprehensive amendments to the state's air permit program designed, among other things, to bring the program into compliance with federal nonattainment new source review (NNSR) regulations. ADEQ submitted these amendments to EPA as a SIP revision on October 29, 2012 (the "2012 NSR SIP").

On June 22, 2016, EPA published a limited disapproval of the 2012 NSR SIP for failure to regulate VOCs and ammonia as $PM_{2.5}$ precursors in the West Central Pinal (WCP) and Nogales $PM_{2.5}$ nonattainment areas. This limited disapproval established a deadline of January 22, 2018 (18 months after the disapproval) for ADEQ to cure the deficiency or face the imposition of offset sanctions in those nonattainment areas. If an additional six months passed after that deadline before ADEQ failed to cure the deficiency, highway sanctions would be imposed.

On February 2, 2017, ADEQ adopted amendments to its rules designed, among other things, to cure the deficiencies relating to $PM_{2.5}$ precursors identified in EPA's June 22, 2016 limited disapproval. On April 28, 2017, ADEQ submitted these amendments as a SIP revision (the "2017 NSR SIP").

On June 6, 2017, EPA proposed limited approval and limited disapproval of the 2017 NSR SIP. The limited disapproval noted that the 2017 NSR SIP addressed all requirements for $PM_{2.5}$ precursors, except for establishing a significant level for ammonia. A significant level is the threshold for emissions increases at major sources that are subject to NNSR. EPA rules establish significant levels for all pollutants subject to NNSR, except ammonia. Under section 189(e) of the Clean Air Act and 40 CFR 51.165(a)(1)(x)(F), states containing $PM_{2.5}$ nonattainment areas are obligated either to adopt a significant level for ammonia or to demonstrate that ammonia does not contribute to the failure to attain the $PM_{2.5}$ NAAQS.

On December 6, 2017, ADEQ sent EPA a letter committing to correct the deficiency with regard to ammonia by March 31, 2019 by submitting either (1) a demonstration that ammonia does not contribute to nonattainment in the WCP and Nogales $PM_{2.5}$ nonattainment areas or (2) a rule establishing a significant level for ammonia (the "December 2017 commitment"). Based on this commitment, EPA proposed conditional approval of the 2017 NSR SIP with regard to $PM_{2.5}$ precursors on January 10, 2018. This proposal had the effect of deferring sanctions. EPA published a final conditional approval on May 4, 2018.

**Amendment is Necessary to Address NSR Deficiency**

Pursuant to ADEQ's December 2017 commitment and the EPA's conditional approval (83 Fed. Reg. 19631 (May 4, 2018)), this rulemaking proposes to establish a significant level for ammonia as a precursor of $PM_{2.5}$ in $PM_{2.5}$ nonattainment areas in Arizona.

As described above, the purpose of this rulemaking is to correct the single, remaining deficiency identified in the 2016 limited disapproval, and the 2018 conditional approval. This rulemaking will ensure Arizona's NSR program conforms to federal requirements and qualifies for full approval by EPA. In order to address the remaining deficiency identified by the EPA regarding ammonia as a $PM_{2.5}$ precursor, ADEQ committed to adopt rule revisions to satisfy the requirements of CAA § 189(e) and related NNSR regulations. Therefore, ADEQ proposes to amend the definition of significant, as it relates to $PM_{2.5}$ nonattainment areas (R18-2-101(131)(e)), to add an emission rate of ammonia in the amount of 40 tons per year.

The SER of 40 tons per year of ammonia was selected by examining other, similarly situated $PM_{2.5}$ nonattainment areas within EPA Region IX. Recently, EPA approved a California SIP revision that implemented a SER for ammonia for the South Coast Air Quality Management District. 83 FR 39012 (Aug. 8, 2018) (proposed rule); 83 FR 61551 (Nov. 30, 2018) (final rule). In order to meet its NNSR obligations under the CAA, the South Coast Air Quality Management District selected a SER of 40 tons per year of ammonia. Additionally, EPA proposed approval of the Imperial Valley Air Pollution Control District's SIP revision establishing a

SER of 40 tons per year of ammonia. 84 FR 10573 (Mar. 22, 2019).

Additionally, this SER for ammonia is consistent with the SER of 40 tons per year that EPA has established for sulfur dioxide, oxides of nitrogen, and volatile organic compounds (VOCs) as precursors to $PM_{2.5}$. 73 FR 28321, 28333 (May 16, 2008); *see also* 40 CFR § 51.165(a)(1)(x)(A).

**Section by Section Explanation of Proposed Rules:**

R18-2-101. Amend the definition of "significant" used in the major NSR programs and related permit rules.

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

Not applicable

**7. 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

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

The following discussion addresses each of the elements required for an Economic, Small Business, and Consumer Impact Statement (EIS) under A.R.S. § 41-1055.

**An identification of the rulemaking.**

The rulemaking addressed by this EIS is the adoption of amendments designed to bring ADEQ's new source review (NSR) rules into conformance with federal requirements. This rulemaking will remedy the remaining deficiency identified by EPA in its 2016 limited disapproval and 2018 conditional approval to bring Arizona's NSR program into conformity with federal requirements. All other deficiencies were remedied in previous rulemakings. The changes are described in greater detail in section 5 of this notice of proposed rulemaking.

This proposed change is procedural or technical in nature and should have at most a trivial economic impact on the agency, businesses or consumers.

**An identification of the persons who will be directly affected by, bear the cost of or directly benefit from the rulemaking.**

In order for the ammonia SER proposed in this rulemaking to have any regulatory impact, an existing source with the potential to emit 100 tons per year for ammonia located in one of the two $PM_{2.5}$ nonattainment areas would have to undergo a physical or operational change that results in a net increase of at least 40 tons per year of ammonia emissions. There are currently no such sources located anywhere in the Nogales or West Central Pinal nonattainment areas, and it is extraordinarily improbable that any will be constructed in the future. Thus, this rulemaking is highly unlikely to impose any economic costs on the regulated community or to result in any environmental benefits.

On the other hand, avoiding the potential federal highway funds sanctions will benefit the State and residents of Arizona.

**A cost benefit analysis of the following:**

**(a) The probable costs and benefits to the implementing agency or other agencies directly affected by the implementation and enforcement of the rulemaking.**

ADEQ's increased cost of implementing the NSR program resulting from the procedural and technical changes contained in this proposal will likely be minimal. This rulemaking consists of adjustments to existing programs to conform to EPA's conditional approval and federal and state requirements.

**(b) The probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the rulemaking.**

The costs to political subdivisions subject to permitting under ADEQ's rules from these proposed amendments should be minimal. In general, the types of sources operated by political subdivisions are very unlikely to be subject to major NSR, and as noted above it is highly unlikely that any source will be subject to NNSR as a result of this rulemaking. ADEQ considers any impacts to sources in counties with their own pollution control programs to be indirect.

**(c) The probable costs and benefits to businesses directly affected by the rulemaking, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the rulemaking.**

As discussed above, the amendment to R18-2-101 rules is necessary to comply with federal requirements for the program. If ADEQ fails to adopt this amendment, the same or similar standard would ultimately apply to sources in Arizona through the adoption of a federal implementation plan (FIP) or the application of 40 CFR Part 51, Appendix S. In addition, Title I, Part D of the CAA imposes a limited time for ADEQ to adopt the NSR amendments. Failure to meet the statutory timeframe will result in sanctions by the federal government, as described above.

Thus, failure to adopt these amendments would not in the long run result in the avoidance of any costs of compliance for the reasons given above, but would result in a substantial negative impact on the state's economy.

**A general description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the rulemaking.**

ADEQ does not believe that any additional costs will be imposed on businesses as a result of the amended NSR requirements for the reasons described above. Accordingly, there should be no impact on private employment or on the employment of any political subdivision subject to NSR.

**A statement of the probable impact of the rulemaking on small businesses.**

**(a) An identification of the small businesses subject to the rulemaking.**

Under A.R.S. § 41-1001(21) "Small business" means a concern, including its affiliates, which is [1] independently owned and operated, which is [2] not dominant in its field and which [3] employs fewer than one hundred full-time employees or which had gross annual receipts of less than four million dollars in its last fiscal year.

As previously mentioned, there are no existing or proposed major sources of ammonia within ADEQ's jurisdiction and therefore no small businesses would be subject to this rulemaking.

**(b) The administrative and other costs required for compliance with the rulemaking.**

Not Applicable.

**(c) A description of the methods that the agency may use to reduce the impact on small businesses.**

Not Applicable.

**(d) The probable cost and benefit to private persons and consumers who are directly affected by the rulemaking.**

Not Applicable.

**A statement of the probable effect on state revenues.**

Since any costs associated with the rulemaking will be recoverable through air quality permit fees, there will be no net effect on state revenues.

**A description of any less intrusive or less costly alternative methods of achieving the purpose of the rulemaking.**

ADEQ was not able to identify any less intrusive or costly alternative methods for achieving the purpose of the rulemaking—compliance with the federal NSR requirements for ammonia as $PM_{2.5}$ precursor.

**A description of any data on which a rule is based with a detailed explanation of how the data was obtained and why the data is acceptable data. An agency advocating that any data is acceptable data has the burden of proving that the data is acceptable. For the purposes of this paragraph, "acceptable data" means empirical, replicable and testable data as evidenced in supporting documentation, statistics, reports, studies or research.**

Data on which this proposed rulemaking is based on can be located by referring to the Federal Register notices referenced in part 5 of this NPRM. Copies of the Federal Register are available at either https://www.federalregister.gov/ or https://www.govinfo.gov/app/collection/fr/.

**9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:**

Name: Zachary Dorn
Address: Arizona Department of Environmental Quality
Air Quality Division, AQIP Section
1110 W. Washington St.
Phoenix, AZ 85007
Telephone: (602) 771-4585
Fax: (602) 771-2299
E-mail: dorn.zachary@azdeq.gov

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

ADEQ will conduct a public hearing to receive feedback, comments, questions, and concerns on the proposed rulemaking. All interested parties may attend.

The public comment period for this rulemaking will take place between: April 26, 2019 and May 28, 2019. The public comment period will close May 28, 2019.

The public hearing for the rules will be conducted on:

May 28, 2019 at 1:00 p.m.
Arizona Department of Environmental Quality
1110 W. Washington St., Room 3100B
Phoenix, AZ 85007

**11. 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:**

There are no matters prescribed by statute applicable specifically to ADEQ or this specific rulemaking.

**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:**

This proposed rule amendment will not require any permits as it is to comply with CAA NSR regulations for any applicable new construction or major modification of a stationary source that falls under ADEQ's jurisdiction. Federal law does allow for the enforcement of major NSR requirements through the issuance of permits, because major NSR requires case-by-case, facility specific determinations.

**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:**

This proposed rule amendment will help Arizona comply with the federal Clean Air Act, Title I, Parts C and D. This rulemaking is no more stringent than required by federal law.

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitive-**

**ness of business in this state to the impact on business in other states:**
No one submitted an analysis to ADEQ.

**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**
There are no incorporations by reference added to the rules in this action.

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

## TITLE 18. ENVIRONMENTAL QUALITY

## CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY AIR POLLUTION CONTROL

### ARTICLE 1. GENERAL

Section
R18-2-101. Definitions

### ARTICLE 1. GENERAL

**R18-2-101. Definitions**
The following definitions apply to this Chapter. Where the same term is defined in this Section and in the definitions Section for an Article of this Chapter, the Article-specific definition shall apply.

1. "Act" means the Clean Air Act of 1963 (P.L. 88-206; 42 U.S.C. 7401 through 7671q) as amended through December 31, 2011 (and no future editions).
2. "Actual emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in subsections (2)(a) through (e), except that this definition shall not apply for calculating whether a significant emissions increase as defined in R18-2-401 has occurred, or for establishing a plantwide applicability limitation as defined in R18-2-401. Instead, the definitions of projected actual emissions and baseline actual emissions in R18-2-401 shall apply for those purposes.
   a. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period that precedes the particular date and that is representative of normal source operation. The Director may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored or combusted during the selected time period.
   b. The Director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.
   c. For any emissions unit that is or will be located at a source with a Class I permit and has not begun normal operations on the particular date, actual emissions shall equal the unit's potential to emit on that date.
   d. For any emissions unit that is or will be located at a source with a Class II permit and has not begun normal operations on the particular date, actual emissions shall be based on applicable control equipment requirements and projected conditions of operation.
   e. This definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL. Instead, the definitions of projected actual emissions and baseline actual emissions in R18-2-401 shall apply for those purposes.
3. "Administrator" means the Administrator of the United States Environmental Protection Agency.
4. "Affected facility" means, with reference to a stationary source, any apparatus to which a standard is applicable.
5. "Affected source" means a source that includes one or more units which are subject to emission reduction requirements or limitations under Title IV of the Act.
6. "Affected state" means any state whose air quality may be affected by a source applying for a permit, permit revision, or permit renewal and that is contiguous to Arizona or that is within 50 miles of the permitted source.
7. "Afterburner" means an incinerator installed in the secondary combustion chamber or stack for the purpose of incinerating smoke, fumes, gases, unburned carbon, and other combustible material not consumed during primary combustion.
8. "Air contaminants" means smoke, vapors, charred paper, dust, soot, grime, carbon, fumes, gases, sulfuric acid mist aerosols, aerosol droplets, odors, particulate matter, wind-borne matter, radioactive materials, or noxious chemicals, or any other material in the outdoor atmosphere.
9. "Air curtain destructor" means an incineration device designed and used to secure, by means of a fan-generated air curtain, controlled combustion of only wood waste and slash materials in an earthen trench or refractory-lined pit or bin.
10. *"Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants or combinations thereof in sufficient quantities, which either alone or in connection with other substances by reason of their concentration and duration are or tend to be injurious to human, plant or animal life, or cause damage to property, or unreasonably interfere with the comfortable enjoyment of life or property of a substantial part of a community, or obscure visibility, or which in any way degrade the quality of the ambient air below the standards established by the director.* A.R.S. § 49-421(2).
11. "Air pollution control equipment" means equipment used to eliminate, reduce or control the emission of air pollutants into the ambient air.
12. "Air quality control region" (AQCR) means an area so designated by the Administrator pursuant to Section 107 of the Act and includes the following regions in Arizona:
    a. Maricopa Intrastate Air Quality Control Region which is comprised of the County of Maricopa.
    b. Pima Intrastate Air Quality Control Region which is comprised of the County of Pima.

c. Northern Arizona Intrastate Air Quality Control Region which encompasses the counties of Apache, Coconino, Navajo, and Yavapai.
d. Mohave-Yuma Intrastate Air Quality Control Region which encompasses the counties of La Paz, Mohave, and Yuma.
e. Central Arizona Intrastate Air Quality Control Region which encompasses the counties of Gila and Pinal.
f. Southeast Arizona Intrastate Air Quality Control Region which encompasses the counties of Cochise, Graham, Greenlee, and Santa Cruz.

13. "Allowable emissions" means the emission rate of a stationary source calculated using both the maximum rated capacity of the source, unless the source is subject to federally enforceable limits which restrict the operating rate or hours of operation, and the most stringent of the following:
    a. The applicable standards as set forth in 40 CFR 60, 61 and 63;
    b. The applicable emissions limitations approved into the state implementation plan, including those with a future compliance date; or,
    c. The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.
14. "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.
15. "Applicable implementation plan" means those provisions of the state implementation plan approved by the Administrator or a federal implementation plan promulgated for Arizona or any portion of Arizona in accordance with Title I of the Act.
16. "Applicable requirement" means any of the following:
    a. Any federal applicable requirement.
    b. Any other requirement established pursuant to this Chapter or A.R.S. Title 49, Chapter 3.
17. "Arizona Testing Manual" means sections 1 and 7 of the Arizona Testing Manual for Air Pollutant Emissions amended as of March 1992 (and no future editions).
18. "ASTM" means the American Society for Testing and Materials.
19. "Attainment area" means any area that has been identified in regulations promulgated by the Administrator as being in compliance with national ambient air quality standards.
20. *"Begin actual construction" means, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. With respect to a change in method of operation this term refers to those onsite activities, other than preparatory activities, which mark the initiation of the change.*
    a. *For purposes of title I, parts C and D and section 112 of the clean air act, and for purposes of applicants that require permits containing limits designed to avoid the application of title I, parts C and D and section 112 of the clean air act, these activities include installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures but do not include any of the following, subject to subsection (20)(c):*
        *i. Clearing and grading, including demolition and removal of existing structures and equipment, stripping and stockpiling of topsoil.*
        *ii. Installation of access roads, driveways and parking lots.*
        *iii. Installation of ancillary structures, including fences, office buildings and temporary storage structures, that are not a necessary component of an emissions unit or associated air pollution control equipment for which the permit is required.*
        *iv. Ordering and onsite storage of materials and equipment.*
    b. *For purposes other than those identified in subsection (20)(a), these activities do not include any of the following, subject to subsection (20)(c):*
        *i. Clearing and grading, including demolition and removal of existing structures and equipment, stripping and stockpiling of topsoil and earthwork cut and fill for foundations.*
        *ii. Installation of access roads, parking lots, driveways and storage areas.*
        *iii. Installation of ancillary structures, including fences, warehouses, storerooms and office buildings, provided none of these structures impacts the design of any emissions unit or associated air pollution control equipment.*
        *iv. Ordering and onsite storage of materials and equipment.*
        *v. Installation of underground pipework, including water, sewer, electric and telecommunications utilities.*
        *vi. Installation of building and equipment supports, including concrete forms, footers, pilings, foundations, pads and platforms, provided none of these supports impacts the design of any emissions unit or associated air pollution control equipment.*
    c. *An applicant's performance of any activities that are excluded from the definition of "begin actual construction" under subsection (20)(a) or (b) shall be at the applicant's risk and shall not reduce the applicant's obligations under this Chapter. The director shall evaluate an application for a permit or permit revision and make a decision on the same basis as if the activities allowed under subsection (20)(a) or (b) had not occurred.* A.R.S. § 49-401.01(7).
21. "Best available control technology" (BACT) means an emission limitation, including a visible emissions standard, based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major source or major modification, taking into account energy, environmental, and economic impact and other costs, determined by the Director in accordance with R18-2-406(A)(4) to be achievable for such source or modification.
22. "Btu" means British thermal unit, which is the quantity of heat required to raise the temperature of one pound of water 1°F.
23. "Categorical sources" means the following classes of sources:
    a. Coal cleaning plants with thermal dryers;
    b. Kraft pulp mills;
    c. Portland cement plants;
    d. Primary zinc smelters;
    e. Iron and steel mills;
    f. Primary aluminum ore reduction plants;

g. Primary copper smelters;
h. Municipal incinerators capable of charging more than 250 tons of refuse per day;
i. Hydrofluoric, sulfuric, or nitric acid plants;
j. Petroleum refineries;
k. Lime plants;
l. Phosphate rock processing plants;
m. Coke oven batteries;
n. Sulfur recovery plants;
o. Carbon black plants using the furnace process;
p. Primary lead smelters;
q. Fuel conversion plants;
r. Sintering plants;
s. Secondary metal production plants;
t. Chemical process plants, which shall not include ethanol production facilities that produce ethanol by natural fermentation included in North American Industry Classification System codes 325193 or 312140;
u. Fossil-fuel boilers, combinations thereof, totaling more than 250 million Btus per hour heat input;
v. Petroleum storage and transfer units with a total storage capacity more than 300,000 barrels;
w. Taconite ore processing plants;
x. Glass fiber processing plants;
y. Charcoal production plants;
z. Fossil-fuel-fired steam electric plants and combined cycle gas turbines of more than 250 million Btus per hour heat input.

24. "Categorically exempt activities" means any of the following:
    a. Any combination of diesel-, natural gas- or gasoline-fired engines with cumulative power equal to or less than 145 horsepower.
    b. Natural gas-fired engines with cumulative power equal to or less than 155 horsepower.
    c. Gasoline-fired engines with cumulative power equal to or less than 200 horsepower.
    d. Any of the following emergency or stand-by engines used for less than 500 hours in each calendar year, provided the permittee keeps records documenting the hours of operation of the engines:
        i. Any combination of diesel-, natural gas- or gasoline-fired emergency engines with cumulative power equal to or less than 2,500 horsepower.
        ii. Natural gas-fired emergency engines with cumulative power equal to or less than 2,700 horsepower.
        iii. Gasoline-fired emergency engines with cumulative power equal to or less than 3,700 horsepower.
    e. Any combination of boilers with a cumulative maximum design heat input capacity of less than 10 million Btu/hr.
25. "CFR" means the Code of Federal Regulations, amended as of July 1, 2011, (and no future editions), with standard references in this Chapter by Title and Part, so that "40 CFR 51" means Title 40 of the Code of Federal Regulations, Part 51.
26. "Charge" means the addition of metal bearing materials, scrap, or fluxes to a furnace, converter or refining vessel.
27. "Clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or post-combustion stage, at a new or existing facility that will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam, that was not in widespread use as of November 15, 1990.
28. "Clean coal technology demonstration project" means a project using funds appropriated under the heading "Department of Energy - Clean Coal Technology," up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology or similar projects funded through appropriations for the Environmental Protection Agency. The federal contribution for a qualifying project shall be at least 20% of the total cost of the demonstration project.
29. "Coal" means all solid fossil fuels classified as anthracite, bituminous, subbituminous, or lignite by ASTM D-388-91, (Classification of Coals by Rank).
30. "Combustion" means the burning of matter.
31. "Commence" means, as applied to construction of a source, or a major modification as defined in Article 4 of this Chapter, that the owner or operator has all necessary preconstruction approvals or permits and either has:
    a. Begun, or caused to begin, a continuous program of actual onsite construction of the source, to be completed within a reasonable time; or
    b. Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.
32. "Construction" means any physical change or change in the method of operation, including fabrication, erection, installation, demolition, or modification of an emissions unit, which would result in a change in emissions.
33. "Continuous monitoring system" means a CEMS, CERMS, or CPMS.
34. "Continuous emissions monitoring system" or "CEMS" means the total equipment, required under the emission monitoring provisions in this Chapter, used to sample, condition (if applicable), analyze, and provide, on a continuous basis, a permanent record of emissions.
35. "Continuous emissions rate monitoring system" or "CERMS" means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).
36. "Continuous parameter monitoring system" or "CPMS" means the total equipment, required under the emission monitoring provisions in this Chapter, to monitor process or control device operational parameters (for example, control device secondary voltages and electric currents) or other information (for example, gas flow rate, $O_2$ or $CO_2$ concentrations) and to provide, on a continuous basis, a permanent record of monitored values.

37. "Controlled atmosphere incinerator" means one or more refractory-lined chambers in which complete combustion is promoted by recirculation of gases by mechanical means.
38. *"Conventional air pollutant" means any pollutant for which the Administrator has promulgated a primary or secondary national ambient air quality standard.* A.R.S. § 49-401.01(12).
39. *"Department" means the Department of Environmental Quality.* A.R.S. § 49-101(2)
40. *"Director" means the director of environmental quality who is also the director of the department.* A.R.S. § 49-101(3)
41. "Discharge" means the release or escape of an effluent from a source into the atmosphere.
42. "Dust" means finely divided solid particulate matter occurring naturally or created by mechanical processing, handling or storage of materials in the solid state.
43. "Dust suppressant" means a chemical compound or mixture of chemical compounds added with or without water to a dust source for purposes of preventing air entrainment.
44. "Effluent" means any air contaminant which is emitted and subsequently escapes into the atmosphere.
45. "Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.
46. "Emission" means an air contaminant or gas stream, or the act of discharging an air contaminant or a gas stream, visible or invisible.
47. "Emission standard" or "emission limitation" means a requirement established by the state, a local government, or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.
48. "Emissions unit" means any part of a stationary source which emits or would have the potential to emit any regulated air pollutant and includes an electric steam generating unit.
49. "Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated under R18-2-311(D) to have a consistent and quantitatively known relationship to the reference method, under specified conditions.
50. "Excess emissions" means emissions of an air pollutant in excess of an emission standard as measured by the compliance test method applicable to such emission standard.
51. "Federal applicable requirement" means any of the following (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future effective compliance dates):
    a. Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR 52.
    b. Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the Act.
    c. Any standard or other requirement under section 111 of the Act, including 111(d).
    d. Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act.
    e. Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder and incorporated pursuant to R18-2-333.
    f. Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act.
    g. Any standard or other requirement governing solid waste incineration, under section 129 of the Act.
    h. Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act.
    i. Any standard or other requirement for tank vessels under section 183(f) of the Act.
    j. Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under section 328 of the Act.
    k. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit.
    l. Any national ambient air quality standard or maximum increase allowed under R18-2-218 or visibility requirement under Part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.
52. "Federal Land Manager" means, with respect to any lands in the United States, the secretary of the department with authority over such lands.
53. "Federally enforceable" means all limitations and conditions which are enforceable by the Administrator under the Act, including all of the following:
    a. The requirements of the new source performance standards and national emission standards for hazardous air pollutants.
    b. The requirements of such other state or county rules or regulations approved by the Administrator, including the requirements of state and county operating and new source review permit and registration programs that have been approved by the Administrator. Notwithstanding this subsection, the condition of any permit or registration designated as being enforceable only by the state is not federally enforceable.
    c. The requirements of any applicable implementation plan.
    d. Emissions limitations, controls, and other requirements, and any associated monitoring, recordkeeping, and reporting requirements that are included in a permit pursuant to R18-2-306.01 or R18-2-306.02.
54. "Federally listed hazardous air pollutant" means a pollutant listed pursuant to R18-2-1701(9).
55. "Final permit" means the version of a permit issued by the Department after completion of all review required by this Chapter.
56. "Fixed capital cost" means the capital needed to provide all the depreciable components.

57. "Fuel" means any material which is burned for the purpose of producing energy.
58. "Fuel burning equipment" means any machine, equipment, incinerator, device or other article, except stationary rotating machinery, in which combustion takes place.
59. "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
60. "Fume" means solid particulate matter resulting from the condensation and subsequent solidification of vapors of melted solid materials.
61. "Fume incinerator" means a device similar to an afterburner installed for the purpose of incinerating fumes, gases and other finely divided combustible particulate matter not previously burned.
62. "Good engineering practice (GEP) stack height" means a stack height meeting the requirements described in R18-2-332.
63. "Hazardous air pollutant" means any federally listed hazardous air pollutant.
64. "Heat input" means the quantity of heat in terms of Btus generated by fuels fed into the fuel burning equipment under conditions of complete combustion.
65. "Incinerator" means any equipment, machine, device, contrivance or other article, and all appurtenances thereof, used for the combustion of refuse, salvage materials or any other combustible material except fossil fuels, for the purpose of reducing the volume of material.
66. "Indian governing body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.
67. "Indian reservation" means any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.
68. "Insignificant activity" means any of the following activities:
    a. Liquid Storage and Piping
        i. Petroleum product storage tanks containing the following substances, provided the applicant lists and identifies the contents of each tank with a volume of 350 gallons or more and provides threshold values for throughput or capacity or both for each such tank: diesel fuels and fuel oil in storage tanks with capacity of 40,000 gallons or less, lubricating oil, transformer oil, and used oil.
        ii. Gasoline storage tanks with capacity of 10,000 gallons or less.
        iii. Storage and piping of natural gas, butane, propane, or liquified petroleum gas, provided the applicant lists and identifies the contents of each stationary storage vessel with a volume of 350 gallons or more and provides threshold values for throughput or capacity or both for each such vessel.
        iv. Piping of fuel oils, used oil and transformer oil, provided the applicant includes a system description.
        v. Storage and handling of drums or other transportable containers where the containers are sealed during storage, and covered during loading and unloading, including containers of waste and used oil regulated under the federal Resource Conservation and Recovery Act, 42 U.S.C. 6901-6992(k). Permit applicants must provide a description of material in the containers and the approximate amount stored.
        vi. Storage tanks of any size containing exclusively soaps, detergents, waxes, greases, aqueous salt solutions, aqueous solutions of acids that are not regulated air pollutants, or aqueous caustic solutions, provided the permit applicant specifies the contents of each storage tank with a volume of 350 gallons or more.
        vii. Electrical transformer oil pumping, cleaning, filtering, drying and the re-installation of oil back into transformers.
    b. Internal combustion engine-driven compressors, internal combustion engine-driven electrical generator sets, and internal combustion engine-driven water pumps used for less than 500 hours per calendar year for emergency replacement or standby service, provided the permittee keeps records documenting the hours of operation of this equipment.
    c. Low Emitting Processes
        i. Batch mixers with rated capacity of 5 cubic feet or less.
        ii. Wet sand and gravel production facilities that obtain material from subterranean and subaqueous beds, whose production rate is 200 tons/hour or less, and whose permanent in-plant roads are paved and cleaned to control dust. This does not include activities in emissions units which are used to crush or grind any non-metallic minerals.
        iii. Powder coating operations.
        iv. Equipment using water, water and soap or detergent, or a suspension of abrasives in water for purposes of cleaning or finishing.
        v. Blast-cleaning equipment using a suspension of abrasive in water and any exhaust system or collector serving them exclusively.
        vi. Plastic pipe welding.
    d. Site Maintenance
        i. Housekeeping activities and associated products used for cleaning purposes, including collecting spilled and accumulated materials at the source, including operation of fixed vacuum cleaning systems specifically for such purposes.
        ii. Sanding of streets and roads to abate traffic hazards caused by ice and snow.
        iii. Street and parking lot striping.
        iv. Architectural painting and associated surface preparation for maintenance purposes at industrial or commercial facilities.
    e. Sampling and Testing
        i. Noncommercial (in-house) experimental, analytical laboratory equipment which is bench scale in nature, including quality control/quality assurance laboratories supporting a stationary source and research and development laboratories.
        ii. Individual sampling points, analyzers, and process instrumentation, whose operation may result in emissions but that are not regulated as emission units.

f. Ancillary Non-Industrial Activities
   i. General office activities, such as paper shredding, copying, photographic activities, and blueprinting, but not to include incineration.
   ii. Use of consumer products, including hazardous substances as that term is defined in the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) where the product is used at a source in the same manner as normal consumer use.
   iii. Activities directly used in the diagnosis and treatment of disease, injury or other medical condition.
g. Miscellaneous Activities
   i. Installation and operation of potable, process and waste water observation wells, including drilling, pumping, filtering apparatus.
   ii. Transformer vents.

69. "Kraft pulp mill" means any stationary source which produces pulp from wood by cooking or digesting wood chips in a water solution of sodium hydroxide and sodium sulfide at high temperature and pressure. Regeneration of the cooking chemicals through a recovery process is also considered part of the kraft pulp mill.
70. "Lead" means elemental lead or alloys in which the predominant component is lead.
71. "Lime hydrator" means a unit used to produce hydrated lime product.
72. "Lime plant" includes any plant which produces a lime product from limestone by calcination. Hydration of the lime product is also considered to be part of the source.
73. "Lime product" means any product produced by the calcination of limestone.
74. "Major modification" is defined as follows:
    a. A major modification is any physical change in or change in the method of operation of a major source that would result in both a significant emissions increase of any regulated NSR pollutant and a significant net emissions increase of that pollutant from the stationary source.
    b. Any emissions increase or net emissions increase that is significant for nitrogen oxides or volatile organic compounds is significant for ozone.
    c. For the purposes of this definition, none of the following is a physical change or change in the method of operation:
       i. Routine maintenance, repair, and replacement;
       ii. Use of an alternative fuel or raw material by reason of an order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, 15 U.S.C. 792, or by reason of a natural gas curtailment plan under the Federal Power Act, 16 U.S.C. 792 - 825r;
       iii. Use of an alternative fuel by reason of an order or rule under section 125 of the Act;
       iv. Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
       v. For purposes of determining the applicability of R18-2-403 through R18-2-405 or R18-2-411, any of the following:
          (1) Use of an alternative fuel or raw material by a stationary source that the source was capable of accommodating before December 21, 1976, unless the change would be prohibited under any federally enforceable permit condition established after December 12, 1976 under 40 CFR 52.21 or under Articles 3 or 4 of this Chapter; or
          (2) Use of an alternative fuel or raw material by a stationary source that the source is approved to use under any permit issued under R18-2-403;
          (3) An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition established after December 21, 1976, under 40 CFR 52.21, or under Articles 3 or 4 of this Chapter.
       vi. For purposes of determining the applicability of R18-2-406 through R18-2-408 or R18-2-410, any of the following:
          (1) Use of an alternative fuel or raw material by a stationary source that the source was capable of accommodating before January 6, 1975, unless the change would be prohibited under any federally enforceable permit condition established after January 6, 1975 under 40 CFR 52.21 or under Articles 3 or 4 of this Chapter;
          (2) Use of an alternative fuel or raw material by a stationary source that the source is approved to use under any permit issued under 40 CFR 52.21, or under R18-2-406; or
          (3) An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition established after January 6, 1975, under 40 CFR 52.21, or under Articles 3 or 4 of this Chapter.
       vii. Any change in ownership at a stationary source;
       viii. [Reserved.]
       ix. The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, if the project complies with:
          (1) The SIP, and
          (2) Other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated;
       x. For electric utility steam generating units located in attainment and unclassifiable areas only, the installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, if the project does not result in an increase in the potential to emit any regulated pollutant emitted by the unit. This exemption applies on a pollutant-by-pollutant basis; and
       xi. For electric utility steam generating units located in attainment and unclassifiable areas only, the reactivation of a very clean coal-fired electric utility steam generating unit.
    d. This definition shall not apply with respect to a particular regulated NSR pollutant when the major source is complying with the requirements of R18-2-412 for a PAL for that regulated NSR pollutant. Instead, the definition of PAL major modification in R18-2-401(20) shall apply.
75. "Major source" means:

a. A major source as defined in R18-2-401.
b. A major source under section 112 of the Act:
   i. For pollutants other than radionuclides, any stationary source that emits or has the potential to emit, in the aggregate, including fugitive emission 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as described in Article 11 of this Chapter. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or
   ii. For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.
c. A major stationary source, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant including any major source of fugitive emissions of any such pollutant. The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to a section 302(j) category.

76. "Malfunction" means any sudden and unavoidable failure of air pollution control equipment, process equipment or a process to operate in a normal and usual manner, but does not include failures that are caused by poor maintenance, careless operation or any other upset condition or equipment breakdown which could have been prevented by the exercise of reasonable care.
77. "Minor source" means a source of air pollution which is not a major source for the purposes of Article 4 of this Chapter and over which the Director, acting pursuant to A.R.S. § 49-402(B), has asserted jurisdiction.
78. "Minor source baseline area" means the air quality control region in which the source is located.
79. *"Mobile source" means any combustion engine, device, machine or equipment that operates during transport and that emits or generates air contaminants whether in motion or at rest.* A.R.S. § 49-401.01(23).
80. *"Modification" or "modify" means a physical change in or change in the method of operation of a source that increases the emissions of any regulated air pollutant emitted by such source by more than any relevant de minimis amount or that results in the emission of any regulated air pollutant not previously emitted by more than such de minimis amount. An increase in emissions at a minor source shall be determined by comparing the source's potential to emit before and after the modification. The following exemptions apply:*
   *a. A physical or operational change does not include routine maintenance, repair or replacement.*
   *b. An increase in the hours of operation or if the production rate is not considered an operational change unless such increase is prohibited under any permit condition that is legally and practically enforceable by the department.*
   *c. A change in ownership at a source is not considered a modification.* A.R.S. § 49-401.01(24).
81. "Monitoring device" means the total equipment, required under the applicable provisions of this Chapter, used to measure and record, if applicable, process parameters.
82. "Motor vehicle" means any self-propelled vehicle designed for transporting persons or property on public highways.
83. "Multiple chamber incinerator" means three or more refractory-lined combustion chambers in series, physically separated by refractory walls and interconnected by gas passage ports or ducts.
84. "Natural conditions" includes naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration.
85. *"National ambient air quality standard" means the ambient air pollutant concentration limits established by the Administrator pursuant to section 109 of the Act.* A.R.S. § 49-401.01(25).
86. "National emission standards for hazardous air pollutants" or "NESHAP" means standards adopted by the Administrator under section 112 of the Act.
87. "Necessary preconstruction approvals or permits" means those permits or approvals required under the Act and those air quality control laws and rules which are part of the SIP.
88. "Net emissions increase" means:
   a. The amount by which the sum of subsections (88)(a)(i) and (ii) exceeds zero:
      i. The increase in emissions of a regulated NSR pollutant from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to R18-2-402(D); and
      ii. Any other increases and decreases in actual emissions of the regulated NSR pollutant at the source that are contemporaneous with the particular change and are otherwise creditable.
      iii. For purposes of calculating increases and decreases in actual emissions under subsection (88)(a)(ii), baseline actual emissions shall be determined as provided in the definition of baseline actual emissions in R18-2-401(2), except that R18-2-401(2)(a)(iii) and (b)(iv) shall not apply.
   b. An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:
      i. The date five years before a complete application for a permit or permit revision authorizing the particular change is submitted or actual construction of the particular change begins, whichever occurs earlier, and
      ii. The date that the increase from the particular change occurs.
   c. For purposes of determining the applicability of R18-2-403 through R18-2-405 or R18-2-411, an increase or decrease in actual emissions is creditable only if the Director has not relied on it in issuing a permit or permit revision under R18-2-403, which permit is in effect when the increase in actual emissions from the particular change occurs. For purposes of determining the applicability of R18-2-406 through R18-2-408 or R18-2-410, an increase or decrease in actual emissions is creditable only if the Director has not relied on it in issuing a permit under R18-2-406, which permit is in effect when the increase in actual emissions from the particular change occurs.

d. An increase or decrease in actual emissions of sulfur dioxide, nitrogen oxides, $PM_{10}$, or $PM_{2.5}$ which occurs before the applicable minor source baseline date, as defined in R18-2-218, is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.
e. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.
f. A decrease in actual emissions is creditable only to the extent that it satisfies all of the following conditions:
   i. The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions.
   ii. It is enforceable as a practical matter at and after the time that actual construction on the particular change begins.
   iii. It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.
   iv. The emissions unit was actually operated and emitted the specific pollutant.
   v. For purposes of determining the applicability of R18-2-403 through R18-2-405 or R18-2-411, the Director has not relied on it in issuing any permit, permit revision, or registration under Article 4, R18-2-302.01, or R18-2-334, and the state has not relied on it in demonstrating attainment or reasonable further progress.
g. An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit, as defined in R18-2-401(24), that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.
h. Subsection (2)(a) shall not apply for determining creditable increases and decreases.

89. "New source" means any stationary source of air pollution which is subject to a new source performance standard.
90. "New source performance standards" or "NSPS" means standards adopted by the Administrator under section 111(b) of the Act.
91. "Nitric acid plant" means any facility producing nitric acid 30% to 70% in strength by either the pressure or atmospheric pressure process.
92. "Nitrogen oxides" means all oxides of nitrogen except nitrous oxide, as measured by test methods set forth in the Appendices to 40 CFR 60.
93. "Nonattainment area" means an area so designated by the Administrator acting pursuant to section 107 of the Act as exceeding national primary or secondary ambient air standards for a particular pollutant or pollutants.
94. "Nonpoint source" means a source of air contaminants which lacks an identifiable plume or emission point.
95. "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.
96. "Operation" means any physical or chemical action resulting in the change in location, form, physical properties, or chemical character of a material.
97. "Owner or operator" means any person who owns, leases, operates, controls, or supervises an affected facility or a stationary source.
98. "Particulate matter" means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.
99. "Particulate matter emissions" means all finely divided solid or liquid materials other than uncombined water, emitted to the ambient air as measured by applicable test methods and procedures described in R18-2-311.
100. *"Permitting authority" means the department or a county department, agency or air pollution control district that is charged with enforcing a permit program adopted pursuant to A.R.S. § 49-480(A).* A.R.S. § 49-401.01(28).
101. "Permitting exemption thresholds" for a regulated minor NSR pollutant means the following:

| Regulated Air Pollutant | Emission Rate in tons per year (TPY) |
|---|---|
| $PM_{2.5}$ (primary emissions only; levels for precursors are set below) | 5 |
| $PM_{10}$ | 7.5 |
| $SO_2$ | 20 |
| $NO_x$ | 20 |
| VOC | 20 |
| CO | 50 |
| Pb | 0.3 |

102. "Person" means any public or private corporation, company, partnership, firm, association or society of persons, the federal government and any of its departments or agencies, the state and any of its agencies, departments or political subdivisions, as well as a natural person.
103. *"Planning agency" means an organization designated by the governor pursuant to 42 U.S.C. 7504.* A.R.S. § 49-401.01(29).
104. "$PM_{2.5}$" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR 50 Appendix L, or by an equivalent method designated according to 40 CFR 53.
105. "$PM_{10}$" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method contained within 40 CFR 50 Appendix J or by an equivalent method designated in accordance with 40 CFR 53.

106. "$PM_{10}$ emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by applicable test methods and procedures described in R18-2-311.
107. "Plume" means visible effluent.
108. "Pollutant" means an air contaminant the emission or ambient concentration of which is regulated pursuant to this Chapter.
109. "Portable source" means any stationary source that is capable of being operated at more than one location.
110. "Potential to emit" or "potential emission rate" means the maximum capacity of a stationary source to emit a pollutant, excluding secondary emissions, under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is legally and practically enforceable by the Department or a county under A.R.S. Title 49, Chapter 3; any rule, ordinance, order or permit adopted or issued under A.R.S. Title 49, Chapter 3 or the state implementation plan.
111. "Predictive Emissions Monitoring System" or "PEMS" means the total equipment, required under the emission monitoring provisions in this Chapter, to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O2 or CO2 concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.
112. "Primary ambient air quality standards" means the ambient air quality standards which define levels of air quality necessary, with an adequate margin of safety, to protect the public health, as specified in Article 2 of this Chapter.
113. "Process" means one or more operations, including equipment and technology, used in the production of goods or services or the control of by-products or waste.
114. "Project" means a physical change in, or change in the method of operation of, an existing major source.
115. "Proposed final permit" means the version of a Class I permit or Class I permit revision that the Department proposes to issue and forwards to the Administrator for review in compliance with R18-2-307(A). A proposed final permit constitutes a final and enforceable authorization to begin actual construction of, but not to operate, a new Class I source or a modification to a Class I source.
116. "Proposed permit" means the version of a permit for which the Director offers public participation under R18-2-330 or affected state review under R18-2-307(D).
117. "Reactivation of a very clean coal-fired electric utility steam generating unit" means any physical change or change in the method of operation associated with commencing commercial operations by a coal-fired utility unit after a period of discontinued operation if the unit:
    a. Has not been in operation for the two-year period before enactment of the Clean Air Act Amendments of 1990, and the emissions from the unit continue to be carried in the Director's emissions inventory at the time of enactment;
    b. Was equipped before shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85% and a removal efficiency for particulates of no less than 98%;
    c. Is equipped with low-$NO_x$ burners before commencement of operations following reactivation; and
    d. Is otherwise in compliance with the Act.
118. "Reasonable further progress" means the schedule of emission reductions defined within a nonattainment area plan as being necessary to come into compliance with a national ambient air quality standard by the primary standard attainment date.
119. "Reasonably available control technology" (RACT) means devices, systems, process modifications, work practices or other apparatus or techniques that are determined by the Director to be reasonably available taking into account:
    a. The necessity of imposing the controls in order to attain and maintain a national ambient air quality standard;
    b. The social, environmental, energy and economic impact of the controls;
    c. Control technology in use by similar sources; and
    d. The capital and operating costs and technical feasibility of the controls.
120. "Reclaiming machinery" means any machine, equipment device or other article used for picking up stored granular material and either depositing this material on a conveyor or reintroducing this material into the process.
121. "Reference method" means the methods of sampling and analyzing for an air pollutant as described in the Arizona Testing Manual; 40 CFR 50, Appendices A through K; 40 CFR 51, Appendix M; 40 CFR 52, Appendices D and E; 40 CFR 60, Appendices A through F; and 40 CFR 61, Appendices B and C, as incorporated by reference in 18 A.A.C. 2, Appendix 2.
122. "Regulated air pollutant" means any of the following:
    a. Any conventional air pollutant.
    b. Nitrogen oxides and volatile organic compounds.
    c. Any pollutant that is subject to a new source performance standard.
    d. Any pollutant that is subject to a national emission standard for hazardous air pollutants or other requirements established under section 112 of the Act, including sections 112(g), (j), and (r), including the following:
        i. Any pollutant subject to requirements under section 112(j) of the act. If the administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and
        ii. Any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to the section 112(g)(2) requirement.
    e. Any Class I or II substance subject to a standard promulgated under title VI of the Act.
123. "Regulated minor NSR pollutant" means any pollutant for which a national ambient air quality standard has been promulgated and the following precursors for such pollutants:
    a. VOC and nitrogen oxides as precursors to ozone.
    b. Nitrogen oxides and sulfur dioxide as precursors to $PM_{2.5}$.
124. "Regulated NSR pollutant" is defined as follows:

a. For purposes of determining the applicability of R18-2-403 through R18-2-405 and R18-2-411, regulated NSR pollutant means any pollutant for which a national ambient air quality standard has been promulgated and any pollutant identified under this subsection as a constituent of or precursor to such pollutant, provided that such constituent or precursor pollutant may only be regulated under NSR as part of the regulation of the general pollutant. Precursors for purposes of NSR are the following:
   i. Volatile organic compounds and nitrogen oxides are precursors to ozone in all areas.
   ii. Sulfur dioxide is a precursor to $PM_{2.5}$ in all areas.
   iii. Nitrogen oxides are precursors to $PM_{2.5}$ in all areas.
   iv. VOC and ammonia are precursors to $PM_{2.5}$ in $PM_{2.5}$ nonattainment areas.
b. For all other purposes, regulated NSR pollutant means the pollutants identified in subsection (a) and the following:
   i. Any pollutant that is subject to any new source performance standard except greenhouse gases as defined in 40 CFR 86.1818-12(a).
   ii. Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act as of July 1, 2011.
   iii. Any pollutant that is otherwise subject to regulation under the Act, except greenhouse gases as defined in 40 CFR 86.1818-12(a).
c. Notwithstanding subsections (124)(a) and (b), the term regulated NSR pollutant shall not include any or all hazardous air pollutants either listed in section 112 of the Act, or added to the list pursuant to section 112(b)(2) of the Act, unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Act.
d. $PM_{2.5}$ emissions and $PM_{10}$ emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On and after January 1, 2011, condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and $PM_{10}$ in permits issued under Article 4.

125. "Repowering" means:
   a. Replacing an existing coal-fired boiler with one of the following clean coal technologies:
      i. Atmospheric or pressurized fluidized bed combustion;
      ii. Integrated gasification combined cycle;
      iii. Magnetohydrodynamics;
      iv. Direct and indirect coal-fired turbines;
      v. Integrated gasification fuel cells; or
      vi. As determined by the Administrator, in consultation with the United States Secretary of Energy, a derivative of one or more of the above technologies; and
      vii. Any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.
   b. Repowering also includes any oil, gas, or oil and gas-fired unit that has been awarded clean coal technology demonstration funding as of January 1, 1991, by the United States Department of Energy.
   c. The Director shall give expedited consideration to permit applications for any source that satisfies the requirements of this subsection (and) is granted an extension under section 409 of the Act.
126. "Run" means the net period of time during which an emission sample is collected, which may be, unless otherwise specified, either intermittent or continuous within the limits of good engineering practice.
127. "Secondary ambient air quality standards" means the ambient air quality standards which define levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant, as specified in Article 2 of this Chapter.
128. "Secondary emissions" means emissions which are specific, well defined, quantifiable, occur as a result of the construction or operation of a major source or major modification, but do not come from the major source or major modification itself, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not otherwise be constructed or increase its emissions except as a result of the construction or operation of the major source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.
129. "Section 302(j) category" means:
   a. Any of the classes of sources listed in the definition of categorical source in subsection (23); or
   b. Any category of affected facility which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.
130. "Shutdown" means the cessation of operation of any air pollution control equipment or process equipment for any purpose, except routine phasing out of process equipment.
131. "Significant" means, in reference to a significant emissions increase, a net emissions increase, a stationary source's potential to emit or a stationary source's maximum capacity to emit with any elective limits as defined in R18-2-301(13):
   a. A rate of emissions of conventional pollutants that would equal or exceed any of the following:

| **Pollutant** | **Emissions Rate** |
|---|---|
| Carbon monoxide | 100 tons per year (tpy) |
| Nitrogen oxides | 40 tpy |
| Sulfur dioxide | 40 tpy |

| | |
|---|---|
| $PM_{10}$ | 15 tpy |
| $PM_{2.5}$ | 10 tpy of direct $PM_{2.5}$ emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions. |
| Ozone | 40 tpy of VOC or nitrogen oxides |
| Lead | 0.6 tpy |

b. For purposes of determining the applicability of R18-2-302(B)(2) or R18-2-406, in addition to the rates specified in subsection (131)(a), a rate of emissions of non-conventional pollutants that would equal or exceed any of the following:

| **Pollutant** | **Emissions Rate** |
|---|---|
| Particulate matter | 25 tpy |
| Fluorides | 3 tpy |
| Sulfuric acid mist | 7 tpy |
| Hydrogen sulfide ($H_2S$) | 10 tpy |
| Total reduced sulfur (including $H_2S$) | 10 tpy |
| Reduced sulfur compounds (including $H_2S$) | 10 tpy |
| Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans) | $3.5 \times 10^{-6}$ tpy |
| Municipal waste combustor metals (measured as particulate matter) | 15 tpy |
| Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride) | 40 tpy |
| Municipal solid waste landfill emissions (measured as nonmethane organic compounds) | 50 tpy |
| Any regulated NSR pollutant not specifically listed in this subsection (or) subsection (131)(a). | Any emission rate |

c. In ozone nonattainment areas classified as serious or severe, the emission rate for nitrogen oxides or VOC determined under R18-2-405.

d. In a carbon monoxide nonattainment area classified as serious, a rate of emissions that would equal or exceed 50 tons per year, if the Administrator has determined that stationary sources contribute significantly to carbon monoxide levels in that area.

e. In $PM_{2.5}$ nonattainment areas, an emission rate that would equal or exceed 40 tons per year of VOC or ammonia as ~~a precursor~~precursors of $PM_{2.5}$. This subsection shall take effect on the effective date of the Administrator's action approving it as part of the state implementation plan.

f. Notwithstanding the emission rates listed in subsection (131)(a) or (b), for purposes of determining the applicability of R18-2-406, any emissions rate or any net emissions increase associated with a major source or major modification, which would be constructed within 10 kilometers of a Class I area and have an impact on the ambient air quality of such area equal to or greater than 1 $\mu g/m^3$ (24-hour average).

132. "Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant as defined in this Section for that pollutant.

133. "Smoke" means particulate matter resulting from incomplete combustion.
134. *"Source" means any building, structure, facility or installation that may cause or contribute to air pollution or the use of which may eliminate, reduce or control the emission of air pollution.* A.R.S. § 49-401.01(23).
135. "Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.
136. "Stack in existence" means that the owner or operator had either:
    a. Begun, or caused to begin, a continuous program of physical onsite construction of the stack;
    b. Entered into binding agreements or contractual obligations, which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.
137. "Start-up" means the setting into operation of any air pollution control equipment or process equipment for any purpose except routine phasing in of process equipment.
138. "State implementation plan" or "SIP" means the accumulated record of enforceable air pollution control measures, programs and plans adopted by the Director and submitted to and approved by the Administrator pursuant to 42 U.S.C. 7410.
139. "Stationary rotating machinery" means any gas engine, diesel engine, gas turbine, or oil fired turbine operated from a stationary mounting and used for the production of electric power or for the direct drive of other equipment.
140. "Stationary source" means any building, structure, facility or installation which emits or may emit any regulated NSR pollutant, any regulated air pollutant or any pollutant listed under section 112(b) of the act. "Building," "structure," "facility," or "installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" as described in the "Standard Industrial Classification Manual, 1987."
141. "Subject to regulation" means, for any air pollutant, that the pollutant is subject to either a provision in the Act, or a nationally-applicable regulation codified by the administrator in 40 CFR chapter I, subchapter C, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity.
142. "Sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge, but does not include facilities where conversion to sulfuric acid is utilized as a means of preventing emissions of sulfur dioxide or other sulfur compounds to the atmosphere.
143. "Temporary clean coal technology demonstration project" means a clean coal technology demonstration project operated for five years or less, and that complies with the applicable implementation plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after the project is terminated.
144. "Temporary source" means a source which is portable, as defined in A.R.S. § 49-401.01(23) and which is not an affected source.
145. "Total reduced sulfur" (TRS) means the sum of the sulfur compounds, primarily hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, that are released during kraft pulping and other operations and measured by Method 16 in 40 CFR 60, Appendix A.
146. "Trivial activities" means activities and emissions units, such as the following, that may be omitted from a permit or registration application. Certain of the following listed activities include qualifying statements intended to exclude similar activities:
    a. Low-Emitting Combustion
        i. Combustion emissions from propulsion of mobile sources;
        ii. Emergency or backup electrical generators at residential locations;
        iii. Portable electrical generators that can be moved by hand from one location to another. "Moved by hand" means capable of being moved without the assistance of any motorized or non-motorized vehicle, conveyance, or device;
    b. Low- Or Non-Emitting Industrial Activities
        i. Blacksmith forges;
        ii. Hand-held or manually operated equipment used for buffing, polishing, carving, cutting, drilling, sawing, grinding, turning, routing or machining of ceramic art work, precision parts, leather, metals, plastics, fiberboard, masonry, carbon, glass, or wood;
        iii. Brazing, soldering, and welding equipment, and cutting torches related to manufacturing and construction activities that do not result in emission of HAP metals. Brazing, soldering, and welding equipment, and cutting torches related to manufacturing and construction activities that emit HAP metals are insignificant activities based on size or production level thresholds. Brazing, soldering, and welding equipment, and cutting torches directly related to plant maintenance and upkeep and repair or maintenance shop activities that emit HAP metals are treated as trivial and listed separately in this definition;
        iv. Drop hammers or hydraulic presses for forging or metalworking;
        v. Air compressors and pneumatically operated equipment, including hand tools;
        vi. Batteries and battery charging stations, except at battery manufacturing plants;
        vii. Drop hammers or hydraulic presses for forging or metalworking;
        viii. Equipment used exclusively to slaughter animals, not including other equipment at slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment;
        ix. Hand-held applicator equipment for hot melt adhesives with no VOC in the adhesive formulation;
        x. Equipment used for surface coating, painting, dipping, or spraying operations, except those that will emit VOC or HAP;
        xi. CO2 lasers used only on metals and other materials that do not emit HAP in the process;
        xii. Electric or steam-heated drying ovens and autoclaves, but not the emissions from the articles or substances being processed in the ovens or autoclaves or the boilers delivering the steam;
        xiii. Salt baths using nonvolatile salts that do not result in emissions of any regulated air pollutants;

xiv. Laser trimmers using dust collection to prevent fugitive emissions;
xv. Process water filtration systems and demineralizers;
xvi. Demineralized water tanks and demineralizer vents;
xvii. Oxygen scavenging or de-aeration of water;
xviii. Ozone generators;
xix. Steam vents and safety relief valves;
xx. Steam leaks; and
xxi. Steam cleaning operations and steam sterilizers;
xxii. Use of vacuum trucks and high pressure washer/cleaning equipment within the stationary source boundaries for cleanup and in-source transfer of liquids and slurried solids to waste water treatment units or conveyances;
xxiii. Equipment using water, water and soap or detergent, or a suspension of abrasives in water for purposes of cleaning or finishing.
xxiv. Electric motors.

c. Building and Site Maintenance Activities
i. Plant and building maintenance and upkeep activities, including grounds-keeping, general repairs, cleaning, painting, welding, plumbing, re-tarring roofs, installing insulation, and paving parking lots, if these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and do not otherwise trigger a permit revision. Cleaning and painting activities qualify as trivial activities if they are not subject to VOC or hazardous air pollutant control requirements;
ii. Repair or maintenance shop activities not related to the source's primary business activity, not including emissions from surface coating, de-greasing, or solvent metal cleaning activities, and not otherwise triggering a permit revision;
iii. Janitorial services and consumer use of janitorial products;
iv. Landscaping activities;
v. Routine calibration and maintenance of laboratory equipment or other analytical instruments;
vi. Sanding of streets and roads to abate traffic hazards caused by ice and snow;
vii. Street and parking lot striping;
viii. Caulking operations which are not part of a production process.

d. Incidental, Non-Industrial Activities
i. Air-conditioning units used for human comfort that do not have applicable requirements under Title VI of the Act;
ii. Ventilating units used for human comfort that do not exhaust air pollutants into the ambient air from any manufacturing, industrial or commercial process;
iii. Tobacco smoking rooms and areas;
iv. Non-commercial food preparation;
v. General office activities, such as paper shredding, copying, photographic activities, pencil sharpening and blueprinting, but not including incineration;
vi. Laundry activities, except for dry-cleaning and steam boilers;
vii. Bathroom and toilet vent emissions;
viii. Fugitive emissions related to movement of passenger vehicles, if the emissions are not counted for applicability purposes under subsection (146)(c) of the definition of major source in this Section and any required fugitive dust control plan or its equivalent is submitted with the application;
ix. Use of consumer products, including hazardous substances as that term is defined in the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) where the product is used at a source in the same manner as normal consumer use;
x. Activities directly used in the diagnosis and treatment of disease, injury or other medical condition;
xi. Circuit breakers;
xii. Adhesive use which is not related to production.

e. Storage, Piping and Packaging
i. Storage tanks, vessels, and containers holding or storing liquid substances that will not emit any VOC or HAP;
ii. Storage tanks, reservoirs, and pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, if appropriate lids and covers are used;
iii. Chemical storage associated with water and wastewater treatment where the water is treated for consumption and/or use within the permitted facility;
iv. Chemical storage associated with water and wastewater treatment where the water is treated for consumption and/or use within the permitted facility;
v. Storage cabinets for flammable products;
vi. Natural gas pressure regulator vents, excluding venting at oil and gas production facilities;
vii. Equipment used to mix and package soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, if appropriate lids and covers are used;

f. Sampling and Testing
i. Vents from continuous emissions monitors and other analyzers;
ii. Bench-scale laboratory equipment used for physical or chemical analysis, but not laboratory fume hoods or vents;
iii. Equipment used for quality control, quality assurance, or inspection purposes, including sampling equipment used to withdraw materials for analysis;
iv. Hydraulic and hydrostatic testing equipment;
v. Environmental chambers not using HAP gases;
vi. Soil gas sampling;

vii. Individual sampling points, analyzers, and process instrumentation, whose operation may result in emissions but that are not regulated as emission units;

g. Safety Activities
   i. Fire suppression systems;
   ii. Emergency road flares;

h. Miscellaneous Activities
   i. Shock chambers;
   ii. Humidity chambers;
   iii. Solar simulators;
   iv. Cathodic protection systems;
   v. High voltage induced corona; and
   vi. Filter draining.

147. "Unclassified area" means an area which the Administrator, because of a lack of adequate data, is unable to classify as an attainment or nonattainment area for a specific pollutant, and which, for purposes of this Chapter, is treated as an attainment area.
148. "Uncombined water" means condensed water containing analytical trace amounts of other chemical elements or compounds.
149. "Urban or suburban open area" means an unsubdivided tract of land surrounding a substantial urban development of a residential, industrial, or commercial nature and which, though near or within the limits of a city or town, may be uncultivated, used for agriculture, or lie fallow.
150. "Vacant lot" means a subdivided residential or commercial lot which contains no buildings or structures of a temporary or permanent nature.
151. "Vapor" means the gaseous form of a substance normally occurring in a liquid or solid state.
152. "Visibility impairment" means any humanly perceptible change in visibility (light extinction, visual range, contrast, coloration) from that which would have existed under natural conditions.
153. "Visible emissions" means any emissions which are visually detectable without the aid of instruments and which contain particulate matter.
154. "Volatile organic compounds" or "VOC" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, that participates in atmospheric photochemical reactions. This includes any such organic compound other than the following:
   a. Methane;
   b. Ethane;
   c. Methylene chloride (dichloromethane);
   d. 1,1,1-trichloroethane (methyl chloroform);
   e. 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
   f. Trichlorofluoromethane (CFC-11);
   g. Dichlorodifluoromethane (CFC-12);
   h. Chlorodifluoromethane (HCFC-22);
   i. Trifluoromethane (HFC-23);
   j. 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);
   k. Chloropentafluoroethane (CFC-115);
   l. 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
   m. 1,1,1,2-tetrafluoroethane (HFC-134(a));
   n. 1,1-dichloro 1-fluoroethane (HCFC-141(b));
   o. 1-chloro 1,1-difluoroethane (HCFC-142(b));
   p. 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
   q. Pentafluoroethane (HFC-125);
   r. 1,1,2,2-tetrafluoroethane (HFC-134);
   s. 1,1,1-trifluoroethane (HFC-143(a));
   t. 1,1-difluoroethane (HFC-152(a));
   u. Parachlorobenzotrifluoride (PCBTF);
   v. Cyclic, branched, or linear completely methylated siloxanes;
   w. Acetone;
   x. Perchloroethylene (tetrachloroethylene);
   y. 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225(ca));
   z. 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225(cb));
   aa. 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);
   bb. Difluoromethane (HFC-32);
   cc. Ethylfluoride (HFC-161);
   dd. 1,1,1,3,3,3-hexafluoropropane (HFC-236(fa));
   ee. 1,1,2,2,3-pentafluoropropane (HFC-245(ca));
   ff. 1,1,2,3,3-pentafluoropropane (HFC-245(ea));
   gg. 1,1,1,2,3-pentafluoropropane (HFC-245(eb));
   hh. 1,1,1,3,3-pentafluoropropane (HFC-245(fa));
   ii. 1,1,1,2,3,3-hexafluoropropane (HFC-236(ea));
   jj. 1,1,1,3,3-pentafluorobutane (HFC-365(mfc));
   kk. Chlorofluoromethane (HCFC-31);
   ll. 1 chloro-1-fluoroethane (HCFC-151(a));

mm. 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123(a));
nn. 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane ($C_4F_9OCH_3$);
oo. 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OCH_3$);
pp. 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ($C_4F_9OC_2H_5$);
qq. 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ($(CF_3)_2CFCF_2OC_2H_5$;
rr. Methyl acetate; and
ss. 1,1,1,2,2,3,3-heptafluoro-3-methoxypropane (n-$C_3$F7$OCH_3$, HFE—7000);
tt. 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE – 7500);
uu. 1,1,1,2,3,3,3-hentafluoropropane (HFC 227ea);
vv. Methyl formate (HCOOCH3): and
ww. (1) 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE–7300);
xx. Propylene carbonate;
yy. Dimethyl carbonate; and
zz. Trans -1,3,3,3-tetrafluoropropene;
aaa. HCF2OCF2H (HFE-134);
bbb. HCF2OCF2OCF2H (HFE-236(cal2));
ccc. HCF2OCF2CF2OCF2H (HFE-338(pcc13));
ddd. HCF2OCF2OCF2CF2OCF2H (H-Galden 1040x or H-Galden ZT 130 (or 150 or 180));
eee. Trans 1-chloro-3,3,3- trifluoroprop-1-ene;
fff. 2,3,3,3-tetrafluoropropene;
ggg. 2-amino-2-methyl-1-propanol; and
hhh. Perfluorocarbon compounds that fall into these classes:
    i. Cyclic, branched, or linear, completely fluorinated alkanes.
    ii. Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations.
    iii. Cycle, branched, or linear, completely fluorinated tertiary amines with no unsaturations; or
    iv. Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.
iii. The following compound is VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOC and shall be uniquely identified in emission reports, but is not VOC for purposes of VOC emissions limitations or VOC content requirements: t-butyl acetate.

155. "Wood waste burner" means an incinerator designed and used exclusively for the burning of wood wastes consisting of wood slabs, scraps, shavings, barks, sawdust or other wood material, including those that generate steam as a by-product.

# NOTICES OF FINAL RULEMAKING

This section of the *Arizona Administrative Register* contains Notices of Final Rulemaking. Final rules have been through the regular rulemaking process as defined in the Administrative Procedures Act. These rules were either approved by the Governor's Regulatory Review Council or the Attorney General's Office. Certificates of Approval are on file with the Office.

The final published notice includes a preamble and text of the rules as filed by the agency. Economic Impact Statements are not published.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the final rules should be addressed to the agency that promulgated them. Refer to Item #5 to contact the person charged with the rulemaking. The codified version of these rules will be published in the Arizona Administrative Code.

## NOTICE OF FINAL RULEMAKING

### TITLE 4. PROFESSIONS AND OCCUPATIONS

### CHAPTER 23. BOARD OF PHARMACY

[R19-70]

### PREAMBLE

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

R4-23-205 Amend
R4-23-677 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. § 32-1904(A)(1)
Implementing statute: A.R.S. §§ 32-1901, 32-1930, and 32-1931(C)(4)

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

June 1, 2019

**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):**

Not applicable

**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 date 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. Citation 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: 25 A.A.R. 51, January 4, 2019
Notice of Proposed Rulemaking: 25 A.A.R. 5, January 4, 2019

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

Name: Kamlesh Gandhi
Address: Board of Pharmacy
1616 W. Adams St., Suite 120
Phoenix, AZ 85007
Telephone: (602) 771-2740
Fax: (602) 771-2749
E-mail: kgandhi@azpharmacy.gov
Website: www.azpharmacy.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:**

Under Laws 2018, Chapter 227, the legislature amended the Board's statutes to define an automated prescription-dispensing kiosk, authorize the Board to issue a permit for an automated prescription-dispensing kiosk, and authorize the Board to charge a fee for the permit. In this rulemaking, the Board establishes the procedure for obtaining a permit for an automated prescription-dispensing kiosk and establishes the fee for the permit.

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

The Board did not review or rely on a study in its evaluation of or justification for any rule in this rulemaking.

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

Not applicable

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

The rulemaking will have minimal economic impact on a pharmacy permittee that applies for a permit to operate an automated prescription-dispensing kiosk. The applying pharmacy permittee will incur the expense of completing an application and paying the permit fee. The rules require the pharmacy permittee to establish written policies and procedures and adhere to certain standards designed to protect public health and safety. An applying pharmacy permittee incurs these costs voluntarily because the permittee believes the benefits of operating an automated prescription-dispensing kiosk outweigh the costs. The cost of obtaining and operating an automated prescription-dispensing kiosk will be substantial but is not a cost that results from the rulemaking.

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

The minor change described in item 11 was made between the proposed rulemaking and this notice of final rulemaking. Additionally, because of a clerical error, the heading number used in the proposed rulemaking for the Section dealing with an automated prescription-dispensing kiosk permit was changed in the final rulemaking.

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

The Board received written comments from Stuart Goodman of Goodman Schwartz Public Affairs, Sara Lakes of Asteres, Inc., and Seema Siddiqui of MedAvail. The three commenters indicated the published Notice of Proposed Rulemaking contained language in R4-23-677(A)(5) the Board indicated would be removed from a previously circulated draft. The commenters are correct. The language, which was left in the Notice of Proposed Rulemaking inadvertently, has been deleted from this notice.

**12. All agencies shall list any 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:**

None

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

The permit authorized under A.R.S. § 32-1930 and R4-223-677 is a general permit consistent with A.R.S. § 41-1037 because it is issued to qualified entities to conduct activities that are substantially similar in nature.

**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:**

No rule in this rulemaking is more stringent than federal law. There are numerous federal laws with which individuals dealing with drugs must comply but none is directly applicable to this rulemaking.

**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 was submitted.

**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:**

No rule in the rulemaking was previously made, amended, or repealed as an emergency rule.

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

## TITLE 4. PROFESSIONS AND OCCUPATIONS

## CHAPTER 23. BOARD OF PHARMACY

### ARTICLE 2. PHARMACIST LICENSURE

Section
R4-23-205. Fees

### ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS

Section
R4-23-677. ~~Reserved~~ Automated Prescription-dispensing Kiosk Permit

### ARTICLE 2. PHARMACIST LICENSURE

**R4-23-205. Fees**

**A.** No change
1. No change
2. No change

**B.** No change
1. No change

a. No change
b. No change
2. No change
3. No change
a. No change
b. No change

**C.** No change
1. No change
2. No change
a. No change
b. No change
c. No change
3. No change
4. No change
a. No change
b. No change
5. No change
6. No change
7. No change
8. Automated prescription-dispensing kiosk: $480 biennially.

**D.** No change
1. No change
2. No change

**E.** No change
**F.** No change
**G.** No change
1. No change
2. No change
3. No change

**H.** No change
1. No change
a. No change
b. No change
c. No change
d. No change
2. No change
3. No change
4. No change

**I.** No change
**J.** No change
1. No change
2. No change

## ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS

**R4-23-677. ~~Reserved~~ Automated Prescription-dispensing Kiosk Permit**

**A.** General provisions.
1. Only a person issued a Board permit under A.R.S. § 32-1929 to operate a pharmacy in Arizona may apply to the Board under A.R.S. § 32-1930 for a permit to operate an automated prescription-dispensing kiosk.
2. A pharmacy permittee described under subsection (A)(1) shall apply for a separate permit for each automated prescription-dispensing kiosk to be operated.
3. To obtain an automated prescription-dispensing kiosk permit, a pharmacy permittee shall submit a completed application, using a form available on the Board's website, and the fee specified in R4-23-205.
4. A pharmacy permittee to which the Board issues an automated prescription-dispensing kiosk permit shall designate a pharmacist in charge of the automated prescription-dispensing kiosk.
5. A pharmacy permittee to which the Board issues an automated prescription-dispensing kiosk permit shall not place the automated prescription-dispensing kiosk in a gas station or convenience store.

**B.** Policies and procedures. A pharmacy permittee to which the Board issues an automated prescription-dispensing kiosk permit shall:
1. Ensure policies and procedures are established for the appropriate performance and use of the automated prescription-dispensing kiosk. The policies and procedures shall address:
a. Maintaining a record of each transaction in a manner that attaches the record to the permit number of the automated prescription-dispensing kiosk;
b. Controlling access to the automated prescription-dispensing kiosk;
c. Operating the automated prescription-dispensing kiosk;
d. Training personnel who use the automated prescription-dispensing kiosk;
e. Maintaining patient services when the automated prescription-dispensing kiosk is not operating or the prescribed drug or device is not available;

f. Securing the automated prescription-dispensing kiosk against unauthorized removal of the kiosk or access to or removal of drugs or devices from the kiosk;
g. Assuring a patient receives the pharmacy services necessary for appropriate pharmaceutical care including consultation with a pharmacist;
h. Maintaining integrity of information in the system and patient confidentiality;
i. Stocking and restocking the automated prescription-dispensing kiosk;
j. Ensuring compliance with packaging and labeling requirements; and
k. Removing drugs and devices from the automated prescription-dispensing kiosk without dispensing them and handling wasted or discarded drugs and devices;

2. Ensure the policies and procedures are implemented and complied with by all personnel using the automated prescription-dispensing kiosk;
3. Maintain the policies and procedures by:
   a. Reviewing the policies and procedures biennially and making needed revisions, if any;
   b. Documenting the review required under subsection (B)(3)(a);
   c. Assembling the policies and procedures as a written or electronic manual; and
   d. Making the policies and procedures available within the pharmacy permittee to which the Board issued an automated prescription-dispensing kiosk permit for reference by pharmacy personnel and inspection by the Board; and
4. Implement a quality assurance program to monitor compliance with the policies and procedures and all state and federal law.

**C.** Change of ownership. An automated prescription-dispensing kiosk permittee shall comply with R4-23-601(F).
**D.** An automated prescription-dispensing kiosk permittee shall renew the permit as specified under R4-23-602(D).
**E.** The Board shall adhere to the time frames specified under R4-23-602(C) when processing an initial or renewal application for an automated prescription-dispensing kiosk permit. Amend

## NOTICE OF FINAL RULEMAKING
### TITLE 4. PROFESSIONS AND OCCUPATIONS
### CHAPTER 23. BOARD OF PHARMACY

[R19-71]

### PREAMBLE

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

| Article, Part, or Section Affected (as applicable) | Rulemaking Action |
|---|---|
| R4-23-110 | Amend |
| R4-23-202 | Amend |
| R4-23-203 | Amend |
| R4-23-205 | Amend |
| R4-23-301 | Amend |
| R4-23-302 | Amend |
| R4-23-407 | Amend |
| R4-23-407.1 | Amend |
| R4-23-411 | Amend |
| R4-23-601 | Amend |
| R4-23-602 | Amend |
| R4-23-603 | Amend |
| R4-23-604 | Amend |
| R4-23-605 | Amend |
| R4-23-606 | Amend |
| R4-23-607 | Amend |
| R4-23-676 | New Section |
| R4-23-692 | Amend |
| R4-23-693 | Amend |
| R4-23-1102 | Amend |
| R4-23-1103 | Amend |
| R4-23-1105 | 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. § 32-1904(A)(1)
Implementing statute: A.R.S. §§ 32-1901, 32-1922, 32-1929, 32-1930, 32-1931, 32-1941, 32-1968, 32-1974, 32-1979, and 36-2525

**3. The effective date for the rules:**
June 1, 2019

**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):**
Not applicable

**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 date 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. Citation 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: 24 A.A.R. 2432, August 31, 2018

Notice of Proposed Rulemaking: 24 A.A.R. 2387, August 31, 2018

Notice of Supplemental Proposed Rulemaking: 25 A.A.R. 19, January 4, 2019

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


| | |
|---|---|
| Name: | Kamlesh Gandhi |
| Address: | Board of Pharmacy<br>1616 W. Adams St., Suite 120<br>Phoenix, AZ 85007 |
| Telephone: | (602) 771-2740 |
| Fax: | (602) 771-2749 |
| E-mail: | kgandhi@azpharmacy.gov |
| Website: | www.azpharmacy.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 Board is amending several rules to make them consistent with recent statutory changes, to eliminate unnecessary and burdensome provisions, or to correct rule text:

R4-23-110 is amended to add a definition of virtual manufacturer as required under A.R.S. § 32-1901, a requirement added under Laws 2017, Chapter 22, and to add a definition of change of ownership, as used in A.R.S. § 32-1901.01.

R4-23-203 is amended to make it easier for individuals licensed in other jurisdictions to become licensed in Arizona.

R4-23-205 is amended to add a fee for a permit for third-party logistics provider. The new fee is specifically authorized under A.R.S. § 32-1931(C)(5), which was amended under Laws 2017, Chapter 95.

R4-23-302 is amended to remove unnecessary and burdensome requirements regarding a pharmacy intern preceptor.

R4-23-407 is amended to clarify the multiple means of communication that may be used to transfer prescription-order information between licensees and to include the prescription-order label language required under A.R.S. § 36-2525(L), which was amended by the legislature in Laws 2018, Chapter 1, § 37.

R4-23-407.1 is amended to be consistent with Laws 2017, Chapter 234, which amended A.R.S. § 32-1968 to require an opioid antagonist be dispensed under a prescription order or a standing order rather than allowing an opioid antagonist to be dispensed without a prescription order.

R4-23-411 is amended to align the date on which a licensee renews the license with the date on which the licensee renews a certificate to administer immunizations. Aligning the dates of these renewals reduces a burden on licensees who hold an immunization certificate.

R4-23-202, R4-23-301, R4-23-602, R4-23-1102, and R4-23-1103 are amended to correct internal cross references to R4-23-205. The internal cross references became incorrect when the Board amended R4-23-205 in an exempt rulemaking (See 23 A.A.R. 2383, September 1, 2017). To avoid this problem in the future, subsections are removed from the cross references.

R4-23-601 is amended to provide notice to permittees that a change of ownership, as used in A.R.S. § 32-1901.01 and defined at R4-23-110, requires a new permit application.

R4-23-603, R4-23-604, R4-23-605, R4-23-606, R4-23-607, R4-23-692, and R4-23-693 are amended to delete detail regarding the application process. This is necessary to ensure the rules don't become inconsistent with the applications.

R4-23-676 is added to address the requirements regarding third-party logistics providers established at A.R.S. § 32-1941 under Laws 2017, Chapter 95.

R4-24-1105 is amended consistent with a 5YRR approved by the Council on October 7, 2014.

Exemptions from the rulemaking moratorium were provided for this rulemaking by members of the governor's staff on May 3, 2017, September 7, 2017, September 21, 2017, November 9, 2017, January 4, 2018, January 31, 2018, March 1, 2018, and June 12, 2018.

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

The Board did not review or rely on a study in its evaluation of or justification for any rule in this rulemaking.

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

Not applicable

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

The Board believes the economic impact of this rulemaking will be minimal for those subject to its requirements. R4-23-407 and R4-23-407.1 are amended and R4-23-676 is added to address changes made by the legislature. A fee for a third-party logistics provider permit is added to R4-23-205. The fee is specifically authorized under A.R.S. § 32-1931 and is required because of the addition of the statutory requirement that third-party logistics providers obtain a permit from the Board. Those who do so will incur the expense of paying the new fee.

Changes to R4-23-203, R4-23-302, and R4-23-411 remove burdensome requirements. Other changes clarify language and requirements and remove incorrect cross references.

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

The change indicated in item 11 was made between the notice of supplemental proposed rulemaking and this final notice. This change is not substantial because it simply removes language proposed in this rulemaking and leaves existing language. Changes made between the original notice of proposed rulemaking and the supplemental notice were included in the supplemental notice.

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

The Board received three comments regarding the rules as written in the supplemental notice.

Christine Cassetta of Quarles and Brady LLP submitted essentially the same comment she submitted previously and which the Board addressed in the notice of supplemental proposed rulemaking. Ms. Cassetta argues the definition of "virtual manufacturer" expands the Board's jurisdiction beyond its authority and that an "own-label distributor" is not a virtual manufacturer. The definition of virtual manufacturer as amended in response to Ms. Cassetta's previous comments does not expand the Board's jurisdiction. It simply requires a permitted virtual manufacturer, over which the Board has jurisdiction, which contracts for manufacturing by a foreign entity, over which the Board does not have jurisdiction, assume responsibility for ensuring the foreign entity complies with good manufacturing practices. The importance of ensuring this compliance is highlighted in the comment submitted regarding carcinogen-tainted ingredients being used in China and India in the manufacture of blood-pressure drugs.

While all own-label distributors are not virtual manufacturers, the definition references only own-label distributors that contract with another entity for manufacture of the own-label products. Contracting with another entity for the manufacture of a product is virtual manufacturing.

Ms. Cassetta also argues the definition of "virtual wholesaler" is outside the scope of federal law, neither a "broker" nor an entity that "facilitates" is a virtual wholesaler because neither takes title to products, and the terms "broker" and "facilitates" are undefined and unclear. The Board wants to give Ms. Cassetta's comment additional thought so the Board removed the definition of "virtual wholesaler" from this rulemaking and will include the definition in a future rulemaking.

Mary Gurney of Midwestern University commented regarding R4-23-302(D), which requires a pharmacy intern preceptor to report the intern's total hours of training to another jurisdiction. Ms. Gurney argues this is inconsistent with statute and other rules. She argues further the Board should maintain records of an intern's training hours. The Board is not responsible for maintaining records of an intern's training hours. The entity that provides the training provides a record of the hours to any jurisdiction to which the intern applies for licensure as a pharmacist. R4-23-302(D) simply requires, in the case of another jurisdiction that requires more than 1500 hours of training for licensure, a pharmacy intern preceptor to report an intern's total hours of training to the other jurisdiction.

**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:**

None

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

The licenses and permits for which fees are established under R4-23-205 are general permits consistent with A.R.S. § 41-1037 because they are issued to qualified individuals or entities to conduct activities that are substantially similar in nature.

**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:**

No rule in this rulemaking is more stringent than federal law. There are numerous federal laws with which individuals dealing with drugs must comply. The Drug Supply Chain Security Act requires third-party logistics providers to report to the federal government whether facilities are licensed under state law. 21 U.S.C. § 360eee-3 requires a third-party logistics provider to be licensed in the state from which a drug is distributed by the third-party logistics provider. Third-party logistics providers will have to comply with federal law but the federal laws are not applicable to the subject of the rules in this rulemaking.

**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 was 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:**

No rule in the rulemaking was previously made, amended, or repealed as an emergency rule.

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

## TITLE 4. PROFESSIONS AND OCCUPATIONS

## CHAPTER 23. BOARD OF PHARMACY

### ARTICLE 1. ADMINISTRATION

Section
R4-23-110. Definitions

### ARTICLE 2. PHARMACIST LICENSURE

Section
R4-23-202. Licensure by Examination
R4-23-203. Licensure by Reciprocity
R4-23-205. Fees

### ARTICLE 3. INTERN TRAINING AND PHARMACY INTERN PRECEPTORS

Section
R4-23-301. Intern Licensure
R4-23-302. Training Site and Pharmacy Intern Preceptors

### ARTICLE 4. PROFESSIONAL PRACTICES

Section
R4-23-407. Prescription Requirements
R4-23-407.1. Dispensing an Opioid Antagonist
R4-23-411. Pharmacist-administered or Pharmacy or Graduate Intern-administered Immunizations

### ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS

Section
R4-23-601. General Provisions
R4-23-602. Permit Application Process and ~~Time-frames~~ Time Frames
R4-23-603. Resident-Nonprescription Drugs, Retail
R4-23-604. Resident Drug Manufacturer
R4-23-605. Resident Drug Wholesaler Permit
R4-23-606. Pharmacy Permit, Community, Hospital, and Limited Service
R4-23-607. Nonresident Permits
R4-23-676. ~~Reserved~~ Third-party Logistics Provider Permit
R4-23-692. Compressed Medical Gas (CMG) Distributor-Resident or Nonresident
R4-23-693. Durable Medical Equipment (DME) and Compressed Medical Gas (CMG) Supplier-Resident or Nonresident

### ARTICLE 11. PHARMACY TECHNICIANS

Section
R4-23-1102. Pharmacy Technician Licensure
R4-23-1103. Pharmacy Technician Trainee Licensure
R4-23-1105. Pharmacy Technician Trainee Training Program, Pharmacy Technician Drug Compounding Training Program, and Alternative Pharmacy Technician Training

### ARTICLE 1. ADMINISTRATION

**R4-23-110. Definitions**

In addition to definitions in A.R.S. § 32-1901, the following definitions apply to this Chapter:

"Active ingredient" means any component that furnishes pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease or that affects the structure or any function of the body of man or other animals. The term includes those components that may undergo chemical change in the manufacture of the drug, that are present in the finished drug product in a modified form, and that furnish the specified activity or effect.

"AHCCCS" means the Arizona Health Care Cost Containment System.

"Annual family income" means the combined yearly gross earned income and unearned income of all adult individuals within a family unit.

"Approved course in pharmacy law" means a continuing education activity that addresses practice issues related to state or federal pharmacy statutes, rules, or regulations.

"Approved Provider" means an individual, institution, organization, association, corporation, or agency that is approved by the Accreditation Council for Pharmacy Education (ACPE) in accordance with ACPE's policy and procedures or by the Board as meeting criteria indicative of the ability to provide quality continuing education.

"Assisted living facility" means a residential care institution as defined in A.R.S. § 36-401.

"Authentication of product history" means identifying the purchasing source, the ultimate fate, and any intermediate handling of any component of a radiopharmaceutical or other drug.

"Automated dispensing system" means a mechanical system in a long-term care facility that performs operations or activities, other than compounding or administration, relative to the storage, packaging, counting, labeling, and dispensing of medications, and which collects, controls, and maintains all transaction information.

"Automated storage and distribution system" means a mechanical system that performs operations or activities other than counting, compounding, or administration, relative to the storage, packaging, or distributing of drugs or devices and that collects, controls, and maintains all transaction information.

"Batch" means a specific quantity of drug that has uniform character and quality, within specified limits, and is produced according to a single manufacturing order during the same cycle of manufacture.

"Beyond-use date" means:

A date determined by a pharmacist and placed on a prescription label at the time of dispensing to indicate a time beyond which the contents of the prescription are not recommended to be used; or

A date determined by a pharmacist and placed on a compounded pharmaceutical product's label at the time of preparation as specified in R4-23-410(B)(3)(d), R4-23-410(I)(6)(e), or R4-23-410(J)(1)(d) to indicate a time beyond which the compounded pharmaceutical product is not recommended to be used.

"Biological safety cabinet" means a containment unit suitable for the preparation of low to moderate risk agents when there is a need for protection of the product, personnel, and environment, consistent with National Sanitation Foundation (NSF) standards, published in the National Sanitation Foundation Standard 49, Class II (Laminar Flow) Biohazard Cabinetry, NSF International P. O. Box 130140, Ann Arbor, MI, revised June 1987 edition, (and no future amendments or editions), incorporated by reference and on file with the Board.

"Care-giver" means a person who cares for someone who is sick or disabled or an adult who cares for an infant or child and includes a patient's husband, wife, son, daughter, mother, father, sister, brother, legal guardian, nurse, or medical practitioner.

"Change of ownership," as used in A.R.S. § 32-1901.01(A), means a change of at least 30 percent in voting stock or vested interest that has direct operational oversight.

"Community pharmacy" means any place under the direct supervision of a pharmacist where the practice of pharmacy occurs or where prescription orders are compounded and dispensed other than a hospital pharmacy or a limited service pharmacy.

"Component" means any ingredient used in compounding or manufacturing drugs in dosage form, including an ingredient that may not appear in the finished product.

"Compounding and dispensing counter" means a pharmacy counter working area defined in this Section where a pharmacist or a graduate intern, pharmacy intern, pharmacy technician, or pharmacy technician trainee under the supervision of a pharmacist compounds, mixes, combines, counts, pours, or prepares and packages a prescription medication to dispense an individual prescription order or prepackages a drug for future dispensing.

"Computer system" means an automated data-processing system that uses a programmable electronic device to store, retrieve, and process data.

"Computer system audit" means an accounting method, involving multiple single-drug usage reports and audits, used to determine a computer system's ability to store, retrieve, and process original and refill prescription dispensing information.

"Contact hour" means 50 minutes of participation in a continuing education activity sponsored by an Approved Provider.

"Container" means:

A receptacle, as described in the official compendium or the federal act, that is used in manufacturing or compounding a drug or in distributing, supplying, or dispensing the finished dosage form of a drug; or

A metal receptacle designed to contain liquefied or vaporized compressed medical gas and used in manufacturing, transfilling, distributing, supplying, or dispensing a compressed medical gas.

"Continuing education" means a structured learning process required of a licensee to maintain licensure that includes study in the general areas of socio-economic and legal aspects of health care; the properties and actions of drugs and dosage forms; etiology, characteristics and therapeutics of disease status; or pharmacy practice.

"Continuing education activity" means continuing education obtained through an institute, seminar, lecture, conference, workshop, mediated instruction, programmed learning course, or postgraduate study in an accredited college or school of pharmacy.

"Continuing education unit" or "CEU" means 10 contact hours of participation in a continuing education activity sponsored by an Approved Provider.

"Continuous quality assurance program" or "CQA program" means a planned process designed by a pharmacy permittee to identify, evaluate, and prevent medication errors.

"Correctional facility" has the same meaning as in A.R.S. §§ 13-2501 and 31-341.

"CRT" means a cathode ray tube or other mechanism used to view information produced or stored by a computer system.

"CSPMP" means the Controlled Substances Prescription Monitoring Program established under A.R.S. Title 36, Chapter 28.

"Current good compounding practices" means the minimum standards for methods used in, and facilities or controls used for, compounding a drug to ensure that the drug has the identity and strength and meets the quality and purity characteristics it is represented to possess.

"Current good manufacturing practice" means the minimum standard for methods used in, and facilities or controls used for manufacturing, processing, packing, or holding a drug to ensure that the drug meets the requirements of the federal act as to safety, and has the identity and strength and meets the quality and purity characteristics it is represented to possess.

"Cytotoxic" means a pharmaceutical that is capable of killing living cells.

"Day" means a calendar day unless otherwise specified.

"DEA" means the Drug Enforcement Administration as defined in A.R.S. § 32-1901.

"Declared disaster areas" means areas designated by the governor or by a county, city, or town under A.R.S. § 32-1910 as those areas that have been adversely affected by a natural disaster or terrorist attack and require extraordinary measures to provide adequate, safe, and effective health care for the affected population.

"Delinquent license" means a pharmacist, pharmacy intern, graduate intern, or pharmacy technician license the Board suspends for failure to renew or pay all required fees on or before the date the renewal is due.

"Dietary supplement or food supplement" means a product (other than tobacco) that:

Is intended to supplement the diet that contains one or more of the following dietary ingredients: a vitamin, a mineral, an herb or other botanical, an amino acid, a dietary substance for use by humans to supplement the diet by increasing the total daily intake, or a concentrate, metabolite, constituent, extract, or combinations of these ingredients;

Is intended for ingestion in pill, capsule, tablet, or liquid form;

Is not represented for use as a conventional food or as the sole item of a meal or diet; and

Is labeled as a "dietary supplement" or "food supplement."

"Digital signature" has the same meaning as in A.R.S. § 41-132(E).

"Dispensing pharmacist" means a pharmacist who, in the process of dispensing a prescription medication after the complete preparation of the prescription medication and before delivery of the prescription medication to a patient or patient's agent, verifies, checks, and initials the prescription medication label, as required in R4-23-402(A).

"Drug sample" means a unit of a prescription drug that a manufacturer provides free of charge to promote the sale of the drug.

"Durable medical equipment" or "DME" means technologically sophisticated medical equipment that may be used by a patient or consumer in a home or residence. DME may be prescription-only devices as defined in A.R.S. § 32-1901~~(75)~~. DME includes:

Air-fluidized beds,

Apnea monitors,

Blood glucose monitors and diabetic testing strips,

Continuous Positive Airway Pressure (CPAP) machines,

Electronic and computerized wheelchairs and seating systems,

Feeding pumps,

Home phototherapy devices,

Hospital beds,

Infusion pumps,

Medical oxygen and oxygen delivery systems excluding compressed medical gases,

Nebulizers,

Respiratory disease management devices,

Sequential compression devices,

Transcutaneous electrical nerve stimulation (TENS) unit, and

Ventilators.

"Earned income" means monetary payments received by an individual as a result of work performed or rental property owned or leased by the individual, including:

Wages,

Commissions and fees,

Salaries and tips,

Profit from self-employment,

Profit from rent received from a tenant or boarder, and

Any other monetary payments received by an individual for work performed or rental of property.

"Electronic signature" has the same meaning as in A.R.S. § 44-7002.

"Eligible patient" means a patient who a pharmacist determines is eligible to receive an immunization using professional judgment after consulting with the patient regarding the patient's current health condition, recent health condition, and allergies.

"Emergency drug supply unit" means those drugs that may be required to meet the immediate and emergency therapeutic needs of long-term care facility residents and hospice inpatient facility patients, and which are not available from any other authorized source in sufficient time to prevent risk of harm to residents or patients.

"Extreme emergency" means the occurrence of a fire, water leak, electrical failure, public disaster, or other catastrophe constituting an imminent threat of physical harm to pharmacy personnel or patrons.

"Family unit" means:

A group of individuals residing together who are related by birth, marriage, or adoption; or

An individual who:

Does not reside with another individual; or

Resides only with another individual or group of individuals to whom the individual is unrelated by birth, marriage, or adoption.

"FDA" means the Food and Drug Administration, a federal agency within the United States Department of Health and Human Services, established to set safety and quality standards for foods, drugs, cosmetics, and other consumer products.

"Health care decision maker" has the same meaning as in A.R.S. § 12-2291.

"Health care institution" has the same meaning as in A.R.S. § 36-401.

"Hospice inpatient facility" means a health care institution licensed under A.R.S. § 36-401 and Article 8 that provides hospice services to a patient requiring inpatient services.

"Immediate notice" means a required notice sent by mail, ~~facsimile~~ fax, or electronic mail to the Board Office within 24 hours.

"Immunizations training program" means an immunization training program for pharmacists, pharmacy interns, and graduate interns that meets the requirements of R4-23-411(E).

"Inactive ingredient" means any component other than an "active ingredient" present in a drug.

"Internal test assessment" means performing quality assurance or other procedures necessary to ensure the integrity of a test.

"ISO Class 5 environment" means an atmospheric environment that complies with the ISO/TC209 International Cleanroom Standards, specifically ANSI/IEST/ISO-14644-1:1999: Cleanrooms and associated controlled environments--Part 1: Classification of air cleanliness, first edition dated May 1, 1999, (and no future amendments or editions), incorporated by reference and on file in the Board office.

"ISO Class 7 environment" means an atmospheric environment that complies with the ISO/TC209 International Cleanroom Standards, specifically ANSI/IEST/ISO-14644-1:1999: Cleanrooms and associated controlled environments--Part 1: Classification of air cleanliness, first edition dated May 1, 1999, (and no future amendments or editions), incorporated by reference and on file in the Board office.

"Licensed health care professional" means an individual who is licensed and regulated under A.R.S. Title 32, Chapter 7, 11, 13, 14, 15, 16, 17, 18, 25, 29, or 35.

"Limited-service correctional pharmacy" means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that:

Holds a current Board permit under A.R.S. § 32-1931;

Is located in a correctional facility; and

Uses pharmacists, interns, and support personnel to compound, produce, dispense, and distribute drugs.

"Limited-service long-term care pharmacy" means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that holds a current Board-issued permit and dispenses prescription medication or prescription-only devices to patients in long-term care facilities.

"Limited-service mail-order pharmacy" means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that holds a current Board permit under A.R.S. § 32-1931 and dispenses a majority of its prescription medication or prescription-only devices by mailing or delivering the prescription medication or prescription-only device to an individual by the United States mail, a common or contract carrier, or a delivery service.

"Limited-service nuclear pharmacy" means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that holds a current Board permit under A.R.S. § 32-1931 and provides radiopharmaceutical services.

"Limited-service pharmacy permittee" means a person who holds a current limited-service pharmacy permit in compliance with A.R.S. §§ 32-1929, 32-1930, 32-1931, and A.A.C. R4-23-606.

"Limited-service sterile pharmaceutical products pharmacy" means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that holds a current Board permit under A.R.S. § 32-1931 and dispenses a majority of its prescription medication or prescription-only devices as sterile pharmaceutical products.

"Long-term care consultant pharmacist" means a pharmacist providing consulting services to a long-term care facility.

"Long-term care facility" or "LTCF" means a nursing care institution as defined in A.R.S. § 36-401.

"Lot" means a batch or any portion of a batch of a drug, or if a drug produced by a continuous process, an amount of drug produced in a unit of time or quantity in a manner that assures its uniformity. In either case, a lot is identified by a distinctive lot number and has uniform character and quality with specified limits.

"Lot number" or "control number" means any distinctive combination of letters or numbers, or both, from which the complete history of the compounding or manufacturing, control, packaging, and distribution of a batch or lot of a drug can be determined.

"Low-income subsidy" means Medicare-provided assistance that may partially or fully cover the costs of drugs and is based on the income of an individual and, if applicable, the individual's spouse.

"Materials approval unit" means any organizational element having the authority and responsibility to approve or reject components, in-process materials, packaging components, and final products.

"Mechanical counting device for a drug in solid, oral dosage form" means a mechanical device that counts drugs in solid, oral dosage forms for dispensing and includes an electronic balance when used to count drugs.

"Mechanical storage and counting device for a drug in solid, oral dosage form" means a mechanical device that stores and counts and may package or label drugs in solid, oral dosage forms for dispensing.

"Mediated instruction" means information transmitted via intermediate mechanisms such as audio or video tape or telephone transmission.

"Medical practitioner-patient relationship" means that before prescribing, dispensing, or administering a prescription-only drug, prescription-only device, or controlled substance to a person, a medical practitioner, as defined in A.R.S. § 32-1901, shall first conduct a physical examination of that person or have previously conducted a physical examination. This subdivision does not apply to:

A medical practitioner who provides temporary patient supervision on behalf of the patient's regular treating medical practitioner;

Emergency medical situations as defined in A.R.S. § 41-1831;

Prescriptions written to prepare a patient for a medical examination; or

Prescriptions written, prescription-only drugs, prescription-only devices, or controlled substances issued for use by a county or tribal public health department for immunization programs, emergency treatment, in response to an infectious disease investigation, public health emergency, infectious disease outbreak or act of bioterrorism. For purposes of this subsection, "bioterrorism" has the same meaning as in A.R.S. § 36-781.

"Medicare" means a federal health insurance program established under Title XVIII of the Social Security Act.

"Medication error" means any unintended variation from a prescription or medication order. Medication error does not include any variation that is corrected before the medication is dispensed to the patient or patient's care-giver, or any variation allowed by law.

"Mobile pharmacy" means a pharmacy that is self-propelled or movable by another vehicle that is self-propelled.

"MPJE" means Multistate Pharmacy Jurisprudence Examination, a Board-approved national pharmacy law examination written and administered in cooperation with NABP.

"NABP" means National Association of Boards of Pharmacy.

"NABPLEX" means National Association of Boards of Pharmacy Licensure Examination.

"NAPLEX" means North American Pharmacist Licensure Examination.

"Order" means either of the following:

A prescription order as defined in A.R.S. § 32-1901; or

A medication order as defined in A.A.C. R4-23-651.

"Other designated personnel" means a non-pharmacist individual who is permitted in the pharmacy area, for a limited time, under the direct supervision of a pharmacist, to perform non-pharmacy related duties, such as trash removal, floor maintenance, and telephone or computer repair.

"Outpatient" means an individual who is not a residential patient in a health care institution.

"Outpatient setting" means a location that provides medical treatment to an outpatient.

"Patient profile" means a readily retrievable, centrally located information record that contains patient demographics, allergies, and medication profile.

"Pharmaceutical patient care services" means the provision of drug selection, drug utilization review, drug administration, drug therapy monitoring, and other drug-related patient care services intended to achieve outcomes related to curing or preventing a disease, eliminating or reducing a patient's symptoms, or arresting or slowing a disease process, by identifying and resolving or preventing potential and actual drug-related problems.

"Pharmaceutical product" means a medicinal drug.

"Pharmacy counter working area" means a clear and continuous working area that contains no major obstacles such as a desktop computer, computer monitor, computer keyboard, external computer drive device, printer, ~~facsimile~~ fax machine, pharmacy balance, typewriter, or pill-counting machine, but may contain individual documents or prescription labels, pens, prescription blanks, refill log, pill-counting tray, spatula, stapler, or other similar items necessary for the prescription-filling process.

"Pharmacy law continuing education" means a continuing education activity that addresses practice issues related to state or federal pharmacy statutes, rules, or regulations, offered by an Approved Provider.

"Pharmacy permittee" means a person who holds a current pharmacy permit that complies with A.R.S. §§ 32-1929, 32-1930, 32-1931, 32-1934, and R4-23-606 and R4-23-652.

"Physician" means a medical practitioner licensed under A.R.S. Title 32, Chapter 13 or 17.

"Physician-in-charge" means a physician who is responsible to the Board for all aspects of a prescription medication donation program required in A.R.S. § 32-1909 and operated in the physician's office or in a health care institution.

"Poverty level" means the annual family income for a family unit of a particular size, as specified in the poverty guidelines updated annually in the *Federal Register* by the U.S. Department of Health and Human Services.

"Precursor chemical" means a precursor chemical I as defined in A.R.S. § 13-3401(26) and a precursor chemical II as defined in A.R.S. § 13-3401(27).

"Prepackaged drug" means a drug that is packaged in a frequently prescribed quantity, labeled in compliance with A.R.S. §§ 32-1967 and 32-1968, stored, and subsequently dispensed by a pharmacist or a graduate intern or pharmacy intern under the supervision of a pharmacist, who verifies at the time of dispensing that the drug container is properly labeled, in compliance with A.R.S. § 32-1968, for the patient.

"Prep area" means a specified area either within an ISO class 7 environment or adjacent to but outside an ISO class 7 environment that:

Allows the assembling of necessary drugs, supplies, and equipment for compounding sterile pharmaceutical products, but does not allow the use of paper products such as boxes or bulk drug storage;

Allows personnel to don personnel protective clothing, such as gown, gloves, head cover, and booties before entering the clean compounding area; and

Is a room or a specified area within a room, such as an area specified by a line on the floor.

"Primary care provider" means the medical practitioner who is treating an individual for a disease or medical condition.

"Proprietor" means the owner of a business permitted by the Board under A.R.S. §§ 32-1929, 32-1930, 32-1931, and 32-1934.

"Provider pharmacy" means a pharmacy that contracts with a long-term care facility to supply prescription medication or other services for residents of a long-term care facility.

"Radiopharmaceutical" means any drug that emits ionizing radiation and includes:

Any nonradioactive reagent kit, nuclide generator, or ancillary drug intended to be used in the preparation of a radiopharmaceutical, but does not include drugs such as carbon-containing compounds or potassium-containing salts, that contain trace quantities of naturally occurring radionuclides; and

Any biological product that is labeled with a radionuclide or intended to be labeled with a radionuclide.

"Radiopharmaceutical quality assurance" means performing and interpreting appropriate chemical, biological, and physical tests on radiopharmaceuticals to determine the suitability of the radiopharmaceutical for use in humans and animals. Radiopharmaceutical quality assurance includes internal test assessment, authentication of product history, and appropriate record retention.

"Radiopharmaceutical services" means procuring, storing, handling, compounding, preparing, labeling, quality assurance testing, dispensing, distributing, transferring, recordkeeping, and disposing of radiochemicals, radiopharmaceuticals, and ancillary drugs. Radiopharmaceutical services include quality assurance procedures, radiological health and safety procedures, consulting activities associated with the use of radiopharmaceuticals, and any other activities required for the provision of pharmaceutical care.

"Red C stamp" means a device used with red ink to imprint an invoice with a red letter C at least one inch high, to make an invoice of a Schedule III through IV controlled substance, as defined in A.R.S. § 36-2501, readily retrievable, as required by state and federal rules.

"Refill" means other than the original dispensing of the prescription order, dispensing a prescription order in the same quantity originally ordered or in multiples of the originally ordered quantity when specifically authorized by the prescriber, if the refill is authorized by the prescriber:

In the original prescription order;

By an electronically transmitted refill order that the pharmacist promptly documents and files; or

By an oral refill order that the pharmacist promptly documents and files.

"Regulated chemical" means the same as in A.R.S. § 13-3401(30).

"Remodel" means to alter structurally the pharmacy area or location.

"Remote drug storage area" means an area that is outside the premises of the pharmacy, used for the storage of drugs, locked to deny access by unauthorized persons, and secured against the use of force.

"Resident" means:

An individual admitted to and living in a long-term care facility or an assisted living facility,

An individual who has a place of habitation in Arizona and lives in Arizona as other than a tourist, or

A person who owns or operates a place of business in Arizona.

"Responsible person" means the owner, manager, or other employee who is responsible to the Board for a permitted establishment's compliance with the laws and administrative rules of this state and of the federal government pertaining to distribution of drugs, devices, precursor chemicals, and regulated chemicals. Nothing in this definition relieves other individuals from the responsibility to comply with state and federal laws and administrative rules.

"Score transfer" means the process that enables an applicant to take the NAPLEX in a jurisdiction and be eligible for licensure by examination in other jurisdictions.

"Security features" means attributes incorporated into the paper of a prescription order, referenced in A.R.S. § 32-1968(A)(4), that are approved by the Board or its staff and include one or more of the following designed to prevent duplication or aid the authentication of a paper document: laid lines, enhanced laid lines, thermochromic ink, artificial watermark, fluorescent ink, chemical void, persistent void, penetrating numbers, high-resolution border, high-resolution latent images, micro-printing, prismatic printing, embossed images, abrasion ink, holograms, and foil stamping.

"Shared order filling" means the following:

Preparing, packaging, compounding, or labeling an order, or any combination of these functions, that are performed by:

A person with a current Arizona Board license, located at an Arizona pharmacy, on behalf of and at the request of another resident or nonresident pharmacy; or

A person, located at a nonresident pharmacy, on behalf of and at the request of an Arizona pharmacy; and

Returning the filled order to the requesting pharmacy for delivery to the patient or patient's care-giver or, at the request of this pharmacy, directly delivering the filled order to the patient.

"Shared order processing" means the following:

Interpreting the order, performing order entry verification, drug utilization review, drug compatibility and drug allergy review, final order verification, and when necessary, therapeutic intervention, or any combination of these order processing functions, that are performed by:

A pharmacist or intern, under pharmacist supervision, with a current Arizona Board license, located at an Arizona pharmacy, on behalf of and at the request of another resident or nonresident pharmacy: or

A pharmacist or intern, under pharmacist supervision, located at a nonresident pharmacy, on behalf of and at the request of an Arizona pharmacy; and

After order processing is completed, returning the processed order to the requesting pharmacy for order filling and delivery to the patient or patient's care-giver or, at the request of this pharmacy, returning the processed order to another pharmacy for order filling and delivery to the patient or patient's care-giver.

"Shared services" means shared order filling or shared order processing, or both.

"Sight-readable" means that an authorized individual is able to examine a record and read its information from a CRT, microfiche, microfilm, printout, or other method acceptable to the Board or its designee.

"Single-drug audit" means an accounting method that determines the numerical and percentage difference between a drug's beginning inventory plus purchases and ending inventory plus sales.

"Single-drug usage report" means a computer system printout of original and refill prescription order usage information for a single drug.

"Standard-risk sterile pharmaceutical product" means a sterile pharmaceutical product compounded from sterile commercial drugs using sterile commercial devices or a sterile pharmaceutical optic or ophthalmic product compounded from non-sterile ingredients.

"State of emergency" means a governmental declaration issued under A.R.S. § 32-1910 as a result of a natural disaster or terrorist attack that results in individuals being unable to refill existing prescriptions.

"Sterile pharmaceutical product" means a medicinal drug free from living biological organisms.

"Strength" means:

The concentration of the drug substance (for example, weight/weight, weight/volume, or unit dose/volume basis); or

The potency, that is, the therapeutic activity of a drug substance as indicated by bioavailability tests or by controlled clinical data (expressed, for example, in terms of unity by reference to a standard).

"Substantial-risk sterile pharmaceutical product" means a sterile pharmaceutical product compounded as a parenteral or injectable dosage form from non-sterile ingredients.

"Supervision" means a pharmacist is present, assumes legal responsibility, and has direct oversight of activities relating to acquiring, preparing, distributing, administering, and selling prescription medications by pharmacy interns, graduate interns, pharmacy technicians, or pharmacy technician trainees and when used in connection with the intern training requirements means that, in a pharmacy where intern training occurs, a pharmacy intern preceptor assumes the primary responsibility of teaching the intern during the entire period of the training.

"Supplying" means selling, transferring, or delivering to a patient or a patient's agent one or more doses of:

A nonprescription drug in the manufacturer's original container for subsequent use by the patient, or

A compressed medical gas in the manufacturer's or compressed medical gas distributor's original container for subsequent use by the patient.

"Support personnel" means an individual, working under the supervision of a pharmacist, trained to perform clerical duties associated with the practice of pharmacy, including cashiering, bookkeeping, pricing, stocking, delivering, answering non-professional telephone inquiries, and documenting third-party reimbursement. Support personnel shall not perform the tasks of a pharmacist, pharmacy intern, graduate intern, pharmacy technician, or pharmacy technician trainee.

"Temporary pharmacy facility" means a facility established as a result of a declared state of emergency to temporarily provide pharmacy services within or adjacent to declared disaster areas.

"Tourist" means an individual who is living in Arizona but maintains a place of habitation outside of Arizona and lives outside of Arizona for more than six months during a calendar year.

"Transfill" means a manufacturing process by which one or more compressed medical gases are transferred from a bulk container to a properly labeled container for subsequent distribution or supply.

"Unearned income" means monetary payment received by an individual that is not compensation for work performed or rental of property owned or leased by the individual, including:

Unemployment insurance,

Workers' compensation,

Disability payments,

Payments from the Social Security Administration,

Payments from public assistance,

Periodic insurance or annuity payments,

Retirement or pension payments,

Strike benefits from union funds,

Training stipends,

Child support payments,

Alimony payments,

Military family allotments,

Regular support payments from a relative or other individual not residing in the household,

Investment income,

Royalty payments,

Periodic payments from estates or trusts, and

Any other monetary payments received by an individual that are not:

As a result of work performed or rental of property owned by the individual,

Gifts,

Lump-sum capital gains payments,

Lump-sum inheritance payments,

Lump-sum insurance payments, or

Payments made to compensate for personal injury.

"Verified signature" or "signature verifying" means in relation to a Board license or permit application or report, form, or agreement, the hand-written or electronic signature of an individual who, by placing a hand-written or electronic signature on a hard-copy or electronic license or permit application or report, form, or agreement agrees with and verifies that the statements and information within or attached to the license or permit application or report, form, or agreement are true in every respect and that inaccurate reporting can result in denial or loss of a license or permit or report, form, or agreement.

"Veteran" means an individual who has served in the United States Armed Forces.

"Virtual manufacturer" means an entity that contracts for the manufacture of a drug or device for which the entity:

Owns the New Drug Application or Abbreviated New Drug Application number, as defined by the FDA, for a drug;

Owns the Unique Device Identification number, as defined by the FDA, for a prescription device;

Is not involved in the physical manufacture of the drug or device; and

Contracts with an Arizona-permitted manufacturing entity for the physical manufacture of the drug or device; or

If the contracted manufacturing entity is in a location not included in the definition at A.R.S. 32-1901 of other jurisdiction, the virtual manufacturer ensures the facility is inspected every time the virtual manufacturer submits an initial or renewal application and determined to comply with current good manufacturing practices as defined by the federal act and the official compendium.

Virtual manufacturer includes an entity that may be identified as an own-label distributor, which contracts with a manufacturer to produce a drug or device and with another entity to package and label the drug or device, which is then sold under the distributor's name or another name.

"Wholesale distribution" means distribution of a drug to a person other than a consumer or patient, but does not include:

Selling, purchasing, or trading a drug or offering to sell, purchase, or trade a drug for emergency medical reasons. For purposes of this Section, "emergency medical reasons" includes transferring a prescription drug by a community or hospital pharmacy to another community or hospital pharmacy to alleviate a temporary shortage;

Selling, purchasing, or trading a drug, offering to sell, purchase, or trade a drug, or dispensing a drug as specified in a prescription;

Distributing a drug sample by a manufacturers' or distributors' representative; or

Selling, purchasing, or trading blood or blood components intended for transfusion.

"Wholesale distributor" means any person engaged in wholesale distribution of drugs, including: manufacturers; repackers; own-label distributors; private-label distributors; jobbers; brokers; warehouses, including manufacturers' and distributors' warehouses, chain drug warehouses, and wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies that conduct wholesale distributions in the amount of at least 5% of gross sales.

## ARTICLE 2. PHARMACIST LICENSURE

**R4-23-202. Licensure by Examination**

**A.** No change
1. No change
2. No change
3. Complete ~~not less~~ no fewer than 1500 hours of intern training as specified in R4-23-303.

**B.** No change
1. No change
   a. No change
   b. No change
      i. No change
      ii. The application fee specified in R4-23-205~~(C)~~.
2. No change
3. No change
4. The Board shall deem an application for licensure by examination invalid after 12 months from the date the application is received. An applicant whose application form is invalid and who wishes to continue licensure procedures~~,~~ shall submit a new application form and fee as specified ~~in R4-23-205(C)~~ under subsection (B)(1).

**C.** No change

1. No change
2. No change
   a. No change
   b. No change
3. No change
4. No change

**D.** No change
1. No change
2. No change
3. No change

**E.** No change
1. No change
   a. The initial licensure fee specified in R4-23-205~~(A)(1)(a)~~, and
   b. The wall license fee specified in R4-23-205~~(E)(1)(a)~~.
2. No change

**F.** ~~Time-frames~~ Time frames for licensure by examination.
1. No change
   a. No change
   b. If the application form is incomplete, the Board office shall provide the applicant with a written notice that includes a comprehensive list of the missing information. The 60-day ~~time-frame~~ time frame for the Board office to finish the administrative completeness review is suspended from the date the notice of incompleteness is served until the applicant provides the Board office with all missing information.
   c. No change
2. No change
   a. No change
   b. No change
   c. No change
3. No change
4. No change
   a. No change
   b. No change
   c. No change
   d. No change
   e. No change
   f. The 120-day ~~time-frame~~ time frame for a substantive review of eligibility to take the NAPLEX or MPJE is suspended from the date of a written request for additional documentation until the date that all documentation is received. The applicant shall submit the additional documentation according to subsection (F)(2).
   g. If the applicant and the Board office mutually agree in writing, the 120-day substantive review ~~time-frame~~ time frame may be extended once for no more than 45 days.
5. For the purpose of A.R.S. § 41-1072 et seq., the Board establishes the following ~~time-frames~~ time frames for licensure by examination.
   a. Administrative completeness review ~~time-frame~~ time frame: 60 days.
   b. Substantive review ~~time-frame~~ time frame: 120 days.
   c. Overall ~~time-frame~~ time frame: 180 days.

**G.** No change
1. To renew a license, a pharmacist shall submit a completed license renewal application electronically or manually on a form furnished by the Board with the biennial renewal fee specified in R4-23-205~~(A)(1)(b)~~.
2. If the biennial renewal fee is not paid by November 1 of the renewal year specified in A.R.S. § 32-1925, the pharmacist license is suspended and the licensee shall not practice as a pharmacist. The licensee shall pay a penalty as provided in A.R.S. § 32-1925 and R4-23-205~~(G)(1)~~ to vacate the suspension.
3. No change
4. ~~Time-frames~~ Time frames for license renewals. The Board office shall follow the ~~time-frames~~ time frames established in subsection (F).

**R4-23-203. Licensure by Reciprocity**

**A.** No change
1. No change
2. Has passed the NABPLEX or NAPLEX with a score of 75 or better or was licensed by examination in another jurisdiction having essentially the same standards for licensure as this state at the time the pharmacist was licensed, and
3. Provides evidence to the Board of having completed the required secondary and professional education and training specified in R4-23-202(A)~~,~~
4. ~~Has engaged in the practice of pharmacy for at least one year or has met the internship requirements of Article 3 within the year immediately before the date of application, and~~
5. ~~Has actively practiced as a pharmacist for 400 or more hours within the last calendar year or has an Arizona graduate intern license and has completed 400 hours of internship training in a Board-approved internship training site~~.

**B.** No change
1. No change

a. No change
b. No change
i. No change
ii. The reciprocity fee specified in R4-23-205~~(B)~~.
2. No change
3. No change
4. The Board office shall deem an application for licensure by reciprocity invalid after 12 months from the date the application is received. An applicant whose application form is invalid and who wishes to continue licensure procedures~~,~~ shall submit a new application form and fee ~~as~~ specified ~~in R4-23-205(B)~~ in subsection (B)(1).

**C.** No change
1. No change
2. No change
a. No change
b. No change
3. No change
4. No change

**D.** No change
1. No change
a. The initial licensure fee specified in R4-23-205~~(A)(1)(a)~~, and
b. The wall license fee specified in R4-23-205~~(E)(1)(a)~~.
2. No change

**E.** ~~Time frames~~ Time frames for licensure by reciprocity. The Board office shall follow the ~~time frames~~ time frames established for licensure by examination in R4-23-202(F).

**F.** No change

**R4-23-205. Fees**

**A.** No change
1. No change
2. No change

**B.** No change
1. No change
a. No change
b. No change
2. No change
3. No change
a. No change
b. No change

**C.** No change
1. No change
2. No change
a. No change
b. No change
c. No change
3. No change
4. No change
a. No change
b. No change
5. No change
6. No change
7. Third-party logistics provider: $1000 biennially.

**D.** No change
1. No change
2. No change

**E.** No change

**F.** No change

**G.** No change
1. No change
2. No change
3. No change

**H.** No change
1. No change
a. No change
b. No change
c. No change
d. No change
2. No change
3. No change

4. No change
**I.** No change
**J.** No change
1. No change
2. No change

## ARTICLE 3. INTERN TRAINING AND PHARMACY INTERN PRECEPTORS

**R4-23-301. Intern Licensure**
**A.** No change
**B.** No change
1. No change
2. No change
3. No change
4. No change
**C.** No change
**D.** No change
1. No change
2. No change
3. No change
**E.** No change
**F.** No change
1. No change
2. No change
**G.** No change
**H.** No change
1. No change
a. No change
b. No change
i. No change
ii. The initial licensure fee specified in R4-23-205~~(A)(2)~~, and
iii. The wall license fee specified in R4-23-205~~(E)(1)(b)~~.
2. No change
**I.** No change
1. No change
2. If an applicant is found to be eligible for intern licensure under statute and rule, the Board office shall issue a certificate of licensure and a wall license. An applicant who is assigned a license number and who has been granted "open" status on the Board's license verification site may begin practice as a pharmacy intern or graduate intern ~~prior to~~ before receiving the certificate of licensure.
3. No change
4. No change
**J.** ~~Time frames~~ Time Frames for intern licensure. The Board office shall follow the ~~time frames~~ time frames established in R4-23-202(F).
**K.** License renewal.
1. A pharmacy intern whose license expires before the intern completes the education or training required for licensure as a pharmacist but ~~less~~ fewer than six years after the issuance of the initial pharmacy intern license may renew the intern license for a period equal to the difference between the expiration date of the initial intern license and six years from the issue date of the initial intern license by payment of a prorated renewal fee based on the initial license fee specified in R4-23-205~~(A)(2)~~.
2. If a pharmacy intern fails to graduate from a Board-approved college or school of pharmacy within six years from the date the Board issues the initial intern license, the intern is not eligible for relicensure as an intern unless the intern obtains Board approval as specified in A.R.S. § 32-1923(E) and R4-23-401. To remain in good standing, an intern who receives Board approval for relicensure shall pay a prorated renewal fee for the number of months of licensure approved by the Board based on the initial license fee specified in R4-23-205~~(A)(2)~~ before the license expiration date.
3. If an intern receives Board approval for relicensure and does not pay the renewal fee specified in subsection (2) before the license expiration date, the intern license is suspended and the licensee shall not practice as an intern. The licensee shall pay a penalty as provided in A.R.S. § 32-1925 and R4-23-205~~(G)(1)~~ to vacate the suspension.
**L.** No change
1. A pharmacy intern who is employed as an intern outside the experiential training program of a Board-approved college or school of pharmacy or a graduate intern shall notify the Board within ~~ten~~ 10 days of starting or terminating training, or changing training site.
2. No change

**R4-23-302. Training Site and Pharmacy Intern Preceptors**
**A.** No change
1. Holds a valid Arizona pharmacy permit ~~and employs a pharmacy intern preceptor who supervises the intern~~; or
2. No change

~~B. The Board shall inform a pharmacy or alternative training site that an intern will not get credit for training received at the site if the Board determines that a pharmacy or alternative training site fails to provide experiential training as specified in R4-23-301(E) or violates A.R.S. Chapter 18 Title 32 or Chapter 27 Title 36 or the federal act.~~

~~C.~~**B.** No change
1. No change
2. Have a minimum of one year of experience as an actively practicing pharmacist before acting as a pharmacy intern preceptor; and
3. If ~~a pharmacist has been~~ found guilty of violating any federal or state law relating to the practice of pharmacy, drug or device distribution, or recordkeeping~~,~~ or unprofessional conduct, enter into an agreement satisfactory to the Board that places restrictions on the pharmacist's license~~; and~~.
4. ~~Hold a faculty position in the experiential training program of a Board-approved college or school of pharmacy; or~~
5. ~~Be approved by the Board as being otherwise qualified as a pharmacy intern preceptor.~~

~~D. Revocation of preceptorship privileges. The Board shall revoke a pharmacy intern preceptor's privilege to train pharmacy or graduate interns if the Board determines that a pharmacy intern preceptor fails to provide experiential training as specified in R4-23-301(E) or violates A.R.S. Title 32, Chapter 18 or Title 36, Chapter 27 or the federal act. R4-23-111 applies to revocation of preceptor privileges.~~

~~E. Pharmacist-to-intern ratio. A pharmacy intern preceptor may supervise the training of more than one pharmacy or graduate intern during a calendar quarter. The ratio of pharmacist to intern shall not exceed one pharmacist to two interns in a community pharmacy or limited-service pharmacy setting unless approved by the Board. In considering a request to exceed the ratio, the Board will consider pharmacy space limitations and whether exceeding the ratio poses a safety risk to the public health. Subject to R4-23-609 and the safety of public health, there is no pharmacist-to-intern ratio in a practice setting directed by a Board-approved college or school of pharmacy experiential training program.~~

~~F.~~**C.** Preceptor responsibilities. A pharmacy intern preceptor assumes the responsibilities of a teacher and mentor in addition to those of a pharmacist. A preceptor shall thoroughly review pharmacy policy and procedure with each intern. A preceptor is responsible for the pharmacy-related actions of an intern during the specific training period. A preceptor shall give an intern the opportunity for skill development and provide an intern with timely and realistic feedback regarding their progress.

**D.** If an intern completes more than the number of training hours specified under R4-23-202(A)(3), the pharmacist acting as the pharmacy intern preceptor shall report the total number of training hours to the other jurisdiction.

## ARTICLE 4. PROFESSIONAL PRACTICES

**R4-23-407. Prescription Requirements**

**A.** No change
1. A prescription order ~~dispensed by~~ the pharmacist uses to dispense a drug or device includes the following information:
   a. No change
   b. No change
   c. No change
   d. Name of the ~~drug's or device's~~ manufacturer or distributor of the drug or device if the prescription order is written generically or a substitution is made;
   e. No change
   f. No change
   g. No change
   h. No change
   i. No change
   j. No change
   k. No change
   l. No change
2. No change
3. No change
4. If the drug dispensed is a schedule II controlled substance that is an opioid, the drug is placed in a container that has a red cap and a warning label stating "CAUTION: OPIOID, Risk of Overdose and Addiction" or other similarly clear language indicating the possibility of overdose and addiction.

**B.** No change
1. No change
2. No change
3. No change
4. No change

**C.** No change

**D.** No change
1. No change
2. No change
3. No change
4. No change
   a. No change
      i. No change
         (1) No change
         (2) No change
         (3) No change

ii. No change
(1) No change
(2) No change
iii. No change
(1) No change
(2) No change
(3) No change
(4) No change
(5) No change
(6) No change
(7) No change
(8) No change
b. No change
i. The transfer of information is communicated directly between two licensed pharmacists electronically, verbally, or by fax;
ii. No change
(1) No change
(2) No change
iii. No change
(1) No change
(2) No change
(3) No change
(4) No change
(5) No change
(6) No change
(7) No change
(8) No change
5. No change
a. No change
b. No change
6. No change
a. No change
b. No change
c. No change
d. No change
i. No change
(1) No change
(2) No change
(3) No change
(4) No change
ii. No change
(1) No change
(2) No change
(3) No change
(4) No change
(5) No change
(6) No change
(7) No change
(8) No change
e. No change
i. No change
(1) No change
(2) No change
(3) No change
(4) No change
(5) No change
ii. No change
f. No change

**E.** Transmission of a prescription order from a medical practitioner to a pharmacy by ~~facsimile~~ fax ~~machine~~.
1. A medical practitioner or medical practitioner's agent may transmit a prescription order for a Schedule III, IV, or V controlled substance, prescription-only drug, or nonprescription drug to a pharmacy by ~~facsimile~~ fax under the following conditions:
a. No change
b. No change
i. No change
ii. Is only faxed from the medical practitioner's practice location, except that a nurse in a hospital, long-term care facility, or inpatient hospice may send a ~~facsimile~~ fax of a prescription order for a patient of the facility; and

c. No change
i. No change
ii. The ~~facsimile~~ fax number of the prescribing medical practitioner or the facility from which the prescription order is faxed, and the telephone number of the facility; and
iii. The name of the person who transmits the ~~facsimile~~ fax, if other than the medical practitioner.
2. No change
3. No change
4. To meet the seven-year record retention requirement of A.R.S. § 32-1964, a pharmacy shall receive a faxed prescription order on a plain paper ~~facsimile~~ fax machine, except a pharmacy that does not have a plain paper ~~facsimile~~ fax machine may make a ~~Xerox~~ copy of a faxed prescription order received on a non-plain paper ~~facsimile~~ fax machine.
5. A medical practitioner or the medical practitioner's agent may fax refill authorizations to a pharmacy if the faxed authorization includes the medical practitioner's telephone number and ~~facsimile~~ fax number, the medical practitioner's signature or medical practitioner's agent's name, and date of authorization.

**F.** No change
1. No change
2. No change
3. No change
4. No change
a. No change
b. No change
5. No change
6. No change

**R4-23-407.1. Dispensing an Opioid Antagonist**

**A.** No change
1. No change
2. No change
3. No change

**B.** ~~Before allowing~~ When dispensing an opioid antagonist ~~to be dispensed~~ under A.R.S. § 32-1979, a ~~pharmacy permit holder shall have written policies and procedures regarding:~~ pharmacist or pharmacy intern shall provide the following education
~~1. Documentation of opioid antagonists dispensed under A.R.S. § 32-1979. The documentation shall:~~
~~a. Be maintained in a manner consistent with R4-23-407(A)(2);~~
~~b. Include the information required under R4-23-407(A)(1)(c, d, f, and l); and~~
~~c. Include the following:~~
~~i. Quantity dispensed;~~
~~ii. Directions for use; and~~
~~iii. The patient's name, address, telephone number, and birth date; or~~
~~iv. Name, address, telephone number, and birth date of a family member in position to assist the individual at risk of an opioid-related overdose; or~~
~~v. Name, address, telephone number, and employer of a community member in position to assist an individual at risk of an opioid-related overdose; and~~
~~vi. Name of the individual providing the education required under subsection (B)(2);~~
~~2. Education to be provided~~ to the individual to whom the opioid antagonist is dispensed~~. The education shall include~~:
~~a.~~1. How to prevent an opioid-related overdose;
~~b.~~2. How to recognize an opioid-related overdose;
~~c.~~3. How to administer an opioid antagonist safely to an individual experiencing an opioid-related overdose;
~~d.~~4. Precautions regarding:
~~i.~~a. Potential side effects, and
~~ii.~~b. Possible adverse events associated with administration of the opioid antagonist; and
~~e.~~5. Importance of seeking emergency medical assistance for the individual experiencing an opioid-related overdose before or after administering the opioid antagonist~~; and~~
~~3. Confidentiality, security, and privileged nature of documentation of opioid antagonists dispensed under A.R.S. § 32-1979~~.

**C.** Before dispensing an opioid antagonist under A.R.S. § 32-1979(A), a licensed pharmacist shall~~:~~
~~1. Complete~~ complete an opioid prevention and treatment training program that includes the following information:
~~a.~~1. How to recognize the symptoms of an opioid-related overdose,
~~b.~~2. How to respond to a suspected opioid-related overdose,
~~c.~~3. How to administer all preparations of an opioid antagonist, and
~~d.~~4. The information needed by an individual to whom an opioid antagonist is dispensed~~, and~~
~~2. Comply fully with the policies and procedures developed under subsection (B)~~.

**D.** No change
1. No change
2. No change

**E.** No change

**F.** When dispensing an opioid antagonist on a standing order, as defined under A.R.S. § 32-1968, a pharmacist or pharmacy intern shall comply with R4-23-407 except subsection (A)(1)(b), R4-23-408, and R4-23-409.

**R4-23-411. Pharmacist-administered or Pharmacy or Graduate Intern-administered Immunizations**

**A.** Certification to administer immunizations, vaccines, and emergency medications, as defined at A.R.S. § 32-1974(N), to an eligible adult patient or eligible minor patient. As used in this Section, "eligible adult patient" means an eligible patient 13 years of age or older and "eligible minor patient" means an eligible patient at least three years of age but ~~less~~ fewer than13 years of age. A pharmacist or a pharmacy or graduate intern in the presence of and under the immediate personal supervision of a pharmacist, may administer, without a prescription, immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient, if:

1. No change
2. No change
3. No change
   a. No change
   b. No change
4. No change
5. No change
6. No change

**B.** No change

1. No change
2. No change

**C.** No change

1. No change
2. No change

**D.** No change

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

**E.** No change

1. No change
2. No change
3. No change
4. No change
5. No change
6. No change

**F.** No change

1. No change
   a. No change
   b. No change
   c. No change
   d. No change
   e. No change
   f. No change
   g. No change
   h. No change
   i. No change
   j. No change
2. No change
3. No change

**G.** No change

**H.** Renewal of a certificate for pharmacist-administered immunizations. ~~A certificate authorizing a pharmacist to administer immunizations, vaccines, and emergency medications to an eligible adult patient or eligible minor patient expires after five years.~~ A pharmacist ~~who wishes to continue~~ remains in good standing to ~~administering~~ administer immunizations, vaccines, and emergency medications ~~shall renew the certification by submitting a renewal request to the Board within the 30 days before the certificate's expiration date and provide to the Board proof of~~ if, at the time of license renewal under R4-23-202, the pharmacist attests the following to the Board:

1. Current certification in basic cardiopulmonary resuscitation, and
2. Completion of a minimum of ~~five~~ two contact hours (~~0.5~~ 0.2 CEU) of continuing education related to immunizations during the ~~five-year~~ biennial license renewal period. A pharmacist may use the continuing education hours required in this subsection as part of the total continuing education hours required for pharmacist license renewal.

**I.** No change

## ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS

**R4-23-601. General Provisions**

**A.** No change

1. No change
2. No change

**B.** No change

**C.** Permit fee. Permits are issued biennially on an odd- and even- year expiration based on the assigned permit number. The fee, specified in R4-23-205, is not refundable ~~under any circumstances except~~ unless the ~~Board's failure~~ Board fails to comply with the permit ~~time-frames~~ time frames established in R4-23-602.

**D.** No change

1. Every person manufacturing a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical, including repackaging or relabeling, shall prepare and retain for ~~not less~~ no fewer than three years the manufacturing, repackaging, or relabeling date for each narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical.
2. Every person receiving, selling, delivering, or disposing of a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical shall record and retain for ~~not less~~ no fewer than three years the following information:
   a. No change
   b. No change
   c. No change
   d. No change
3. No change
4. No change

**E.** Narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals damaged by water, fire, or from human or animal consumption or use. ~~No~~ A person shall not sell or offer to sell any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical damaged by water, fire, or from human or animal consumption or use.

**F.** At least 14 days before there is a change in ownership, as defined at R4-23-110, of a license or permit issued under this Chapter, the new licensee or permittee shall apply to the Board for a new license or permit.

**R4-23-602. Permit Application Process and ~~Time-frames~~ Time Frames**

**A.** No change

1. No change
2. No change
   a. No change
   b. The permit fee specified in R4-23-205~~(D)~~.

**B.** No change

**C.** ~~Time-frames~~ Time frames for permits.

1. No change
   a. No change
   b. If the application form is incomplete, the Board office shall provide the applicant with a written notice that includes a comprehensive list of the missing information. The 60-day ~~time-frame~~ time frame for the Board office to finish the administrative completeness review is suspended from the date the notice of incompleteness is served until the applicant provides the Board office with all missing information.
   c. No change
2. No change
   a. No change
   b. No change
   c. The Board office shall review the request for an extension of the 90-day deadline and grant the request if the Board office determines ~~that~~ an extension of the 90-day deadline will enable the applicant to assemble and submit the missing information. An extension shall be for no more than 30 days. The Board office shall notify the applicant in writing of its decision to grant or deny the request for an extension.
3. No change
4. For a nonprescription drug permit applicant, a compressed medical gas distributor permit applicant, and a durable medical equipment and compressed medical gas supplier permit applicant, the Board office shall issue a permit on the day ~~that~~ the Board office determines an administratively complete application form is received.
5. No change
   a. No change
   b. No change
   c. No change
   d. The 120-day ~~time-frame~~ time frame for a substantive review for the issuance or denial of a permit is suspended from the date of the written request for additional documentation until the date ~~that~~ all documentation is received. The applicant shall submit the additional documentation according to subsection (C)(2).
   e. If the applicant and the Board office mutually agree in writing, the 120-day substantive review ~~time-frame~~ time frame may be extended once for no more than 45 days.
6. For the purpose of A.R.S. § 41-1072 et seq., the Board establishes the following ~~time-frames~~ time frames for permits:
   a. Administrative completeness review ~~time-frame~~ time frame: 60 days.
   b. Substantive review ~~time-frame~~ time frame:
      i. No change
      ii. No change
   c. Overall ~~time-frame~~ time frame:
      i. No change
      ii. No change

**D.** No change
1. To renew a permit, a permittee shall submit a completed application for permit renewal electronically or manually on a form furnished by the Board with the biennial renewal fee specified in R4-23-205~~(D)~~.
2. If the biennial renewal fee is not paid by November 1 of the renewal year specified in A.R.S. § 32-1931, the permit is suspended. The permittee shall pay a penalty ~~fee~~ as provided in A.R.S. § 32-1931 and R4-23-205~~(G)(2)~~ to vacate the suspension.
3. ~~Time-frames~~ Time frames for permit renewals. The Board office shall follow the ~~time-frames~~ time frames established in subsection (C).

**E.** No change

**R4-23-603. Resident-Nonprescription Drugs, Retail**

**A.** No change
1. No change
2. No change
3. No change

**B.** No change

**C.** No change
1. No change
2. No change

**D.** No change
1. No change
2. No change

**E.** Inspection. A nonprescription drug permittee shall consent to inspection during business hours by a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901~~(5)~~.

**F.** No change
1. No change
   a. No change
   b. No change
   c. No change
   d. No change
2. No change
   a. No change
   b. No change
   c. No change

**G.** Notification. A nonprescription drug permittee shall submit using the permittee's online profile or provide written notice by mail, ~~Facsimile~~ fax, or e-mail to the Board office within ~~ten~~ 10 days of changes involving the telephone ~~number, facsimile~~ or fax number, e-mail ~~address,~~ or mailing address, or business name ~~of business~~.

**H.** Change of ownership. ~~No less than 14 days before a change of ownership occurs that involves changes of stock ownership of 30% or more of the voting stock of a corporation or an existing and continuing corporation that is not actively traded on any securities market or over-the-counter market, the prospective owner shall submit a completed application form and fee as specified in subsection (C).~~ A nonprescription drug permittee shall comply with R4-23-601(F).

**I.** No change

**J.** No change
1. No change
2. No change

**K.** Permit renewal. ~~Permit renewal~~ To renew a nonprescription drug permit, the permittee shall ~~be as specified in~~ comply with R4-23-602(D).

**L.** No change
1. No change
2. No change
3. No change
4. No change
5. A nonprescription-drug-permitted vending machine is subject to inspection by a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901~~(5)~~ as follows:
   a. No change
   b. No change
6. No change
   a. No change
   b. No change
   c. No change
   d. No change
7. No change
8. No change

**R4-23-604. Resident Drug Manufacturer**

**A.** No change

**B.** Application. To obtain a permit to operate a drug manufacturing firm in Arizona, a person shall submit a completed application, on a form furnished by the Board, ~~that includes:~~ and the fee specified in R4-23-205.

~~1. Business name, address, mailing address, if different, telephone number, and facsimile number;~~
~~2. Owner's name, if corporation or partnership, officers or partners, including address and title, and any other trade or business names used;~~
~~3. Whether the owner, corporation, or partnership has conducted a similar business in any other jurisdiction and if so, indicate under what name and location;~~
~~4. Whether the owner, any officer, or active partner has ever been convicted of an offense involving moral turpitude, a felony offense, or any drug-related offense or has any currently pending felony or drug-related charges, and if so, indicate charge, conviction date, jurisdiction, and location;~~
~~5. Whether the owner, any officer, or active partner has ever been denied a drug manufacturer permit in this state or any other jurisdiction, and if so, indicate where and when;~~
~~6. A copy of the drug list required by the FDA;~~
~~7. Plans or construction drawings showing facility size and security for the proposed business;~~
~~8. Applicant's and manager's name, address, emergency telephone number, and resumé indicating educational or experiential qualifications related to drug manufacturer operation;~~
~~9. The applicant's current FDA drug manufacturer or repackager registration number and expiration date;~~
~~10. Documentation of compliance with local zoning laws;~~
~~11. For an application submitted because of ownership change, the former owner's name and business name, if different;~~
~~12. Date signed, and applicant's, corporate officer's, partner's, or manager's verified signature and title; and~~
~~13. Fee specified in R4-23-205.~~

**C.** No change
1. No change
2. No change
3. No change

**D.** Notification. A resident drug manufacturer permittee shall notify the Board of changes involving the drug list, ~~ownership,~~ address, telephone number, business name ~~of business~~, or manager, including manager's telephone number. The resident drug manufacturer permittee shall submit using the permittee's online profile or a written notice ~~via~~ by mail, fax, or e-mail to the ~~Executive Director~~ the Board office within 24 hours of the change~~, except any change of ownership requires that the resident drug manufacturer permittee comply with subsection (E)~~.

**E.** Change of ownership. ~~Before a change of ownership occurs that involves changes of stock ownership of more than 30% of the voting stock of a corporation or an existing and continuing corporation that is not actively traded on any securities market or over the counter market, the prospective owner shall submit the application packet described under subsection R4-23-604(B)~~. A resident drug manufacturer permittee shall comply with R4-23-601(F).

**F.** No change

**G.** ~~A~~ No later than 14 days after the change occurs, a resident drug manufacturer permittee shall submit the application ~~packet~~ described under subsection R4-23-604(B), excluding the fee, for any change of officers in a corporation~~, excluding the fee and final inspection~~.

**H.** No change
1. No change
   a. No change
   b. No change
   c. No change
2. No change

**I.** No change

**J.** Current Good Manufacturing Practice. A drug manufacturer permittee ~~shall comply with the current~~ is required under federal law to follow the good manufacturing practice requirements of 21 CFR 210 through 211~~, (Revised April 1, 2011, incorporated by reference and on file with the Board and available at www.gpo.gov. This incorporated material includes no future editions or amendments.)~~.

**K.** Records. A drug manufacturer permittee shall:
1. Establish and implement written procedures for maintaining records pertaining to production, process control, labeling, packaging, quality control, distribution, complaints, and any information required by federal or state law;
2. Retain the records required by this Article and 21 CFR 210 through 211 ~~as incorporated in subsection (J)~~ for at least two years after distribution of a drug or one year after the expiration date of a drug, whichever is longer; and
3. Make the records required by this Article and 21 CFR 210 through 211 ~~as incorporated in subsection (J)~~ available within 48 hours for review by a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901~~(5)~~.

**L.** No change

**M.** No change

**N.** No change
1. No change
2. No change

**R4-23-605. Resident Drug Wholesaler Permit**

**A.** No change

**B.** Application.
1. To obtain a permit to operate a full-service or nonprescription drug wholesale firm in Arizona, a person shall submit a completed application, on a form furnished by the Board, ~~that includes:~~ and the fee specified in R4-23-205.
   ~~a. Whether the application is for a full-service or nonprescription drug wholesale permit;~~
   ~~b. Business name, address, mailing address, if different, telephone number, and facsimile number;~~
   ~~c. Owner's name, if corporation or partnership, officers or partners, including address and title, and any other trade or business names used;~~

~~d. Whether the owner, corporation, or partnership has conducted a similar business in any other jurisdiction and if so, indicate under what name and location;~~

~~e. Whether the owner, any officer or active partner has ever been convicted of an offense involving moral turpitude, a felony offense, or any drug-related offense or has any currently pending felony or drug-related charges, and if so, indicate charge, conviction date, jurisdiction, and location;~~

~~f. Whether the owner or any officer or active partner has ever been denied a drug wholesale permit in this state or any other jurisdiction, and if so, indicate where and when;~~

~~g. For a full-service drug wholesale firm:~~

~~i. The designated representative's name, address, and emergency telephone number;~~

~~ii. Documentation that the designated representative meets the requirements of A.R.S. § 32-1982(B) and the following as specified in A.R.S. § 32-1982(C):~~

~~(1) A full set of fingerprints from the designated representative; and~~

~~(2) The state and federal criminal history record check fee specified by and made payable to the Arizona State Department of Public Safety by money order, certified check, or bank draft; and~~

~~iii. A $100,000 bond as specified in A.R.S. § 32-1982(D) submitted on a form supplied by the Board;~~

~~h. The type of drugs, whether nonprescription, prescription-only, controlled substances, human, or veterinary, the applicant will distribute;~~

~~i. Plans or construction drawings showing facility size and security for the proposed business;~~

~~j. Documentation of compliance with local zoning laws;~~

~~k. For a nonprescription drug wholesale firm, the manager's or designated representative's name, address, emergency telephone number, and resumé indicating educational or experiential qualifications related to drug wholesale operation;~~

~~l. For an application submitted because of ownership change, the former owner's name and business name, if different;~~

~~m. Date signed, and applicant's, corporate officer's, partner's, manager's, or designated representative's verified signature and title; and~~

~~n. Fee specified in R4-23-205.~~

2. No change
   a. No change
   b. No change
   c. No change
   d. For a full-service drug wholesale permit, issue a fingerprint clearance to a qualified designated representative, as specified in subsection (L). If the fingerprint clearance of a designated representative for a full-service drug wholesale permit applicant is denied, the full-service drug wholesale permit applicant shall appoint another designated representative and submit the documentation, fingerprints, and fee specified in the application required in subsection (B)~~(1)(g)(ii)~~.

**C.** Notification. A resident full-service or nonprescription drug wholesale permittee shall notify the Board of changes involving the type of drugs sold or distributed, ~~ownership,~~ address, telephone number, business name ~~of business~~, or manager or designated representative, including the manager's or designated representative's telephone number.

1. The resident full-service or nonprescription drug wholesale permittee shall submit using the permittee's online profile or a written notice ~~via~~ by mail, fax, or e-mail to the ~~Executive Director~~ Board office within 10 days of the change~~, except any change of ownership requires that the resident full-service or nonprescription drug wholesale permittee comply with subsection (D)~~.
2. For a change of designated representative, a resident full-service drug wholesale permittee shall submit the documentation, fingerprints, and fee specified in the application required in subsection (B)~~(1)(g)(ii)~~. ~~If the fingerprint clearance of a designated representative for a full-service drug wholesale permit applicant is denied, the full-service drug wholesale permit applicant shall appoint another designated representative and submit the documentation, fingerprints, and fee required in subsection (B)(1)(g)(ii)~~.

**D.** Change of ownership. ~~Before a change of ownership occurs that involves changes of stock ownership of more than 30% of the voting stock of a corporation or an existing and continuing corporation that is not actively traded on any securities market or over the counter market, the prospective owner shall submit the application packet described under subsection (B).~~ A resident full-service or nonprescription drug wholesale permittee shall comply with R4-23-601(F).

**E.** Before an existing resident full-service or nonprescription drug wholesaler permittee relocates, the resident full-service or nonprescription drug wholesale permittee shall submit the application ~~packet described~~ required under subsection (B), excluding the fee. The facility at the new location shall pass a final inspection by a Board compliance officer before operations begin.

**F.** ~~A~~ No later than 14 days after the change occurs, a resident full-service or nonprescription drug wholesale permittee shall submit the application ~~packet~~ described under subsection (B), excluding the fee, for any change of officers in a corporation~~, excluding the fee and final inspection~~.

**G.** No change

1. No change
   a. No change
      i. No change
      ii. No change
      iii. No change
      iv. In addition to the records requirements of subsection (G)(1)(a)(i), ~~provide a pedigree as specified in A.R.S. § 32-1984(E)~~ comply with the retention of track and trace documents required under the Drug Supply Chain and Security Act for all prescription-only drugs that leave the normal distribution channel as defined in A.R.S. § 32-1981.
   b. No change
      i. No change
      ii. No change

iii. No change

2. No change
   a. No change
      i. Not sell, distribute, give away, or dispose of~~,~~ any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical, except in the original container packaged and labeled by the manufacturer or repackager;
      ii. No change
      iii. Not sell, distribute, give away, or dispose of~~,~~ any narcotic or other controlled substance, or prescription-only drug or device, to anyone except a pharmacy, drug manufacturer, or full-service drug wholesaler currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
      iv. Not sell, distribute, give away, or dispose of~~,~~ any nonprescription drug, precursor chemical, or regulated chemical, to anyone except a pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
      v. Provide ~~pedigree records~~ track and trace documents required under the Drug Supply Chain and Security Act upon request, if immediately available, or within two business days from the date of a request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901~~(5)~~;
      vi. Maintain a copy of the current permit or license of each person ~~or firm who~~ that buys, receives, or disposes of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
      vii. No change
   b. No change
      i. Not sell, distribute, give away, or dispose of any nonprescription drug, precursor chemical, or regulated chemical~~,~~ except in the original container packaged and labeled by the manufacturer or repackager;
      ii. No change
      iii. Not sell or distribute any nonprescription drug, precursor chemical, or regulated chemical~~,~~ to anyone except a pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
      iv. Maintain a record of the current permit or license of each person ~~or firm who~~ that buys, receives, or disposes of any nonprescription drug, precursor chemical, or regulated chemical; and
      v. No change
   c. No change
3. No change
   a. No change
      i. Not sell, distribute, give away, or dispose of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical~~,~~ except in the original container packaged and labeled by the manufacturer or repackager;
      ii. No change
      iii. Not sell, distribute, give away, or dispose of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical~~,~~ to anyone except a person ~~or firm~~ that is properly permitted, registered, licensed, or certified in another jurisdiction;
      iv. Provide ~~pedigree records~~ track and trace documents required under the Drug Supply Chain and Security Act upon request, if immediately available, or within two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901~~(5)~~;
      v. Maintain a copy of the current permit, registration, license, or certificate of each person ~~or firm who~~ that buys, receives, or disposes of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
      vi. No change
   b. No change
      i. Not sell, distribute, give away, or dispose of any nonprescription drug, precursor chemical, or regulated chemical~~,~~ except in the original container packaged and labeled by the manufacturer or repackager;
      ii. No change
      iii. Not sell or distribute any nonprescription drug, precursor chemical, or regulated chemical~~,~~ to anyone except a person ~~or firm~~ that is properly permitted, registered, licensed, or certified in another jurisdiction;
      iv. Maintain a record of the current permit, registration, license, or certificate of each person ~~or firm who~~ that buys, receives, or disposes of any nonprescription drug, precursor chemical, or regulated chemical; and
      v. No change
4. No change
   a. A full-service drug wholesale permittee shall complete a cash-and-carry sale or distribution of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical~~,~~ only after:
      i. No change
      ii. Verifying the identity of the pick-up person for each transaction by confirming that the person ~~or firm~~ represented placed the cash-and-carry order; and
      iii. For a prescription-only drug order, verifying that the cash-and-carry sale or distribution is used only to meet the immediate needs of a particular patient of the person ~~or firm who~~ that placed the cash-and-carry order; and

b. A nonprescription drug wholesale permittee shall complete a cash-and-carry sale or distribution of any nonprescription drug, precursor chemical, or regulated chemical~~,~~ only after:
i. No change
ii. Verifying the identity of the pick-up person for each transaction by confirming that the person ~~or firm~~ represented placed the cash-and-carry order.

**H.** No change
1. No change
2. No change
3. No change
a. No change
b. No change

**I.** No change
1. No change
a. No change
b. Any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical whose immediate or sealed outer or secondary containers or product labeling are misbranded, counterfeited, or contraband or suspected of being misbranded, counterfeited, or contraband shall be quarantined and physically separated from other narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals until the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA. When the immediate or sealed outer or secondary containers or product labeling are determined to be misbranded, counterfeited, or contraband or suspected of being misbranded, counterfeited, or contraband, the full-service drug wholesale permittee shall provide notice of the misbranding, counterfeiting, or ~~contrabandage~~ contrabanding or suspected misbranding, counterfeiting, or ~~contrabandage~~ contrabanding within three business days of the determination to the Board, FDA, and manufacturer or wholesale distributor from which the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical was acquired.
c. Any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical that has been opened or used, but is not adulterated, misbranded, counterfeited, or contraband or suspected of being misbranded, counterfeited, or contraband~~,~~ shall be identified as opened or used, or both, and quarantined and physically separated from other narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals until the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA.
d. If the conditions under which a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical has been returned cast doubt on the ~~narcotic's or other controlled substance's, prescription-only drug's or device's, nonprescription drug's, precursor chemical's, or regulated chemical's~~ safety, identity, strength, quality, or purity of the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical, the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical shall be quarantined and physically separated from other narcotics or other controlled substances, prescription-only drugs or devices, nonprescription drugs, precursor chemicals, or regulated chemicals until the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA, except as provided in subsection (I)(1)(d)(i).
i. No change
ii. In determining whether the conditions under which a narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical has been returned cast doubt on the ~~narcotic's or other controlled substance's, prescription-only drug's or device's, nonprescription drug's, precursor chemical's, or regulated chemical's~~ safety, identity, strength, quality, or purity of the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical, the full-service drug wholesale permittee shall consider, among other things, the conditions under which the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical has been held, stored, or shipped before or during its return and the condition of the narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical and the condition of its container, carton, or product labeling as a result of storage or shipping.
e. No change
2. No change
a. No change
b. Any nonprescription drug, precursor chemical, or regulated chemical whose immediate or sealed outer or secondary containers or product labeling are misbranded, counterfeited, or contraband or suspected of being misbranded, counterfeited, or contraband shall be quarantined and physically separated from other nonprescription drugs, precursor chemicals, or regulated chemicals until the nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA. When the immediate or sealed outer or secondary containers or product labeling are determined to be misbranded, counterfeited, or contraband or suspected of being misbranded, counterfeited, or contraband, the nonprescription drug wholesale permittee shall provide notice of the misbranding, counterfeiting, or ~~contrabandage~~ contrabanding or suspected misbranding, counter-

feiting, or ~~contrabandage~~ contrabanding within three business days of the determination to the Board, FDA, and manufacturer or wholesale distributor from which the nonprescription drug, precursor chemical, or regulated chemical was acquired.

c. No change

d. If the conditions under which a nonprescription drug, precursor chemical, or regulated chemical has been returned cast doubt on the ~~nonprescription drug's, precursor chemical's, or regulated chemical's~~ safety, identity, strength, quality, or purity of the nonprescription drug, precursor chemical, or regulated chemical, the nonprescription drug, precursor chemical, or regulated chemical shall be quarantined and physically separated from other nonprescription drugs, precursor chemicals, or regulated chemicals until the nonprescription drug, precursor chemical, or regulated chemical is destroyed or returned to the manufacturer or wholesale distributor from which it was acquired as authorized by the Board and the FDA, except as provided in subsection (I)(2)(d)(i).

i. If examination, testing, or other investigation proves that the nonprescription drug, precursor chemical, or regulated chemical meets appropriate standards of safety, identity, strength, quality, and purity, ~~it~~ the nonprescription drug, precursor chemical, or regulated chemical does not need to be destroyed or returned to the manufacturer or wholesale distributor.

ii. In determining whether the conditions under which a nonprescription drug, precursor chemical, or regulated chemical has been returned cast doubt on the ~~nonprescription drug's, precursor chemical's, or regulated chemical's~~ safety, identity, strength, quality, or purity of the nonprescription drug, precursor chemical, or regulated chemical, the nonprescription drug wholesale permittee shall consider, among other things, the conditions under which the nonprescription drug, precursor chemical, or regulated chemical has been held, stored, or shipped before or during its return and the condition of the nonprescription drug, precursor chemical, or regulated chemical and the condition of its container, carton, or product labeling as a result of storage or shipping.

e. No change

3. No change

**J.** No change

1. No change
2. No change
   a. No change
   b. No change
3. No change
4. No change
5. No change
6. No change
7. No change
8. No change
9. No change

**K.** No change

1. No change
   a. No change
   b. No change
   c. No change
      i. No change
      ii. No change
      iii. No change
   d. No change
   e. No change
      i. No change
      ii. No change
      iii. No change
2. No change
   a. No change
   b. No change
   c. No change
      i. No change
      ii. No change
      iii. No change
   d. No change
   e. No change
      i. No change
      ii. Any nonprescription drug, precursor chemical, or regulated chemical that has ~~less~~ fewer than 120 days remaining on the expiration date, or is deteriorated, damaged, or does not comply with federal law, is moved to a quarantine area and not sold or distributed; and
      iii. No change

**L.** No change

1. No change
2. No change

a. No change
b. No change
c. No change
d. No change
e. No change
f. No change
g. No change
h. No change

3. If ~~after conducting a state and federal criminal history record check~~ the Board determines, after conducting a state and federal criminal history record check, that it is not authorized to issue a fingerprint clearance, the Board shall notify the full-service drug wholesale applicant or permittee that employs the designated representative that the Board is not authorized to issue a fingerprint clearance. This notice shall include the criminal history information on which the denial was based. This criminal history information is subject to dissemination restrictions under A.R.S. § 41-1750 and federal law.

~~4. The issuance of a fingerprint clearance does not entitle a person to employment.~~

**R4-23-606. Resident-Pharmacy Permit: Community, Hospital, and Limited Service**

**A.** No change

**B.** Application.

~~1.~~ To obtain a permit to operate a pharmacy in Arizona, a person shall submit a completed application, on a form available from the Board, and the fee ~~as~~ specified in ~~R4-23-602 that includes:~~ R4-23-205.

~~a. Documentation of compliance with local zoning laws, if required by the Board;~~

~~b. A detailed floor plan showing proposed pharmacy area including size and security;~~

~~c. A copy of the lease agreement, if applicable; and~~

~~d. A disclosure statement indicating whether a medical practitioner will receive compensation, either directly or indirectly, from the pharmacy.~~

2. No change
   a. No change
   b. No change
3. No change

**C.** Notification. A pharmacy permittee shall notify the Board office within ~~ten~~ 10 days of changes involving the type of pharmacy operated, telephone ~~number, facsimile~~ or fax number, e-mail ~~address,~~ or mailing address, business name ~~of business~~, or staff pharmacist. A pharmacy permittee shall provide the Board office immediate notice of a change of the pharmacist-in-charge.

**D.** No change

**E.** Change of ownership. ~~No less than 14 days before a change of ownership occurs that involves changes of stock ownership of 30% or more of the voting stock of a corporation or an existing and continuing corporation that is not actively traded on any securities market or over-the-counter market, the prospective owner shall submit a completed application form and fee as specified in subsection (B).~~ A pharmacy permittee shall comply with R4-23-601(F).

**F.** No change

1. No ~~less~~ fewer than 30 days before the relocation or remodel of an existing pharmacy, the pharmacy permittee shall submit, electronically or manually, a completed application for remodel or relocation ~~electronically or manually on a~~ using the form ~~furnished by the Board~~ specified under subsection (B). A fee is not required with an application for remodel or relocation.

   ~~a. An application for relocation shall include the documents required by subsections (B)(1)(a) through (d).~~

   ~~b. An application for remodel shall include the document required by subsection (B)(1)(b).~~

2. No change

**G.** Permit renewal. ~~Permit renewal shall be as specified in R4-23-602(D).~~ To renew a pharmacy permit, the permittee shall ~~be as specified in~~ comply with R4-23-602(D).

**R4-23-607. Nonresident Permits**

**A.** Permit. A person ~~who~~ that is not a resident of Arizona shall not sell or distribute any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical into Arizona without~~:~~

~~1. Processing a current Board-issued nonresident pharmacy permit, nonresident manufacturer permit, nonresident full-service or nonprescription drug wholesale permit, or nonresident nonprescription drug permit;~~

~~2. Possessing~~ possessing a current ~~equivalent~~ license or permit issued by the licensing authority in the jurisdiction where the person ~~or firm~~ resides~~;~~

~~3. For a nonresident pharmacy, employing a pharmacist who is designated as the pharmacist-in-charge and who possesses a current Arizona Board-issued pharmacist license; and~~

~~4. For a nonresident pharmacy permit issued before April 7, 2007, complying with subsection (A)(3) and submitting to the Board the pharmacist-in-charge's name, current Arizona Board-issued pharmacist license number, and telephone number by November 1, 2007~~.

**B.** Application. To obtain a nonresident pharmacy, nonresident manufacturer, nonresident full-service or nonprescription drug wholesale, or nonprescription drug permit, a person shall submit a completed application, on a form furnished by the Board, ~~that includes:~~ and the fee specified in R4-23-205.

~~1. Business name, address, mailing address, if different, telephone number, and facsimile number;~~

~~2. Owner's name, if corporation or partnership, officers or partners, including address and title, and any other trade or business names used;~~

~~3. Whether the owner, corporation, or partnership has conducted a similar business in any other jurisdiction and if so, indicate under what name and location;~~

4. ~~Whether the owner, any officer, or active partner has ever been convicted of an offense involving moral turpitude, a felony offense, or any drug-related offense or has any currently pending felony or drug-related charges, and if so, indicate charge, conviction date, jurisdiction, and location;~~
5. ~~A copy of the applicant's current equivalent license or permit, issued by the licensing authority in the jurisdiction where the person or firm resides and required by subsection (A)(2);~~
6. ~~For an application submitted because of ownership change, the former owner's name and business name, if different;~~
7. ~~Date signed, and applicant's, corporate officer's, partner's, manager's, administrator's, pharmacist-in-charge's, or designated representative's verified signature and title; and~~
8. ~~Fee specified in R4-23-205.~~

~~C.~~ ~~In addition to the requirements of subsection (B), the following information is required on the application:~~

1. ~~Nonresident pharmacy.~~
   a. ~~The type of pharmacy;~~
   b. ~~Whether the owner, any officer, or active partner has ever been denied a pharmacy permit in this state or any other jurisdiction, and if so, indicate where and when;~~
   c. ~~If applying for a hospital pharmacy permit, the number of beds, manager's or administrator's name, and a copy of the hospital's current equivalent license or permit issued by the licensing authority in the jurisdiction where the person or firm resides;~~
   d. ~~Pharmacist-in-charge's name, current Arizona Board-issued pharmacist license number, and telephone number; and~~
   e. ~~For an application submitted because of ownership change, the former pharmacy's name, address, and permit number; and~~
2. ~~Nonresident manufacturer.~~
   a. ~~Whether the owner, any officer, or active partner has ever been denied a drug manufacturer permit in this state or any other jurisdiction, and if so, indicate where and when;~~
   b. ~~A copy of the drug list required by the FDA;~~
   c. ~~Manager's or responsible person's name, address, and emergency telephone number; and~~
   d. ~~The firm's current FDA drug manufacturer or repackager registration number and expiration date; and~~
3. ~~Nonresident full-service drug wholesaler.~~
   a. ~~The designated representative's name, address, and emergency telephone number;~~
   b. ~~Documentation that the designated representative meets the requirements of A.R.S. § 32-1982(B) and the following as specified in A.R.S. § 32-1982(C):~~
      i. ~~A full set of fingerprints from the designated representative; and~~
      ii. ~~The state and federal criminal history record check fee specified by and made payable to the Arizona State Department of Public Safety by money order, certified check, or bank draft; and~~
   c. ~~A $100,000 bond as specified in A.R.S. § 32-1982(D) submitted on a form supplied by the Board; and~~
4. ~~Nonresident full-service or nonprescription drug wholesaler.~~
   a. ~~The type of drug wholesale permit;~~
   b. ~~Whether the owner, any officer, or active partner has ever been denied a drug wholesale permit in this state or any other jurisdiction, and if so, indicate where and when;~~
   c. ~~The types of drugs, nonprescription, prescription-only, controlled substances, human, or veterinary, the applicant will distribute;~~
   d. ~~Manager's or designated representative's name, address, emergency telephone number, and resumé indicating educational or experiential qualifications related to drug wholesale operation; and~~
5. ~~Nonresident nonprescription drug retailer.~~
   a. ~~Whether applying for Category I or Category II permit;~~
   b. ~~Date business started or planned opening date; and~~
   c. ~~Type of business, such as convenience, drug, grocery, or health food store, swap-meet vendor, or vending machine.~~

~~D.~~ ~~Before issuing a nonresident full-service drug wholesale permit, the Board shall:~~

1. ~~Receive and approve a completed permit application; and~~
2. ~~Issue a fingerprint clearance to a qualified designated representative, as specified in R4-23-605(L). If a nonresident full-service drug wholesale permit applicant's designated representative's fingerprint clearance is denied, the nonresident full-service drug wholesale permit applicant shall appoint another designated representative and submit the documentation, fingerprints, and fee required in subsection (C)(3)(b).~~

~~E.~~C. Notification. A permittee shall submit ~~any~~ notification of any change required in this subsection ~~as a written notice via~~ using the permittee's online profile or as a written notice by mail, fax, or e-mail to the ~~Executive Director~~ Board office within 10 days of the change~~, except any change of ownership requires that the nonresident permittee comply with subsection (F)~~.

1. Nonresident pharmacy. A nonresident pharmacy permittee shall notify the Board of changes involving the type of pharmacy operated, ~~ownership,~~ address, telephone number, business name ~~of business~~, or pharmacist-in-charge.
2. Nonresident manufacturer. A nonresident manufacturer permittee shall notify the Board of changes involving listed drugs, ~~ownership,~~ address, telephone number, business name ~~of business~~, or manager, including manager's telephone number.
3. Nonresident drug wholesaler. A nonresident full-service or nonprescription drug wholesale permittee shall notify the Board of changes involving the types of drugs sold or distributed, ~~ownership,~~ address, telephone number, business name ~~of business~~, or manager or designated representative, including the manager's or designated representative's telephone number. For a change of designated representative, a nonresident full-service drug wholesale permittee shall submit the documentation, fingerprints, and fee required ~~in~~ with the application under subsection ~~(C)(3)(b)~~ (B). ~~If a nonresident full-service drug wholesale permit applicant's designated representative's fingerprint clearance is denied, the nonresident full-service drug wholesale permittee shall appoint another designated representative and submit the documentation, fingerprints, and fee required in subsection (C)(3)(b).~~

4. Nonresident nonprescription drug retailer. A nonresident nonprescription drug permittee shall notify the Board of changes involving permit category, ~~ownership,~~ address, telephone number, business name ~~of business~~, or manager, including manager's telephone number.

~~F.~~**D.** Change of ownership. ~~Before a change of ownership occurs that involves changes of stock ownership of more than 30% of the voting stock of a corporation or an existing and continuing corporation that is not actively traded on any securities market or over the counter market, the prospective owner shall submit the appropriate application packet described under subsections (B) and (C).~~ A nonresident permittee shall comply with R4-23-601(F).

~~G.~~**E.** No change

1. No change
   a. Not sell, distribute, give away, or dispose of any narcotic or other controlled substance or prescription-only drug or device~~,~~ to anyone in Arizona except:
      i. No change
      ii. No change
      iii. No change
   b. Not sell, distribute, give away, or dispose of any nonprescription drug, precursor chemical, or regulated chemical~~,~~ to anyone in Arizona except:
      i. No change
      ii. No change
      iii. No change
   c. Except for a drug sale that results from the receipt and dispensing of a valid prescription order for an Arizona resident, maintain a copy of the current permit or license of each person ~~or firm~~ in Arizona ~~who~~ that buys, receives, or disposes of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
   d. Provide permit and license records upon request, if immediately available, or in no ~~less~~ fewer than two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901(5).
2. No change
   a. Not sell, distribute, give away, or dispose of any narcotic or other controlled substance or prescription-only drug or device~~,~~ to anyone in Arizona except~~,~~ a pharmacy, drug manufacturer, or full-service drug wholesaler currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
   b. Not sell, distribute, give away, or dispose of any nonprescription drug, precursor chemical, or regulated chemical~~,~~ to anyone in Arizona except~~,~~ a pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
   c. Maintain a copy of the current permit or license of each person ~~or firm~~ in Arizona ~~who~~ that buys, receives, or disposes of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
   d. Provide permit and license records upon request, if immediately available, or in no ~~less~~ more than two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901~~(5)~~.
3. No change
   a. No change
   b. No change
   c. Provide ~~pedigree records~~ track and trace documents required under the Drug Supply Chain and Security Act upon request, if immediately available, or in no ~~less~~ more than two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901~~(5)~~;
   d. No change
   e. Not sell, distribute, give away, or dispose of~~,~~ any nonprescription drug, precursor chemical, or regulated chemical~~,~~ to anyone in Arizona except~~,~~ a pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
   f. Maintain a copy of the current permit or license of each person ~~or firm~~ in Arizona ~~who~~ that buys, receives, or disposes of any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical; and
   g. Provide permit and license records upon request, if immediately available, or in no ~~less~~ more than two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901~~(5)~~.
4. No change
   a. No change
   b. No change
   c. Not sell, distribute, give away, or dispose of~~,~~ any nonprescription drug, precursor chemical, or regulated chemical~~,~~ to anyone in Arizona except~~,~~ a pharmacy, drug manufacturer, full-service or nonprescription drug wholesaler, or nonprescription drug retailer currently permitted by the Board or a medical practitioner currently licensed under A.R.S. Title 32;
   d. Maintain a copy of the current permit or license of each person ~~or firm~~ in Arizona ~~who~~ that buys, receives, or disposes of any nonprescription drug, precursor chemical, or regulated chemical; and
   e. Provide permit and license records upon request, if immediately available, or in no ~~less~~ more than two business days from the date of the request of a Board compliance officer or other authorized officer of the law as defined in A.R.S. § 32-1901~~(5)~~.

5. No change
   a. No change
   b. No change
   c. No change

~~H.~~**F.** When selling or distributing any narcotic or other controlled substance, prescription-only drug or device, nonprescription drug, precursor chemical, or regulated chemical into Arizona, a nonresident pharmacy, nonresident manufacturer, nonresident full-service or nonprescription drug wholesale, or nonprescription drug permittee shall comply with federal law, the permittee's resident state drug law, and this Section.

**R4-23-676. ~~Reserved~~ Third-party Logistics Provider Permit**

**A.** A person shall not provide logistics services, as described under A.R.S. § 32-1941(A), until the Board issues a third-party logistics provider permit for the facility.

**B.** A person that wants to provide logistics services shall obtain a Board-issued third-party logistics provider permit for each facility.

**C.** Application. To obtain a third-party logistics provider permit for a facility, a person shall submit a completed application, using a form available on the Board's website, and the fee specified in R4-23-205.

**D.** Change of ownership. A third-party logistics provider permittee shall comply with R4-23-601(F).

**E.** A third-party logistics provider permittee shall renew the permit as specified under R4-23-602(D).

**F.** The Board shall adhere to the time frames specified under R4-23-602(C) when processing an initial or renewal application for a third-party logistics provider permit.

**R4-23-692. Compressed Medical Gas (CMG) Distributor-Resident or Nonresident**

**A.** Permit.
   1. No change
   2. No change

**B.** Application. To obtain a resident or nonresident CMG distributor permit, a person shall submit to the Board a completed application form and the fee ~~as~~ specified in ~~R4-23-602~~ R4-23-205.
   1. No change
   2. No change

**C.** Notification. A resident or nonresident CMG distributor permittee shall submit using the permittee's online profile or provide written notice by mail, ~~facsimile~~ fax, or e-mail to the Board office within ~~ten~~ 10 days of changes involving the telephone ~~number, facsimile~~ or fax number, e-mail ~~address,~~ or mailing address, or business name ~~of business~~.

**D.** Change of ownership. ~~No less than 14 days before a change of ownership occurs that involves changes of stock ownership of 30% or more of the voting stock of a corporation or an existing and continuing corporation that is not actively traded on any securities market or over-the-counter market, the prospective owner shall submit a completed application form and fee as specified in subsection (B).~~ A resident or nonresident CMG distributor permittee shall comply with R4-23-601(F).

**E.** Relocation.
   1. No ~~less~~ fewer than 30 days before ~~an existing~~ a resident CMG distributor permittee relocates, the permittee shall electronically or manually submit a completed application for relocation ~~electronically or manually on~~ using a form furnished by the Board, and the documentation required in subsection (B). A fee is not required with an application for relocation.
   2. A nonresident CMG distributor permittee shall provide written notice by mail, ~~facsimile~~ fax, or e-mail to the Board office no ~~less~~ fewer than ~~ten~~ 10 days before relocating.

**F.** A resident or nonresident CMG distributor permittee ~~shall~~ is authorized to sell or distribute a compressed medical gas ~~pursuant to~~ under a compressed medical gas order only to durable medical equipment and compressed medical gas suppliers and other entities that are registered, licensed, or permitted to use, administer, or distribute compressed medical gases.

**G.** No change

**H.** Current Good Manufacturing Practice: A resident or nonresident CMG distributor permittee ~~shall comply with the current~~ is required under federal law to follow the good manufacturing practice requirements of 21 CFR parts 210 and 211~~, (Revised April 1, 2013, incorporated by reference and on file with the Board and available at www.gpo.gov. This incorporated material includes no future editions or amendments)~~.

**I.** Records: A resident or nonresident CMG distributor permittee shall:
   1. ~~establish~~ Establish and implement written procedures for maintaining records pertaining to production, transfilling, process control, labeling, packaging, quality control, distribution, returns, recalls, training of personnel, complaints, and any information required by federal or state law.
   ~~1.~~2. ~~A permittee shall retain~~ Retain the records required by Section R4-23-601, this Section, and 21 CFR parts 210 and 211 for not ~~less~~ fewer than three years or one year after the expiration date of the compressed medical gas, whichever is longer.
   ~~2.~~3. ~~A permittee shall make~~ Make the records required by Section R4-23-601, this Section, and 21 CFR parts 210 and 211 available ~~on~~ for inspection by the Board or its compliance officer, or if stored in a centralized recordkeeping system apart from the inspection location and not electronically retrievable, ~~shall~~ provide the records within four working days of a request by the Board or its compliance officer.

**J.** Inspection.
   1. No change
   2. Within ~~ten~~ 10 days from the date of a request by the Board or its staff, a nonresident CMG distributor permittee shall provide a copy of the most recent inspection report completed by the permittee's resident licensing authority or the FDA~~,~~ or a copy of the most recent inspection report completed by a third-party auditor approved by the permittee's resident licensing authority or the Board or its designee. The Board may inspect, or may employ a third-party auditor to inspect, a nonresident permittee as specified in A.R.S. § 32-1904.

**K.** Permit renewal. ~~Permit renewal shall be as specified in~~ To renew a CMG distributor permit, the permittee shall comply with R4-23-602(D).

**L.** Nothing in this Section shall be construed to prohibit the emergency administration of oxygen by licensed ~~health care~~ health-care personnel, emergency medical technicians, first responders, fire fighters, law enforcement officers, and other emergency personnel trained in the proper use of emergency oxygen.

**R4-23-693. Durable Medical Equipment (DME) and Compressed Medical Gas (CMG) Supplier-Resident or Nonresident**

**A.** No change
1. The permit requirements of this Section ~~shall~~ do not apply to the following unless there is a separate business entity engaged in the business of providing durable medical equipment or a compressed medical gas to a patient or consumer for use in a home or residence:
   a. No change
   b. A hospital, long-term care facility, hospice, or other ~~health care~~ health-care facility using durable medical equipment or a compressed medical gas in the normal course of treating a patient; and
   c. No change
2. No change

**B.** Application. To obtain a resident or nonresident DME and CMG supplier permit, a person shall submit a completed application form and fee ~~as~~ specified in ~~R4-23-602~~ R4-23-205.
1. No change
2. No change

**C.** Notification. A resident or nonresident DME and CMG supplier permittee shall submit using the permittee's online profile or provide written notice by mail, ~~facsimile~~ fax, or e-mail to the Board office within ~~ten~~ 10 days of changes involving the telephone ~~number, facsimile~~ or fax number, email ~~address,~~ or mailing address, or business name ~~of business~~.

**D.** Change of ownership. ~~No less than 14 days before a change of ownership occurs that involves changes of stock ownership of 30% or more of the voting stock of a corporation or an existing and continuing corporation that is not actively traded on any securities market or over-the-counter market, the prospective owner shall submit a completed application form and fee as specified in subsection (B).~~ A resident or nonresident DME and CMG supplier permittee shall comply with R4-23-601(F).

**E.** Relocation.
1. No ~~less~~ fewer than 30 days before ~~an existing~~ a resident DME and CMG supplier permittee relocates, the permittee shall submit a completed application for relocation electronically or manually on a form furnished by the Board, and the documentation required in subsection (B). A fee is not required with an application for relocation.
2. A nonresident DME and CMG supplier permittee shall provide written notice by mail, ~~facsimile~~ fax, or e-mail to the Board office no ~~less~~ fewer than ~~ten~~ 10 days before relocating.

**F.** Orders. A resident or nonresident DME and CMG supplier shall sell, lease, or provide:
1. Durable medical equipment that is a prescription-only device, as defined in A.R.S. § 32-1901~~(75)~~, only ~~pursuant to~~ under a prescription ~~order~~ or medication order from a medical practitioner; and
2. A compressed medical gas only ~~pursuant to~~ under a compressed medical gas order from a medical practitioner.

**G.** Restriction. A DME and CMG supplier permit ~~shall authorize~~ authorizes the permittee to procure, possess, and provide a prescription-only device or compressed medical gas to a patient or consumer as specified in subsection (F). A DME and CMG supplier permit does not authorize the permittee to procure, possess, or provide narcotics or other controlled substances, prescription-only drugs other than compressed medical gases, precursor chemicals, or regulated chemicals.

**H.** Facility. A resident or nonresident DME and CMG supplier permittee shall ensure the facility is clean, uncluttered, sanitary, temperature controlled, and secure from unauthorized access. A permittee shall maintain separate and identified storage areas in the facility and in ~~the~~ delivery vehicles for clean, dirty, contaminated, or damaged durable medical equipment or compressed medical gases.

**I.** A resident or nonresident DME and CMG supplier permittee shall not manufacture, process, transfill, package, or label a compressed medical gas, except as ~~set forth~~ stated in subsection ~~(J)~~ (K).

**J.** Records. A resident or nonresident DME and CMG supplier permittee shall establish and implement written procedures for maintaining records ~~pertaining to~~ about acquisition, distribution, returns, recalls, training of personnel, maintenance, cleaning, and complaints.

**K.** A permittee shall:
1. Ensure ~~that~~ a prescription order, medication order, or compressed medical gas order is obtained as specified in subsection (F);
2. Ensure ~~that~~ each compressed medical gas container supplied by the permittee contains a label bearing the name and address of the permittee;
3. Ensure ~~that~~ all appropriate warning labels are present on the durable medical equipment or compressed medical gas;
4. Retain the records required by Section R4-23-601 and this Section for not ~~less~~ fewer than three years, or if supplying a compressed medical gas, one year after the expiration date of the compressed medical gas, whichever is longer; and
5. Make the records required by Section R4-23-601 and this Section available ~~on~~ for inspection by the Board or its compliance officer, or if stored in a centralized recordkeeping system apart from the inspection location and not electronically retrievable for inspection, ~~shall~~ provide the records within four working days of a request by the Board or its staff.

~~K.~~**L.** Inspection.
1. No change
2. Within ~~ten~~ 10 days from the date of a request by the Board or its staff, a nonresident DME and CMG supplier permittee shall provide a copy of the most recent inspection report completed by the permittee's resident licensing authority, or a copy of the most recent inspection report completed by a third-party auditor approved by the permittee's resident licensing authority or the Board or its designee. The Board may inspect, or may employ a third-party auditor to inspect, a nonresident permittee as specified in A.R.S. § 32-1904.

~~L.~~**M.** Permit renewal. ~~Permit renewal shall be as specified~~ To renew a resident or nonresident DME and CMG supplier permit, the permittee shall comply with in R4-23-602(D).

~~M.~~N. Nothing in this Section shall be construed to prohibit the emergency administration of oxygen by licensed ~~health care~~ health-care personnel, emergency medical technicians, first responders, fire fighters, law enforcement officers, and other emergency personnel trained in the proper use of emergency oxygen.

## ARTICLE 11. PHARMACY TECHNICIANS

**R4-23-1102. Pharmacy Technician Licensure**

**A.** Eligibility. An applicant for licensure as a pharmacy technician shall provide the Board proof ~~that~~ the applicant is eligible under R4-23-1101(B)(2), including documentation that the applicant:
1. No change
2. No change
3. No change

**B.** No change
1. No change
   a. No change
   b. No change
      i. No change
      ii. The initial licensure fee specified in R4-23-205~~(A)(3)(a)~~, and
      iii. The wall license fee specified in R4-23-205~~(E)(1)(c)~~.
2. No change

**C.** No change
1. No change
2. If an applicant is found to be eligible for pharmacy technician licensure under statute and rule, the Board office shall issue a certificate of licensure and a wall license. An applicant who is assigned a license number and who has been granted "open" status on the Board's license verification site may begin practice as a pharmacy technician ~~prior to~~ before receiving the certificate of licensure.
3. No change
4. No change

**D.** No change
1. To renew a license, a pharmacy technician shall submit a completed license renewal application electronically or manually on a form furnished by the Board with the biennial renewal fee specified in R4-23-205~~(A)(3)(b)~~.
2. If the biennial renewal fee is not paid by November 1 of the renewal year specified in A.R.S. § 32-1925, the pharmacy technician license is suspended and the licensee shall not practice as a pharmacy technician. The licensee shall pay a penalty as provided in A.R.S. § 32-1925 and R4-23-205~~(G)(1)~~ to vacate the suspension.
3. No change

**E.** ~~Time-frames~~ Time frames for pharmacy technician licensure and license renewal. The Board office shall follow the ~~time-frames~~ time frames established in R4-23-202(F).

**F.** Verification of license. A pharmacy permittee or pharmacist-in-charge shall not permit a person to practice as a pharmacy technician until the pharmacy permittee or pharmacist-in-charge verifies ~~that~~ the person is currently licensed by the Board as a pharmacy technician.

**R4-23-1103. Pharmacy Technician Trainee Licensure**

**A.** Eligibility. An applicant for licensure as a pharmacy technician trainee shall provide the Board proof ~~that~~ the applicant is eligible under R4-23-1101(B)(1).

**B.** No change
1. No change
   a. No change
   b. No change
      i. No change
      ii. The licensure fee specified in R4-23-205~~(A)(4)~~, and
      iii. The wall license fee specified in R4-23-205~~(E)(1)(d)~~.
2. No change

**C.** No change
1. No change
2. If an applicant is found to be eligible for pharmacy technician trainee licensure under statute and rule, the Board office shall issue a certificate of licensure and a wall license. An applicant who is assigned a license number and who has been granted "open" status on the Board's license verification site may begin practice as a pharmacy technician trainee ~~prior to~~ before receiving the certificate of licensure.
3. No change
4. No change
5. No change

**D.** No change
1. No change
2. No change
   a. No change
   b. No change
   c. No change

3. A pharmacy technician trainee that receives Board approval to reapply for licensure shall submit a completed application manually on a form furnished by the Board and pay the licensure fee specified in R4-23-205~~(A)(4)~~.

**E.** ~~Time-frames~~ Time frames for pharmacy technician trainee licensure. The Board office shall follow the ~~time-frames~~ time frames established in R4-23-202(F).

**F.** No change

**R4-23-1105. Pharmacy Technician Trainee Training Program, Pharmacy Technician Drug Compounding Training Program, and Alternative Pharmacy Technician Training**

**A.** No change

**B.** No change

1. A pharmacy permittee or pharmacist-in-charge shall develop, implement, review, ~~and~~ revise in the same manner described in R4-23-653(A), and comply with a pharmacy technician trainee training program based on the needs of the individual pharmacy.
2. A pharmacy permittee or pharmacist-in-charge shall ensure ~~that~~ the pharmacy technician trainee training program includes training guidelines that:
   a. No change
   b. No change
   c. No change
3. No change
   a. Document the date ~~that~~ a pharmacy technician trainee ~~has~~ successfully completed the training program, and
   b. No change
4. No change

**C.** No change

1. A pharmacy permittee or pharmacist-in-charge shall develop, implement, review, ~~and~~ revise in the same manner described in R4-23-653(A), and comply with a pharmacy technician drug compounding training program based on the needs of the individual pharmacy;
2. A pharmacy permittee or pharmacist-in-charge shall ensure ~~that~~ the pharmacy technician drug compounding training program includes training guidelines that:
   a. No change
   b. No change
   c. No change
      i. No change
      ii. No change
      iii. No change
      iv. No change
      v. Area ~~clean-up~~ cleanup;
3. No change
   a. Document the date ~~that~~ a pharmacy technician ~~has~~ successfully completed the pharmacy technician drug compounding training program, and
   b. No change

**D.** No change

1. No change
2. No change
3. No change
   a. Document the date ~~that~~ an individual licensed under subsection (D)(1) or (2) ~~has~~ successfully completed the on-the-job training program as part of the individual's employment orientation as required under subsection (D)(1) or (2), and
   b. No change

**E.** No change

**F.** If a pharmacy technician leaves a training program described under subsection (B), (C), or (D) before successfully completing the training program, the pharmacist-in-charge shall provide the pharmacy technician with written documentation of the hours of training completed and the tasks for which competence was demonstrated by the pharmacy technician.

## NOTICE OF FINAL RULEMAKING

### TITLE 12. NATURAL RESOURCES

### CHAPTER 4. GAME AND FISH COMMISSION

[R19-72]

### PREAMBLE

| 1. Article, Part, or Section Affected (as applicable) | Rulemaking Action |
|---|---|
| R12-4-101 | Amend |
| R12-4-216 | Amend |
| R12-4-301 | Amend |
| R12-4-302 | Amend |
| R12-4-303 | Amend |
| R12-4-304 | Amend |
| R12-4-305 | Amend |

| | |
|---|---|
| R12-5-306 | Amend |
| R12-4-307 | Amend |
| R12-4-308 | Amend |
| R12-4-309 | Amend |
| R12-4-310 | Amend |
| R12-4-311 | Amend |
| R12-4-313 | Amend |
| R12-4-314 | New Section |
| R12-4-315 | Repeal |
| R12-4-316 | Repeal |
| R12-4-317 | Repeal |
| R12-4-318 | Amend |
| R12-4-319 | Amend |
| R12-4-320 | Amend |
| R12-4-321 | Amend |
| R12-4-322 | Amend |
| R12-4-401 | 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, 17-211(E)(4), 17-231(A)(1), 17-231(A)(2), 17-231(A)(3), 17-231(A)(4), 17-231(B)(8), 17-232, 17-233, 17-234, 17-235, 17-236, 17-239,17-251, 17-301, 17-302, 17-305, 17-306, 17-307, 17-309, 17-331, 17-332, 17-333, 17-333.02, 17-335, 17-346, 17-361, and 17-371

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

June 1, 2019

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

Not applicable

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

Not applicable

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

Notice of Rulemaking Docket Opening: 24 A.A.R. 577, March 16, 2018

Notice of Proposed Rulemaking: 24 A.A.R. 529, March 16, 2018

Notice of Supplemental Proposed Rulemaking: 24 A.A.R. 1936, July 13, 2018

Notice of Supplemental Proposed Rulemaking: 24 A.A.R. 2910, October 19, 2018

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


| | |
|---|---|
| Name: | Celeste Cook, Rules and Policy Manager |
| Address: | Arizona Game and Fish Department<br>5000 W. Carefree Highway<br>Phoenix, AZ 85086 |
| Telephone: | (623) 236-7390 |
| Fax: | (623) 236-7110 |
| E-mail: | CCook@azgfd.gov |


Please visit the AZGFD website to track the progress of this rule; view the regulatory agenda and all previous Five-year Review Reports; and learn about any other agency rulemaking matters at https://www.azgfd.com/agency/rulemaking/.

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

The Arizona Game and Fish Commission proposes to amend its Article 3 rules, governing the taking and handling of wildlife, to enact amendments developed during the preceding Five-year Review Report. The amendments proposed in the five-year review report are designed to clarify current rule language; protect public health and safety and private property rights; facilitate job growth and economic development; support Fair Chase principles and the tenets of the North American Model of Wildlife Conservation; enable the Department to provide better customer service; and reduce regulatory and administrative burdens wherever possible. After evaluating the scope and effectiveness of the proposed amendments specified in the review, the Commission proposes additional amendments to further implement the original proposals.

Arizona's great abundance and diversity of native wildlife can be attributed to careful management and the important role of the conservation programs the Arizona Game and Fish Department has developed. The Department's management of both game and nongame species as a public resource depends on sound science and active management. As trustee, the state has no power to

delegate its trust duties and no freedom to transfer trust ownership or management of assets to private establishments. Without strict agency oversight and management, the fate of many of our native species would be in jeopardy. Wildlife can be owned by no individual and is held by the state in trust for all the people.

An exemption from Executive Order 2015-01 was provided for this rulemaking by Hunter Moore, Natural Resource Policy Advisor, Governor's Office, in an email dated August 22, 2017.

In addition to replacing the term "buffalo" with "bison" and "individual" with "person", nonsubstantive amendments made to make rules clearer and more concise; the Commission proposes the following substantive amendments:

**R12-4-101. Definitions**

The objective of the rule is to establish definitions that assist persons regulated by the rule and members of the public in understanding the unique terms that are used throughout 12 A.AC. 4. Game and Fish Commission Rules. The rule was adopted to facilitate consistent interpretation of Commission rules and to prevent persons regulated by the rule from misinterpreting the intent of Commission rules.

Because the terms "cervid," "nonprofit organization," and "person" are used in multiple Game and Fish Commission rules, the Commission proposes to amend the rule to define these terms under R12-4-101. The Commission proposes to amend the rule to define terms used in multiple Game and Fish Commission rules and Commission Orders: "bow," "crossbow," and "handgun." Defining these terms will aid in facilitating a consistent interpretation of Commission Orders and rules. In addition, the Commission proposes to amend the rule to define "export" and "import" to reduce regulatory ambiguity. It is often assumed the terms "import" and "export" mean something is being brought into or taken out of the country. For the purposes of Game and Fish Commission rules, "import" and "export" mean something is being brought into or taken out of the State. These changes are proposed as a result of customer comments received by the Department.

The Commission proposes to amend the rule to replace the term "animal" with "wildlife" to make the rule more concise.

**R12-4-216. Crossbow Permit**

The objective of the rule is to establish eligibility requirements, conditions, and restrictions for the crossbow permit. The permit allows a person, who cannot draw and hold a bow, to use a crossbow during an archery-only hunt.

The Commission proposes to amend the rule to allow a Crossbow Permit holder to use a pre-charged pneumatic weapon, as defined under R12-4-301, using bolts or arrows and with a capacity of holding and firing only one arrow or bolt at a time during an archery-only season. This change is proposed as a result of customer comments received by the Department.

**R12-4-301. Definitions**

The objective of the rule is to establish definitions that assist persons regulated by the rule and members of the public in understanding the unique terms that are used throughout Article 3. The rule was adopted to facilitate consistent interpretation of Article 3 rules and to prevent persons regulated by the rule from misinterpreting the intent of Commission rules.

The Commission proposes to amend the definition of "administer" to remove the phrase "pursue, capture, or otherwise restraining wildlife" as the language is unnecessarily restrictive.

In recent years, due to the affordability and availability of drones, their use has significantly increased. While the definition of "aircraft" includes any lighter-than-air contrivance designed for flight, confusion remains as to whether a drone is considered an aircraft. The Commission proposes to amend the definition of "aircraft" to clearly state that drones are considered aircraft.

Many anglers believe scented, flavored, and chemically treated devices are legal artificial lures because the definition of "artificial lures" does not specifically address them. Since this definition was adopted, the popularity of these types of baits, often marketed as "lures" and "artificial," has increased; and their use is causing unacceptable mortality rates in released trout caught in some catch-and-release waters. The Commission proposes to amend the definition to clearly state that artificial flies and lures does not include chemical and organic attractants. The purpose of restricting scented, flavored, and chemically treated flies and lures is to minimize the mortality of fish, particularly trout mortalities because trout tend to gulp the lure deeper, resulting in a 30 to 90% mortality rate after being released. In addition, the Commission proposes to amend the definition of "artificial lures and flies" to increase consistency between Commission rules, Commission Orders and public outreach materials; Commission rules use the phrase "artificial lures and flies;" Commission Orders, and all other public outreach materials use the phrase "artificial flies and lures."

The Commission proposes to repeal the definition of "cervid." Because the term is used in multiple Game and Fish Commission rules, the Commission intends to define this term under R12-4-101.

Under A.R.S. § 13-3102(A)(4), a person commits misconduct involving weapons by knowingly possessing a deadly weapon or prohibited weapon if such person is a prohibited possessor. Under A.R.S. § 13-3101(A)(1), "deadly weapon" means anything that is designed for lethal use. As a result of amendments made to R12-4-303 (Unlawful Devices, Methods, and Ammunition), the Commission proposes to define "deadly weapon," "prohibited possessor," and "prohibited weapon."

The Commission also proposes to define "edible portions of game meat" to increase consistency between statute, Commission Orders, and rules. While A.R.S. § 17-340 defines edible portions of bighorn sheep, bison, deer, elk, game fish, javelina, migratory game birds, pronghorn antelope, upland game birds, and wild turkey, the statute does not address bear or mountain lion, which are considered big game. This change is in response to customer comments received by the Department.

A.R.S. §§ 17-231(A)(3) and 17-301(D)(2) authorizes the Commission to adopt rules establishing the taking of wildlife with firearms, fishing equipment, archery equipment, or other implements in hand as may be defined. The Commission also proposes to amend the rule to define "device," "hybrid device, "muzzleloading shotgun," "pneumatic weapon," "rifle," and "shotgun." Defining these terms will aid in facilitating a consistent interpretation of Commission Orders and rules.

In addition, the Commission is aware of devices that use lasers and computers that enable a person with no hunting or shoot-

ing experience to easily hit a target up to 500 yards away. As a result of amendments made to R12-4-303 (Unlawful Devices, Methods, and Ammunition), the Commission proposes to define "smart device." This change is in response to customer comments received by the Department.

**R12-4-302. Use of Tags**

The objective of the rule is to establish requirements for the possession and lawful use of tags issued by the Department. A.R.S. § 17-332 authorizes the Commission to prescribe the manner in which a licensee shall attach a tag to a big game animal. The rule was adopted to establish the manner and method in which a person shall attach a tag to wildlife and ensure consistent interpretation of and compliance with A.R.S. § 17-332.

The Commission is aware of a problem with the enforcement of the rule. The rule establishes that only the hunter listed on the tag shall use the tag and attach it to game lawfully harvested by the hunter listed on the tag. When two persons are hunting, and knowingly deviate from this mandate - both parties are involved in the violation. There is a circumstance within the current rule that results in only one of the two persons unlawfully using a tag to be in violation of the rule. For example: Hunter A harvests an elk. Hunter A then allows Hunter B to place Hunter B's tag on the elk, enabling Hunter A to continue hunting for another elk after having reached their bag limit for elk. Even though both parties were involved in the unlawful tagging of the elk, only Hunter B would be cited under this rule. The Commission proposes to amend the rule to establish that it is unlawful for a person to allow another person's tag to be attached to wildlife that person harvested.

The Commission proposes to amend the rule to replace the term "hunt area" with "taking wildlife" to clarify unlawful uses of a tag.

**R12-4-303. Unlawful Devices, Methods, and Ammunition**

The objective of the rule is to establish those devices, methods, and ammunition that are unlawful for taking of any wildlife in Arizona. A.R.S. § 17-301(D)(2) authorizes the Commission to adopt rules establishing the taking of wildlife with firearms, archery equipment, or other implements in hand as may be defined. The rule was adopted to establish methods and devices that are unlawful for the take of wildlife and ensure consistent interpretation of and compliance with 17-301(D)(2). The Commission believes the reason the rule exists is to prohibit those devices and methods that compromise safe hunting practices or the spirit of fair chase. "Fair Chase" means the ethical and lawful pursuit and take of free-range wildlife in a manner that does not give the hunter or angler improper or unfair advantage over such wildlife. The following criteria are used to evaluate whether a new technology or practice violates the Fair Chase ethic; does the technology or practice allow a hunter or angler to: locate or take wildlife without acquiring necessary hunting and angling skills or competency; pursue or take wildlife without being physically present and pursuing wildlife in the field; or almost guarantee the harvest of wildlife when the technology or practice prevents wildlife from eluding take.

The Commission is aware that confusion exists regarding the use of full-jacketed ammunition. Full-jacketed ammunition is sold by sporting goods stores and is often labeled by the manufacturer for use in target practice, but there are manufacturers who also label the ammunition for use in hunting. Confusion exists because full-jacketed ammunition is readily available in sporting goods stores and the rule prohibits the use of full-jacketed ammunition "designed for military use." A person could assume the ammunition sold by a sporting goods store may be used for hunting purposes because it is readily available to the public for purchase. The use of full-jacketed ammunition for hunting is prohibited because it does not create a substantial wound for the humane harvest of big game. The uniform and aerodynamic design means the ammunition is more likely to penetrate the animal and keep going out the other side, possibly injuring people or wildlife farther downrange and leaving only a small wound in the big game animal, resulting in wounding loss. This would impact hunter opportunity, because a person who wounds a big game animal may not be aware the animal was wounded and may continue to hunt and possibly wound or take another big game animal. Ammunition designed to expand creates a wound cavity and slows the bullet down so that it will not continue beyond the target with much force, if at all. The Commission proposes to amend the rule to remove specify that any ammunition that does not expand on impact shall not be used for the take of big game to make the rule more concise. This change also allows the continued use of ammunition that does not expand for the take of small game, fur bearers, and predators. This change is in response to customer comments received by the Department.

The Commission is aware of arrows or bolts capable of being fitted with explosive tips that discharge upon impact, some allow the user to insert a bullet into a modified broadhead and others are manufactured with a small broadhead inside a shotgun shell. Under R12-4-303, a person is prohibited from using any projectile that contains explosives because the Commission believes they compromise the spirit of fair chase. The Commission proposes to amend the rule to include projectiles that contain a secondary propellant to proactively address emerging technology.

Due to technological advances in hunting scopes (for any lawful hunting device), the Commission proposes to clarify the rule to address laser range finders that project a non-visible light onto an animal. A laser distance meter emits a pulse of laser at a target. The pulse then reflects off the target and back to the sending device (in this case, a laser distance meter). This "time of flight" principle is based on the fact that laser light travels at a fairly constant speed through the Earth's atmosphere. Inside the meter, a simple computer quickly calculates the distance to target. The Commission does not believe these types of hunting scopes compromise the spirit of fair chase because the hunter still must possess the necessary hunting skills or competency in order to take an animal. This change is in response to customer comments received by the Department.

Smart devices are becoming more prevalent in the firearm and hunting industries (devices equipped with a target-tracking system or an electronically-controlled, electronically-assisted, or computer-linked trigger or release). These smart devices enable a person with little or no experience to easily hit a target more than 500 yards away with very high accuracy; once a target is selected, the smart device controls the trigger mechanism and discharges only when the weapon is pointed at the designated target, taking into account dozens of variables, including wind, barometric pressure, elevation, inclination or declination, ballistic performance, etc. Normally, it takes years of practice to hit a target at that distance, but a smart device can make a person into a sharp-

shooter in a matter of hours or even less. Because the Commission believes these devices compromise the spirit of fair chase and the Commission's Fair Chase Policy, the Commission proposes to amend the rule to prohibit the use a smart device while taking wildlife. This change is in response to customer comments received by the Department.

While the current use of self-guided ammunition is not popular due to limited availability and the high costs involved, the Commission believes it is necessary to proactively address concerns about the use of self-guided ammunition and prohibit its use for taking or aiding in the take of wildlife.

The Commission is aware of instances where a person will use a watercraft to chase and harass waterfowl in an effort to force the waterfowl to take flight so they may be hunted by another person. The Commission proposes to amend the rule to clarify federally prohibited activities to ensure consistent interpretation of A.R.S. § 17-301 as it applies to migratory birds and prevent persons from inadvertently violating federal regulations applicable to migratory bird hunting.

Under A.R.S. § 17-309(A)(4), it is unlawful to discharge a firearm while taking wildlife within one-fourth mile of an occupied farmhouse or other residence, cabin, lodge or building without permission of the owner or resident. Under R12-4-303(A)(3)(h), it is unlawful to discharge a pneumatic weapon .30 caliber or larger while taking wildlife within one-fourth mile of an occupied farmhouse or other residence, cabin, lodge or building without permission of the owner or resident. In addition, the Commission is aware of instances where a hunter who lives on the edge of a municipal boundary is unable to archery hunt on his own property because Commission Order closes areas within one-fourth mile of an occupied residence. For example, a hunter who lives on the edge of a forest boundary and who is miles away from the nearest residence is unable to archery hunt on their own property because of the location of their own home. In addition, the Commission and Department have received a number of complaints about persons archery hunting near their private property. The Commission proposes to amend the rule to prohibit the discharge of hybrid device, arrow, or bolt while taking wildlife within one-fourth mile of an occupied farmhouse or other residence, cabin, lodge or building without permission of the owner or resident, to increase consistency between statute and rules. This language mirrors statutory language under A.R.S. § 17-309, which prohibits a person from discharging a firearm while taking wildlife within one-fourth mile of an occupied farmhouse or other residence, cabin, lodge, or building without permission of the owner or resident. This change is in response to customer comments received by the Department.

In addition, the Commission is aware confusion exists as to what distance constitutes "one-fourth mile" and "one-half mile." The Commission proposes to clarify this distance by also referencing this distance in yards (440 or 880, as applicable) to reduce regulatory uncertainty. This change is in response to customer comments received by the Department.

The Commission recognized the need to evaluate regulatory measures pertaining to the use of trail cameras, as they relate to the 'take of wildlife' and the Fair Chase hunting ethic, and directed the Department to evaluate current rule language as it pertains to trail cameras. The team benchmarked with other states and spoke with members of industry and ultimately made recommendations to prohibit the use of trail cameras capable of sending a wireless remote signal to another electronic device for the purpose of taking or aiding in the taking of wildlife or taking or aiding in the take of wildlife, or locating wildlife for the purpose of taking or aiding in the take of wildlife.

While the current use of satellite imagery for hunting is not popular due to the costs involved, the Commission believes it is necessary to proactively address concerns about the use of satellite imagery and prohibit its use for taking or aiding in the take of wildlife. The Commission proposes to amend the rule to prohibit the use of images of wildlife produced or transmitted from a satellite or other device that orbits the earth; this prohibition does not include mapping systems or programs. This change is in response to customer comments received by the Department.

Under A.R.S. § 13-3102(A)(4), a person commits misconduct involving weapons by knowingly possessing a deadly weapon or prohibited weapon if such person is a prohibited possessor. Under A.R.S. § 13-3101(A)(1), "deadly weapon" means anything that is designed for lethal use. The Commission proposes to amend the rule to prohibit a person who is a prohibited possessor from using a deadly weapon or prohibited weapon to take wildlife to remove regulatory uncertainty.

**R12-4-304. Lawful Methods for Taking Wild Mammals, Birds, and Reptiles**

The objective of the rule is to establish lawful devices and methods a person may use to take wild mammals, birds, and reptiles during seasons established by Commission Order. A.R.S. § 17-301(D)(2) authorizes the Commission to adopt rules establishing the taking of wildlife with firearms, archery equipment, or other implements in hand as may be defined. The rule was adopted to establish methods and devices that may be used for the take of specific wildlife and ensure consistent interpretation of and compliance with A.R.S. § 17-301(D)(2).

The availability of hybrid devices (weapons with components from two or more different devices) is increasing. Depending on the species, some hybrid devices may be used for the take of wildlife, while others cannot. The Commission proposes to amend the rule to allow the use of a hybrid device for the taking of wildlife provided all components of the device are authorized for the take of that species. This change is in response to customer comments received by the Department.

The Commission proposes to amend the rule to replace references to "antelope" with "pronghorn antelope" to reflect language used in Commission Order and public outreach materials.

In 2013, the Commission amended the rule to allow the use of pre-charged pneumatic weapons for the take of all wildlife, except bison, elk, and turkey due to concerns that pre-charged pneumatic weapons would not create a substantial wound for the humane harvest of a large animal (bison and elk) and public safety concerns (turkey). Subsequent discussions with persons in the pre-charged pneumatic weapon industry indicate that it is also necessary to reference the caliber of the bullet. This change enables the Commission to establish a lethal standard for the take of bison and elk using a pre-charged pneumatic weapon. These changes are in response to customer comments received by the Department.

The Commission believes technological advances in ceramic or ceramic coated broadheads have proven they can be as effective as traditional metal broadheads. A ceramic broadhead is typically produced by dry-pressing zirconia powder and then harden-

ing the broadheads through the process of compacting and forming a solid mass of material by heat

or pressure to make the ceramic as hard as metal. The broadhead is then sharpened by grinding the edges with a diamond-dust-coated grinding wheel. Zirconia is 8.5 on the Mohs scale of mineral hardness, compared to 4.5 for normal steel and 7.5 to 8 for hardened steel and 10 for diamond. This very hard edge significantly reduces the need for sharpening, making them a desirable product for archery hunters. The Commission proposes to amend the rule to allow the use of ceramic and ceramic-coated broadheads. This change is in response to customer comments received by the Department.

The Commission proposes to allow the use of pre-charged pneumatic weapons using arrows or bolts for the take of wildlife during a general season wherever a bow or crossbow is listed as a lawful method of take for that species: bear, bighorn sheep, bison, deer, elk, javelina, mountain lion, pronghorn antelope, and turkey. The Commission believes these types of devices do not compromise the spirit of fair chase. This change is in response to customer comments received by the Department.

Under A.R.S. § 17-235, the Commission is required to prescribe seasons, bag limits, possession limits and other regulations pertaining to taking migratory birds in accordance with the Migratory Bird Treaty Act and regulations issued thereunder. The Commission proposes to incorporate by reference the most recent version of 50 C.F.R. 20.21 and reflect the most recent Government Printing Office contact information.

The Commission proposes to amend the rule to replace references to "handguns using black powder or synthetic black powder" with "muzzleloading handguns" to make the rule more concise.

**R12-4-305. Possessing, Transporting, Importing, Exporting, and Selling Carcasses or Parts of Wildlife**

The objective of the rule is to conserve wildlife resources by establishing requirements for the lawful possession, transport, import, export, or sale of wildlife. The Commission's rule protects native wildlife by preventing the spread of disease, reducing the risk of released animals competing with native wildlife, discouraging illegal trade of native wildlife, and preventing interactions between humans and wildlife that may threaten public health or safety. The rule was adopted to prevent the unlawful possession, transport, import, export, or sale of wildlife and allow for lawful possession by establishing the methods for complying with governing statutes.

The Commission proposes to amend the rule to state the tag shall be attached in the manner indicated on the tag to increase consistency between Commission rules.

In addition, the Commission proposes to amend the rule to specify the manner in which a person may provide evidence of legality for Eurasian collared-doves to reduce regulatory ambiguity.

The rule requires a person who receives a portion of wildlife to provide the identity of the person who took and gave the wildlife, but does not state under what circumstances this action is required. The Commission proposes to amend the rule to add "upon request to any peace office, wildlife manager, or game ranger" to reduce ambiguity and increase consistency between Commission rules.

The Department issues both permit-tags (through computer draw) and nonpermit-tags (over the counter) for the take of wildlife. The Commission proposes to amend the rule to reflect both types of tags issued by the Department to make the rule more concise.

Under A.R.S. § 17-302(A), a landowner or lessee who is a livestock operator and whose livestock were recently attacked or killed by bear or mountain lion may lawfully exercise such measures as necessary to prevent further damage from the offending bear or mountain lion, including the taking of such bear or mountain lion; and further states that dogs may be used to facilitate the pursuit of the depredating bear or mountain lion. The statute also states that no portion of an animal taken pursuant to A.R.S. § 17-302 shall be retained or sold by any person except as authorized by the Commission. In response to comments made by hunters, the Commission amended R12-4-305(H) to allow a person who takes a depredating bear or mountain lion to retain the carcass provided the person has a valid hunting license and the carcass is immediately tagged with a valid hunt permit-tag or nonpermit-tag (unless the person has already taken the applicable bag limit for that big game animal). This change also prevents the animal from going to waste.

The Commission proposes to amend the rule to restrict the import of velvet antlers of cervids to address Chronic Wasting Disease (CWD) concerns. Growing antlers of cervids are covered by a highly innervated and vascularized apical skin layer, referred to as velvet, which is shed after an increase in testosterone and ossification of antlers. In a recent study, findings of prions in antler velvet of CWD-affected elk suggest that this tissue may play a role in disease transmission among cervids. At this time, the most effective management approach has to be to take measures to ensure, to the greatest extent possible, that the disease does not enter into Arizona. If it does, there will be substantial financial impact to the Department, captive cervid breeders, and the rural economy that is supported, in part, by hunting.

The Commission proposes to amend the rule to clarify that, when possessing, transporting, or importing cervid meat that has been cut and packaged, the meat may be personally or commercially cut and packaged. This change is in response to customer comments received by the Department.

The Commission also proposes to replace the phrase "wild mammal, bird, or reptile" with "wildlife" to indicate the rule applies to all wildlife, unless otherwise specified, to make the rule more concise.

**R12-4-306. Buffalo Hunt Requirements**

The objective of the rule is to establish rules of practice governing bison hunts, which are conducted by the Department to harvest bison appropriate to management objectives and land carrying capacity. In Arizona, bison are found on two wildlife areas operated solely by the Department; Raymond, located east of Flagstaff, and House Rock, located east of the North Kaibab National Forest. Both wildlife areas are managed to provide viewing opportunities as well as hunting opportunity. The rule was adopted to

ensure the Department manages these herds on a sustainable basis.

In the past, the hunts on Raymond and House Rock were managed differently to allow the Department greater flexibility in conducting these hunts. Over time, the Department has implemented more effective control measures for these hunts and, as a result, now manages both areas in the same manner. The Commission proposes to amend the rule to combine bison hunt requirements into one subsection to make the rule more concise.

Currently, a hunter who takes a bison, or their designee, is required to present the bison in person to the Department for inspection. The Commission proposes to amend the rule to allow the hunter to check out either in person or by telephone to reduce the burden and costs on persons regulated by the rule. This change is in response to customer comments received by the Department.

The Commission is aware of electronic methods implemented by other fish and wildlife agencies that allow a person to check-in or check-out electronically, such as an online system or mobile device application. The Commission proposes to amend the rule to allow a person to check-in and check-out electronically, when made available by the Department, to reduce the costs and burdens to persons regulated by the rule. This change is in response to customer comments received by the Department.

**R12-4-307. Trapping Regulations, Licensing; Methods; Tagging of Bobcat Pelts**

The objective of the rule is to establish requirements and restrictions necessary to regulate trapping in a fair and humane manner with the utmost regard for wildlife management principles and public safety. In addition, the rule establishes trapping reporting requirements as required under A.R.S. § 17-361(D). Trapping is the use of a device to remotely catch an animal. Fur-bearing and predatory animals may be trapped for a variety of purposes, including food, the fur trade, pest control, and wildlife management. Under A.R.S. § 17-301, it is unlawful to take wildlife with any leghold trap, instant kill body gripping design trap, or by a poison or a snare on any public land. The rule was adopted to establish requirements and restrictions to ensure responsible trapping and safeguard the future of trapping and ensure consistent interpretation of and compliance with A.R.S. § 17-301.

The Commission proposes to amend the rule to remove redundant language regarding the issuance of a trapping registration number.

In 2013, the Legislature amended A.R.S. Title 17 to allow the Arizona Game and Fish Commission to establish license classifications and fees. As a result of the subsequent rulemaking, any person age 10 and older is required to possess a license in order to lawfully take wildlife; this change was consistent with other Western states. The Commission proposes to amend the rule to require a person age 10 or older to possess a trapping license in order to trap in Arizona to increase consistency between Commission rules. In addition, under A.R.S. § 17-361(D) a person who possesses a trapping license is required to submit a trapping report. A trapper under the age of 14 was not required to submit a trapping report because they were not required to possess a trapping license. Reducing the trapping license age requirement will also enable the Department to gather additional valuable harvest data.

The Commission has amended license rules within Article 2 (licenses; permits; stamps; tags) and 4 (live wildlife) to increase consistency in format between application requirements. The Commission proposes to amend the rule to reflect changes made to other license application rules to increase consistency between Commission rules.

The Commission is aware of some confusion as to the daily trap check requirement prescribed under A.R.S. § 17-361(B). The statute requires a trapper to inspect all traps in use daily. Some trappers have asked if a trail camera could be used to meet this statutory mandate. Because "inspect" and "view" are very different actions, the Commission believes a trapper should be physically present in the trap area when inspecting their traps in order to meet the inspection requirements prescribed in statute.

Under R12-4-321, a city, county, or town may limit or prohibit any person from hunting within one-fourth mile (440 yards) or trapping within one-half mile (880 yards) of any developed picnic area, campground, boat ramp, shooting range, occupied structure, or golf course. The Commission also proposes to amend the rule to incorporate other areas developed for public use, as referenced under R12-4-321, to increase consistency between rules within Article 3.

In addition, under A.R.S. § 17-309 and R12-4-303, a person is prohibited from conducting certain activities involving the take of wildlife within a specific distance from "an occupied farmhouse or other residence, cabin, lodge or building," while this rule references "occupied residence or building." The Commission proposes to amend the rule to mirror statutory language to increase consistency between statute and Commission rule.

In addition, the Commission is aware confusion exists as to what distance constitutes "one-fourth mile" and "one-half mile." The Commission proposes to clarify this distance by also referencing this distance in yards (440 or 880, as applicable) to reduce regulatory uncertainty. This change is in response to customer comments received by the Department.

To comply with CITES (Convention on International Trade in Endangered Species), which aims to protect against overexploitation of certain species, a person is required to obtain and attach a bobcat seal to all bobcats exported (trapped or hunted) out of Arizona. The information gathered from persons obtaining these seals is used to record population and biological information that helps in conservation management decisions. Currently, a person who traps a bobcat in Arizona is required to obtain a bobcat seal from the Department and attach the seal to the bobcat pelt within ten days of the end of the bobcat trapping season. The Commission proposes to amend the rule to require a trapper to ensure a bobcat seal is attached to a bobcat no later than April 1 of each year to reduce the burden on persons regulated by the rule; this is approximately 30 days after the close of the trapping season and coincides with the date the annual trapping report is due.

Since the rule was last amended, the Department implemented a new organizational structure; the Game Branch is now referred to as the Terrestrial Wildlife Branch. The Commission proposes to amend the rule to reference the Terrestrial Wildlife Branch to make the rule more concise.

In light of comments received by the Department, the Commission proposes to amend the rule to allow a trapper to use a trail camera for the purpose of remotely observing traps they have lawfully set. While this change will allow the trapper to view their traps without disturbing the immediate area, this change does not allow the trapper to use the trail camera to meet the daily inspec-

tion requirement prescribed under A.R.S. § 17-361(B).

**R12-4-308. Wildlife Inspections, Check Stations, and Roadblocks**

The objective for the rule is to establish requirements for wildlife check stations and wildlife inspections, as authorized by the Director. Wildlife check stations and inspections enable the Department to obtain biological data and verify evidence of legality. Under A.R.S. § 17-211(E), game rangers and wildlife managers may inspect all wildlife taken or transported and seize all wildlife taken or possessed in violation of law, or showing evidence of illegal taking. The rule was adopted to ensure consistent interpretation of and compliance with A.R.S. § 17-211(E) and all applicable laws and rules.

The Commission believes that to have a successful hunt, one does not have to harvest wildlife; whether a person takes a bull elk, a spike deer, a limit of dove, or goes home empty-handed, the Commission believes the times spent in the field with friends and family are some of the best times a person can ever have. The Commission proposes to amend the rule to replace the phrase "successful hunter" with "hunter who harvests" because the Commission believes a harvest is not required in order to have a "successful" hunt.

In addition, the Commission proposes to replace the phrase "produce and display any license, tag, stamp, or permit required for taking or transporting wildlife" with "provide evidence of legality as defined under R12-4-301" to make the rule more concise.

The Commission is aware of electronic methods implemented by other fish and wildlife agencies that allow a person to check-in or check-out electronically, such as an online system or mobile device application. The Commission proposes to amend the rule to allow a person to check-in and check-out electronically, when made available by the Department, to reduce the costs and burdens to persons regulated by the rule. This change is in response to customer comments received by the Department.

**R12-4-309. Authorization for Use of Drugs on Wildlife**

The objective of the rule is to establish the restrictions, application, reporting, and exemption from requirements for the authorization for use of drugs on wildlife, including but not limited to, fertility drugs, growth hormones, and tranquilizers. Such drugs are used in research and population management for fertility control, disease prevention or treatment, immobilization, or growth stimulation. The rule was adopted to proactively provide the Department with measures designed to ensure the necessary regulatory measures are in place for the use of drugs on wildlife.

In 2015, the Commission amended Article 4 special license rules to notice license holders that a special license does not exempt the license holder from any municipal, county, state or federal code, ordinance, statute, regulation, or rule or authorize the license holder to engage in any activity using wildlife that is protected by federal regulation. The Commission proposes to amend the rule to state the authorization does not exempt a person from any municipal, county, state or federal code, ordinance, statute, regulation, or rule or authorize a person to engage in any activity using wildlife that is protected by federal regulation to increase consistency between Commission rules.

The Commission proposes to amend the rule to remove the requirement that the applicant include information regarding federal approvals and/or permits because having this language in rule implies the Department verifies that the applicant possesses all of the necessary approvals and/or permits and that those approvals and/or permits are valid. The Commission believes it is the applicant's responsibility to ensure they apply for and obtain all required federal approvals and/or permits.

The Commission proposes to amend the rule to require the written endorsement to be signed by a person who has the authority to sign documents on behalf of a government agency, university, or institution to ensure the applicant has sufficient permission to conduct the activities noted on the application and associated documents.

Statute and rules that require a person to present a license, stamp, permit, or authorization to members of law enforcement also reference the terms "wildlife manager" and "game ranger." The Commission proposes to amend the rule to reference "wildlife manager" and "game ranger" to increase consistency between Commission rules.

The rule requires a person who is authorized to use drugs on wildlife by the Department to submit an annual and final report; however, the rule does not establish a time-frame for either of these reports. The Commission proposes to establish due dates for the annual and final report to make the rule more concise.

The Commission proposes to amend the rule to require a person applying for authorization to use drugs on wildlife to indemnify the Department against any injury or damage resulting from the use of animal drugs in light of recent law suits taking place at the federal level.

In 2013, the Commission amended R12-4-428 (captivity standards) to remove the annual veterinary inspection requirement for all wildlife from R12-4-428 and reference the inspection requirement only in those rules where an annual veterinary inspection should be required and when wildlife is held for more than one year. Subsection (E) establishes the rule does not prohibit the treatment of wildlife by a licensed veterinarian or holder of a special license; the Commission proposes to amend the rule to replace the reference to R12-4-428 with R12-4-413 and R12-4-420 to make the rule more concise and increase consistency between Commission rules.

**R12-4-310. Fishing Permits**

The objective of the rule is to establish requirements for the fishing permit available to governmental agencies and nonprofit organizations that provide rehabilitation and treatment services for persons with disabilities. The Commission recognizes fishing and hunting as a fundamental requirement of wildlife conservation in Arizona and introductory fishing or hunting events actively promote participation in a variety of recreational opportunities. The rule was adopted to permit these agencies to provide outdoor fishing opportunities to persons with physical, developmental, or mental disabilities, without requiring them to obtain a fishing license.

The Commission proposes to amend the rule to remove the requirement that a nonprofit be licensed or contracted with the Department of Economic Security (DES) or Department of Health Services (DHS) to provide physical or mental rehabilitation or

training to persons with physical, developmental, or mental disabilities and replace the terms "rehabilitation or training" with "treatment and care." The Department receives approximately 100 fishing permit applications annually. Of those 100 applications, approximately 50% are denied either because the agency, department, or nonprofit is not contracted with DES or DHS or they provide "habilitative care and treatment" instead of "rehabilitative care and treatment." The Fishing Permit was originally established to provide unlicensed fishing opportunities to a segment of the public that has difficulty engaging in this recreational activity. The Commission believes the rule with the proposed amendments will continue to meet the original intent of the rule, while expanding unlicensed fishing opportunities to additional agencies, departments, and nonprofits.

The Commission proposes to amend the rule to specify the permit is valid for any two days within a 30 day period. An agency, department, or nonprofit is required to submit a report no later than 30 days after the end of the authorized fishing dates; and an agency, department, or nonprofit that fails to submit the report is not eligible for another permit until the reporting requirement has been met. Currently, a Fishing Permit applicant may choose any two days within a within a calendar year; some applicants have chosen dates more than six months apart, which can be problematic when the agency, department, or nonprofit submits a subsequent application before the second date listed on the first permit has passed.

Currently, the Fishing Permit allows up to 20 persons to fish without a license. When an applicant proposed to hold an event for more than 20 persons, the applicant was required to submit an additional application. In these scenarios, the Department also issued and administered additional fishing permits. The Commission proposes to amend the rule to remove the twenty person limit to reduce the burdens and costs to persons regulated by the rule.

The Commission proposes to amend the rule to require a nonprofit to provide a copy of its Articles of Incorporation and a document identifying its mission at the time of application. Because the rule is being amended to remove the requirement that a nonprofit be contracted or licensed by DES or DHS, the Department will use these documents to determine the applicant's eligibility for the fishing permit.

The Commission proposes to amend the rule to replace the reference to "lesson plan" with "curriculum outline" to make the rule more concise. The Department's Education Branch is responsible for the issuance of the fishing permit; their internal documents and outreach information refers to the instructional document as a curriculum outline, rather than a lesson plan: a lesson plan is a detailed description of topics to be covered in a single class (to include what information is provided when); a curriculum outline establishes the key points that must be covered in a single class. The order and manner in which the instruction is provided should be left to the judgment of the instructor as more or less information on a particular key point may be required depending on the individuals receiving the instruction.

**R12-4-311. Exemptions from Requirement to Possess an Arizona Fishing License or Hunting License While Taking Wildlife**

The objective of the rule is to establish the circumstances under which a person is not required to possess a fishing or hunting license while taking wildlife. A.R.S. § 17-331 states, "Except as provided by this title, rules prescribed by the Commission or Commission Order, a person shall not take any wildlife in this state without a valid license or a Commission approved proof of purchase." The rule was adopted to identify the circumstances under which a fishing or hunting license is not required due to statutory exemptions or when determined necessary by the Commission. The Commission recognizes fishing or hunting as a fundamental requirement of wildlife conservation in Arizona and introductory fishing or hunting events actively promote participation in a variety of recreational opportunities.

The Commission proposes to amend the rule to reference "trapping license" as one of the licenses that may be revoked by the Commission; provide examples of terrestrial mollusks and crustaceans; and remove the reference to "sport fishing contractor" as the Department no longer contracts this service to make the rule more concise.

The Commission proposes to amend the rule to provide examples of nonnative terrestrial mollusks to reduce regulatory ambiguity.

A.R.S. § 17-215 states, each employee and volunteer who has contact with children or vulnerable adults as part of their regular duties must have a valid fingerprint clearance card issued pursuant to A.R.S. § 41-1758.07 or provide the Department documentation of the person's application for a fingerprint clearance card. The Commission proposes to amend the rule to allow a person to provide documentation of the person's application for a fingerprint clearance card as prescribed under A.R.S. § 17-215 to reflect statutory requirements.

**R12-4-313. Lawful Methods of Taking Aquatic Wildlife**

The objective of the rule is to establish lawful devices and methods a person may use to take aquatic wildlife during seasons established by Commission Order. A.R.S. § 17-301 authorizes the Commission to determine lawful methods for the taking of fish. The rule was adopted to establish additional devices and methods by which a person may lawfully take aquatic wildlife and ensure consistent interpretation of and compliance with A.R.S. § 17-301.

The Commission proposes to combine R12-4-313 and R12-4-317 (Seasons for Lawfully Taking Fish, Mollusks, Crustaceans, Amphibians, and Aquatic Reptiles) to increase consistency between Commission Orders, rules, and Department publications; with this amendment R12-4-317 will be repealed.

The Commission proposes to amend the title of the rule to Lawful Methods of Take and Seasons for Aquatic Wildlife to more accurately reflect the subject matter of the rule as amended.

The Commission recently amended R12-4-609 Commission Orders to authorize the Commission to establish a special season allowing fish to be taken by additional methods on waters where a fish die-off is imminent. This change was made as a result of an incident involving Tempe Town Lake that gave light to the fact that the Commission did not have sufficient authority to issue an Order to allow the take of fish by additional methods on waters where a fish die-off was imminent. The Commission proposes to amend the rule to increase consistency between Commission rules.

Because scientific terms are italicized in other Commission rules, the Commission proposes to italicize scientific terms referenced in this rule to increase consistency in formatting with other Commission rules.

In 2014, the Commission amended its license and stamp rules as a result of legislation that authorized the Commission to simplify its license structure. In an effort to simplify the licensing process and increase value, the Department decided to eliminate the "two-pole" stamp and roll the simultaneous fishing privilege into the fishing license. As a result of eliminating the two-pole stamp, there is some confusion as to how many poles are lawful for one person to use while fishing. The Commission proposes to amend the rule to state a person may not use more than two lines at any one time while fishing to facilitate a consistent interpretation of simultaneous fishing.

The availability of hybrid devices (weapons with components from two or more different devices) is increasing. Depending on the species, some hybrid devices may be used for the take of aquatic wildlife, while others cannot. The Commission proposes to amend the rule to allow the use of a hybrid device for the taking of aquatic wildlife provided all components of the device are authorized for the take of that species. This change is in response to customer comments received by the Department.

In addition, under A.R.S. § 17-211(E)(4), a game ranger may seize all wildlife taken or possessed in violation of law or showing evidence of illegal taking. The Commission proposes to amend the rule to state aquatic wildlife taken in violation of Title 17 or this rule is unlawfully taken.

The Commission proposes to amend the rule to prohibit a person from snagging aquatic wildlife or using a bow and arrow, crossbow, snare, gig, spear or spear gun within 200 yards of a designated swimming area, as indicated by way of posted signs or notices, and fishing pier to protect public health and safety.

**R12-4-315. Possession of Live Fish; Unattended Live Boxes and Stringers**

The objective of the rule is to establish requirements necessary for the temporary possession of live fish. All freshwater game fish are listed as restricted live wildlife. Under R12-4-406, a person must possess a valid special license and any required federal authorization or have a lawful exemption in order to lawfully possess restricted live wildlife. The rule was adopted to provide a lawful mechanism by which a person can temporarily hold live freshwater game fish.

The Commission proposes to combine R12-4-315 and R12-4-316 (Possession, Transportation, or Importation of Live Baitfish, Crayfish, or Waterdogs) to increase consistency between Commission Orders, rules, and Department publications; with this amendment the Commission will adopt a new rule, R12-4-314, and both R12-4-315 and R12-4-316 will be repealed.

The Commission proposes to amend the title of the rule to Possession, Transportation, or Importation of Aquatic Wildlife to more accurately reflect the subject matter of the rule as amended.

The Commission proposes to amend the rule to add the following native fish to the list of live baitfish that a person may use for live bait: Longfin Dace (*Agosia chrysogaster*), Sonora Sucker (*Catostomus insignis*), Speckled Dace (*Rhynicthys osculus*), and Desert Sucker (*Catostomus clarki*). As a result of the Department's Statewide Sport Fish Stocking Consultation with the U.S. Fish and Wildlife Service, a conservation measure was developed within the Conservation and Mitigation Program to conduct a statewide live bait use assessment and complete a risk analysis to identify recommendations for live bait management in Arizona. The Live Bait Team evaluated the potential to minimize the risk and threats to native aquatic species, while continuing to maintain live bait use opportunities that have social and economic importance to the angling community. The goal of the live bait management team's recommendations is to prevent the transport and introduction of nonnative live bait and aquatic invasive species, pathogens, and parasites that impinge on the Department's ability to manage the State's aquatic resources. Because the unlawful release or improper use of nonnative live baitfish has resulted in established populations, to better protect native aquatic wildlife and its habitat, the team recommends allowing the use of certain native live baitfish for use in angling.

Both A.R.S. § 17-236(C) and R12-4-307 prohibit a person from disturbing the trap of another unless permitted by the owner. The Commission proposes to amend the rule to prohibit a person from knowingly disturbing the crayfish net, live box, minnow trap, or stringer of another unless authorized to do so by the owner to increase consistency between statute and Commission rules.

With this rulemaking, the Commission proposes to combine R12-4-315 (Possession of Live Fish; Unattended Live Boxes and Stringers) and R12-4-316 to increase consistency between Commission Orders, rules, and Department publications; and renumber the rule to R12-4-314 and repeal both R12-4-315 and R12-4-316.

**R12-4-316. Possession, Transportation, or Importation of Live Baitfish, Crayfish, or Waterdogs**

The objective of the rule is to establish restrictions designed to control the introduction of undesirable species and to reduce the likelihood that baitfish, crayfish, and waterdogs (larval salamanders) may be released in waters where they could establish populations that compete with existing and native aquatic wildlife. The rule was adopted to protect and preserve native aquatic wildlife and habitat.

With this rulemaking, the Commission proposes to combine R12-4-315 (Possession of Live Fish; Unattended Live Boxes and Stringers) and R12-4-316 to increase consistency between Commission Orders, rules, and Department publications; and renumber the rule to R12-4-314 and repeal both R12-4-315 and R12-4-316.

**R12-4-317. Seasons for Lawfully Taking Fish, Mollusks, Crustaceans, Amphibians, and Aquatic Reptiles**

The objective of the rule is to establish special restrictions and requirements for various seasons to allow the Department to achieve management plans and goals for the preservation and harvest of aquatic wildlife, while providing maximum hunt opportunities for the public. A.R.S. § 17-301(D)(2) authorizes the Commission to adopt rules establishing the taking of wildlife with firearms, fishing equipment, archery equipment, or other implements in hand as may be defined. The rule was adopted to ensure consistent interpretation of and compliance with A.R.S. § 17-301(D)(2).

With this rulemaking, the Commission proposes to combine R12-4-313 (Lawful Methods of Taking Aquatic Wildlife) and

R12-4-317 to increase consistency between Commission Orders, rules, and Department publications; and repeal this rule.

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

The objective of the rule is to establish special restrictions and requirements for various hunt structures in order to allow the Department to achieve management goals for the preservation and harvest of wildlife, while at the same time providing maximum wildlife-oriented recreational opportunities for the public. Under A.R.S. § 17-301(D)(2), the Commission has the authority to adopt rules establishing the taking of wildlife with firearms, fishing equipment, archery equipment, or other implements in hand as may be defined. The rule was adopted to ensure consistent interpretation of and compliance with A.R.S. § 17-301(D)(2).

The Commission proposes to amend the rule to reference rules where lawful devices are defined to ensure consistent interpretation of terms used within Commission Orders and rules. In the current rule, R12-4-301 is referenced under each season. The Commission proposes to amend the rule to reference R12-4-301 only under subsection (A) to remove redundant language. These changes are made to make the rule more concise.

The availability of hybrid devices (weapons with components from two or more different devices) is increasing. Depending on the species, some hybrid devices may be used for the take of wildlife, while others cannot. The Commission proposes to amend the rule to allow the use of a hybrid device for the taking of wildlife provided all components of the device are authorized for the take of that species. This change is in response to customer comments received by the Department.

The Commission proposes to amend the rule to provide the devices and methods listed under each season by their range of effectiveness, from greatest range to least range to assist persons regulated by the rule; knowing which devices and methods are most effective may aid a person in choosing a device or method for their hunt.

The Commission proposes to amend the rule to reference "muzzleloading handguns" under subsection (C)(7) to ensure persons regulated by the rule are aware that only a muzzleloading handgun is lawful under that season to remove regulatory ambiguity.

The Commission proposes to amend the rule to allow a person to use a pre-charged pneumatic weapon capable of holding and discharging a single projectile .35 caliber or larger as a lawful method of take during a "handgun, archery, and muzzleloader (HAM)" season to provide persons regulated by the rule additional hunter opportunity.

The Commission proposes to amend the rule to allow a person to use a muzzleloading shotgun as a lawful method of take during a "limited weapon-shotgun" season to provide persons regulated by the rule additional hunter opportunity.

The Commission proposes to amend the rule to allow a person to use a muzzleloading shotgun shooting shot as a lawful method of take during a "limited weapon-shotgun shooting shot" season to provide persons regulated by the rule additional hunter opportunity.

**R12-4-319. Use of Aircraft to Take Wildlife**

The objective of the rule is to prohibit the use of aircraft for the purpose of hunting or harassing wildlife to provide for fair chase and pursuit of game animals. A.R.S. § 17-301(B) states, "A person shall not take wildlife, except aquatic wildlife, or discharge a firearm or shoot any other device from a motor vehicle, including an automobile, aircraft, train or powerboat, or from a sailboat, boat under sail, or a floating object towed by powerboat or sailboat except as expressly permitted by the commission." The rule was adopted to ensure consistent interpretation of and compliance with A.R.S. § 17-301(B).

In recent years, the availability and use of drones has increased significantly. The Commission proposes to amend R12-4-319 to clarify drones are considered to be aircraft and are not lawful to use for the purpose of locating or assisting in locating wildlife.

**R12-4-320. Harassment of Wildlife**

The objective of the rule is to prohibit the use of vehicles for the purpose of hunting or harassing wildlife to provide for fair chase and pursuit of game animals. A.R.S. § 17-301(B) states, "A person shall not take wildlife, except aquatic wildlife, or discharge a firearm or shoot any other device from a motor vehicle, including an automobile, aircraft, train or powerboat, or from a sailboat, boat under sail, or a floating object towed by powerboat or sailboat except as expressly permitted by the commission." The rule was adopted to ensure consistent interpretation of and compliance with A.R.S. § 17-301(B).

The rule prohibits the use of vehicles for the purpose of hunting or harassing wildlife to provide for fair chase and pursuit of game animals. The Commission proposes to amend the rule to provide further clarity to the term "aircraft" by referencing drones. The Commission anticipates these changes will result in a rule that is more understandable.

The Commission proposes to amend R12-4-320 to replace the term "individual" with "person" to increase consistency between Commission rules.

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

The objective of the rule is to establish restrictions for hunting in city, county, or town parks and preserves. The rule was adopted to allow a person to hunt in city, county, or town parks and preserves where possible. The Maricopa County Parks and Recreation Commission and the Arizona Game and Fish Commission entered into an agreement in 1976 with the following stated objective: "To recognize hunting, fishing and trapping as practical methods for harvesting wildlife resources and to limit restrictions on such methods of harvest to recreational facilities and other developments where people are congregated and require safety precautions." The agreement further specifies restrictions necessary to meet the objectives of the agreement. Because the restrictions affect the public and are more restrictive than methods commonly established under R12-4-304, R12-4-313, R12-4-317, and R12-4-318, they are appropriately established within this rule as well as within the agreement. The agreement remains in effect to date without change.

Under R12-4-307(H)(2)(a), a trapper shall not set a trap within one-half mile of certain public use areas. The Commission proposes to amend the rule to incorporate trapping restrictions and increase consistency between Commission rules.

Because some parks have replaced a physical check in station with an online check-in system, the Commission proposes to amend the rule to clarify a hunter shall declare their intent to hunt when the park or preserve has established a check-in process.

The Commission believes the distance restrictions provided in rule are needed to ensure public health and safety. Persons participating in a reptile and amphibian limited weapon hand or hand-held implement season established by Commission Order use their hand or a catch-pole, snake hook, or snake tongs. Because these methods and devices do not use projectiles, they do not pose the same type of hazard; the Commission proposes to amend the rule to exempt persons participating in a reptile and amphibian limited weapon hand or hand-held implement season from the one fourth and one half mile (440 or 880 yards, as applicable) prohibition when hunting in a city, county, or town park or preserve.

**R12-4-322. Pickup and Possession of Wildlife Carcasses or Parts**

The objective of the rule is to allow persons to pick up and possess naturally shed antlers, horns, or other wildlife parts that are not fresh without a Department inspection. In addition, the rule prohibits a person from collecting or possessing fresh wildlife parts unless a Department officer has inspected the wildlife parts and determined the animal died from natural causes. The possession of any threatened or endangered species carcass or its parts is prohibited.

The Commission proposes to amend the rule to allow a Department employee or agent to assist in determining whether an inspection by a law enforcement officer is required to reduce the burden on the Department and persons regulated by the rule. In the event a law enforcement officer is not available, a Department employee or agent who has experience in determining whether an animal died from natural causes may conduct the inspection.

**R12-4-401. Live Wildlife Definitions**

The objective of the rule is to establish definitions that assist persons regulated by the rule and members of the public in understanding the unique terms that are used throughout Article 4. The rule was adopted to facilitate consistent interpretation of Article 4 rules and to prevent persons regulated by the rule from misinterpreting the intent of Commission rules.

The Commission proposes to transfer the definition of "cervid" under R12-4-401 to R12-4-101 as the term "cervid" is used in Articles 1 and 3.

The Commission also proposes to remove the definition of "person" as person is defined under R12-4-101.

**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:**

Angers RC, Seward TS, Napier D, Green M, Hoover E, Spraker T, et al. Chronic Wasting Disease Prions in Elk Antler Velvet. Emerg Infect Dis. 2009;15(5):696-703. https://dx.doi.org/10.3201/eid1505.081458

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

Not applicable

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

The Commission's intent in proposing the amendments listed above is to address the ethical taking and handling of wildlife, increase hunter opportunity, and encourage hunter recruitment and retention. These areas include the use of tags, lawful and unlawful methods of taking and possessing wildlife and wildlife parts, seasons, check-in/check-out requirements, and reporting requirements. The Commission believes the majority of the rulemaking is intended to benefit persons regulated by the rule and the Department by increasing consistency between Commission Order and rule, reducing regulatory ambiguity, clarifying rule language to ease enforcement, creating consistency among existing Commission rules, providing greater opportunities for hunting and fishing, reducing the burden on persons regulated by the rules where practical, allowing the Department additional oversight to handle advances in hunting and angling technology and protecting the spirit of fair chase. As areas within Arizona become increasingly urbanized, more people are now living isolated from nature and outdoor activities such as hunting. As hunters represent a smaller percentage of the overall population, growing segments of society are questioning the validity of hunting including its benefits, how it is conducted, and if it should continue as a legal activity. Regulated hunting fundamentally supports wildlife conservation efforts in North America. The loss of hunting would equate to a measureable loss in conservation efforts. Hunting and angling are the cornerstones of the North American Model of Wildlife Conservation and continue to be the primary source of funding for conservation efforts in Arizona. Hunters and anglers support 18,220 jobs in Arizona; this especially benefits rural communities. Spending by sportsmen and women in Arizona generated $132 million in State and local taxes in 2011; enough to support the average salaries of 2,311 police and sheriff's patrol officers. The economic stimulus of hunting and fishing equates to $3.4 million a day being pumped into Arizona's economy. ~ *Congressional Sportsmen's Foundation: 2013 Sportsman's Economic Report - Arizona.* Fair Chase issues can erode public support of hunting and angling and threaten the funding that drives Arizona's conservation mission and the economic benefit of those activities to our State. In addition, there exists a general expectation that hunting be conducted under appropriate conditions; animals are taken for legitimate purposes such as food, to accomplish wildlife agency management goals, and to mitigate property damage. It is also expected that the hunting is done sustainably and legally, and that hunters show respect for the land and animals they hunt. In the broadest sense, hunters are guided by a conservation ethic, but the most common term used to describe the actual ethical pursuit of an animal is "fair chase." "Fair Chase" means the ethical and lawful pursuit and take of free-range wildlife in a manner that does not give the hunter or angler improper or unfair advantage over such wildlife. The following criteria are used to evaluate whether a new technology or practice violates the Fair Chase ethic; does the technology or practice allow a hunter or angler to: locate or take wildlife without acquiring necessary hunting and angling skills or competency; pursue or take wildlife without being physically present and pursuing wildlife in the field; or almost guarantee the harvest of wildlife when the technology or practice prevents wildlife from eluding take. The Commission anticipates the rulemaking will result in an overall benefit to persons regulated by the rule. The Commission anticipates the rulemaking will result in no significant impact, if any, to political subdivisions of this state, private and public employment in businesses, agencies or

political subdivisions, or state revenues. The Commission has determined the rulemaking will not require any new full-time employees. The Commission has determined that there are no less intrusive or costly alternative methods of achieving the purpose of the rulemaking. The Department will incur costs related to the cost of rulemaking, developing an electronic check-in/check-out system, and implementing rule changes (administration, training, forms, etc.); although the Department believes that implementing these changes now will result in resource savings in the future. Therefore, the Commission has determined that the benefits of the rulemaking outweigh any costs.

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

For R12-4-101, the rule language in the definition of "handgun" was changed to clarify a handgun is a firearm that is not intended to be fired from the shoulder.

For R12-4-303(A)(5), the rule language was changed to clarify the prohibition on satellite images does not include mapping systems and programs.

For R12-4-303(A)(8), the rule language was changed to clarify the prohibitions under (A)(4) and (A)(5) do not limit the Department or its agents in the performance of their official duties.

For R12-4-304(A)(3)(a)(vi), the rule language was changed to decrease the feet per second (FPS) requirement from 300 to 250 to increase consistency between big game species FPS requirements.

For R12-4-318(C)(6)(f), the rule language was revised to clarify the pre-charged pneumatic weapon must be capable of holding only a single projectile.

The Commission felt the need to evaluate regulatory measures pertaining to the use of trail cameras as they related to the 'take of wildlife' and the Fair Chase hunting ethic after receiving multiple comments from the public opposing the use of trail cameras for hunting. In the Notice of Proposed Rulemaking published March 16, 2018, the Commission proposed to amend R12-4-303 (Unlawful Devices, Methods, and Ammunition) to prohibit the use of any trail camera within one-fourth mile of the outer perimeter of a developed water source for the purpose of taking or aiding in the taking of wildlife. However, after receiving significant opposition to the proposed amendment from persons regulated by the rule, the Commission chose to remove this prohibition from the original rulemaking proposals. As a result, the following language was removed from R12-4-303(A)(5), "Within one-fourth mile (440 yards) of the outer perimeter of a developed water source, a person shall not use any trail camera, or images from a trail camera, for the purpose of taking or aiding in the take of wildlife." Because the proposed prohibition is being removed, the definition of "developed water source" was deemed unnecessary and was removed from R12-4-301. See 24 A.A.R. 1936, July 13, 2018

The Commission is aware that confusion exists regarding the use of full-jacketed ammunition. Full-jacketed ammunition is sold by sporting goods stores and is often labeled by the manufacturer for use in target practice, but there are manufacturers who also label the ammunition for use in hunting. Confusion exists because full-jacketed ammunition is readily available in sporting goods stores and the rule prohibits the use of full-jacketed ammunition "designed for military use." The use of full-jacketed ammunition for hunting is prohibited because it does not create a substantial wound for the humane harvest of big game. Ammunition designed to expand creates a wound cavity and slows the bullet down so that it will not continue beyond the target with much force, if at all. In the Notice of Supplemental Proposed Rulemaking, the Commission proposed to amend the rule to replace the phrase "full-jacketed ammunition designed for military use" with "full-jacketed bullets that are not designed to expand upon impact." The Commission received two comments regarding the proposed amendment; both commenters were concerned that the unintended consequence of this change would result in making the common practice of using nonexpanding ammunition for the take of small game, fur bearers, and predators unlawful. Nonexpanding bullets do result in a lethal wound for the humane harvest of smaller animals (as opposed to a bison, deer, elk, or other big game species), and causes less damage to the animals pelt. The Commission proposes to amend the rule to prohibit the use of full-jacketed or total-jacketed bullets that are not designed to expand upon impact for the take of big game to make the rule more concise. This change also allows the continued use of ammunition that does not expand for the take of small game, fur bearers, and predators. See 24 A.A.R. 2910, October 19, 2018

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

During the Article 3 review report and rulemaking processes, the Department conducted outreach activities in regards to the proposed amendments with the following organizations: American Archery Association, Arizona Antelope Foundation, Arizona Deer Association, Arizona Desert Bighorn Sheep Society, Arizona Elk Society, Arizona Sportsmen for Wildlife Conversation, Fair Chase Committee, Hunting and Angling Heritage Workgroup, Mogollon Sporting Association, Payson Natural Resources Committee, Vista Outdoors, Yuma Valley Rod and Gun Club, and Archery Headquarters.

The Department issued press releases regarding the proposed changes included in the Notice of Proposed Rulemaking to further encourage public participation in the rulemaking process. In addition, the Department hosted a webinar detailing and explaining the rule changes that were proposed in the Notice of Proposed Rulemaking; three people were in attendance and 101 persons viewed the webinar online.

The Notice of Proposed Rulemaking was published in the *Arizona Administrative Register* on March 16, 2018; the official public comment period began March 16, 2018 and ended on April 16, 2018.

The Notice of Supplemental Proposed Rulemaking was published in the Arizona Administrative Register on July 13, 2018; the official public comment period began July 13, 2018 and ended on August 13, 2018.

**THE FOLLOWING COMMENTS WERE RECEIVED IN RESPONSE TO THE NOTICE OF PROPOSED RULEMAKING (SEE 24 A.A.R. 529, MARCH 16, 2018):**

***The following comment supports the proposed amendment allowing a Crossbow Permit holder to use a pre-charged pneumatic weapon using bolts or arrows during an archery-only season:***

**Written Comment: March 26, 2018.** As a 23-year, wheelchair-bound, low level quadriplegic, post gunshot wound, I enjoy outdoor recreation, fishing, hunting, and preserving wildlife. The air bow is truly an Americans with Disabilities Act accommodation device for hunting as a workaround for a crossbow or Compound bow. My goal is to make the air bow legal for a Challenged Hunter Access/Mobility Permit (CHAMP) holder hunting from the cab of the vehicle in place of a bow or crossbow. Please look into all the data reported on this new device/hunting rifle. Let me know what the thoughts are and how I may assist in making it a legal apparatus for hunting from the cab of the vehicle for folks with disabilities. It is very important to me to follow all the guidelines and make appropriate kills while putting fresh meat in my freezer for my family. It is equally important to me to support the Department in its goals to keep wildlife preserved in its pristine glory.

**Agency Response:** The Department appreciates your interest in and support of the proposed rule amendment allowing a Crossbow Permit holder to use a pre-charged pneumatic weapon using bolts or arrows during an archery-only season.

***The following comments oppose the proposed amendment allowing a Crossbow Permit holder to use a pre-charged pneumatic weapon using bolts or arrows during an archery-only season:***

**Written Comment: March 18, 2018.** The preamble states that the Commission supports allowing "pre-charged pneumatic weapons, using bolts or arrows, for use during archery-only hunts". The quotations are somewhat paraphrased, but the meaning remains. I do not agree with this position. Archery-only hunts were established to allow recreational hunting by bow and arrow for big game. This type of hunting was thought to allow a method of hunting that was less successful and therefore provide less harvest of big game. Admittedly, archery has grown in success due to hunter proficiency and vast technology growth in equipment. However, archery hunting still is less successful than general firearms hunts. Adding pneumatic weapons will increase the hunt success and diminish the archer's ability to participate in archery-only hunts due to increased hunt success driving down allocated permit numbers. Currently, crossbows are allowed for those who are physically disabled, which is a reasonable accommodation for persons legitimately in need of that exception. I would support allowing the use of these devices, if necessary, during handgun, archery, and muzzleloader hunts. Currently, crossbows are authorized during these hunts. I would also support allowing these devices during general firearms hunts. I suggest this is the concept the Commission believes acceptable. I am hopeful the wording in the preamble merely indicates some degree of editing is needed, rather than a change to existing rule pertaining to archery hunting.

**Written Comment: March 19, 2018.** Arizona has many options available to disabled hunters. If a disability is due to an injury and temporary where you cannot draw a bow, we can purchase Point Guard. A person can turn in their draw tag and get their bonus points back. I have already seen too many abuses of persons hunting with crossbows during archery season because they have a doctor's note. Two years ago I saw two different women hunting with crossbows and the year before that I saw one. I am afraid this air bow will make it even easier for folks to abuse. Hand drawn, hand held vertically shot equipment should be in the archery season and all shoulder fired equipment should be in the gun season.

**Written Comment: March 20, 2018.** Please take a look at the "disclaimer" on the air bow kit. They are selling it with firearms warnings. Crossbows are just fine for the disabled in archery season. History (crossbow) will confirm the disabled angle is the first step to getting the air bow in archery season. The next model coming will shoot repeating bolts.

**Written Comment: March 21, 2018.** I am deeply concerned about allowing the air bow during archery season for any group of hunters. This weapon is no more than a gun that shoots arrows.

**Written Comment: March 22, 2018.** The Arizona Bowhunters Association (ABA) opposes the amendment that allows the use of a gun during an archery-only season. A pre-charged pneumatic weapon is not a piece of archery equipment, even if it discharges a bolt or arrow. Per Merriam-Webster dictionary, a firearm is defined as a weapon from which a shot is discharged by gunpowder. Archery is defined as 1) the art, practice, or skill of shooting with bow and arrow; 2) an archer's weapons; and 3) a body of archers. A bow is defined as a weapon that is used to propel an arrow and that is made of a strip of flexible material (such as wood) with a cord connecting the two ends and holding the strip bent. Bow hunting is defined as hunting especially of large game animals (such as deer) done with bow and arrow. An air rifle is defined as a rifle whose projectile is propelled by compressed air or carbon dioxide. Archery is the art, practice, and skill of shooting a bow and arrow. A pre-charged pneumatic weapon is not a bow because it does not have a flexible material which places tension on a string. Since a pre-charged pneumatic weapon is not a bow, it should not be allowed for use in bow hunting. This amendment will provide an advantage over not only traditional recurve and compound archers, but crossbow hunters as well. Bringing an air rifle into an archery hunt not only goes against the concept of an archery season/hunt but disrespects the animal's right to fair chase in that season. The ABA's Mission Statement is, "To foster, perpetuate, and expand bow hunting and bow hunting ethics in Arizona." The use of a high-powered air gun during an archery hunt will give a hunter an improper advantage over such animals during an archery season.

**Written Comment: March 22, 2018.** Please reconsider the proposal to include the air bow as an archery weapon. It is an air rifle in every sense. Just because it fires a bolt instead of a bullet does not make it a bow. The most challenging aspect of archery hunting is drawing your bow immediately before you shoot. This greatly increases your chances of detection by game. Then you must hold the bow under tension until you release the string. The air bow does not require any of these challenges. It might bring a few more people into the sport, but at the cost of what makes archery hunting unique.

**Written Comment: March 26, 2018.** Please understand, the air bow is an air gun. It shoots an arrow like a gun. This is not archery equipment. Please do not allow it in our archery seasons.

**Written Comment: March 28, 2018.** The air bow is not archery tackle; it is an arrow launching device that uses compressed air or nitrogen to launch an arrow. It is a pre-charged pneumatic air rifle that discharges an arrow instead of a pellet. I appreciate that it is limited to disabled hunters; however, the crossbow is already an option for this category of hunters. I envision the next step in this evolution will be developing arrow launchers with shotguns or muzzleloaders. I urge the Commission to not approve the air bow for use in an archery season. If the Department chooses to go down this slippery slope, is it prepared to approve any "Arrow Launching Device" for the archery season, including arrows that are launched with gun powder or black powder?

**Agency Response:** It appears some commenters may have misinterpreted the rule amendment to mean the use of a pre-charged pneumatic weapon using arrows or bolts will be lawful for any hunter to use during an archery-only season. The Commission's intent with this rulemaking is to clarify a pre-charged pneumatic weapon using arrows or bolts is lawful for the general season and to allow a person who holds a valid Crossbow Permit to use a pre-charged pneumatic weapon using arrows or bolts during an archery-only season. The authorized use of this weapon will be equivalent to the authorized uses for the crossbow. It is not intended to be considered for use in a regular archery-only season. The Commission believes a pre-charged pneumatic weapon capable of holding and firing a single arrow or bolt may be easier to manipulate in some senses by our sportsmen and women with a qualifying medical condition. This change will provide more opportunity to those persons who are otherwise limited by the weapons they can safely and effectively manipulate. The crossbow and pre-charged pneumatic weapon capable of holding and firing a single arrow or bolt are similar in performance.

***The following comments oppose the proposed amendment prohibiting the discharge of an arrow or bolt within one-fourth mile of an occupied residence:***

**Written Comment: March 18, 2018.** I understand prohibiting the discharge of firearms close to an occupied residence for safety reasons, but do not believe this restriction should apply to archery. I understand that the noise from a firearm could be disconcerting, but this is not

the case with archery equipment. I understand some people complain about hunters being close to their property, but it is not reasonable to outlaw all archery hunting within one-fourth mile of a residence just because some residents have complained. Here in Camp Verde, we have a lot of great hunting along the Verde River; migratory bird hunting, as well as archery hunting, bow fishing, and the opportunity to hunt elk during the depredation seasons. The proposed rule change will effectually end all of that. I would be very disappointed if all of that were to go away just because of the complaints some people have regarding archery hunting near their properties. I understand some of the challenges the Department has in balancing these issues. However, this proposed rule punishes a lot of us.

**Written Comment: March 20, 2018.** As an Arizona bow hunter, I oppose the proposed rule change that would make it illegal to hunt with a bow and arrow within one-fourth mile of an occupied residence. The no hunting within one-fourth mile rule would make hunting in the 11M unit nearly impossible. To my knowledge there has never been an accident in all the years this hunt has been conducted. The people who complain about hunting in this area are opposed to hunting in general. Deer hunts are conducted in suburban areas in many Eastern states that have far higher populations without safety issues. Firearms hunts are conducted in populated areas of Europe that require shooting at a downward angle. This proposed rule is overbearing for those who hunt in the metro units. Complainers are going to complain no matter what. Please do not implement this unreasonable and restrictive rule that would satisfy only those who complain.

**Written Comment: March 23, 2018.** This rule is to detour people shooting at animals near people's homes with archery equipment, which has caused safety concerns, and a stir of viewpoints from urbanized or anti hunter populations. Restrictions are already in place that prohibits all types of hunting within an occupied structure in units as 11M, 25M, 26M, and 38M. The notes are found after each species to hunt, and refer to the notes after archery deer hunting for specific examples. Additional units are specifically called out where you cannot hunt with any method of take within one-fourth mile of an occupied residence. Hunters who are violating these rules can be cited for not adhering to them. Additionally, Sportsmen should follow ethical shooting behaviors near the vicinity of residents, even within a half mile for any method of taking. I want to empathize this should not be a one size fits all for less populated counties throughout the state. There are sparse and less-dense residential areas in counties such as Gila, Coconino, Cochise, Santa Cruz, etc. Limiting the discharge of a bow within 440 yards will limit opportunities for harvesting of wildlife for new and disabled hunters. Additionally, many demographics of hunters have very little time to travel farther distances to lands farther from homes or with the convenience of having the vehicle or modes of transportation to hunt in remote areas. Lesser dense residential areas provide more opportunity for an already a tight schedule of workforce who may only be able to hunt one or two weekends, thus also meeting goals of introducing more hunters to the field of hunting and meeting the Department's revenue goals. Taking away the opportunity to hunt wildlife in residential, rural county areas other than Maricopa and Pima counties will limit the Departments goals when trying to increase hunter populations. People like convenience in today's world, and making locations harder to hunt, will only divert more people from hunting. Of course, hunters need to continue and stay clear of private and posted properties and practice with due regard. This rule should be rewritten to allow people to discharge an arrow on their own property or public lands in the vicinity of occupied residences with surrounding landowner's permission while taking game. The rule should not say, a person cannot discharge a bow and arrow within one fourth mile of a residence when taking game. This will cause specific areas of the state to efficiently regulate their own areas, meet the Department's goals of recruiting and retaining hunters, and the Department revenue from tag and license sales. I hope there is way to rethink this strategy, to enforce the rules we already have in these problem areas of municipal areas, and to specifically refer to these rules in front of each species to be hunted in a clear and concise manner in the regulation booklet.

**Written Comment: April 11, 2018.** My main concern is with the discharge of archery equipment within one-fourth mile of an occupied cabin, farmhouse or building. The explanation in the preamble indicates there were hunters who could not archery hunt on their own property because the area was closed. I am opposed to the proposed change. The one-fourth mile rule cannot be about safety since firearms can shoot much farther than one-fourth of a mile and you can discharge a firearm with the landowner's permission. So, it must be a noise and courtesy issue. Noise is not a concern when archery hunting. This also allows homeowners to prevent landowners who may want to legally hunt on their land using archery. I understand that it is "courteous" to give homeowners some distance for noise, but this puts and undue burden on hunters who can very easily discharge a firearm or arrow when they have no idea a building is hidden in the woods, like many cabins are. I have been hunting on one side of a hill only to come over the top and find a cabin sitting in the middle of nowhere. I could very easily have broken this rule and been punished. I feel there is no need for the rule change just because a few "homeowners" got upset that hunters are hunting near them. There is a very real push to ban hunting in many states and these anti-hunters who think they alone own the animals need to understand that the animals are a resource for all. Too many hunting areas are already landlocked by landowners who butt up against state and federal lands, post their properties, and then use state and federal lands as their own private playgrounds or grazing ranges. More and more hunting areas are seeing houses and cabins built on the edge of legal hunt areas and the one-fourth mile rule greatly limits where we can legally hunt.

**Agency Response:** Complaints from homeowners about archery hunting on or near their private property and occupied residences have increased significantly over the years. As a result, through Commission Order, all or a part of 11 different game management units are closed to hunting within one-fourth mile of an occupied building or residence during an archery-only season, with several other units located in or near communities being considered for closure. As a result, private property owners residing in these areas cannot hunt on their own property, or give other hunters permission to hunt on their property, even when there were no other residences nearby. The proposed amendment will enable private property owners to hunt, and allow others to hunt, on their own property while respecting the rights of other property owners who may not want people to hunt on or near their residences. This amendment also simplifies the rule by increasing consistency between other methods used for the take of wildlife.

***The following comment opposes the proposed amendment prohibiting the use of live-action trail cameras for taking or aiding in the take of big game:***

**Written Comment: April 15, 2018.** I object to banning game cameras that transmit a signal over the cell network. Some persons install game cameras in very remote areas and, due to the person's work schedule, they may not be able to exchange the memory cards easily. A remote viewer makes checking the camera easier without disturbing the wildlife in the area. I am in favor of a rule that states you cannot use remote viewing cameras while actively hunting, or during your hunt. Cameras should be able to be used year around, just for their viewing pleasure.

***The following comments support the proposed amendment prohibiting the use of trail cameras within one-fourth mile of a developed water source for taking or aiding in the take of big game:***

**Written Comment: March 18, 2018.** I would like the Department to clear up the definition of trail cameras not allowed at man-made water. As opposed to a trail camera that transmits live-action images. It needs to be very clear.

**Written Comment: March 27, 2018.** Please do not ban trail cameras over waterholes. **Subsequent Written Comment: March 27, 2018.** After receiving more information, I want to change my request from not banning game cameras to vote in favor of banning them at water holes. **Subsequent Written Comment: March 27, 2018.** Please change my opinion from not favoring game cameras on water holes to being in favor of the ban of game cameras on water.

**Written Comment: March 27, 2018.** I believe it is a good idea to restrict trail cameras on developed water.

**Written Comment: March 27, 2018.** I commend the Department on banning trail cameras on water holes. These cameras on watering

holes give an unfair advantage to hunters and a strong disadvantage to wildlife. I am a hunter and the word is "hunter," not "shooter." It is time hunters go back and learn to hunt like before trail cameras were used. Tracks by water holes should help hunters to hunt. Stories in magazines on the strip always center around water holes. Sure everyone wants a monster, but hunt for it. I hope this is passed.

**Written Comment: March 27, 2018.** Please ban trail cameras at all water holes. Or, ban them altogether. I believe trail cameras have no use in hunting in Arizona; cameras over water are especially unfair for many reasons.

**Written Comment: March 27, 2018.** I applaud the Department for looking at this issue. In my mind the "cat is out of the bag," but, I believe this is important to fair chase. I have seen videos online of huge deer killed on the Kaibab and other units killed at water troughs. Enough is enough; there are cameras, guys shooting 400 plus yards, etc. What ever happened to fair chase: Please ban cameras at water sources.

**Written Comment: March 27, 2018.** I would be in favor of banning trail cameras within 440 yards of water. As you must know, it is a mess out there these days with the cameras and camera thieves.

**Written Comment: March 27, 2018.** I support the ban of trail cameras near water sources.

**Written Comment: March 27, 2018.** Waterhole trail camera ban: I totally agree with such a ban. It is time to get some of this technology out of hunting and really hunt.

**Written Comment: March 27, 2018.** I am in favor of not having trail cameras at water sources, especially during the hunting seasons. If they decide to modify it, not having them for a few weeks prior to the hunt or during the hunting season would be okay in my opinion. Seeing twenty-five cameras on a water hole is a little much.

**Written Comment: March 27, 2018.** As a lifelong hunter, I do not agree with the use of trail cameras. In fact, I do not agree with hunting water holes at all in desert country. Thanks for the opportunity to provide actual hunter input and not bias option as a guide.

**Written Comment: March 27, 2018.** I strongly support the ban on trail cameras near water. Trail camera usage has become excessive.

**Written Comment: March 27, 2018.** I support banning trail cameras within 440 yards of water sources. On previous hunts, the amount of cameras around water holes was completely out of control and they infringe on the other hunters.

**Written Comment: March 27, 2018.** I agree with banning cameras on water holes in Arizona. To me it is the same as baiting. There are very few water holes and the animals have to drink. Putting cameras on them makes it too easy to harvest them.

**Written Comment: March 27, 2018.** Yes, please ban the use of trail cameras near water. They greatly disturb wildlife by people putting them around water and then checking them regularly. I have seen up to eight cameras within 30 feet of one water hole and I have heard that there can be many more than that.

**Written Comment: March 27, 2018.** I am all for a ban on cameras within 440 yards of developed water sources, including dirt tanks.

**Written Comment: March 27, 2018.** As a hunter and conservationist it makes sense to ban game cameras on water holes. They should be 400 yards away at a minimum; this will minimize the stress placed on mule deer and level the playing fields between outfitters.

**Written Comment: March 27, 2018.** I am not a resident of Arizona, but I am a hunter who hunts in Arizona. I support the recent proposal that restricts the use of trail cameras at water sources.

**Written Comment: March 28, 2018.** I support the Commissions proposed ban on cameras within a quarter mile of developed waters.

**Written Comment: March 28, 2018.** I am for keeping trail cameras away from water sources. It is ridiculous to be taking a leak and look up at five or six cameras on every water source. Let the outfitters learn to hunt like the rest of us. If you cannot find animals by actually hunting them, then stay at home and clean the kitchen or put some tights on and take up yoga.

**Written Comment: March 29, 2018.** I support the proposal to make it illegal to use trail cameras within 440 yards of any water hole or containment tank. The desert has limited water resources, animals must use the few waterholes available to them. With cameras on every water hole for miles, it makes it much easier to pattern and harvest animals as they come to water. I enjoy harvesting large animals just like everyone else, but letting hunters have cameras around every waterhole all the time this is not fair to the game animals. I counted 19 cameras on one stock tank on the strip last year.

**Written Comment: March 29, 2018.** I support the proposal to ban the use of trail cameras over water sources. I applaud the Commission for doing the right thing and taking the lead on this issue. There should be more to the sport of hunting than using technology to strip the quarry of its natural defenses.

**Written Comment: April 1, 2018.** I am in favor of banning trail cameras near water holes.

**Written Comment: April 4, 2018.** I support the one-fourth mile restriction on trail cameras on developed water. This is something that I believe will help.

**Written Comment: April 4, 2018.** I think the change to restrict trail cameras on waters is a good idea. How many advantages do hunters need? Have you ever watched a buck come to water? It doesn't take much to spook them. I am a cattle rancher who maintains water on public land, when an animal comes in to drink - we do not want to spook them.

**Written Comment: April 9, 2018.** The proposed ban of trail cameras over water is long overdue. In my opinion, the use of trail cameras is bad. I enjoy looking at trail camera pictures just as much as the next hunter/outdoorsman, but they have to be regulated at some point. There is nothing "fair chase" about a deer coming in to water at two a.m. and his picture getting sent to a hunter's phone back at camp. It is ridiculous and unfair to the wildlife. The other issue with trail cameras is the unbelievable overuse of cameras by the guides. When are we going to start regulating and enforcing some rules on them? I am not against guides, but they abuse this technology. I talked with one outfitter on the Strip units who stated they had over 90 cameras set up. I have hunted on the Strip and it is sad to see what that tag and hunt has become. High paying clients show up to camp, pick a deer with a name on it, and shoot it off the last water it was seen at. I know this proposal does not ban the use of cameras altogether, but it is a start in the right direction. Let's get back to fair chase hunting, to putting miles on your boots, and time behind glass. It is unfair and sad to see a bull get killed when he hasn't been able to get a drink or take a leak in the woods for the last nine months without having his picture taken. I hope we take this opportunity to do something about this issue and start to think about what fair chase really means for the animal and the hunter.

**Written Comment: April 15, 2018.** I agree the cell phone cameras need to be outlawed; it is not fair to the game. Prohibiting trail cameras within 440 yards of a water tank makes them worthless. I would like to see the distance changed to 50 to 100 yards instead. Not everyone is a hunter; some people just like seeing the wildlife that comes into a water source and use the pictures to get their kids involved. I work a full-time job; I do not have the money or time to scout my hunting areas every weekend. The cameras allow me to do that, plus having pictures of an animal does not guarantee it will still be around opening morning. Would getting a picture of an animal now and then taking that same animal in November be a crime? Not everyone is trying to cheat the rules of fair game or profit from taking pictures of big game. A rule written to get those people makes better senses. Otherwise, it is really just hurting the guy and his family and turning them away from hunting.

**Agency Response:** The Department appreciates your interest in and support of the proposed rule amendment prohibiting the use of trail cameras within one-fourth mile of a developed water source for taking or aiding in the take of big game.

***The following comments oppose the proposed amendment prohibiting the use of trail cameras within one-fourth mile of a developed***

***water source for taking or aiding in the take of big game (R12-4-303 was amended to remove this restriction through the Notice of Supplemental Proposed Rulemaking,*** *24 A.A.R. 1936 July 13, 2018)**:***

**Written Comment: This same comment was submitted 9 times by other persons - March 16 (7), March 17 (1), March 26 (1), and April 5, 2018.** There is no scientific proof that the use of **"**non-real-time**"** or **"**non-live-action communicating**"** trail cameras has an adverse effect on wildlife movement, access, or use of water sources. Nor does the use of trail cameras interfere with the spirit of "fair chase." There is no merit to banning the use of non-live-action trail cameras on a water source and we request the Commission edit their proposed change to R12-4-303(A)(5) by removing the verbiage "A person shall not use any trail camera, or images from a trail camera, for the purpose of taking or aiding in the take of wildlife within one-fourth mile (440 yards) of the outer perimeter of a developed water source." **Additional commentary supplied with form letter comment: March 16, 2018.** The Department is discriminating against hunters by not allowing the use of use trail cameras when non-hunters can. There is no way to enforce this and it will cause more issues for your enforcement officers. I enjoy getting out year-round to check cameras and place cameras. It keeps me in shape and gets me in the outdoors. The proposed rule change would take that away from me. I use trail cameras in a number units. I love getting the pictures of wildlife; this has very little to do with hunting. What about the pictures a hunter takes of animals that the Department has an interest in (i.e., wolves, jaguar, etc.)? This horrible proposal will have greater impacts then what it fixes. It is an unenforceable law that takes away a person's ability to view wildlife. Please consider all aspects before the Department makes a harsh decision that solves nothing. **Additional commentary supplied with form letter comment: April 5, 2018.** I am not aware of any data, surveys, studies, or other professional and competent research that proves the use of "non-real-time" or "non-live-action communicating" trail cameras has an adverse effect on wildlife movement or access and use of a water source. I disagree that trail camera use interferes with the spirit of "fair chase." Hunters and outdoorsman use trail cameras to better understand the quantity and quality of game in a particular area. A trail camera is merely a tool to provide information about the animal species inhabiting that region. Trail cameras do not guarantee hunter success. They only give a hunter a snapshot of game movement to that water source. Wildlife movement is random and cannot be patterned or predicted. The use of game cameras is far less obtrusive and disruptive to animal patterns than the physical presence of humans. A camera alone will not prevent an animal from drinking from a preferred water source but human traffic through the forest can. In short, game cameras are a non-invasive means to observe wildlife and their use is a freedom that should be preserved for all outdoor enthusiasts.

**Written Comment: This same comment was submitted 8 times by other persons - March 20 (3), March 21 (3), March 22 (1), March 30 (1), 2018.** I do not support the proposed rule change to R12-4-303(A)(5). For the purpose of understanding, whenever I refer to "trail camera" I am referring to trail cameras that do not transmit images to another device. 1) There is no proof that use of a trail camera impedes or alters wildlife movement. There are thousands of pictures showing the animals do get alarmed or even look at a camera. All a trail camera does is show what was there some time ago. 2) There is no proof the use of a trail camera guarantees a successful harvest of an animal. All a trail camera does is confirm or deny suspicion of the animals at a particular water site. 3) Trail cameras help pattern wildlife movement to and from water, but they are not fool proof. There are too many variables that determine and throw off a pattern of wildlife movement to water; such as lunar cycles, barometric pressure, cloud cover, temperatures, wind movement, current estrous cycles of the animals, hunter pressure in the area, outdoor enthusiasts other than hunters in the area, predator movement, wildfires, smoke from controlled burns, and others. Not to mention a hunter's presence alone is enough to change their pattern. Although this information is valuable to a hunter, a trail camera cannot predict animal movement in the future. 4) There are too many factors that make a hunter successful; a hunter must be stealthy, silent, scent-free or have a favorable wind, be still to be undetected, take careful aim, and execute a good shot. Please inform me how a trail camera helps any of this. 5) Banning the use of cameras as a scouting tool is discriminatory to hunters. After all, for wildlife watchers it will not be illegal to place cameras on water as they will not be pursuing nor attempting to aid in the take of wild game. Therefore, only non-hunters will be able to see animals at water sources. Hunters are the main source of revenue for Wildlife Conservation agencies and this restriction is a direct strike on their enjoyment of the outdoors. Photographers do not contribute by buying licenses and tags. Nor do bird watchers, hikers, horseback riders, dirt bike riders, off-road vehicle drivers, environmentalists, or anti-hunting activists. Yet all these people, who have huge impact on the environment, would be allowed to put a trail camera on a water source. Is that fair? 6) This affects all hunters. 7) This will make it more difficult for junior and CHAMP hunters to focus their efforts. Both groups of hunters will be hindered by not being able to scout most effectively. 8) The potential environmental impact is great, I visualize upwards of a half dozen or more "salt sites" with a camera at 441 yards away from the water source. The salt sites will get dug up and turned into salt pits, which will degrade the natural environment and certainly surround nearly every water source in the state. Instead of having a few cameras concentrated directly on a water tank, there is the potential to have a dozen or more surrounding the tank. Checking cameras at 441 yards all the way around the water source will definitely have a negative impact on natural movement. A hunter popping in for five minutes once every two weeks to check a memory card is far less impactful then walking a fourth mile circle around a water source for 30 to 45 minutes checking several cameras. 9) I theorize this will actually do more to inhibit Fair Chase than placing the camera directly on the water source. If I know game is frequenting a water source and I place seven cameras around it at 441 yards, then I will learn everything I need to know: their approach trails, their departure trails, when they show up, when they leave, and how many animals approach but never come to the water. This information will let me know where to place a stand or blind to best suit the wind, maximum travel corridors, etc. Whereas currently, I only see a small portion of the water hole and never really know what direction anything comes from. 10) I believe a trail camera on a water source is the least impactful way to scout for game; walk in, swap memory cards, and walk out in a few minutes. Physically sitting at the site and having that human presence is detrimental to animal movement and behavior patterns. 11) Trail cameras give the average city hunter a chance to scout, have a normal life, and a busy work schedule. Not everyone who draws a tag can hire a professional guide. Guides not only know the areas animals are in, but can stay in the field monitoring their movements for days, if not weeks or months. Eliminating the way in which a recreational hunter can easily scout water sources, makes it much harder to compete against the guides and professional outfitters who have the ability, time, and freedom to scout behind glass and on foot 200 times more than the recreational hunter. Guides and outfitters will have an advantage over the average do-it-yourself hunter. Being able to use trail cameras on water sources levels the playing field, giving the amateur a chance to harvest an animal. Putting more outfitters and guides in the field will disrupt natural movement of animals. The guides and outfitters will have high success rates and the common man will be reduced to scrambling about the country because we cannot devote the same time and manpower guides can. 12) Trail cameras are the best tool to manage mature older aged animals. Isn't the goal to harvest mature animals so younger animals have a chance to grow and mature? Trail cameras monitor animal movement and growth around the entire world. They allow a hunter to be selective in the spots they hunt; they can pass up spots without mature animals and move on to spots that have older age class animals. The best place to do this is at water sources in Arizona. There are just too many different trail and approach options for animals to be able to see everything that gets water. The best way to ensure mature animals are harvested is to let hunters pick and choose what they want to take with the best scouting tool out there. 13) This prohibition is virtually unenforceable. The Department barely has enough game rangers to enforce the laws already in place. How is a game ranger going to enforce this new rule? Is the game ranger supposed to confiscate the camera? What if camera is being used by someone collecting pictures of wildlife? How much time will a game ranger waste trying to cut cables, locks, bolts, or screws while confiscating a camera? The entire concept of enforcing this rule is a waste of finite resources. Game rangers should manage wildlife and find law breaking poachers. I understand wildlife belongs to the State, but how will the Department enforce a law on someone who has a water source on their own property? 14) The rules of Fair Chase as set forth by organizations such as Pope and Young, Boone and Crockett, Buckmasters, Safari Club International, Dallas Safari Club, and others do not consider the use of trail cameras is an impingement of Fair Chase. 15) The rumor mill is that a major contributing factor to this proposed ban are the complaints from guides

fighting with other guides in some of the better known trophy units of the state. I am friends with many of the guides and outfitters who specialize in those hunt units. After many conversations, I find these allegations and rumors to be completely false. If complaints of numerous cameras on a location are coming from do it yourself hunters who feel like they are being bullied out of an area, then their intentions should have no weight on the subject. A camera on a water hole, or even 20 cameras on a water hole, does hold or guarantee a spot for anyone. I woke up early every day for 13 days straight in Unit 9 last year to be first to a spot. I had many interactions with other hunters and guides, and they always yielded to my first position. Additionally, if complaints are coming from out-of-state hunters and outfitters, then there is too much weight being placed on the input of nonresidents. If the majority of the complaints are about water hole over use and crowding in units 13A and 13B, then why impact the entire state. This is a case of letting a couple bad apples ruin the whole crop. Perhaps pinpointed management in those units with posted signage at water sources or allowing multiple steel sign stakes to be permanently planted in concrete for camera use would be more appropriate to help clear he jumbled mess that currently exists. 16) The rule is vague. By letter of the rule, if I use a camera to scout in the effort of hunting within 440 yards of a water source I could be cited, but placing a camera at 441 yards would be legal. The Commission would have to ban hunting within one-fourth mile of that water source in order to not cite everyone. This leads to the question of, where do we draw the line? If the Department wants to redefine Fair Chase, then what else is on the table? 17) Finally, it appears success rates are higher these days. But, I would not accredit that to a trail camera. It is the world we live in now. Hunting is a public passion. People share their success on social media platform. That success is talked about. Ideas are shared. New hunters read and practice what others have preached. We hunters are evolving and learning from one another. Perhaps we are getting better at what we do. If the success rates are too high, reduce tag numbers to make it harder. Of course, the risk involved in this is less revenue for the Department. I will not dismiss this as insignificant. Perhaps it is time to increase the application fees from $13 to $25; that would be a large windfall of revenue. Perhaps it is time to raise tag prices. If there really are too many animals being killed, perhaps it is time to cut tag numbers in half and then double the price of the tags for a couple years to ensure the revenue streams remain and wildlife populations get a chance to recover. If hunters are being too successful, do as other Commissions have done and reduce the number of tags.

**Written Comment: March 16, 2018.** I think the proposal to ban non-real time cameras is a bad idea. Either get rid of all cameras or let them be. If the Department changes the rule on this, there will be more traffic all around the water and not just at the water. This will not solve a thing; it will make the problem worse. The cameras on the water are not the problem.

**Written Comment: March 16, 2018 and March 29, 2018.** I recently became aware of a new rule change being considered for the use of trail cameras and have concern over the restrictions of such devices. I can understand a restriction on the use of a remote wireless camera, as this would lend itself to unfair chase of game by providing instantaneous information. But I can see no benefit to the restriction of a non wireless camera being placed on any developed water source. These are simply a tool, much like a pair of binoculars that aid in the scouting of an area. As with most hunters now days, we have very limited time to spend in the field for scouting and hunting. A trail camera can provide vital information as to whether or not to hunt a certain area. I have had this conversation with many other outdoorsmen in Arizona, and their feelings are mutual. It is my opinion that this unfairly restricts outdoorsman in Arizona and I am firmly opposed to such restrictions.

**Written Comment: March 16, 2018.** The proposed rule prohibiting the use of trail cameras on water sources is wrong. I have yet to see scientific information that claims their use is bad for wildlife. I would argue that the cameras benefit wildlife because hunters are able to survey the herd in the areas they are hunting and concentrate on taking the older age class animals, thus benefitting wildlife. There are other benefits I could add like keeping young hunters interested in hunting by allowing them to use cameras in the off seasons, but I do not want to make this long winded. I am against this potential rule change. Do not take away a useful tool that has little or no impact on the outdoors and only opens the door to more unneeded regulation.

**Written Comment: March 17, 2018.** Does the proposed rule on banning trail cameras at developed water sources include stock tanks or just the Department's water catchments? I am not for this restriction as it severely limits scouting. I live in Mesa, far away from the areas I hunt and this proposed change just favors the locals.

**Written Comment: March 17, 2018.** I oppose banning the use of trail cameras within a quarter mile of water sources. As defined, this would ban the use of cameras on almost all water sources since Arizona's lakes are reservoirs are man-made, and most wildlife water sources are man-made stock tanks. The use of these cameras are for scouting purposes and do not create an unfair chase situation as it only provides a brief snap shot of their behavior.

**Written Comment: March 19, 2018.** I oppose prohibiting non-real-time/non live-action communicating trail cameras. I use trail cameras to ensure I am targeting mature animals to ensure the overall quality of wildlife improves. A camera does not ensure success; I have thousands of animals on camera, but have yet to take an animal that I have been targeting. All the while, I still spent money on my license and tags that the Department benefits from. I have not had an issue with trail cameras in the units I hunt. None of the explanations I have been given make any sense as I have never experienced a stolen camera or heard people complaining about them. There is no scientific proof that the use of trail cameras has an adverse effect on wildlife movement, access, or use of water sources. So, I am at a loss as to why we would lose this valuable scouting tool. The result from this ban will be people trampling the habitat surrounding a water source to remove their cameras and there will be a ridiculous amount of salt piles 441 yards in every direction of a water source. I request the Commission remove the prohibition on trail cameras near a developed water source.

**Written Comment: March 21, 2018.** I am against making it illegal to use a trail camera at watering areas. My camera does not define my hunt, only my hard work will. All it does it give me a good start to know what is in the area.

**Written Comment: March 21, 2018 and March 28, 2018.** I believe the use of game cameras (without wireless capabilities) in the vicinity (less than one-fourth mile) of water sources does not violate the spirit of fair chase because the hunter still must possess the necessary hunting skills or competency in order to take the animal in question. Images obtained from a camera do not provide any guarantee that any animal will be present or harvested during the actual hunt. I request that this over reaching regulation be removed from the proposed rules.

**Written Comment: March 21, 2018.** I oppose the ban on any trail camera within one-fourth mile of a developed water source. I feel this is too restrictive. Trail cameras are not intrusive. Also, some people have private property that is within one-fourth mile of a developed water source and it is their right to have a trail camera on their own property. If this is a fair chase issue, then ban actual hunting within this boundary (ground blinds, tree blinds). I think it is a bigger issue when someone has a ground blind 15 feet from the water inside a catchment.

**Written Comment: March 27, 2018.** We should let hunters have trail camera on water. If not, I feel like there will be more people watching water and it will make it harder for the deer. What would be more beneficial for the deer? Five people sitting on the water trying to see what comes in or five trail cameras? I do not think it gives much of an advantage to the hunter either. It lets them know what deer are in the area, but still - to kill them is a whole other matter. Just out of curiosity, I would really like to hear what the pros of banning trail cameras near water would be? And how it would be enforced?

**Written Comment: March 27, 2018.** Please define developed water source? Banning game cameras at water would be a bad idea. Being a nonresident and paying big money for a tag, this would put my chances at slim to none at being successful during my short time to scout and hunt.

**Written Comment: March 27, 2018.** The language as written is extremely vague; one could argue intentionally vague so as to entrap an

unknowing party. Having hunted in Arizona, I know there are "developed" water sources that have not been touched in years; would they still be considered developed? Should this change go into effect, I suggest the Department provide the names, locations, unit number (with GPS coordinates) of the water sources they deem to be "developed" in the hunt regulations. One-fourth mile seems to be an excessive, I suggest the regulation be modified to one-eighth mile (220) yards. **Subsequent Written Comment: March 30, 2018.** I listened to the webcast and heard the term "totality of circumstances" referenced continually in regards to enforcement of the proposed rule change. It appears there are so many gray areas that even the Department is not sure what to do. There should not be any gray areas or "totality of circumstances" involved; it is unfair to allow an officer to cite someone who will be forced to pay a fine or incur the expense of fighting a violation. Can the Department document an increase in harvest that directly relates to the aid of a trail cameras? Will there be a statute of limitations on the time-frame between having a trail camera on water and the aid in taking violation? For example: a trail camera placed on the water in June and July captures images and is removed in early August. Will the hunter face a violation during an early archery hunt held at the end of August? It was stated that the Commission has no authority over the recreational use of trail cameras, given the speakers comments and established knowledge that wildlife is dependent on the water tanks, could not an argument be made that the recreational use constitutes worrying/harassing wildlife which is within the scope of the Commission's authority? The speaker made reference to an unfair advantage of having the trail camera and removing them would have the effect of leveling the playing field or tipping it in favor of wildlife. If this is the case, can we expect to see an increase in tag opportunity?

**Written Comment: March 27, 2018.** I do not see a difference between putting trail cameras on water than on food sources or heavy trails. Though I do not use trail cameras, I can see their benefit for having less of a human footprint in the wild. A human scout would definitely have a larger human footprint on an area where animals are found. I may purchase a trail camera this year. Let the use of cameras stay as is.

**Written Comment: March 28, 2018.** Trappers use trail cameras to monitor trap lines and access points for areas they trap in for security purposes. The one-fourth mile rule from developed water source is restrictive. Hunters may place a trail camera to survey their vehicle for security purpose; i.e. Salt River lakes and areas around man-made reservoirs. In some areas, it is difficult to get one-fourth mile from a developed water source. The proposed camera regulation will be difficult to enforce. If there are no citations litigated in the first year, the camera regulation should be repealed. This is a bad regulation based on the behavior of a few bad apples in a few trophy units, that will affect thousands of hunters who have never caused a problem. This is a knee jerk reaction to an issue that could be solved by the game rangers in the trophy units. The Department has stayed out of the trail camera issue for many years, now after a few conflicts in the trophy areas the Department wants to make regulations that negatively affect others. What ever happened to ethics?

**Written Comment: March 29, 2018.** In regards to the proposed rule making changes, I feel the use of trail cameras on a water source are an important tool used in scouting an area prior to hunting. It is nice to know what is in the area prior to a hunt; there are no fair chase issues when cameras are used for scouting. If using a game camera during a hunt is an issue, then spell out when it is allowed similar to overflights - you cannot do it during your active hunt. I spent a lot of money on my game cameras. I set them up about a month prior to my hunts and take them down before my hunt; I use the information to determine where I am going to hunt and what animal I am looking for to harvest. I believe in fair chase hunting ethics. I do not feel that using game cameras on developed water prior to a hunt has anything to do with fair chase. I understand using trail cameras capable of sending a wireless remote signal to another electronic device during a hunt could provide an unfair advantage. If that is the real issue here, then address that specific issue and do not punish all of us who use our cameras responsibly.

**Written Comment: March 30, 2018.** As a busy, full-time business man and father, it is rare that I get time to visit the woods prior to an upcoming hunt. Using game cameras is a valuable tool that assists me and my two junior hunters in scouting. I understand that the use of trail cameras is often abused by guides. These guides have hired hands checking their game cameras daily. I can see how this may be abused and possibly used unfairly, especially when used in conjunction with wireless image transmission. But these are businesses and are using cameras for profit, they have resources far beyond that of the average hunter with limited time, trying to scout for his kids to possibly see and have an opportunity to take. For the average hunter, this scouting tool is widely accepted across the country and does not violate fair chase. Placing a game camera near water or anywhere else does not guarantee that game will be present during a hunt. Many factors influence and dissuade game from coming into water or into any area for that matter. A hunter must use skill to anticipate the wind, setup, shooting distances, cover, scent, movement, solar and lunar factors, weather, and a multitude of other conditions all that work against the hunter. When it rains, game does not come into water anyway because the can drink from potholes in the forest. If my camera is near one of these potholes or natural depression does this make it unfair chase? Cameras do not give an unfair advantage to the average hunter because they cannot assist in the locating of wildlife; they take stationary images of game at a moment in time, at a fixed location. If the Department's argument is that placing a camera near a developed water source is unfair chase; how is it fair chase to place a camera more than one-fourth mile away? Cameras are either unfair or fair chase regardless of where they are placed. The prohibition on the use of wireless transmission cameras is fine with me. I believe the wireless transmission of images from cameras is not fair chase as they provide real-time information and do not require you to be at the site to know whether game is there at the present moment. How will the Department enforce the prohibition? If someone else places a camera where I am hunting, how will the Department be able to prove who the camera belongs to? How can the Department stop nonhunters from placing cameras for use of wildlife viewing? Will the presence of a camera prevent me from sitting a particular water hole even if it is not my camera? Will game wardens be driving into water holes during the middle of my hunt to check for cameras - further foiling my efforts? Will mere possession of a camera at a water hole in my pack be grounds for a citation? How long before a hunt can this be enforced? What if I place the camera before I am drawn and remove it after the draw? What if I do not have a tag and I place the camera for someone else? Guides will find the loophole to abuse this. Maybe rather than banning game cameras near water for hunters, the Department should prohibit their use by hunt guide businesses? Guide services should be banned altogether. They create unfair advantage over the average hunter who cannot afford their prices and unfair practices. Real sportsmen hunt for themselves. Guides have turned hunting into a business rather than a sport. They often use unethical practices like placing people at water holes to reserve the spot for their client, intentionally driving through someone else's hunt to foil their chances, driving around to push wildlife into an area where their client is hunting, bullying other hunters, staking claim to a location by placing multiple stands and blinds that do not belong to the actual hunter, shooting during prime morning and evening hunt times to foil or scare game from hunters, etc. Has the Department even surveyed successful hunters to see what percentage of animals were taken using cameras? Has the Department surveyed guides to see how many of them use cameras as compared to the average hunter? For the last twenty years, I have followed the hunt success odds; I have not seen an increase in hunt success since the advent of game cameras. There are a lot of unanswered questions related to the proposed rule change. This proposed rule change is poorly written and nearly unenforceable. It does not represent the best interests of the average hunter and is ambiguous with regard to fair chase doctrine and use of cameras away from water sources. Before this is implemented, the Department should do more research, survey the hunting public, and more clearly define how this will be enforced.

**Written Comment: March 31, 2018.** I get tons of wildlife photos on and off of water and I have yet to kill any of them. All cameras do is give you an idea what caliber the animals are in the area. None of the bucks below were harvested or harmed. **Subsequent Written Comment: March 31, 2018.** I get tons of wildlife photos on and off of water and I have yet to kill any of them. All cameras do is give you an idea what caliber the animals are in the area. Getting the photos is the easy part, none of the bucks in my trail camera pictures have been taken by me or any other hunter I know.

**Written Comment: April 3, 2018.** I oppose the ban on cameras on water sources; where else would you put them? It is Arizona. The

cameras make me feel like I have a better chance; what is the harm of cameras anyways? If someone is abusing the current system find a way to correct that problem without affecting the regular guy. I have a few cameras in remote areas that I check every three months. It is fun, it keeps me active, and I have yet to find a big deer or elk when I have a tag.

**Written Comment: April 4, 2018.** In regards to the proposed change to prohibit the use of any trail camera within one-fourth mile of a developed water source, enforcement will be impossible. I believe people will realize this and continue to use cameras. I believe investigations will be time consuming and challenging to wildlife officers. The perceived benefit to "fair chase" is not worth the cost to the Department. Time and money should be spent performing activities that actually benefit the wildlife, not punishing photographers. I do not believe the use of trail cameras is a fair chase issue. A hunter must have necessary skills to understand what water source to place the camera on. In many hunting units there are hundreds of developed water sources. The selection of the location to place the camera is done by the hunter. I have never taken an animal within 10 miles of where I placed a trail camera, nor have I killed an animal I had a trail camera picture of. Having a camera on a water source does not guarantee anything. As for the inability for wildlife to elude detection, trail cameras have a finite detection range. I guarantee that on many of the locations where I placed trail cameras, wildlife are able to water on the other side of a dirt tank, where my camera isn't pointing. Even if a photograph is taken, they may not have eluded the camera, but they still have the ability to elude the human after the picture was taken. A well-accepted technology for anglers is a fish finder. A fish finder tells the angler there are fish directly under the sensor. Anglers know there are fish in their immediate vicinity, but the angler still needs to possess the angling skill to catch the fish. In comparison, a non-live-action trail camera tells the hunter where the animal was when the picture was taken. The picture could have been taken months before. These images do not guarantee a hunter can harvest an animal. The hunter still needs to possess the necessary skills to harvest the wildlife. The presenter stated there were many negative comments submitted to the Department regarding the use of trail cameras over the last 5 years. I urge the Commission to table this proposal and consider all of the public comments received. A 30-day comment period is not enough time to consider all of the comments and perspectives from the hunting public who want to defend a privilege that is about to be taken away. Consider that some people may have intentionally applied in the mid-winter elk draw for units where trail cameras on water sources are an effective scouting method due to distance from their homes or thickness of country. Some folks may have used their bonus points to hunt in one of these areas and planned to use cameras as a key scouting method. If this proposal is approved, consider a delayed effective date for the tags the draw has already issued.

**Written Comment: April 13, 2018.** It is not fair to have such a large distance from a water source; 100 to 200 feet is reasonable, but a quarter mile makes no sense. It is almost impossible to know if water is within one-fourth mile in forest and wooded areas. Hunting near water sources is the always the best hunting in the dry Arizona area. Trail cameras must be viewed to know if game is in the area; this will result in giving the game a fair chase. Reject this law.

**Written Comment: April 13, 2018.** Trail cameras are a problem in units 12A, 12B, 13A, 13B, and 9. I do not understand why the Department is taking a shotgun approach to this issue when the problem only exists in a few units with large mule deer and elk. Outfitters and their employees check their cameras daily during the hunting seasons in these units and when they see large animals on their cameras they do everything, including blocking roads, to keep everyone but their clients from accessing the area. These are the units the Department should target for the proposed rule change. I have several cameras in units 37A and 28. The cameras are on waters used by desert sheep and valuable information regarding lamb survival, class of rams, etc. is given to the Department. My use of these cameras is passive, but my concern is that other hunters may see my cameras and destroy them. I change the SD cards in Spring and early Fall; the information they contain would not be helpful to anyone with a sheep tag because the sheep would not be near the water in December.

***The following comments support the proposed amendments prohibiting the use of trail cameras for taking or aiding in the take of big game:***

**Written Comment: March 20, 2018.** Restricting the use of trail cameras and adding a one-fourth mile restriction to archery hunter is knee jerk reaction to policy without proper consideration of users. These types of restrictions create solutions to non-existent problems and frankly we do not need more laws regulating what a person can do in the forest.

**Written Comment: March 20, 2018.** I think Subsections (A)(4)(a) and (A)(4)(b) are concise and easily understood. To me, it says you cannot use a live-action trail camera for hunting or scouting. However, Subsection (A)(5) is confusing and could be misconstrued. Is it the trail camera that cannot be within one-fourth mile of the water source or is it the taking of the wildlife that was photographed? Also, it is unclear to me if using a camera for preseason scouting (locating) is prohibited. To me, putting a camera up before the season for scouting (locating) is not covered by the of the language "aiding in the take of wildlife." If the Department wants to prohibit the use of trail cameras around water sources, I suggest that Subsection (A)(5) be rewritten, "A person shall not use any trail camera within one forth mile (440 yards) of the outer perimeter of a developed water source, or images from that trail camera, for the purpose of: . . ."

**Written Comment: March 20, 2018.** I have used trail cameras, but I am completely okay with the Department taking them away or limiting their use. It has turned mediocre success to way above par success for bow hunters. It has taken a lot of the fun, search, and chase out of the hands of the hunter and has caused many issues between hunters in the field. We do not have the deer numbers like they do in the Midwest and back east to justify this advantage here. I am strictly a bow hunter and would be completely fine with this change.

**Written Comment: March 26, 2018.** I have been a deer hunter for 45 years and a guide for 25 years. I concentrate on those units north of the Grand Canyon. I am adamantly opposed to the use of trail cameras on developed water sources. There are guides who have up to 200 cameras in each unit, 13A and 13B; there are no large bucks that are not well known because of it. When it comes to technology, we have: side-by-sides and four wheelers to get around quickly and efficiently in very rugged country; GPS to show us the way to anyplace we want to go without knowledge of the area; myriads of optics that are effective; rifles effective out to 1,000 yards or more; and two-way radios that we can give to each "spotter" on every high hill or knob. Together with their trail camera knowledge and their highly effective optics, they will almost always find the trophy animal and radio this information to the hunter who may have just flown in for the day so he can shoot it. Not to mention the ultralight aircraft that are used by almost every guide in the state to find trophy animals if they disappear from the water holes for a while. I understand there are only certain times these can be used, but every guide uses them when they can. The technology has gotten to the point that it is not fair to the animals, especially the trophy animals that are so highly sought after. In recent years, the quest for these trophy animals has become what I consider a corporate business issue. The normal hunters are almost completely shut out of areas where the guides inundate the area where a trophy animal lives because they have been monitoring him for months with trail cameras. Then they hunt him with spotters. They are parked on every pullout, or road, and are at the top of every high spot around. It has been very effective. These trophy animals deserve more of a fighting chance to disappear and hide out. With all of the technology available, the trail cameras on these limited water sources is by far the most effective means of killing them. Do not get me wrong, I love to hunt these trophy animals also, but the use of these cameras and this practice has gotten totally out of control. Please stop this practice and make it unlawful to use trail cameras on water sources.

**Written Comment: March 27, 2018.** I am in favor of a ban on the use of trail cameras altogether on public land. I love hunting and am in favor of a wildlife officials using technology to improve science, but feel we need to impose restrictions on new technologies that are taking the sport out of hunting. I own trail cameras and would gladly give them up.

**Written Comment: March 27, 2018.** Make the proposed trail camera ban a permanent rule change. Some of us prefer to actually hunt wildlife, rather than shop via a satellite or cell phone uploaded photo. Just make sure the wording is crystal clear as to type of equipment being banned and distances involved (i.e. "all image producing devices not in the physical possession of the photographer" vs "trail cam-

eras", and "440 yards measured in straight line from center of waterhole or tank" vs "440 yards from water" - which could be interpreted as measured via the contours of the land, or adjusted for the edges of water during seasonal dry spells). The proposed law is less stringent than I would prefer, but is a move in the right direction.

**Written Comment: March 27, 2018.** Please ban trail cameras, it is getting out of control.

**Written Comment: March 27, 2018.** Banning trail cameras is great idea.

**Written Comment: March 27, 2018.** Great idea. Please ban the trail cameras.

**Written Comment: March 27, 2018.** I support the trail camera ban.

**Written Comment: March 27, 2018.** This is something that needs to be enforced; wildlife is so overmatched by human technology. The playing field is not fair. I am a hunter, not a cheater and this is cheating.

**Written Comment: March 28, 2018.** I support a total ban on cameras similar to the aircraft scouting ban. It is ridiculous to see more cameras on a water source than on a sales display. I have counted over a dozen on some of the water tanks in units 9, 12A and B, and 13A and B. This is an insult to fair chase. The reason many of us pursue recreation in the outdoors is because we enjoy the solitude, wilderness, and some reasonable sense of privacy. To see the degree of monitoring, tracking, and inventorying the guides do with our wildlife is a disgrace. It has become way too commercialized. Either put an end to it or place some restrictions on this corruption of hunting and fair chase.

**Written Comment: March 28, 2018.** I support the ban on cameras. It has become ridiculous, and is contrary to fair chase principles.

**Written Comment: March 28, 2018.** Great idea to ban trail cameras near water sources in Arizona. It is simply getting too crowded around these sites.

**Written Comment: March 28, 2018.** I fully support these measures. It is shameful that animals are being monitored like this and have no place to hide, even at night. It is grossly unfair. If you are a hunter: hunt.

**Written Comment: March 28, 2018.** I reviewed the proposed rule change pertaining to the use of game cameras. I support this change as the use of cameras has become an issue and has a negative effect on the hunting experience. I feel this will help put the average hunter on a level playing field with the professional guides who often employ scores of cameras around numerous water sources. Once the new rule is adopted, I hope to see an effort to advertise the new rule change and a discussion about how the rule will be enforced.

**Written Comment: March 29, 2018.** I support camera elimination. At a bare minimum, get rid of cameras that send electronic photos via the internet [instant imaging]. I have owned more than 30 cameras over the years and understand the uses for a camera, but the bad outweighs the good.

**Written Comment: March 29, 2018.** I contacted the Department three years ago, presenting the reasonable idea of initiating some sort of regulations on the use of trail cameras in pursuit of wildlife for hunting purposes. Over the course of 30 years, the Arizona Strip has been my sole concentration, likely due to its remoteness and diversity of wildlife and habitat types. In 2006, I began researching mule deer herds and mountain lion densities on the Strip. This was when I was introduced to motion sensor trail cameras. I bought a few cameras and found it incredible what you could end up with on "film." I started to notice other trail cameras that were placed or set up by hunting outfitters and guides. At present, there are several trail cameras on virtually every water source that exists on the Strip. One outfitter utilizes over 600 cameras on 13B alone; I acquired from that outfitter's social media account - the outfitter was bragging about the number of cameras in use. Due to the popularity of the Strip's deer herds, there are a dozen or more outfitters competing amongst each other, the more cameras the outfitter uses - the better they are. There is also a problem with entitlement: if there is a big mule deer buck that uses a specific water source, there is a sense of entitlement to that buck, from each individual who has pictures of it. This has resulted in assaults and threats, outfitters and hunters blocking roads, etc. Someone is apt to drive their steel T-post through the water gravity line that feeds into the trough, creating leaks, sometimes to the point it drains the water storage tanks. Not to mention the expenses to repair it. Regulating or banning trail cameras for hunting purposes will help sustain the biological diversity to the mule deer herds. Using three to six hundred trail cameras in one unit has given hunters an edge by knowing where virtually every mule deer buck is located. The outfitters bring in a dozen helpers, sets them up on different vantage points while others walk through draws and thick wooded areas driving the deer out. They kill one buck, then it is off to the next one. There are many who set up trail cameras and then do not step foot onto the field again until a few days before the hunt. They do not even put the footwork in anymore; that is not hunting. One consequence I have seen as a result of the over use of trail cameras is the mule deer bucks are not able to reach maturity. The outfitters, guides, and hunters gather together and go after the bigger bucks. Once the biggest buck is killed, they go after the next biggest buck, and so on. In order to sustain a biologically diverse population of bucks, they must reach maturity so they can pass their genes on to the next generation. At the Department's webinar, some of the individuals who were present voiced their questions or concerns; they are upset because trail cameras are something they have taken for granted. Trail cameras have made it easier to harvest wildlife. Trail camera use can provide specific patterns of individual animals; I use them regularly for just that purpose. I suggest adding that each camera should have some form of personal identification on them. If the rule change is implemented, I hope strict fines or punishment will be used for anyone found violating them. I received a message from the biggest outfitter in Arizona. They already have plans to pay individuals to set up cameras and relay any information to them. They said, "We will show the Department that we will not be controlled." Hence, the reason I am suggesting that all cameras have some form of personal identification on them - in plain view.

**Written Comment: April 3, 2018.** Game cameras have changed hunting in Arizona. It is no longer fair chase using this technology. Aircraft are not allowed for the same reason. Some trick tanks in unit 9 had 12 cameras on it. We need to return to actual scouting by being in the woods and glassing for game. I have used cameras, but never felt they were the right way to look for game. You can now sit at your computer and watch for the game you plan to hunt. That is an edge that is not fair to game or to those hunters who cannot afford this device.

**Written Comment: April 3, 2018.** The Department is right on in regards to trail cameras and fair chase. The conservation model was never intended to incorporate technology. We, as hunters, are already toeing the line with fair chase by using rangefinders, high-powered optics, etc. I support the Department's rule change 100%. I believe it will be a work in progress, as time goes by, because salt licks and integrity issues with hunters will make it difficult for officers to sort out.

**Written Comment: April 4, 2018.** The guides have trail cameras on every well used trail and every water hole in every unit in Arizona. They watch and record every respectable bull and buck. Just before the opening of hunting season, they place someone on a watering hole to ensure no one else can bag the bucks and bulls they have been watching on their cameras. They call the rich client sitting behind a desk and tell them they have his bull for him. He pushes himself away from the desk, gets on the airplane, is picked up by the guide who has a great name for being such an awesome hunter, takes the rich client out opening morning, he kills the bull or buck, and they high five each other over such a great hunt. The client gets back on the airplane and thinks to himself what a great hunt. The client has the head mounted and the guide goes on to the next client, and this is called fair chase?

**Written Comment: April 4, 2018.** I support the proposed changes pertaining to restrictions on the use of trail cameras on public lands. I believe the use of this technology eliminates fair chase of game animals, and diminishes the overall outdoor experience for hunting and non-hunting users of our cherished public lands.

**Agency Response:** The Department appreciates your interest in and support of the proposed rule amendment prohibiting the use of live-

action trail cameras and trail cameras within one-fourth mile of a developed water source for taking or aiding in the take of big game.

***The following comments oppose the proposed amendments prohibiting the use of trail cameras for taking or aiding in the take of big game:***

**Written Comment: March 16, 2018.** I am a disabled hunter and I believe the Department is taking away my chances of seeing when mature animals are using an area as I have limited on time in field. Trail cameras do not guarantee a target animal will show up. This prohibition will take away an activity that I enjoy doing with my children: running a few cameras to see and learn about wildlife we would never get the chance to in person. This prohibition will dramatically affect special license tags sales, which will affect wildlife projects and management activities funded by those tags. Some of us wait upwards of 20 years for what I would call once-in-a-lifetime tag to try and want to make the most of it. If the Commission is concerned about Fair Chase, I urge the Department to work with such groups as Pope and Young, Boone and Crockett, and Safari Club International and follow their Fair Chase rules. Do not pass judgment onto me or my children. This will cause a disaster on the edges of water sources with more cameras than before and wildlife being disturbed by more foot traffic in the area. The only ones who will lose here is the wildlife. It is our responsibility as sportsman and women to work together and manage them to the best of our ability. Do not take this tool away. If this passes, the Department will lose those individuals who do not have the time to scout due to work and family. I know this will cause me to reconsider whether I want to continue to hunt or not.

**Written Comment: March 16, 2018.** Trail cameras do not kill anything. We do not need any more rules for the overworked wildlife management to enforce. The way the rule is written it is wide open for tons of issues. Everyone can still run them on water sources and the Department will have to prove whether the camera aided that person in the take. Moving cameras a quarter of a mile away will add 100 more cameras around water and 100 times the human activity around the water sources. Plus, look at what was lost in lost funds because the auction tags sold for 30% less than normal and if this rule changes it will get worse. Trail cameras cause older age class animals to be harvested. Bottom line, manage wildlife with the tools the Department has in place: tag numbers. Arizona needs to follow Utah; they have tons of animals, tons of money, tons of opportunity.

**Written Comment: March 16, 2018.** The proposed regulation on trail camera use is absurd, with absolutely no evidence of how they may or may not affect wildlife habits, this is just another useless unwarranted regulation. Please reconsider leaving them as is or adjust your definitions to restrict use during the hunt if the Department actually thinks cameras are increasing the harvest.

**Written Comment: March 17, 2018.** I do not support the direction the Department is taking in their rulemaking. There are two proposed rules that are bad for outdoor enthusiasts (specifically the do it yourself hunter and archery hunter). Prohibiting the discharge of archery equipment with in one-fourth mile of a residence will hurt the sport and recruitment from a practice standpoint alone. Why would the Department prohibit their only method of affecting the urban herds of elk and javelina that decimate property? The large numbers of animals that live between homes need some form of management. More thought and research needs to be put into any rule that would change this. A rule that affects cameras is a direct attack on personal freedoms to enjoy the outdoors as one would choose; I should not be precluded from enjoying the hobby of trail cameras in any capacity that I may wish because I am a hunter. Checking cameras is great and a wonderful way to foster recruitment in the younger, tech savvy generation. When you limit the success of any of these hobbies, you impact hunter recruitment because they want to see the animals. As a licensed hunting guide, I believe fewer trail cameras will help us professionals, but will hurt the do it yourself hunter who has less time or money to scout. The Department is heading in the wrong direction by trying to legislate how hunters, who support the Department with our dollars, enjoy the woods. There is no scientific proof trail cameras have any negative impact on the wildlife. Having any animal on a trail camera does not increase the chance of harvesting it. You still have to get out there, work hard, and get a bit lucky to get that opportunity. Even then, a harvest may not happen. In closing, I believe the Department needs to nurture good management tools like bow hunters and trail cameras, rather than infringe upon them. We need to enforce more of the current laws and create fewer new laws.

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**Written Comment: March 17, 2018.** I oppose the proposed change that prohibits the placement of a trail camera within 440 yards of a man-made water source. I own over 80 trail cameras and use approximately 50 in the field, with less than half of them on water holes. I have never ever taken an animal that I have pictures of. Over the last five years, a number of my cameras with lock boxes and cables were stolen; all of them had my name and telephone number inscribed on them. What happens if one of my stolen cameras is used at a water hole? How do I to prove that I did not place the camera? I reported my stolen cameras because I wanted a record of it, knowing nothing could be done. How will this rule be enforced fairly? If I do not have a tag, can I monitor a water hole just for the fun of it? That should be legal. What if someone places a camera on a water hole and inscribes someone else's name on them. Can I put a camera on a spring, a wash, or where rain pools? I have spent a lot of money on cameras, lock boxes, cards, lanyards, and gas and wear and tear on my vehicles. I have heard it is cheating to put cameras in the field, but the fact is, I have never killed anything I have seen on my cameras to date. I do not want to use Department funds for lawyer fees or for trying to enforce something that cannot be enforced.

**Written Comment: March 19, 2018.** I personally own several trail cameras. I use them to capture unique photos as a hobby and for hunting. I have never been able to harvest an animal from the use of any of mine or anyone else's trail camera. I keep cameras up year around just to capture all phases of animal activity. Some of the most enjoyable views on my cameras are in the spring when I get to see the young animals and observe their activity, see the different color phases of the bears, learn how many cubs a sow might give birth too, and the general life cycle of some of the cubs that are born. If the Commission decides to make this change, it will take away several freedoms that I enjoy. In my experience, there is not as much success related to the cameras as some might believe. When I finally drew a tag to hunt the Strip, I checked my cameras and found the bigger deer are mostly on the camera at night. I could not find any of the animals in the field that were on my cameras. I have been using cameras for 12 or more years and have had several stolen over the years. All were marked with my name, phone number, and address. What if someone steals one of my cameras and installs it where it is prohibited? How many court cases will the Department waste its money and time fighting to prove who placed those? I have a lot of money invested in cameras, lock boxes, SD cards, locks, and mounting hardware. I did not invest in these cameras overnight. It has taken years to accumulate my equipment. Just because a few small groups think it would be a great idea to do away with trail cameras, does not mean they have all the facts. When I report a stolen camera to the Department field officer, the response is "There isn't really anything we can do about it since it

happened on public land and you left left in the woods." If someone stole something out of my tent, they would take a report. Trail cameras are private property and theft is theft. If the Department does not want to be involved in stolen cameras, why get involved with regulating cameras? I am asking the Commission to reconsider the proposed prohibition on the use of trail cameras. In my opinion, it is no different than regulating how far a person can legally shoot at a game animal, how many 'glassers' a person can have with them on a hunt, what power of optics a hunter can use, or even where a tree stand can be installed.

**Written Comment: March 19, 2018.** I find the amendment restricting the use of game cameras at developed water sources to be ridiculous.

**Written Comment: March 20, 2018.** I am concerned about the proposed prohibition regarding trail cameras within one-fourth mile of a water source. My family and I look forward to placing and also checking cameras occasionally. We make it a family outing and get excited about seeing the animal that show up on camera. There is no evidence that a trail camera negatively effects wildlife. Please reconsider this proposed rule.

**Written Comment: March 20, 2018.** I cannot find the justification for this change and am opposed to it. Many of the areas I hunt are within one-fourth mile of a waterhole simply because of the density of waterholes in the area. Limiting the use of game cameras within one-fourth mile area is too restrictive. I have not seen any evidence that limiting use of game cameras benefits conservation in any way. The Department should present that evidence before making the rule change. It makes no sense that using game cameras to locate game animals prior to the hunt significantly changes the number of game animals taken. I request that Department provide the hunting community with the study details used to justify such changes and show the definitive benefits that these changes will bring to Arizona prior to enacting any changes. Specifically, the Department should show proof of how it will conserve, enhance, or restore our resources and habitat. **Subsequent comment: March 20, 2018.** For the record, I still have questions and concerns regarding the proposed rule change. First, the response does not address the concern raised with regard to areas that hold a high density of water holes. The restriction limits the use of cameras in large chunks of hunting areas; what will happen as more and more watering holes are built to support game and livestock? This will make enforcement more challenging. Second, the Fair Chase document is addressing a "public perception". With all due respect, what public perceptions is the Commission speaking of? Has this perception been documented to indicate to the Commission drastic measures are necessary? What about the perception of the hunting population who pays for and supports the conservation that is central to the Department's responsibilities? I believe the Commission is affecting changes in response to an opinion that "may" come from a small percentage of the population. Furthermore, there is no scientific evidence to justify these changes. If the Commission is going to impact rules based solely on some undefined perception, what's next? There is a perception among some of our population that all hunting is unfair. Does the Commission intend to implement rules to address that "perception" as well? How will this be enforced? I think the use of game cameras affects a hunter's ability to locate game; but does not impact the hunter's ability to take game in a sportsman-like manner. I would like to better understand the basis for these proposed changes. How can I go about voicing my opinion and concerns directly to the Commission?

**Written Comment: March 24, 2018.** I believe trail cameras are an excellent tool for both managing and harvesting game and should not be banned. In all my years of game management and hunting land consulting, I have never witnessed any adverse effects on the deer herd.

**Written Comment: March 24, 2018.** The use of a game camera on a waterhole does not give me an advantage. It is a tool, just like my binoculars. It does not affect the animals in any way. This is not in the best interest of the game we hunt or the hunters to change the use of cameras for the few who complain. I If the Department gives into the few who do not like how some of us are using game cameras, then it should change the rules on hunting elk with a rifle because they can shoot from far distances and bow hunters are limited on the range they can shoot from. Archery hunters and muzzleloaders have only one shot, so maybe rifle hunters should have only one shot. I think that more elk tags should be given to archery hunters and muzzleloader hunters, since I am one of the "few." I know that will not happen, but what is being proposed is no different from what I just proposed. I set my cameras up on water, but I still go up to the mountains and scout. It is just another tool a hunter can use. I do not see anything wrong with putting game cameras at water sources.

**Written Comment: March 26, 2018.** The trail camera is a vital tool to Arizona hunters. Placing such rigid restrictions on the use and placement of these devices can and will hurt our local hunters. These tools are used for monitoring, aging, ruling areas out, scouting, and helping hunters utilize their time afield to the best of their capabilities.

**Written Comment: March 27, 2018.** I oppose a state-wide ban on trail cameras. The real issues are the Strip and Unit 9. I know there are issues in other units, but these are relatively minor. Trail cameras increase participation and utilization of our public lands outside of hunting season and can be an enjoyable family activity. Do not penalize everyone for the few who abuse the privilege.

**Written Comment: March 27, 2018.** There is no logic to the proposed rule. Pictures are pictures; they help cut down on the amount of traffic in the area by hunters.

**Written Comment: March 31, 2018.** Prohibiting trail cameras is senseless. I do not see why this is viewed as a good idea. If an animal needs water, it is going to get water, whether or not someone has a camera there or is sitting on the water. I think this is a stepping stone to completely ruining any opportunities that I may come across to harvest any animal. What will this idea do to the conservation effort that all hunters dump money into on a yearly basis? If I cannot hunt or scout in a way that works for my busy schedule, then why would I put money into a tag that I will not be able to fill? The biggest industry this would affect is guides and outfitters, who also bring a lot of money into the state for tags and licenses that contribute to conservation efforts. Without conservation, we would have nothing to hunt.

**Written Comment: April 3, 2018.** Please allow the use of trail cameras. I live 1,200 miles away from the unit I hunt and it makes scouting there much easier at 80 years of age.

**Written Comment: April 4, 2018.** I oppose the new rule on trail cameras. I understand the Strip has a problem with too many cameras at waterholes but, there should be another answer to this problem because 90% of the state does not have this issue.

**Written Comment: April 4, 2018.** There are a lot of people who enjoy watching wildlife and a water source is a good spot to place a trail camera. Creating more rules to enforce only creates more problems. When law abiding hunters and the Department create petty laws, they give fuel to the anti-hunting groups in their pursuit to outlaw hunting. It takes a lot of time, effort, and hard work to use trail cameras correctly and the folks who are complaining do not want to put forth the effort to get all they can out of their scouting. Try restricting cameras at the water holes on the Strip for three years and see if it helps.

**Written Comment: April 5, 2018.** I use trail cameras and enjoy the pictures I get, including many photos of nongame species. I have never harvested a deer or javelina because of trail cameras, but I admit they help narrow down my choices for where to focus my hunt. I assume the reason for the proposal is the Department thinks too many animals are being killed. If the Department does a good job with research, surveys, seasons, and bag limits, then why does it matter whether an animal is killed because of a trail camera? They are ethical tools that help the hunter harvest an animal. Seasons and bag limits should be used to control harvest. I realize this is not a logical argument because there are regulations that control methods and devices (spotlighting, electronic calls, etc.), but I do not think trail cameras fit in that context. There was an article featuring a winter visitor who leaves their trail cameras out all year. When he returns in the fall, he has several thousand photos to review. He does this for the fun of it, he is not a hunter. These types of activities can benefit and provide valuable information to the Department (confirmed sightings of jaguar, ocelot, rare birds, masked bobwhites, etc.). Would this proposal ban the use of trail cameras by Border Patrol or the Department?

**Written Comment: April 12, 2018.** I am a full-time guide; I use cameras for hunting and hobby purposes, but the use of those cameras do

not guarantee I will kill the biggest buck in the woods. Now, ten years later I see how the use of trail cameras is affecting wildlife on a larger scale. Anyone who has ever hunted unit 9 knows they will see more than one camera hanging on a tank or drinker. In some places, in the weeks prior to the early hunts you will see a drastic increase in the number of cameras hanging on tanks and drinkers. Trail cameras are intended to aid a person knowing what is in the area at the time of their absence. They are simply just a tool in the pocket of the sportsman; just like scent cover spray or binoculars. The proposed ban specifically focuses on cameras located at or within a certain range of any developed water source. It is common sense; wildlife needs food and water to survive. With food being everywhere and water available in select locations it makes sense that you would place a camera where the odds are in your favor. Water is a centralized place where animals congregate therefore maximizing your efforts. Another concept where cameras are commonly used is on salt licks or salt holes. Over time these locations grow in size and depth due to natural elements and wildlife disturbing the earth. I've seen salt holes you can lose an off-highway vehicle in; that causes more disturbance to nature then hanging cameras on a man-made water source. Over time, trail cameras have changed the way we've hunted as sportsman and their use has benefited the age class within certain game animals. When I check my cameras and see a large concentration of 340" bulls, but in other areas I have a few 360" bulls. I am going to pass the 340" bulls in pursuit of the older more mature bulls. Without the use of cameras, I am more likely to insist my client take the best bull I have seen firsthand which may be a younger bull. By passing smaller bulls we are creating a better age class for future generations and that is what you call a true sportsman. I read the newsletters and attended the meetings state-wide concerning the proposed ban on cameras. I am not convinced the Department understands the long term benefits cameras will have. That is why I took the time to drive to the meetings and type these emails. I love the outdoors and the wild life within it and would do anything to see it prosper for our future generations; that is why I devote so much time to it. Guides really are the Department's eyes and ears; we are the best assets to have on your team. Do not take this letter lightly; I am one of many who feel the proposed law is encroaching on our rights as fellow Americans and Sportsmen.

**Written Comment: April 14, 2018.** I oppose the statewide banning of trail cameras and believe that if it is approved, it should be limited to the areas directly impacted; specifically the Strip, Kaibab and unit 9 with guides and trophy hunting. This is not a statewide issue and should not be enacted statewide. Everyone should not suffer for the actions of a few. I suggest the rule specific to the take of cervids as they are the primary species impacted. The words "aiding in the take" are proposed in several places. "Take," by definition is very broad for good reason. Defined, it means pursuing, shooting, hunting, fishing, trapping, killing, capturing, snaring, or netting wildlife or the placing or using of any net or other device or trap in a manner that may result in the capturing or killing of wildlife. "Aid" as defined in various online dictionaries means to give assistance, help or support to. Adding "aiding in the take" to the rule, is subjective and gray. What exactly is "aiding in the take" and how far can one go to prove this. This adds confusion to the law. "Take," by definition includes the word "pursue" which is somewhat of a coverall; thus, adding "aiding in the take" is redundant and adds subjectivity to the rule, which should be relatively clear to our constituents. Recruiting and retaining young hunters is and will continue to be a problem in today's busy, time limited society. School, sports, and managing dual income households will continue to absorb our youth's valuable time. Time, which historically was spent outdoors connecting with the environment. Today, we need tools to invigorate this interest and passion and kindle the fire for wildlife and the outdoors. Placing trail cameras is one such wildlife viewing tool that gets kids outside and generates interest in wildlife and their habitats. It is exciting for my children to see photos of a variety of wildlife, particularly young wildlife and rarely observed species. Limitations placed on this activity will have a negative impact on recruitment and retention efforts. I believe any trail camera rule change will lead to an increase in theft and vandalism of lawfully placed trail cameras and I suggest modifying rule language to make this activity clearly unlawful and enforceable.

**Written Comment: April 15, 2018.** I believe the proposed rule changes are not only unnecessary, but will significantly bow hunters. I believe it is necessary now and in the future to keep things in check from a technological aspect to ensure that "hunting" is still "hunting" and does not become controlled harvest and I understand and share some concern around trail cameras with Bluetooth and email capability that could result in someone harvesting an animal within minutes of being alerted to its location by a mechanical device. However, this is unlikely and I have yet to hear of it happening. When it comes to regular trail cameras that require a person to pull memory cards and check photos, I do not believe they compromise fair chase. As a former hunting guide, we did not have trail cameras. In order to locate animals for our clients we flew, drove, and hiked many miles and I still do today. Trail cameras help me eliminate the less productive areas. I believe trail cameras allowed me to learn about the game I pursue. Although there is no doubt that trail cameras can cause conflict and some less than desirable behavior amongst hunters in certain areas, I believe these are outliers. Many hard working hunters use trail cameras to scout for upcoming hunts as well as for recreation. My family is involved in running trail cameras; we love to view the pictures. My children enjoy this form of recreation. As far as scouting goes, pulling up to a water source and pulling a memory card to view pictures is much less of a disturbance to wildlife than hiking though their bedding and feeding areas. Trail cameras allow us to observe animals in their natural state with minimal disturbance. I do not believe a trail camera has ever been the reason for me harvesting a specific animal. At the most, they allow a hunter to focus on where higher populations of animals are and allow for some good recreation. Obviously cameras can be used at other locations besides water. However, there is no doubt that water is the best place to get a solid idea of what animals and the numbers of animals in a specific area.

**Agency Response:** The Commission recognizes there is some opposition to the rule change on the use of trail cameras but hope persons regulated by the rule will understand this was brought up as a Fair Chase issue by sportsmen and women. Due to the advancement and availability of technology, the use of trail cameras to pursue and take wildlife has risen to such a level that it demanded the attention of the Fair Chase Committee. The committee has a responsibility to address these issues as they begin to push the boundaries of what is accepted as Fair Chase. All perspectives considered, this is the recommendation that came as a result of the committee's work and is a reasonable compromise that still allows hunters to use trail cameras, but not to the degree where it puts our wildlife at an unfair disadvantage.

The definition of "live-action trail camera" is meant to address what current technology can and does do and what future technology may be capable of doing. The objective is to stay in front of technology by being proactive rather than reactive. The objective is also simplicity; to make Commission rules easier for our constituents to understand and follow.

For clarification, only those cameras that are capable of transmitting images to an electronic device are prohibited when used for locating and/or taking wildlife. Cameras that use a Secure Digital (SD) card will still be allowed, provided they are not placed within one-fourth mile of a developed water source. "Developed water source" means any developed, placed, or man-made structure that collects or stores water with the primary purpose of providing water to wildlife or livestock. It does not include wallows, creeks, seeps, or springs.

"Fair Chase" means the ethical and lawful pursuit and take of free-range wildlife in a manner that does not give the hunter improper or unfair advantage over such wildlife. The following criteria were used to evaluate whether a new technology or practice violates the Fair Chase ethic; does the technology or practice allow a hunter or angler to: locate or take wildlife without acquiring necessary hunting and angling skills or competency; pursue or take wildlife without being physically present and pursuing wildlife in the field; or almost guarantee the harvest of wildlife when the technology or practice prevents wildlife from eluding take.

The Article 3 Rulemaking and Fair Chase teams benchmarked with other states, spoke with members of industry, considered multiple options for regulating the use of trail cameras, and ultimately recommended the Commission prohibit the use of trail cameras capable of sending wireless remote signals to another electronic device and the use of any trail camera within one-fourth mile of a developed water source for the take or aiding in the take of wildlife. However, at the June 2018 Commission Meeting, the Commission directed The Commission felt the need to evaluate regulatory measures pertaining to the use of trail cameras as they related to the 'take of wildlife' and the Fair Chase hunting ethic after receiving multiple comments from the public opposing the use of trail cameras for hunting. In the Notice of

Proposed Rulemaking published March 16, 2018, the Commission proposed to amend R12-4-303 (Unlawful Devices, Methods, and Ammunition) to prohibit the use of any trail camera within one-fourth mile of the outer perimeter of a developed water source for the purpose of taking or aiding in the taking of wildlife. However, after receiving significant opposition to the proposed amendment from persons regulated by the rule, the Commission chose to remove this prohibition from the original rulemaking proposal. As a result, the following language was removed from R12-4-303(A)(5), "Within one-fourth mile (440 yards) of the outer perimeter of a developed water source, a person shall not use any trail camera, or images from a trail camera, for the purpose of taking or aiding in the take of wildlife." Because the proposed prohibition is being removed, the definition of "developed water source" was deemed unnecessary and was removed from R12-4-301.

Part of the rulemaking process is ensuring that any new rule is enforceable. The enforcement of this rule may not be as clear-cut as other rules, but the Department is confident that wildlife managers will use good judgment and discretion in how this rule is enforced. There is no doubt that the Department and Commission will also count heavily on voluntary compliance by the sportsmen and women whom we have counted on to follow the rules and have a great track record at doing so. A thorough investigation will be conducted by a Department officer prior to issuing a citation. The officer in the field is responsible for conducting an investigation, collecting evidence, and, when determined valid, issuing a citation. The officer is part of the judicial process, but does not usurp the court's final authority. A major focus of the investigation will be to identify who placed the trail camera. Every time a citation is written by any officer, it is their interpretation of the law and the situation at hand that causes the issuance of the citation.

All perspectives and comments were considered; this recommendation is a result of the teams' evaluation and is a reasonable approach that will allow hunters to use trail cameras, but not to the degree where it puts wildlife at an unfair disadvantage when avoiding detection.

The Department does not see any reason for hunters to shy away from hunting water or be concerned about increased theft or receiving a criminal citation by association. Most hunters hunted for years and years successfully before trail cameras were available for use.

***The following comments propose the Department regulate the use of trail cameras for taking or aiding in the take of big game:***

**Written Comment: March 13, 2018.** The response states, **"**The final rules could become effective as early as September 8, 2018 but, the Department may select a later effective date such as January 1, 2019 to coincide with setting the next elk and pronghorn seasons." The reason for doing this is absolutely clear to me, it allows those who spent many years trying to draw their coveted tags with maximum points, hunt under the same rules and guidelines as they expected when they decided to "burn" their points. It seems on a rule of this magnitude, the Department would choose to announce the prohibition a year in advance to allow planning for those who have spent millions of dollars in support of the Department. Wouldn't it be appropriate to consider the few who have supported Arizona wildlife by donating their hard earned money? A legal battle will likely be the outcome if the Department chooses to discriminate against the auction tag holders because the elk and deer draw hunts are all effectively over by December 31, 2018. The auction hunts are not over until later and they should be given the same courtesy as those who waited in line. I want to be legal and will in no way break the law. However, I bought a tag under the presumption that I would be able to conduct my hunt the way I always have. This is not a rebuttal of the law; it is about the timing and the implementation of such law.

**Written Comment: March 20, 2018.** The use of trail cameras is a contentious issue. I am familiar with trail camera usage in the areas around Seligman and Williams. I have heard mostly negative comments about trail camera usage north of the Colorado River and in Unit 9. I am not aware of trail camera issues anywhere else in the state of Arizona. Is there a biological reason to regulate trail cameras? That question should be answered before any regulation should be considered. Please consider that almost all water sources in the Seligman/Williams area are man-made. A regulation prohibiting use around man-made water sources would basically outlaw trail cameras in this vicinity. I use trail cameras and find the practice enjoyable. I place them around water sources as this is the most likely location to photograph wildlife. I use them as a scouting aid and for fun in the off season. I would like the Commission to consider whether a "one size fits all" set of regulations is necessary to regulate trail camera usage. First, is any regulation necessary? Second, is regulation necessary statewide? Is the placement of trail cameras around water sources a real issue or not? Would regulation cause additional problems for wildlife or enforcement? Based on much field experience over many years, I believe any regulation of trail cameras usage be localized in "problem" areas and very sparingly if at all anywhere else.

**Written Comment: March 21, 2018.** As a licensed Arizona guide, I commend the Department on the rule and urge you to stand firm on it. I would like to see even more done on cameras. I believe all cameras must have the owner's name and phone number on it and a limit of ten cameras per individual and further limited to placing no more than four cameras in any single unit. I also believe that outfitters should be limited to the same number of cameras as individuals. Some of the larger outfitters brag that they use over 1,000 cameras in a given unit. I feel the current proposal prohibiting the use of cameras within one-fourth mile from water will result in all incoming game trails being flooded with that outfitter's cameras.

**Written Comment: March 27, 2018.** I think it is a great idea. Maybe allow them up to two weeks before hunting season and then after the hunt. Allowing their use before the season to find out what animals are in the area up until one to two weeks before give the deer, elk, or whatever a little better chance.

**Written Comment: April 2, 2018.** I am opposed to the proposed trail camera ban. To say that it is unethical or breeches some type of fair chase guideline is ridiculous. This ban does not hurt anybody but the average hunter, the guy who works 50 hours a week. I understand there is a problem in some units caused by the outfitters or guides, but why must we continue to broad-stroke these issues and eliminate the cameras. I do not see anybody trying to outlaw the thousand-yard guns or the 500 yard muzzleloaders. I have yet to meet anybody who voted for the opportunity hunt vs. a quality hunt. This type of management seems to breach the fair chase guidelines more than a trail camera. I wish the Department would consider an alternative or consider not implementing the trail camera ban. Instead, put a limit on the amount of cameras an outfitter or guide can have or an individual for that matter. Even a time frame that cameras can be used would be better than a complete ban.

**Written Comment: April 3, 2018.** Target the problem areas. I have hunted in unit 13A and agree that area, including surrounding units, has a serious problem with the abuse of trail cameras. Some guides have in excess of 300 cameras running before, during, and after the hunts. It goes against the concept of fair chase. However, taking away the ability of someone in a southern unit who can only afford 3-4 cameras and only has limited time to scout is wrong. Make it legal during specific times. Only allow the use of cameras in January through July. How is this going to be enforceable? There are tens, perhaps hundreds, of thousands of water holes in this state and very few game officers. Is it just an assumption now that anyone hunting in the area of an alleged "illegal" water camera is breaking the law? Seems like an unenforceable plan that will lead to increased hunter-hunter conflict.

**Written Comment: April 3, 2018.** I am glad the Department took a position on the issue of trail cameras. I consider them to be a violation of my private interaction with nature. They are litter that gives an unfair advantage to the user over the animals they seek. I am old school; I scout for signs prior to my hunts and have done so for years. One cannot approach a water source any more without finding at least one camera taking unwanted pictures of all who pass by. I would take it one step further, if they are going to be allowed in the forest, persons should be required to remove them during any active hunting season.

**Written Comment: April 3, 2018.** A camera does not ensure a hunter will harvest the game he sees on that camera. Fair chase would ensure that cameras were not used during the hunting season, but could be used for scouting prior to any hunting season. I agree that remote cameras that do not require a hunter to be in the field to check them violate Fair Chase rules and should be illegal. I have multiple

cameras and enjoy looking at the pictures of wildlife throughout the year. This far outweighs the ten days that may be allotted to me by the Department to hunt a species I drew a tag for. I suggest the Department revisit this rule; from the questions online and from the people who showed up to the webinar it seems clear to me that the Commission is making a rule the public does not agree with.

**Written Comment: April 3, 2018.** I am concerned about the proposed rule regarding the use of trail cameras that do not transmit information wirelessly. It is unclear to me which kind of trail camera the Department is referring to when discussing this proposed rule change. I use trail cameras that do not transmit information wirelessly. This allows me to be aware of animals that are in the area without being there to disturb them. I check the cameras when I know I will not interrupt their routines. While I understand that overuse of trail cameras may be a problem, perhaps only designating the number of trail cameras each hunter may use is more appropriate. Requiring the owner to place their name and hunting license number on each camera might be a good approach. I do not want to penalize those who have been waiting years for a tag. I do not want to be pushed out of an area or hunt just because I am honest. If there is a specific problem with an individual or a specific behavior by an outfitter that is causing a problem, please address that and do not make a blanket rule that leaves the rest of us out in the cold.

**Written Comment: April 3, 2018.** I understand and agree with restricting use of live-action cameras for taking wildlife. I agree with developing some form of reasonable restriction on regular trail camera usage. However, under the current proposal, the individuals who are abusing the practice will continue to do so by ringing waterholes within the limits of the law. The individual with more limited means and less financial interest in gathering complete information will be priced out of the practice. Whatever advantage that might come from using trail cameras will be in the hands of those willing to pay for it. That seems less fair to me. I advocate for a time-frame ban, we all understand time-frames. I think that trail camera usage is more analogous to the use of aviation, which is far more effective than trail camera information. If a time-frame restriction on aviation is effective, then it should be effective with trail cameras. I have enjoyed using trail cameras for years and they have not led me to harvest any particular animal, but they have increased my practical knowledge of a wide range of wildlife and that has helped me to be a better hunter and has increased my admiration for the game I chase.

**Written Comment: April 4, 2018.** I support the inclusion of drones to complement the existing rules regarding take or harassment of wildlife. The same is said for trail cameras that transmit data or images/video wirelessly to other devices, these should be prohibited. As far as prohibition of non-transmitting cameras, I do not agree with the one-fourth mile proposal; I feel this would open those areas to increased baiting or use of attractants. I suggest establishing a "season" on cameras where they could be used at waters between April 1 and July 31st and should be identified by the owner or business name and contact information. In addition, there should not be any installation of support items for the cameras, such as T-posts, to minimize the potential for damage to water lines or other infrastructure. Cameras found present outside the "season" should be seized by appropriate land or wildlife management agency personnel.

**Written Comment: April 6, 2018.** I am in favor of the proposed ban of trail cameras within one-fourth mile of developed water sources. I think this is a step in the right direction. I believe technological advances have, in some instances, taken away the actual hunting experience. Not only do I support this proposed legislation, I would love to see rules requiring all cameras be removed from the field within 48 hours of any big game hunt.

**Written Comment: April 9, 2018.** So much conversation has taken place about the **"**few**"** that establish multiple cameras on developed water. And yet it seems that these "few" use their position to bully other hunters during a big game hunt. I have been threatened by these professionals during big game hunts. So instead of limiting the common sportsman, I suggest the Commission consider a five-year moratorium of licensed guides and outfitters. Trail cameras have been used for so much more than photographing big game animals. To rob the majority due to the select few is just wrong. I know that the Department wants the public to enjoy the outdoor experience. The trail camera has provided that experience to so many and now the Department wants to eliminate that portion of the new experience?

**Written Comment: April 13, 2018.** I agree with the definition of "live-action trail camera" and agree that the use of these devices is contrary to "fair chase" and should be prohibited. I disagree with the proposed statewide prohibition on the use of trail cameras in proximity to developed waters associated with the taking of wildlife. Because these devices require a physical visit to access stored data, any advantage they may give to a hunter in the pursuit of game is delayed to the point where it is not contrary to the principles of "fair chase." I believe once enough individuals place trail cameras at developed water, the increased disturbance will likely deter some species that depend on these waters for survival. In my experience, only certain units have waters where enough cameras are placed to have this deleterious biological effect. Rather than enacting a statewide prohibition on the use of trail cameras at developed waters, I would propose cameras only be prohibited in the units where it is a problem (2A, 12B, 13A, 13B, and 9). In the future, if the Department determines other units (or specific developed waters) qualify - they could be added to the list where the use of trail cameras near developed waters is prohibited when associated with the take of wildlife. I recommend that the Department implement a statewide prohibition on the use of trail cameras equipped with visible flash. Although these are used much less often than in the past, my experience leads me to believe that visible flash trail cameras can have a particularly acute deterrent effect on many species attempting to use a developed water during the night.

**Written Comment: April 15, 2018.** The proposed restrictions are much broader than what is needed to address the problem of trail camera abuses for elk and deer (cervid) hunts in the northern part of the State. From what I have observed and understand, these abuses only exist in the high demand and extremely competitive premium elk and deer (cervid) hunt areas in units 9, 10, 12A, 12B, 13A, and 13B. These problems do not exist elsewhere in the State and in particular do not exist for the monitoring, observing, and hunting of bighorn sheep, buffalo, antelope, turkey, bear, or mountain lion. The use of trail cameras, both standard and live-action, are being used responsibly for monitoring, observing, and hunting these other species throughout the majority of the State. The use of standard trail cameras is very valuable for responsibly taking buffalo in unit 12A and the use of live-action trail cameras is effective in selectively taking mountain lions that are threatening bighorn sheep populations. Trail cameras have proven to be very valuable in monitoring bighorn sheep populations and focusing harvest on older age class rams. As currently written, these shared Department objectives and priorities would be negatively impacted with the proposed rule and restrictions. I suggest any of the proposed trail camera restrictions (standard, live-action, and GPS) only apply to cervid wildlife in the northern part of the State. It makes little sense to have a wholesale restriction on the use of trail cameras when a more precise remedy is available. The much broader restrictions will negatively impact sportsmen across the state and create an ongoing enforcement and interpretation issue.

**Written Comment: April 15, 2018.** The proposed restrictions are an over-reaction to trail camera abuses for elk and deer hunts in the northern part of the State. These abuses tend to exist in the high demand and extremely competitive premium elk and deer hunt areas in units 9, 10, 12A, 12B, 13A, and 13B. There does not appear to be any scientific data that supports trail camera use on developed waters negatively affects wildlife. There is no data that supports camera use away from waters negatively affects wildlife. The Department underestimates the recruitment value of trail cameras for today's youth. My kids love to use trail cameras and using them around water is effective for capturing images. My kids and I like to use trail cameras in units 6A and 21 throughout the summer. I have been applying for a family of youth hunters in unit 6A for three years. They finally drew tags this year. If the proposed rule were in place, I would be forced to choose between using the cameras to educate my kids and being able to assist on a youth hunt. Both actions are very important to hunter recruitment. If a Wildlife Manager is using trail cameras on waters for a research project, they would not be allowed to hunt the units they are researching in. This seems a bit unfair to them. Who will ensure the Department is enforcing this rule on them? I support the Department's action on trail cameras as I have seen the abuses first hand. I offer a couple of alternative ideas to the current rule as written. Establish a trail camera season. Montana has a similar rule. Perhaps allow persons to use trail cameras from February 1 to July 31. Then, from

August 1 to January 31 licensed hunters or guides are prohibited from using trail cameras on developed waters. Most persons want to use trail cameras in the summer months when the need for developed water is highest. The frequency of checking cameras occurs less in the summer than during the hunting seasons. Trail camera restrictions (standard, live-action, and GPS) should only apply to cervid wildlife in the northern part of the State. It makes little sense to have a wholesale restriction on the use of trail cameras. We need all the tools available to manage predators and keep our game herds vibrant.

**Agency Response:** The Department considered establishing seasons or time-frames for when trail cameras could be used, limiting the number of trail cameras a person (or guide) may use in any given location or state-wide, requiring a person to mark their camera, prohibiting trail cameras in certain locations, piloting "no- trail camera" zones, and restricting the use of trail cameras by outfitters and guides, only. The Article 3 team determined implementing the other options considered were either too beyond the Commission's authority, too difficult for the Department to administer or enforce, or would require additional full-time employees. For these reasons the Commission chose to move forward with the current rule proposals instead of regulating the use of cameras as suggested above.

***The following comment opposes the proposed amendment prohibiting the use of satellite images for taking or aiding in the take of big game:***

**Written Comment: March 18, 2018.** My only concern with the rulemaking is the prohibition on the use of satellites images. Does this change mean it will be illegal to utilize mapping programs that have this capability? If so, this would take away our ability to prove you are on public land in some places where it is checker boarded with private land. These programs help a person get into areas; they do not help a person find animals. The provide information to keep you out of places, not a taking wildlife situation. The images on those programs are not real-time, so they will not help a person take or aid in the take of wildlife. I recently contacted the Arizona State Land Department regarding state trust lands public access; they confirmed that it is legal to "corner jump" parcels for access where the properties were checkerboard with private lands. This is an example of where a mapping program on your smartphone or GPS would be useful for access. It utilizes satellite imagery.

**Agency Response:** The Commission's intent in prohibiting the use of satellite images was to proactively address concerns about the use of satellite imagery. When developing the rule language addressing the use of satellite images, the Commission did not intend to prohibit the use of images of landscapes from mapping systems or programs to be prohibited. The Commission has clarified the rule language to clearly communicate that only images of wildlife produced or transmitted from a satellite or other device that orbits the earth is prohibited for the purpose of take or aiding in the take of wildlife and the use of mapping systems or programs is lawful.

***The following comments address multiple amendments proposed rulemaking:***

**Written Comment: March 16, 2018.** I oppose the change that would prohibit the use of trail cameras within one-fourth mile of an established water source. As a bow hunter, the use of trail cameras to effectively scout for game is paramount to the successful harvest of an animal. Given that hunting over water sources remains legal, and that trail cameras are often "low profile" and noninvasive, it is difficult to understand the reasoning behind this proposed change and how it will support "fair chase and ethical" hunting any more than the current rules do. It would be helpful to get some clarification on the proposed change to prohibit the use of satellite imagery to aid in the taking of wildlife. As stated it appears to ban hunters from using online mapping sites to scout terrain ahead of time, or in the field, to identify possible habitat, water sources, etc. I am assuming this is not the intent of the Commission. However, clarity would be appreciated.

**Agency Response:** The Department appreciates your interest in and support of the proposed rule. As a response to the use of trail cameras, please see the Agency Response in the appropriate section. As a response to the use of satellite imagery comment, please see the Agency Response in the appropriate section.

**Written Comment: March 16, 2018.** The latest rulemaking is clearly aimed primarily at hunters, fur trappers, and fishermen. However, because the ambiguous use of the word "take," it could apply to wildlife nuisance trappers. Some of the comments below are crafted to reflect how the proposed changes might need further clarification or confirmation they do not apply to nuisance wildlife trappers who, in the course of business, trap and relocate animals. When a nuisance animal trapper sets a humane large trap with a pan triggered drop door, it is unreasonable and impractical to be present to monitor a trap in order to physically pull a drop door to close the trap. The use of a pole mounted camera, connected to a device that triggers the trap door and monitored remotely via internet is a preferred method of trap monitoring to ensure capture occurs in the shortest amount of time. The proposed rule is sound, but applying it to nuisance animal trappers is impractical when dealing with animals which may not come back to a particular section of their range for a few days, a week, or more. With remote monitoring, when the trap is sprung a signal is sent to the trapper so the captured animal can be attended to expeditiously. When trapping javelina, the tried and true method of enticing a javelina to enter the trap to allow for relocation, is the use of vegetables, over ripe fruit, etc. Again, the rules being considered for amendment, in all probability apply to hunters and fur trappers. However, when dealing with javelina for humane live trapping, the current regulation would not allow the use of vegetables or fruit. It would be helpful to consider some additional wording or including something like nuisance wildlife trappers of javelina are excluded. Again, note the term "taking," I consider ambiguous and currently applied too broadly.

**Agency Response:** The Commission does not intend to prohibit or restrict the use of live-action (cellular) trail cameras when used by a trapper who is monitoring a live trap. Under A.R.S. § 17-101, "take" means pursuing, shooting, hunting, fishing, trapping, killing, capturing, snaring or netting wildlife or the placing or using of any net or other device or trap in a manner that may result in the capturing or killing of wildlife. The specific activity of taking legal wildlife using live traps is the use of the trap itself, while the use of a live-action trail camera would be to monitor the trap. When trapping, a live-action trail camera would show the activity within the trap. This information would aid the trapper in responding to the wildlife being trapped, which may reduce the period of time in which the trapped wildlife would be confined. However, the use of a live-action trail camera does not satisfy the requirement to check individual traps daily. Under A.R.S. § 17-361(B), all traps in use shall be inspected daily. Electronic devices are prone to failure and relying on any electronic device to determine whether target, or non-target, wildlife within any trap is not a sufficient method to meet the statutory mandate. In 2013, the Commission amended R12-4-303 to prohibit the use of edible or ingestible substances to attract big game for the purposes of hunting to proactively address concerns that baiting may facilitate the transmission of diseases among wildlife and placing substances in the wild that contain toxic contaminants and may also result in unnatural concentrations of wildlife. For these reasons the Commission is not inclined to allow the use of edible or ingestible substances (food bait) to trap wildlife.

**Written Comment: March 16, 2018.** I agree with and support the following proposed amendments: creating a definition for bow, crossbow, edible portions of game meat, live-action trail camera, and smart device; clarifying that a person shall not allow wildlife killed by that person to be tagged with another person's tag; prohibiting a person from using a smart device, self-guided projectile, any projectile that uses a secondary propellant, and the use of a site or range finder that projects a visible light onto an animal; clarifying a drone is an aircraft; prohibiting the use of a live-action trail camera for the purpose of taking or aiding in the take of wildlife; prohibiting the use of any trail camera within one-fourth mile of a developed water source; prohibiting the use of a satellite or other device that orbits the earth for the purpose of taking or aiding in the take of wildlife, however, the Department should provide clarification that images provided by mapping systems or programs are acceptable for scouting and hunting purposes. Regarding the trail camera prohibition on developed water sources; does a dam or berm style catchment pond fall under "developed?" I do not think it should. I oppose the following proposed amendments: allowing the use of a pneumatic weapon discharging a single projectile .25 caliber or smaller during a "limited weapon" season, pneumatic weapons are guns and should only be allowed in gun seasons accordingly muzzleloader, rimfire, shotgun, and shotgun

shooting shot, but not the HAM hunt because they are not a handgun; and allowing the use of a pre-charged pneumatic weapon using arrows or bolts under a crossbow permit. This type of weapon has nothing in common with a bow or crossbow except that it shoots an arrow. The line must be drawn, it is a gun. If this is included, then why not allow a gunpowder propelled arrow gun? I am against it because it is not a bow; it has no limbs or string to propel an arrow. The air bow is not a bow of any kind; stated in the owner's manual - it is a "high powered air gun that shoots arrows." The "arrow gun" is not legal archery equipment for big game in any state. Additionally, I am concerned that people who have never hunted with a bow will pick up this weapon and think it is going to drop an animal like a rifle. It may also make road hunting and spotlighting easier for outlaws. Arguments that it may encourage youth hunter recruitment are counter to the air bow manual which states it is recommended for adult use only.

**Agency Response:** The Department appreciates your interest in and support of the proposed amendments. As a response to the use of trail cameras, please see the Agency Response in the appropriate section. As a response to the use of satellite imagery comment, please see the Agency Response in the appropriate section.

**Written Comment: March 20, 2018.** I commend the Commission for taking steps to limit the use of trail cameras for the purpose of taking, or aiding in the take of wildlife. I own a number of trail cameras and believe it is the right thing to do. While the advancement of technology can never truly be stopped, certain checks and balances must exist in order to preserve the concept of fair chase. This is a step in the right direction. In today's world the goal of the Commission, and hunters in general, should be the preservation of the ability to hunt at all. Once we as a community drift further away from what a reasonable person would consider fair chase, it will become difficult to do. Now, the next step is to limit the number of paid guides a tag holder can have in the field, at any given time, assisting in the taking of wildlife.

**Agency Response:** The Department appreciates your interest in and support of the proposed rule amendment prohibiting the use of trail cameras. The Commission is unable to adopt a rule limiting the number of paid assistants a tag holder may have in the field, at any given time, assisting in the taking of wildlife. Under A.R.S. § 41-1038, an agency may not adopt any new rule that would increase existing regulatory restraints or burdens on the freedom to engage in an otherwise lawful business or occupation unless the rule is either a component of a comprehensive effort to reduce regulatory restraints or burdens, or is necessary to implement statutes or required by a final court order or decision.

**Written Comment: March 20, 2018.** I have read the proposed rule changes and I did not see any mention of the water hole camping restriction. I believe if the wording "from the only reasonably available water" was removed, it would be much easier to enforce. As it stands, I could camp on a water source if another was "reasonably available." Then, if everyone else did too, who is in violation or who has to move? Just simply make it illegal to camp with in one-fourth mile of any water period. Lastly, the arrow shooting air rifle does not belong anywhere near an archery season. If a CHAMP hunter needs one, let it be used in a CHAMP hunt where restrictions have already been loosened so they can participate in this great activity.

**Agency Response:** The prohibition on camping within one-fourth mile of a natural or man-made watering facility is governed by statute; A.R.S. § 17-308. A legislative amendment is required in order to remove "from the only reasonably available water." As a response to allowing a Crossbow Permit holder to use a pre-charged pneumatic weapon using arrows or bolts during an archery-only hunt comment, please see the Agency Response in the appropriate section.

**Written Comment: March 23, 2018.** I would like to share with you my reasons to control the use of trail cameras based on my experiences and use of cameras and how they affect mule deer on or near water holes. I have personally guided two of the Super Raffle tag holders, so again I am knowledgeable of the use of trail cameras to locate huge bucks. I know of huge trophy bucks that only visit watering facilities during night time; hours that would not be exposed to a hunter's knowledge if it were not for trail cameras. I have witnessed wildlife move from one water hole to another and then to another in circular or triangular patterns making them easier to locate. I have witnessed prospective tag holders bring trail cameras to the strip as early as four months before the season opener to install cameras and then return one or two weeks prior to their hunt. These hunters also leave their cameras setup during the season so they can check them each morning to see if the larger bucks visited during the night. This may be considered unfair chase considering this routine gives the hunter an unfair advantage of knowing the animal may only be minutes away from the watering hole by making them more vulnerable to being easily located. In areas where cameras detect huge trophies, a regiment of guides, hunters, outfitters and glassing personnel are trampling on each other in pursuit of a camera exposed trophy animal. Is this fair? Arizona's regular season starts during the fall rut. Giant trophies are extremely vulnerable during this time and can be harvested by even the most unskilled hunters. With perfected hunting weapons, high powered binoculars, teams of spotters, side-by-side vehicles, better communication devices, an increase in the mountain lion population, and trail cameras each are compounding the problem when considering an increase in deer numbers could provide more opportunity to more hunters to harvest a mature animal. There are currently guides and outfitters on the strip who are operating as many as 250 cameras on units 13A and 13B. On March 1, 2018, I observed five trails cameras on one reservoir and metal trough combination left there by a guide/outfitter early spring of 2017. This practice causes animosity with ranchers. Is this an intrusion on their privacy? Any new rules or regulations should require land owners or lease holders to post a sign, "No cameras allowed on this water" if they object to having them there. Some stock tanks are wide open and only have water for a short period of time during the year, if at all; these should not be included on the list if possible to segregate the differences. Guides use pictures from trail cameras to entice prospective hunters to hire them. The more cameras set, the more pictures acquired, therefore the greater the opportunity to book clients. Others are selling scouting package information to hunters with pictures of deer acquired by the use of trail cameras. To suggest that trail cameras have no impact on the taking of wildlife is absurd. I feel trail cameras should be placed on trails. I do not agree with any verbiage relating to "edible substances." If edible substances are at or near watering areas, then I agree it needs to be included. Any rule adopted should state for the taking or harvest of wildlife by using "edible substances" near a blind, tree stand, or other device or means used to conceal a hunter.

**Agency Response:** The Department appreciates your interest in and support of the proposed amendments. As a response to the use of edible substances comment, please see the Agency Response in the appropriate section.

**Written Comment: March 27, 2018.** I urge the Commission to not approve air bows for use. The weapon is not an archery device; it is a firearms launch platform. If approved, it will start the slippery slope ending up with requests to allow an arrow launched by black powder or modern propellants. Do not approve this change. The crossbow is an advanced method for use by disabled hunters. **Subsequent Written Comment: April 2, 2018.** I recommend the use of an air bow not be allowed for anyone hunting big game. The air bow bears no relationship to archery except that it uses a specially designed arrow. It is a propellant that discharges the arrow, not a string as in all other true archery equipment. Approval of this weapon would open a Pandora's Box where the next weapon request will be for an arrow to be fired off a firearms platform that uses black powder or modern propellants. This is a slippery slope that the Commission should not go down. An example is the progression of muzzleloaders. The current inline muzzleloaders do not resemble the 'primitive weapon' they are grouped with. They are equal to modern firearms in almost all characteristics. The crossbow is an advanced archery weapon that already gives a handicapped shooter an advantage. **Subsequent Written Comment: April 2, 2018.** I just went through the proposed changes on the Department's website. As I read it the proposal is to allow for the use of the air bow, the pre-charged pneumatic device to be used in archery hunts for several big game species. This is not fair chase if considered a legal weapon for an archery season. I do not support the proposed restriction of trail cameras within one-fourth mile of developed water. What is the definition of developed water? The trail camera allows a hunter to see what was there at a given time. It does not guarantee that the hunter can take that animal. This is true in well-watered areas such as much of our elk country. The only thing a trail camera tells is that the water is within the animal's home range and

that it possibly could come back again. This is an unnecessary restriction. Many folks put out trail cameras to get pictures of animals that they will never hunt. I support the proposed restriction on the use of drones. I base my comments on my 30 years of field experience and commitment to fair chase. **Subsequent Written Comment: April 3, 2018.** I support the Department's proposal to restrict the use of drones in R12-4-319. I do not support the one-fourth mile restriction on the use of trail cameras near "developed waters." Does that include dirt tanks as well as wildlife waters? What difference does it make? I do not support the inclusion of "pre-charged pneumatic weapons" in archery seasons proposed in R12-4-216 and under crossbows in R12-4-304. This does not follow with hunter ethics and will increase harvest, thus reducing permits available for hunters using traditional archery equipment and the more modern compounds.

**Agency Response:** The Department appreciates your interest in and support of the proposed amendments. As a response to allowing a Crossbow Permit holder to use a pre-charged pneumatic weapon using arrows or bolts during an archery-only hunt comment, please see the Agency Response in the appropriate section. As a response to the use of trail cameras, please see the Agency Response in the appropriate section.

**Written Comment: March 27, 2018.** The use of trail cameras has become an enjoyable sport. Many people enjoy looking at photos of wildlife when preparing for an upcoming hunt. Each time we download the photos, it feels like Christmas. I would much rather see their use specifically prohibited during the actual season, and possibly a little before the season, much like the use of aircraft rules. Allow their use on water during the "off" seasons. It encourages us to enjoy wildlife and spend time in the outdoors, which in turn stimulates the economy. This was addressed with a rule for hunts in urban units. That change addressed the vast majority of the concerns and conflicts. I own 40 acres of land, which I bought it in part so that I could hunt with a bow on my own property. My right to enjoy my land will be taken away from me, without permission of my neighbors. When will the abuse of archery seasons stop? With the advent of PointGuard, I see no reason to continue to allow disabled people to use weapons that appear to be guns. If the Department wants to allow crossbows and air bows to be used in archery seasons, it should be for permanently disabled people, only. There are far too many people getting notes from doctors to "temporarily" use these weapons during archery seasons. Those people should be using PointGuard. If they have a temporary injury in a year they draw an archery hunt, they can turn-in their tag and get their points restored. They are not archery equipment; it is a rifle that shoots an arrow or bolt. I have heard by some persons who obtained a "temporary" crossbow permit that it did not expire and they continue to use the crossbow years after their injury healed. I understand "air bows" are exempt from paying the sporting excise taxes that other guns and bows are charged; they are shorting sportsmen and wildlife of needed funds. The object of allowing disabled people to use other weapons in archery-only seasons is not supposed to make it easier for them to kill the game than it is for non-disabled archers. This will increase archery hunter success and lower our allocated permits. While Pope and Young make an exception to the "holding/shooting with hands" requirement for disabled persons, their definition of bows and the exemptions they allow for disabled hunters shows that the largest bow hunting organization is opposed to the use of crossbows and air bows during archery seasons.

**Agency Response:** The Department appreciates your interest in and support of the proposed amendments. As a response to the use of trail cameras, please see the Agency Response in the appropriate section. As a response to allowing a Crossbow Permit holder to use a pre-charged pneumatic weapon using arrows or bolts during an archery-only hunt comment, please see the Agency Response in the appropriate section.

**Written Comment: March 27, 2018.** Do it. I hunted the Kaibab two years ago; it was a joke how many cameras were on the water sources. Great idea. What about persons flying aircraft to look for deer and elk. I had to listen to a little fixed wing aircraft going up and down the drainages. These things ruin it for the normal guy who is out there not just to harvest an animal, but for the hunt. There is no doubt that we can out-'technologize the animals. The Department is the one that must control these ethics. More power to you; the real hunters are with you.

**Agency Response:** The Department appreciates your interest in and support of the proposed amendments. The use of aircraft for the purpose of scouting is addressed under R12-4-319 Use of Aircraft to Take Wildlife. A.R.S. § 17-301(B) states, "A person shall not take wildlife, except aquatic wildlife, or discharge a firearm or shoot any other device from a motor vehicle, including an automobile, aircraft, train or powerboat, or from a sailboat, boat under sail, or a floating object towed by powerboat or sailboat except as expressly permitted by the commission." The rule was adopted to ensure consistent interpretation of and compliance with A.R.S. § 17-301(B).

**Written Comment: March 27, 2018.** As a new hunter and archer, I love hunting. Legal weapons during archery hunts and archery seasons should remain the way they are right now. I disagree with the proposed legalization of air guns during archery hunts as I feel that some small part of the "challenge" of the archery hunt would be sacrificed. Do not give in to the media and people who have no real education on mountain lion hunting. Let wildlife managers and biologists make recommendations on mountain lion hunts. If numbers are dwindling, then there should be limited lion hunts. But to limit these hunts to please a few people will intrude on the management of the lions and take away opportunities to exercise our legal right to hunt lions.

**Agency Response:** As a response to allowing a Crossbow Permit holder to use a pre-charged pneumatic weapon using arrows or bolts during an archery-only hunt comment, please see the Agency Response in the appropriate section. The comment regarding mountain lion hunts has been forwarded to the Wildlife Management Division for consideration during the next Hunt Guidelines review cycle.

**Written Comment: March 28, 2018.** I go back to the day when it was possible for somebody to harvest a giant buck that no one knew about. The advent of cameras has taken that away. Go to any water source in almost every area where large deer or elk are found and it is likely to be surrounded by cameras. Typically, these cameras are owned by a relatively small percentage of hunters or people hired by outfitters to provide information to their clientele who have made a national pastime all about money. I agree that activity around waterholes should be reduced in general. Camping should be prohibited within one-half mile instead of one mile. Tree stands should be prohibited from being left in place overnight. I am tired of outfitters acting like they own waterholes and placing stands over every water source in an area for only one or two clients. It is time for the Department to give back the sport of hunting to dedicated sportsmen and women. Reduce the amount of unnecessary harassment of wild game near water sources. Eliminate game camera use entirely on public lands. This measure to ban cameras near water sources is a good beginning. I fully support this measure and applaud the Department's efforts to make hunting more of a national pastime and less of a money grab for outfitters and the super-rich. **Subsequent Written Comment: March 30, 2018.** Please correct my letter where I mention camping near water holes? It should read "instead of one-fourth mile" at the end of the sentence. Currently the law prohibits camping within one-fourth mile. I would like to see this increased to one-half mile. At this time, there is no biological reason to prohibit hunting over water.

**Agency Response:** The Department appreciates your interest in and support of the proposed amendments. The Department does not regulate the use of tree stands because they are not typically used to deter wildlife from using a water source. The prohibition on camping within one-fourth mile of a natural or man-made watering facility is governed by statute; A.R.S. § 17-308. A legislative amendment is required in order to change the distance requirement from one-fourth mile to one-half mile.

**Written Comment: March 28, 2018.** I am against the proposed rule change that restricts game cameras within one-fourth mile of water. The rule is poorly written and is not enforceable. It singles out hunters who may have an interest to pursue game, but allows everyone else to use game cameras at man-made water sources. It will create confusion and increase theft as persons will assume all game cameras are illegal within a water source. The wildlife officer will have to assume everyone hunting over water is guilty if a camera is there. This will result in tickets being issued to hunters who are not guilty. **Subsequent Written Comment March 29, 2018.** I ask the Department to postpone the rulemaking. It was just stated the Department has collected five years of data by stating there should be more restrictive rules with regard to one-fourth mile prohibition on game cameras. The data should be shown as it is a public record; it should show the percent-

age and total numbers of those comments that are for and those against. What were the percentages over the last five years? **Subsequent Written Comment: April 3, 2018.** Thank you for the detailed response and laying the foundation of the reasons for the potential game camera ban. I agree that a majority of our sportsmen and women will follow compliance. My concern is the ban is only for individuals who place them for a specific animal and pursue them. Everyone else is legal to place cameras at man-made water sources without restrictions. I spend a lot of time setting up, following back up, and viewing all wildlife encounters though these images with my family. Since we are not pursuing an animal and only doing so as a family outing we are considered legal to do so. If in the future, one of our family members draws an elk tag, that water source would be off limits as we did view cow elk on our game camera. Now we are guilty as we are hunting a man-made water source and have used a game camera and collected historic images of in intended big game animal. This is compounded when other game cameras are placed by others on the water and within 440 yards, now I am guilty by association if I am sitting on it and am questioned by a wildlife officer. I have encountered wildlife officers many times while in the field. Every time they are professional, and friendly but they are trained to first assume we are guilty of a violation and their questions are intended to collect information. I have used a camera on a water source and have seen cow elk on the images. So, I would be issued a ticket and lose my hunting rights. For me this reality is scary. I believe most issues are with guides. Since the Department manages and collects fees from guides, ban cameras year round for them. They are profiting off the state through their clients; the fair chase concerns is real as they singling out trophy big game animals and attack them with force with many individuals until killed. I agree wholeheartedly that all electronic cameras that send an image should be outlawed. Allow game cameras to be used on man-made waters up to a specific date; such as outlined within the flying restrictions to keep consistency with the written language. I was successful without cameras and will continue to do so. I hope the Department will see the potential shortfall as the rule is written with grey areas of enforcement that could potentially cause harm to law abiding hunters.

**Agency Response:** The Department appreciates your interest in and support of the proposed amendments. As a response to the prohibition on trail cameras and enforcement of the rule please see the Agency Response in the appropriate section. Over the last five years, the Department has only received comments requesting the Department prohibit or regulate the use of trail cameras. The comment regarding mountain lion hunts has been forwarded to the Wildlife Management Division for consideration during the next Hunt Guidelines review cycle.

**Written Comment: March 28, 2018.** The Commission proposes to amend R12-4-319 to clarify drones are considered to be aircraft and are not lawful to use for the purpose of locating or assisting in locating wildlife. I agree with the analysis and the recommendation made above. The Commission recognized the need to evaluate regulatory measures pertaining to the use of trail cameras, as they relate to the 'take of wildlife' and the Fair Chase hunting ethic, and directed the Department to evaluate current rule language as it pertains to trail cameras. The team bench marked with other states and spoke with members of industry and made recommendations to prohibit the use of trail cameras capable of sending a wireless remote signal to another electronic device and the use of any trail camera within one-fourth mile of a developed water source. Enacting the recommendation above on trail cameras is the right thing to do. The epidemic of game cameras around developed water sources is out of control.

**Agency Response:** The Department appreciates your interest in and support of the proposed amendments.

**Written Comment: March 28, 2018.** I believe Fair Chase hunting ethics are violated with the use of trail cameras that send a wireless remote signal. I support this rule amendment because of the unfair advantage a user has over the average hunter if his trail cameras are sending wireless remote signals and photos. I do not believe Fair Chase hunting ethics are violated by the use of trail cameras placed near developed water sources. I oppose this rule amendment for a few reasons: A trail camera placed over a developed water source does not capture, hold, or hinder game from using the water source. Trail cameras do not have serial numbers, certificates of ownership, or other markings which would allow for violators to be prosecuted. Trail cameras are abandoned property, usually left in the field, attached to a post or tree, and may or may not be visited again. Enforcement of this rule would be difficult. If a violator is caught placing or retrieving a camera, it would be near impossible to prove beyond a reasonable doubt that the individual was indeed the owner of the camera. The statute of limitation would be near impossible to enforce. Nonprofit organizations that provide new developed water sources should be unhindered in the act of placing trail cameras over water sources to prove the viability of the resource and should not be targeted for a rule violation if they intend to hunt the same area at a future date. I assume the Department would still use trail cameras in their research studies and it would be impossible for a sportsmen to know if they should report a trail camera violation. If there must be a ban on trail camera use, the Department must ban all trail camera usage statewide, for all hunters. I see this as an "all or nothing" rule amendment. Merely banning trail camera usage within one-fourth mile of water sources leaves too much room for obscurity and is not in the best interest of sportsmen or the Commission.

**Agency Response:** The Department appreciates your interest in and support of the proposed amendments. As a response to the prohibition on trail cameras and enforcement of the rule comments, please see the Agency Response in the appropriate section.

**Written Comment: March 29, 2018.** The concept of "Fair Chase" is thrown around throughout the document, almost like it is a punchline. As much as I hate new regulations, I cannot help but side with the Department on the regulation of "live-action trail cameras." I feel that including a passive camera in any discussion about "Fair Chase" is a real stretch. Images from such a device can only show that an animal was there at a particular date and time. It does not hold an animal captive and it does not almost guarantee the harvest of wildlife. Anyone who subscribes to this belief has never spent days and days checking their trail cameras. If the Department wants to regulate fair chase, look at high power rifle scopes with turrets, long range specific rifles, laser rangefinders, scent elimination sprays, audio amplifying ear pieces, etc. If the Department does not want to embrace technology, then we should all hunt with recurve bows and flintlocks. The Department's own Fair Chase ethic states, "without acquiring necessary hunting and angling skills or competency." With this in mind, I have seen 12 to 16 year-old hunters shoot game at ranges of 600 to 1,200 yards because a parent or mentor finds the game, ranges it, completes the needed ballistic solution, dials the turrets on the scope, and then gives the young hunter the rifle in a prone position and coaches them through the shot. Where is the skill obtained in this? There are even scopes with Bluetooth technology that allow the mentor to see the same image on his phone that the shooter sees through their scope. The mentor can tell the shooter when to pull the trigger; a smart device via "dad." We are allowing a very skilled veteran hunter to do everything except pull the trigger. Where is the Fair Chase in this? The recent proliferation of long range shooting has caused the demise of more big game animals in Arizona than trail cameras could ever hope to, yet the Department does not address this topic. If discovering a dozen trail cameras around a stock tank has prompted complaints from the public, deal with that in a different manner and do not create the illusion that it has anything to do with Fair Chase. The majority of trail cameras belong to outfitters who are competing for hunters. The Department should address this by regulating guides or create regulations for outfitters. By restricting trail cameras, the Department will eliminate them. Does the Department really believe this will "result in no impact to private and public businesses and state revenues?" Checking cameras is a labor of love, expensive and time consuming. I cannot tell you how many hundreds of dollars I spend on fuel, groceries, and restaurants in the course of checking cameras; multiply this by the thousand or so people who have placed cameras in the forests. The Department should be more concerned with tree stands. It is a common occurrence to find a tree stand chained to the best vantage point, year after year, never taken down. Cameras do not inhibit your ability to hunt a water hole. Someone chaining their tree stand so that you cannot use yours does. Deal with real problems and do not make rule changes that are going to be nearly impossible to prosecute. Under the proposed rule change cameras could be used within the one-fourth mile of a developed water source legally as long as they are not used in the take or aid of take of wildlife. Anyone with a camera would be able to deny using it to aid in the take of wildlife. This rule change will create a nightmare for game wardens and will certainly result in lawsuits and court challenges. As a career law enforcement officer, I can see myriad problems with trying to enforce

this rule.

**Agency Response:** The Department appreciates your interest in and support of the proposed amendments. As a response to the prohibition on trail cameras comment, please see the Agency Response in the appropriate section.

**Written Comment: April 1, 2018.** Prohibiting drones, smart weapons, trail cameras: I totally agree with the proposed changes. I am sick and tired of seeing every water tank literally covered with trail cameras.

**Agency Response:** The Department appreciates your interest in and support of the proposed amendments.

**Written Comment: April 1, 2018.** I am in favor of the change. Having hunted the Strip last year; it was chaos with guides stealing cameras. The numbers of big bucks wiped out recently are directly related to the camera epidemic. Another alternatives to consider is allowing cameras in the field until a certain time before the hunts. My main concern is definitely the number of predators on the strip Arizona has to do a better job with predator control. I did not see even one fawn in the ten days of hunting and found one large buck that had been killed by a lion. It is time to protect our deer herds for future generations.

**Agency Response:** The Department appreciates your interest in and support of the proposed amendments. As a response to the prohibition on trail cameras and enforcement of the rule please see the Agency Response in the appropriate section. The comment regarding predator control has been forwarded to the Wildlife Management Division for consideration during the next Hunt Guidelines review cycle.

**Written Comment: April 3, 2018.** I support the proposed changes made to: R12-4-101 Edible Portions of Game Meat; R12-4-301 Definition of Aircraft; R12-4-310 Define Live-action Trail Camera; and R12-4-303 Placement of Live-action Trail Cameras: This is out of control and I question the ethical use. This practice on water is disruptive to wildlife. It presents conflicts with the general public and other hunters. Hunters should hunt. I oppose: R12-4-216 –Crossbow Permit – Pneumatic Weapon: A pneumatic weapon is not a bow. Bows should have some element of being "primitive. These hunts are meant to be more difficult by virtue of the weapon type. This weapon has an extended range and can easily be shot from a vehicle.

**Agency Response:** The Department appreciates your interest in and support of the proposed amendments. As a response to allowing a Crossbow Permit holder to use a pre-charged pneumatic weapon using arrows or bolts during an archery-only hunt comment, please see the Agency Response in the appropriate section.

**Written Comment: April 3, 2018.** As technology has progressed, the prey has become more and more scarce or nocturnal. I do not like change, but in this case I believe some things have to return to its basic element. The use of game cameras is out of control. I counted 15 cameras on one drinker alone. They should be banned at least one-fourth mile from the drinker or water. I personally stopped putting cameras on drinkers because it was not fair to all hunters. The use of drones should be banned. No cameras. No drones.

**Agency Response:** The Department appreciates your interest in and support of the proposed amendments.

**Written Comment: April 3, 2018.** The proposed definition for "handgun" is confusing and misleading. Specifically "a firearm designed and intended to be held, gripped, and fired by one or more hands . . . " Any long gun that can be held with a single hand could meet this definition. If a person is only capable of manipulating a long gun with a single arm, does it become a handgun? Why not cite and use the relevant definition from elsewhere in federal or state law by reference? Surely the Bureau of Alcohol, Tobacco, and Firearms and/or Department of Public Safety have adequate definitions. The proposed definition for "live-action trail camera" seems inappropriate, specifically the part that restricts the transmitting of data wirelessly. Many modern devices use near-field, close proximity data transmission merely to get captured images from the device to a portable or transportable device. Examples include a Bluetooth link that permits access to the photos when within 10 meters or so. The intent appears to be restriction on a user from 'hiding' and monitoring a live video feed, then emerging and taking game. The mere transmittal of data wirelessly does not provide this capability, it is the application that is important. Perhaps limiting the ability to transmit over longer ranges? The concept of "live-action" is appropriate. A prohibited possessor with a deadly weapon or prohibited weapon is already committing a felony and additional charges do nothing but provide prosecutors the ability to pile on charges to intimidate defendants. I could care less about the prohibited possessors, who by definition are committing a crime. The addition of "including drones" throughout R12-4-319 and R12-4-320 is redundant and unnecessary since the definition of an aircraft includes drones.

**Agency Response:** The Department appreciates your interest in and support of the proposed amendments. The Department used a combination of the state and federal definitions to create the proposed definition. The Department agrees and has revised the definition to clarify a handgun is a firearm that is not intended to be fired from the shoulder. As a response to the use of trail cameras comment, please see the Agency Response in the appropriate section. The Department is often asked whether a person who is a prohibited possessor may hunt using archery equipment or a muzzleloader; these are common misconceptions. The Commission is amending the rule clarify how the Department, as well as other law enforcement agencies, interpret A.R.S. §§ 13-3101 and 13-3102 as they apply to prohibited possessors.

**Written Comment: April 3, 2018.** I disagree with the trail camera regulations minus the transmission of images. How can a person with a tag fly in an area before a hunt, isn't that the same use of technology to scout a hunt? Also, I do not believe Department employees should be able to use cameras if hunters cannot; would employees be able to hunt in areas where they have placed cameras after they have seen the images on the camera? Cameras are useful tools that guarantee nothing; they give a hunter a better idea of where the game is. Cameras extend the life of my hunt by giving my husband and I more time out in the outdoors, enjoying nature. Fair chase has become the Commissioner's opinions, not scientific evidence. How do they really affect the taking of game? What is the scientific proof the Department is using? I use cameras and they have never tracked the game for me or made the shot.

**Agency Response:** As a response to the use of trail cameras comment, please see the Agency Response in the appropriate section. The Department will continue to use cameras for the purpose of managing wildlife; however, Department employees are expected to comply with Article 3 rules when hunting.

**Written Comment: April 3, 2018.** We have lost our way and need to make hunting great again. Drones should not be available to a hunter at any time while in the field or used to scout for game. Game cameras have a negative impact on many fronts and have helped to ruin the hunting experience. They have also corrupted the outfitting industry and minimal effort is required to scout anymore, taking away from the real skill of finding game. Game cameras should only be utilized by authorized government officials. Electronics should not be allowed on any firearm or bow outside of a lighted reticle or red dot. Smart guns and scopes take away from the challenge and are not consistent with fair chase. I do not know enough about the latest air guns to comment.

**Agency Response:** The Department appreciates your interest in and support of the proposed amendments. The Department will continue to monitor and evaluate emerging and evolving technologies and practices and make recommendations to the Commission for statute or rule changes to preserve Fair Chase standards for the taking of wildlife in Arizona.

**Written Comment: April 5, 2018.** I can understand prohibiting live-action trail cameras that broadcast a photo to someone because they take the work out of hunting. Prohibiting trail cameras within one-fourth mile of a water source does not make sense to me from a biological standpoint. The person still has to remove the SD card to see what has been visiting the location and when. If there is a problem with people taking too much game then reduce the number of tags. What is next, not allowing trail cameras on game trails or fence crossings? The change allowing an air bow to be used by CHAMP hunters is a ridiculous idea. Most everyone can find a doctor who will sign a note saying they are unable to draw and shoot a bow. There is no "bow" in the air bow. II thought the intent of the archery season is to allow more people the opportunity to hunt and the primitive weapon would lower the success rates; therefore, allowing more hunter opportunity.

Bow hunting is already getting too sophisticated with the new laser bow sights, bows shooting 340 plus feet per second, etc. Take a stand and limit archery seasons to bows with no electronic devices attached to the bow.

**Agency Response:** As a response to the use of trail cameras comment, please see the Agency Response in the appropriate section. As a response to allowing a Crossbow Permit holder to use a pre-charged pneumatic weapon using arrows or bolts during an archery-only hunt comment, please see the Agency Response in the appropriate section. The Department will continue to monitor and evaluate emerging and evolving technologies and practices and make recommendations to the Commission for statute or rule changes to preserve Fair Chase standards for the taking of wildlife in Arizona.

**Written Comment: April 5, 2018.** I may be old school but smart guns and drones should be illegal. People need to learn how to hunt and read signs; spend time scouting for themselves. Guides charge a lot of money and put out 60 to 80 cameras and some do not have to go check them physically because the camera sends images to their phone. People have become too lazy to scout for themselves.

**Agency Response:** The Department appreciates your interest in and support of the proposed amendments.

**Written Comment: April 6, 2018.** I do not support the change that prohibits the use of a trail camera within one-fourth mile of water. There are grey areas in the language that allow people to get around this rule. I have only seen one other trail camera while hunting on a developed water source in the last 15 years. This rule would negatively impact hunt areas where issues of trail camera use is not present. This might negatively affect future recruitment; my daughters love to check cameras with me and look at the photos. If this ban is approved and pictures of wildlife are harder to come by, I know my young daughters will be less likely to come with me to run cameras. I like to run trail cameras year-round, a rule like this would negativity impact hunters like myself who have never had an issue with trail cameras. I would rather see the Department outlaw all trail cameras during certain dates (i.e., start of hunting season) or segregate the units where trail cameras are an issue (e.g. unit 9 or the Strip). What if I hunt a water hole and do not know there is a camera there. How will this law be enforced? How will they know it is my camera? I would like to see the data and studies on how trail cameras have negative implications on the wildlife, otherwise, I think the Department should conduct a pilot only in those areas where there are social conflicts. As far as pneumatic weapons, I support the idea. I think this could help attract more people to hunting and for the archery and provide the potential of more ethical harvests when used within the hunters effective range. Other comments somewhat outside this scope, I would like to be able to hunt with a spear for certain species such as javelina or rabbits and blow guns for small game. I would like to use live baitfish such as minnows or shiners for fishing in Apache and Coconino counties. In regards to baitfish, I have fished many lakes and states where there are essentially no restrictions on using typical live baitfish (i.e., minnows or shad), which made me wonder why it is banned for only certain locations in Arizona.

**Agency Response:** As a response to the use of trail cameras comment, please see the Agency Response in the appropriate section. As a response to allowing a Crossbow Permit holder to use a pre-charged pneumatic weapon using arrows or bolts during an archery-only hunt comment, please see the Agency Response in the appropriate section. The Department will continue to monitor and evaluate emerging and evolving technologies and practices and make recommendations to the Commission for statute or rule changes to preserve Fair Chase standards for the taking of wildlife in Arizona. The use of live bait in any water body is determined by the type of fish available in Arizona waters and the current fish management objectives. A.R.S. § 17-301(D)(2) authorizes the Commission to adopt rules establishing the taking of wildlife with firearms, archery equipment, or other implements in hand as may be defined. Given the multitude of devices that are available to the sporting and hunting public, it is necessary for the Commission to establish lethal and humane methods and devices for the take of wildlife to reduce wounding loss and ensure harvest rates do not impact hunter opportunity and the spirit of fair chase is not compromised. The Department has considered this comment and disagrees with allowing spear or atl-atl as a method of take. The Department is concerned that an individual who is untrained in these methods will use them ineffectively and wound rather than kill an animal.

**Written Comment: April 9, 2018.** We support the proposed restrictions on trail cameras around water. We also support the ban on trail cameras that transmit photos. The fact is, we would like to see all cameras banned completely. We understand that the authority to do so is not currently in the law, but perhaps that is for future legislative action. Let them sit at the water hole with a manually operated camera if they want pictures. We have seen waters with no less than 10 cameras on them in 13B. The proponents argue that the cameras do not guarantee the harvest of an animal. They certainly give the user an advantage. We feel that advantage is not part of the "fair chase" doctrine; they lead to an increased harvest of the resource. A few years ago, the Commission did studies and placed emphasis on increased hunter opportunity. Things like cameras provide an unfair advantage lead to increase harvest percentages and hence to a reduction in tags issued and hence less hunter opportunity. What are the regulations in other Western states? We believe the enforcement will be difficult, but that it is very important to strictly enforce the bans. We hope the Department will remove suspected cameras whenever they are found. On the topic of full-jacketed ammunition, we remember when the ban was on all FMJ bullets. It was later changed to be less restrictive. A return to the complete ban is in order. We really wish the Commission would return to the allowance of rifles for the take of fall turkey. Finally, we support the ban on the use of the "smart" rifles. This is another example of an unfair advantage that gives the animals little chance of escape once seen.

**Agency Response:** The Department appreciates your interest in and support of the proposed amendments; as a response to the use of trail cameras comment, please see the Agency Response in the appropriate section. The Commission is amending the rule to specify that ammunition that is not designed to expand is unlawful for the take of wildlife. This is because confusion exists because full-jacketed ammunition is readily available in sporting goods stores and the rule prohibits the use of full-jacketed ammunition "designed for military use." A person could assume the ammunition sold by a sporting goods store may be used for hunting purposes because it is readily available to the public for purchase. In 2013, the Commission amended R12-4-304 to provide only those devices and methods that have been authorized by Commission Order for the take of turkey to make the rule more concise. Prior to 2013, the rule authorized a number of devices and methods to take turkey, but, historically, the Commission by Order only permitted the take of turkey with bow and arrow, crossbow, and shotgun shooting shot due to hunter safety concerns. Crossbows are a legal method of take for deer during a general or muzzleloader season; during an archery-only season, deer may be taken with a crossbow provided the person has a valid crossbow permit.

**Written Comment: April 9, 2018.** I commend the Department and others for the work to make the entire Article more concise and easy to understand. I support all the recommended changes. I commend the Department and others for the restrictions proposed for the use of trail cameras. I support all such restrictions and urge the Department to stay the course with this revision. If some compromise is indicated, I suggest the definition of a "season" when cameras can be deployed such as April 1-July 31. I urge the Department not to compromise on the prohibition of wireless cameras capable of sending images, etc. If a compromise occurs, I urge the Department not to allow cameras to be placed on or inside fences around waters and if a fence does not exist not within 150 feet of a drinker. As I am sure the Department is aware, implementation of this rule will require a comprehensive discussion on enforcement procedure. I strongly support the prohibition on the use of scents for angling. This problem dates back to the implementation of artificial flies only at Lee's Ferry. I am pleased to see drones have been "defined." I wonder what technology will bring next and if an abstract definition of a flying contrivance or something designed to provide visibility from above the surface of the earth should be added to the rule.

**Agency Response:** The Department appreciates your interest in and support of the proposed amendments. As a response to the use of trail cameras comment, please see the Agency Response in the appropriate section. The Department will continue to monitor and evaluate emerging and evolving technologies and practices and make recommendations to the Commission for statute or rule changes to preserve Fair Chase standards for the taking of wildlife in Arizona.

**Written Comment: April 12, 2018.** I think electronic game cameras that send data to the user should not be allowed. I do not think it

hurts anything allowing a regular game camera to be placed on water or a trail, the person has to retrieve the photos or video from those cameras. This is a hobby for some people. The Department uses cameras at waters to check for activity in areas. Leave game cameras alone.

**Agency Response:** The Department appreciates your interest in and support of the proposed amendments. As a response to the use of trail cameras comment, please see the Agency Response in the appropriate section.

**Written Comment: April 12, 2018.** We the Board of Directors for Christian Hunters of America (CHA) oppose and support the Article 3 rulemaking as follows: Oppose: The rule is very ambiguous and unenforceable, "A person shall not use any trail camera, or images from a trail camera, for the purpose of taking or aiding in the take of wildlife within one-fourth mile (440 yards) of the outer perimeter of a developed water source." Support: "A person shall not use a live-action trail camera, or images from a live-action trail camera, for the purpose of taking or aiding in the take of wildlife, or locating wildlife for the purpose of taking or aiding in the take of wildlife." and "A person shall not use a satellite or other device that orbits the earth, or images from a satellite or other device that orbits the earth, and is equipped to produce and transmit images for the purpose of taking or aiding in the take of wildlife, or locating wildlife for the purpose of taking or aiding in the take of wildlife.

**Agency Response:** The Department appreciates your interest in and support of the proposed amendments. As a response to allowing a Crossbow Permit holder to use a pre-charged pneumatic weapon using arrows or bolts during an archery-only hunt comment, please see the Agency Response in the appropriate section.

**Written Comment: Submitted by the same person on April 12 and 13, 2018.** Allowing pre-charged pneumatic weapons using bolts or arrows in general big game seasons and during archery seasons does not meet the standards of fair chase. These devices increase accuracy with little practice and allows a hunter who possess very little competency or skill to take an animal. If the Department decides to allow such weapons, they should be authorized during general seasons only, not archery seasons, even under special circumstances. The use of these and crossbows during an archery season gives the user an unfair advantage over archers who practice archery on a yearly basis to improve their skill level and spend countless hours learning about the wildlife they pursue. The Pope and Young club makes these types of weapons illegal for record book entry since they go against fair chase standards. By allowing such weapons during an archery season will increase questions from the public on the validity of hunting, due to the ease in harvesting animals without the need for skill or knowledge. Prohibiting the discharge of an arrow or bolt within one-quarter mile of an occupied residence without written permission is not addressing the root issue voiced by the Commission. The major issue concerns trespass onto private property without prior permission. The posting and signing of property is clearly articulated in Titles 13 and 17. The laws require landowners to lawfully post their private property. Many landowners do not adhere to the law and complain of trespass. Laws also clearly articulate trespass and what constitutes a violation. Additionally, if the property is not legally posted and the hunter is told by the landowner that they are on private property and refuse to leave, they are in violation of trespass. Over the years, proper signing within and around residential areas by the Department has eliminated many issues, along with law enforcement patrol and citations. By restricting archery hunters from pursuing legally available wildlife on public or state lands because of private property concerns will not improve hunting interest or participation as promoted by the Commission. It must be the responsibility of the landowner to properly post their property. On a yearly basis, the Department authorizes archery hunts for nuisance bears and other wildlife species. In many instances these nuisance animals are near occupied residences, but can only be hunted on public lands that border private property. Many times, wildlife is found on private inholdings due to food availability placed by the landowner. Eliminating the opportunity for archery hunters to pursue nuisance wildlife near homes will eliminate the opportunity to remove the offending animal. In these instances, the legal archer is assisting the Department in wildlife management issues caused by landowners who habituated the animal. Now the Department is tying the hands of the hunting group they are hoping will assist them and greatly reduce the need for Department personnel response. The development of the spring archery bear hunt to assist the Department with having to euthanize bears primarily due to landowners being irresponsible with food management is an example. This hunt has been very successful in limiting the number of bears that need to be trapped, removed, or destroyed, and the overall hunt has become very popular with archery hunters throughout the state. The development of such a restrictive rule will place an unfair burden on archery hunters throughout Arizona legally pursuing big game species. Pronghorn antelope is a perfect example. Most antelope populations are in close proximity to residential areas. Preventing the discharge of an arrow within one-fourth mile will greatly reduce the area where archery hunters can legally take antelope. Arizona land status is broken up into checker boards of private, public, and state lands. Many of these are located near or within developed areas. There are tens of thousands of such areas that are relatively small parcels bounded by occupied residences, either on a yearly basis or seasonally. In many instances, the only hunting opportunity is with archery equipment, due to the minimal public safety risk and because firearms cannot be utilized because of the existing one-fourth mile law. When the Department approves Habitat Partnership Committees proposals through Big Game Special Tag Funds, one of the ranking criteria is access. If archery falls under the one-fourth mile law, many of these areas will be eliminated from hunting, therefore, greatly reducing hunter opportunity and increasing the need for law enforcement. This rule proposal places a large burden on archery hunters, does not have any effect on public safety, will most likely reduce interest and participation, reduce opportunity, reduce fair chase, and ignores the core issue of existing statutes that define legally posting private property. I support the elimination of live-action cameras for hunting purposes. They are a direct threat to fair chase, give an improper and unfair advantage in the take of wildlife, increase the questions regarding validity of hunting, and allow the user to hunt from the comfort of their home or electronic device without having to pursue wildlife through field effort. This proposed ban on the use of trail cameras around waters will have a huge impact on wildlife viewing and hunter interest on a yearly basis. The Department is making it illegal to utilize cameras at any time. Any photo taken around a water hole and then hunted at a later date can be construed to fall within the proposed definition. Many of these photos and locations are found on social media or sent out to other hunters, making this rule very difficult to enforce. Identifying wildlife on trail cameras does not mean that animal, or any other animal, will appear at the camera site when hunted. The hunting of wildlife takes a lot of skill and knowledge of animal behavior and relies heavily on atmospheric conditions. The photo of an animal does not equate to killing the animal. What it does do is give a hunter insight into what species are traveling to the site, the sex of the species, age, size, general time (day or night) and if it is legal to hunt. These are criteria that can greatly improve the management of the species. By knowing that a bear is coming to water with cubs greatly reduces the chance that the hunter will harvest a sow with cubs. It also allows the hunter the opportunity to identify and take mature males rather than breeding females. Many hunters utilize the knowledge gained through trail photos to identify specific individuals and target mature animals. Many set up trail cameras for the enjoyment of seeing wildlife. They may hunt, or become interested in hunting because of the photos they capture. Water holes allow for a large variety of wildlife to be photographed. They may not even have a camera set up at the water during their hunt, but they acquired information regarding the wildlife through previous photos. Again, this law would cause an otherwise legal hunter to be possibly cited for a game violation because of prior knowledge gained through trail cameras. If enacted, this rule will also place a burden on law enforcement since it will require many man hours of investigation and surveillance to prove in court who the owner of the camera is, and if they were using the camera or images for the purpose of taking or aiding another in the take of wildlife. The Commission should develop rules that enhance wildlife management and does not affect fair chase or place a burden on the hunting public. The use of trail cameras is a tool that can assist in the management of wildlife and does not affect fair chase. The hunter must be knowledgeable and skilled, and make the effort to locate and place cameras in ideal locations. Yes, it is a tool that can be abused by some. That is the job of law enforcement. Locate the abusers, not make all hunters potential violators. I feel these rule changes are being considered due to complaints by a small segment of the non-hunting public, or from hunters that do not agree with their use. The Department is spending considerable effort, funds, and time in developing new hunters, retaining current hunters, and reinitiating those

who quit hunting back into the sport. Burdening this process and restricting sportsmen from going afield and enjoying wildlife and limiting where wildlife can be pursued will only reduce hunter and fishermen numbers, thus revenue and support. As a 30-year retired Wildlife Manager, I have seen the role of the Wildlife Manager go from a full-time field presence to an administrator who spends most of their time in meetings, on the computer, and filling out reports. Their time in the field has been greatly reduced. Thus, the interaction between field presence and sportsmen is nearly nonexistent. Speaking with hunters and landowners, I continually hear frustration that they do not see officers in the field and do not have contact with them. The addition of rules and laws do not serve any purpose if law enforcement patrols and personnel are not in the field. The cost to the Department only increases and the funds received through sportsmen dollars decreases. Hunter opportunity is compromised, which is opposite of what the Department is trying to promote. Developing rules that restrict hunting yet ignore laws such as trespass or access will continue to erode the faith that sportsmen have for the Department.

**Agency Response:** As a response to allowing a Crossbow Permit holder to use a pre-charged pneumatic weapon using arrows or bolts during an archery-only hunt comment, please see the Agency Response in the appropriate section. As a response to the use of trail cameras comment, please see the Agency Response in the appropriate section.

**Written Comment: April 14, 2018.** The Arizona Chapter of Backcountry Hunters and Anglers (AZBHA) has the following comments: The popularity of drones brought quick action by the Department to discourage the use of drones for hunting and/or scouting activities. More recently the focus has been on the use of trail cameras and air bows. The proposal to ban the use of "live-action" trail cameras is a welcome addition to the regulations in the eyes of AZBHA. The additional proposal that would ban the use of any trail cameras within one-fourth mile of a developed water source is well intentioned, but may cause issues with enforcement. We understand the importance of water to wildlife in our climate and that limiting the use of trail cameras at these locations could give the animals more opportunity to move freely. The problem with this proposal is in enforcement. An officer would have to find a trail camera in a restricted area, find the owner, and then proceed to prove that an animal harvested was shown on the trail camera previously. This proposed change also seems to only address "developed waters." If trail cameras are allowed at natural water sources, it seems to defeat the original purpose of this proposal and opens the door for ambiguity and possible undue hardship on behalf of the Department and/or the trail camera user. Emerging technologies like air bows present unique challenges to state wildlife management agencies. It is AZBHA's position that air bows should not be classified as archery equipment regardless of the user's physical abilities. Air bows lack a system of limbs and strings consistent with standard archery features and are propelled by means that give the operator a distance advantage over all other archery equipment. We are concerned that air bows do not fall under the federal excise tax parameters set by the Pittman-Robertson Act of 1937, which provides a critical stream of revenue to state fish and wildlife management agencies generated from the sales of firearms, ammunition and archery equipment. The Wildlife Restoration Program, managed by the U.S. Fish and Wildlife Service, uses these critical conservation resources to provide grants to every state in the country to restore, conserve, manage, and enhance wild birds and mammals and their habitat. As an organization, AZBHA has consistently advocated for the ethical taking of fish and game, the principles of fair chase, the Public Trust Doctrine and the North American Model of Wildlife Conservation. We have a collective obligation to promote our sporting heritage and protect the future of our hunting traditions by engaging in thoughtful conversations that consider new technologies like air bows to ensure they are regulated appropriately by states and insular management agencies responsible for setting hunting regulations, including method of take. AZBHA maintains hunting should involve an element of skill, woodsmanship, and challenge. We must ensure the ethical pursuit of fish and game is upheld and regarded as dearly as the wild backcountry landscapes that support their habitat.

**Agency Response:** As a response to allowing a Crossbow Permit holder to use a pre-charged pneumatic weapon using arrows or bolts during an archery-only hunt comment, please see the Agency Response in the appropriate section. As a response to the use of trail cameras comment, please see the Agency Response in the appropriate section.

**Written Comment: April 15, 2018.** I oppose the use of wireless game cameras because they remove the fair chase from Arizona hunting and will hurt Arizona hunting in the long run. They remove the need for an individual to be present and have proven to be extremely effective for bear and lion hunts with dogs. They promote an unequal balance of hunting success regarding how deep a hunters' pockets are. Do not allow these kinds of cameras to be used in Arizona. However, trail cameras on or near water holes are important and valuable to hunters, especially for bear hunters who choose to target specific boars and avoid killing sows with cubs. As a person who utilizes multiple trail cameras, I believe there is a "sport" aspect to managing, checking, and traveling game cameras. I oppose the use of "air guns" in place of crossbows during the archery hunt. If approved, this will detract from the challenge and fair chase of Arizona archery seasons. It will complicate law enforcement efforts during archery season.

**Agency Response:** The Department appreciates your interest in and support of the proposed amendments. As a response to the use of trail cameras comment, please see the Agency Response in the appropriate section.

***The following comments provide a comment that does not relate to specific amendments contained within the proposed rulemaking or pose any actual questions, thus the agency relies on the justification provided under item 6 of the preamble to suffice for the agency response:***

**Written Comment: March 16, 2018.** I really wish the Department would come up with successful plans based on factual research to improve our wildlife management. I hate to see the Department waste taxpayer's money on a law as trivial as this. I would love to see the Department focus on things that benefit wildlife and leave politics out of it. The Department employs many wildlife biologists, why not put in the work to gather factual data before making rash decisions. I would love to see factual data that supports this change, but I do not believe it exists. I ask that the Department make decisions based on facts not intuition or politics.

**Written Comment: March 27, 2018.** It is ridiculous to think a camera will give an advantage to a hunter who is going to hunt a water hole regardless of what pictures were taken on it. I guess cameras at water holes might keep game from drinking. Hunting technology has led us to the management of the hunter and in the end is actually what game management is - isn't it?

**Written Comment: March 27, 2018.** The use of drones for hunting and scouting does not seem right. It violates the idea of fair chase in my opinion. Now, when you go elk hunting you have got a crowd of people on side-by-sides, quads, and four-by-fours driving on every forest trail road to go hunting.

**Written Comment: March 27, 2018.** I feel strongly that the trail cameras with a card that require a person to come and check it in person should be allowed. I understand and feel the cameras which send notices and pictures to a phone or computer may violate fair chase. Manually checking a camera is less invasive and less disturbing to wildlife than having hunters and guides sitting at water or other locations that wildlife frequent. Hunters using cameras for personal use should absolutely be allowed. I feel drones should have the same rules as aircraft scouting.

**Written Comment: March 28, 2018.** To add regulations to something only a few have abused is absurd. I have used trail cameras for 15 years with no incidents. I caught vandals on a watering hole with my cameras and turned the photos in. I use my cameras not only to see what game is around, but to build a photo album. Cameras give hunters a good idea of what is around and give them hopes for the hunt. I have not been lucky enough to bag what I was hunting for from that area to date. This is public land paid by our state and federal taxes; so, what is next? Remember your jobs depend on us, we purchase Department licenses. If we go to other states to hunt, the Department will surely be out of a job in a matter of time.

**Written Comment: March 28, 2018.** I see no reason to implement such a rule. I believe the use of trail cameras is of no detriment to wildlife and is merely a tool to monitor wildlife. I ask the Department to defer from any such additional rules that burden hunters who are

the true conservationist.

**Written Comment: March 29, 2018.** This is a fairly childish proposal.

**Written Comment: March 30, 2018.** The Department has 100% of my support in making this responsible ruling.

**Written Comment: April 4, 2018.** What is the definition of a "live-action" trail camera?

***The following comments pose a unique question:***

**Written Comment: March 18, 2018.** I read the whole document and believe the Department has come up with necessary and common sense changes. My only questions is for trappers; the Department maintains that trappers must continue to check their traps daily, yet the rulemaking wants to allow the use of trail cameras that transmit pictures for the purpose of monitoring traps. Two things, not all can afford such cameras and this gives hunters an advantage over the game. We know that going into an area where you have installed a camera will be affected just by your presence. This can give a false sense of security for game animals in those areas vs the areas that the hunter has to go into to check cameras. Does this tilt the fair Chase scale in those hunters favor?

**Agency Response:** The Commission does not intend to prohibit or restrict the use of live-action (cellular) trail cameras when used by a trapper who is monitoring a live trap. The specific activity of taking legal wildlife using live traps is the use of the trap itself, while the use of a live-action trail camera would be to monitor the trap. When trapping, a live-action trail camera would show the activity within the trap. This information would aid the trapper in responding to the wildlife being trapped, which may reduce the period of time in which the trapped wildlife would be confined. However, the use of a live-action trail camera does not satisfy the requirement to check individual traps daily. Under A.R.S. § 17-361(B), all traps in use shall be inspected daily. Electronic devices are prone to failure and relying on any electronic device to determine whether target, or non-target, wildlife within any trap is not a sufficient method to meet the statutory mandate.

**Written Comment: March 28, 2018.** I support a change that would limit drones and feeding of wildlife. Drones can crash and cause a wildfire. Feeding wildlife harms them. Elk will not move out of the community and are starving because they are not foraging and are turning their noses up to their regular food. The yearlings are tiny and look unhealthy; they are not thriving and growing. I believe it is due to inorganic foods that were introduced to their diet and changed their DNA. Pregnancy cycles are off; they are fawning earlier and later in the year. This has to be connected to what they are eating. I see they are suffering and something needs to be done. The new yearlings do not leave because the cows are conditioned to stay and now the offspring is learning unhealthy habits and are not eating a proper diet. The herd is thin.

**Written Comment: March 28, 2018.** The proposed definitions for **"**rifle**"** and **"**handgun**"** use the phrase **"**energy from an explosive.**"** This is not accurate because smokeless powder is not an "explosive." The definition of "explosive" under A.R.S. § 13-3101 explicitly excludes "smokeless powder." The Department could adopt a more accurate definition by using the same terms already found in the definition of "firearm," which uses the phrase "explosion caused by the burning of smokeless powder, black powder, or black powder substitute." The Department's proposed definition of "handgun" should be more precise. The federal definition includes "a firearm which has a short stock and is designed to be held and fired by the use of a single hand;" 18 U.S.C. § 921(a)(29)(A). The proposed definition would apply to firearms "designed and intended to be held, gripped, and fired by one or more hands," and contains no reference to the size of the stock. Under this definition, any firearm would qualify as a "handgun" because all traditional hunting rifles are "held, gripped, and fired by one or more hands." Conversely, the Department's proposed definition of "rifle" includes a requirement that it be "intended to be fired from the shoulder." The Department should use the language in this definition when defining "handgun." The Department should define the term "handgun," as follows: "A firearm designed and intended to be held, gripped, and fired by one or both hands, and not intended to be fired from the shoulder, and that uses the energy from an explosion caused by the burning of smokeless powder, black powder, or black powder substitute in a fixed cartridge to fire a single projectile through a barrel for each single pull of the trigger." This definition is broader than the federal definition because it allows the use of heavy, contender-style or silhouette target pistols that could arguably never be held with one hand, but it would clarify that hunts allowing handguns are intended to permit the use of firearms that are not shouldered like traditional rifles.

**Written Comment: April 3, 2018.** I read the whole document and believe the Department has come up with necessary and common sense changes. My only questions relates to trappers: the Department maintains trappers must check their traps daily, yet the Department proposes to allow trail cameras that transmit pictures for monitoring traps. Two things, not all trappers can afford such cameras and this gives hunters an advantage over the game. We know that going into an area where you have installed a camera will be affected just by your presence. This can give a false sense of security for game animals in that area vs the areas that the hunter must go into to check cameras. Does this tilt the fair chase scale in those hunter's favor?

**Agency Response:** The Commission does not intend to prohibit or restrict the use of live-action (cellular) trail cameras when used by a trapper who is monitoring a live trap. The specific activity of taking legal wildlife using live traps is the use of the trap itself, while the use of a live-action trail camera would be to monitor the trap. When trapping, a live-action trail camera would show the activity within the trap. This information would aid the trapper in responding to the wildlife being trapped, which may reduce the period of time in which the trapped wildlife would be confined. However, the use of a live-action trail camera does not satisfy the requirement to check individual traps daily. Under A.R.S. § 17-361(B), all traps in use shall be inspected daily. Electronic devices are prone to failure and relying on any electronic device to determine whether target, or non-target, wildlife within any trap is not a sufficient method to meet the statutory mandate.

**Written Comment: April 6, 2018.** Over the last couple years I have been getting into the larger, high-pressure pre-charged pneumatic air rifles (.25 and larger). Currently, the rules allow for the harvest of most game animals including: deer, antelope, bear, javelina, bighorn sheep, mountain lion, and many other game animals. I would like the Commission to consider allowing elk hunting with the same rifles.

**Agency Response:** The Department agrees with the commenter and is amending R12-4-303 to allow the use of pre-charged pneumatic weapons for bison and elk. In 2013, the Commission amended the rule to allow the use of pre-charged pneumatic weapons for the take of all wildlife, except bison, elk, and turkey due to concerns that pre-charged pneumatic weapons would not create a substantial wound for the humane harvest of a bison or elk and public safety concerns when hunting turkey. Persons in the pre-charged pneumatic weapon industry indicate requiring a specific caliber of the bullet will allow the Commission to establish a lethal standard for the take of bison and elk using a pre-charged pneumatic weapon.

**Written Comment: April 9, 2018.** It pleases me to see the direction in which Department has moved with the definition of fair chase and the proposed restriction to trail camera use. The spirit of hunting is about the journey and the chase, not the end result. The abuse of trail cameras and the use of social media have diluted this spirit. While the one-fourth mile ban is a step in the right direction, I prefer a more complete ban or "blackout" period. In the event a camera is intentionally damaged or goes missing on public land, can the person who damaged or removed the camera be cited for violating any law?

***The following comments are outside the scope of this rulemaking and have been placed in the rule record for consideration by the next rule review or rulemaking team, whichever occurs first:***

**Written Comment: March 27, 2018.** For trail cameras; there are far more things that hinder game coming to water - like the roads and guys driving right up to them. The Department should make a one-mile no driving zone. My other concern is the late muzzleloader hunt in

units 39, 40, 41, 42, and all other late muzzleloader or rifle hunts. The archery hunt starts in January. My brother and I used our bonus points to draw a tag only to run into bow hunters at every spot that we wanted hunt. I understand bow hunters think muzzleloaders take their kill, but at one spot near Dateland, there were 47 hunters, 41 of which were bow hunters. Maybe the Department could open the archery hunt two weeks early or something then close it for the muzzleloader hunt, and then open it back up for archery. Or, make the muzzleloader hunt an "any deer" hunt. That way, I might be able to take something home. Hunting is hunting and that is how it goes; I truly believe the Department is the best in the West Coast when it comes to hunting seasons. I just think this hunt needs a review.

**Written Comment: March 27, 2018.** Tent blinds and metal tree stands should also be temporary, removed after each use, and not left for more than one day.

**Written Comment: March 28, 2018.** The Department would be better off limiting the number of permits. I drew a tag in 1997 and again in 2015, but the hunting pressure was a lot more in 2015 and the quality was down with all of the new long range rifles and the burnt units. I think the Department would be better off limiting rifle tags in the burnt units where elk are a lot more visible and the hunt is more like a carnival shoot than a hunt. I personally do not use cameras over water holes, but after waiting 10 to 15 years to draw a tag it would be nice to be able to use every legal tool possible to have a successful hunt.

**Written Comment: March 28, 2018.** The Department should consider a "harvest year." Furbearers, cottontail rabbits, and other species have a July 1 to June 30 season. Why not have all species fall under the same year-long hunt? Then, if you harvest a deer in January, you are still eligible to hunt in the fall; if you harvest one in December, you cannot harvest another in January. I advocate for mandatory reporting of deer and javelina harvests. We have mandatory reporting for bear and mountain lion. I believe too many take advantage of being able to harvest a deer during the archery hunt, then harvest another during a general hunt. If they process the deer themselves, the Department has no clue how many deer were taken.

**Written Comment: April 3, 2018.** The computer draw is not fair because it does not allow the issuance of a tag to all persons in a group when there are not enough tags left in the draw. For example: a hunt has 100 hundred permits allotted and the draw system has already issued 99 permits. The next application to be drawn has a group of four hunters, so the application is bypassed because the draw system has already issued 99 of the 100 permits available. The draw system should be able to go over the maximum number of tags so everyone in a group application receives a tag. The current muzzleloaders in the field are not primitive weapons. They have rifled barrels and scopes and can hit an animal at 200 plus yards. I believe muzzleloaders should have to use a flint lock. They claim they only have one shot, but when I hunt with my firearm I typically use only one shot. My understanding is they are developing a quick loading device for muzzleloaders. If a hunter wants to use a muzzleloader, they should use it for the general hunt. Archery is the only weapon that comes close to being primitive. The compound and cross bow are in the gray area but have a maximum of 100 yards if your real good.

**Care2 Petition April 14, 2018:** The proposed banning of trail camera use within one-fourth mile (440) yards of a developed water source has no scientific merit to it. The Commission cannot prove that use of "non-real-time" or "non-live-action communicating" trail cameras has an adverse effect on wildlife movement, access, or use of water sources. The use of trail cameras does not interfere with the spirit of fair chase. Hunters and outdoorsman have used trail cameras for years in the effort of understanding the quantity and quality of game visiting a specific spot and the opportunity to analyze hunting prospects at that spot. A trail camera is merely a tool to provide some intelligence. Trail cameras do not guarantee success. They give a hunter a snapshot of game movement at a water source. Game movement can never be 100% patterned. A trail camera can show animal movement several days in a row. Then a hunter can sit a water site for the following day and never see a legal animal to harvest. Wildlife movement is random. There is no merit to banning the use of non-live-action trail cameras on a water source and we request the Commission edit their proposed change to Arizona Revised Statute R12-4-303(A)(5) by removing the verbiage "A person shall not use any trail camera, or images from a trail camera, for the purpose of taking or aiding in the take of wildlife within one-fourth mile (440 yards) of the outer perimeter of a developed water source."

**Agency Response:** Please see the Agency Response in the appropriate section.

**THE FOLLOWING COMMENTS WERE RECEIVED IN RESPONSE TO THE NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING (SEE 24 A.A.R. 1936, JULY 13, 2018):**

***The following comment addresses the proposed definitions for handgun, shotgun, rifle, and muzzleloader:***

**Written Comment: August 6, 2018.** This proposed rule change by the Department is a veiled attempt to dissuade sportsmen from hunting with the modern sporting pistol or any handgun equipped with an arm brace. It appears the Department believes the modern sporting pistol, with or without an arm brace (and federally legal for civilians to own, shoulder, and fire), should not be allowed in the field. The proposed rule change to define handgun is an administrative overreach and strays from the mission statement into gun control. One only needs to read the proposed definition preceding the current one to understand what is afoot. The previous proposed definition of handgun included, "not designed or intended to be shouldered" or something very close to that (I no longer have the copy to refer to). My son and I were stopped by a wildlife manager while hunting with modern sporting pistols and was informed that I would be cited for a short barrel rifle. Fortunately, I had written the Department asking if the modern sporting pistol would be legal to hunt in the Handgun, Archery, and Muzzleloader (HAM) hunt and the reply letter stated that if the firearm was lawful under federal law the Department would treat it as such. I showed the letter to the wildlife manager who made a few phone calls and decided not to cite me. Thank goodness I carried a written copy of it to provide to law enforcement. The wildlife manager asked us to both demonstrate how we held our pistols in an attempt to get my son and me to shoulder our modern sporting pistols. I felt we were being set up and did not appreciate the sneaky tactics, but of course I said nothing. I am a law abiding gun owner who took my son hunting to create quality family time and enjoy nature. This ordeal did not get worse only because I had taken the precaution of obtaining the letter from the Department before going afield. The proposed rule change defining handgun appears to be the latest way to pressure hunters from taking these increasingly popular handguns afield. People would understand and complain about what is happening if the proposed rule included an outright ban; this is "death by a thousand cuts." If there is scientific peer reviewed data that proves harvest will increase if hunters shoulder a pistol, then restructure the hunt. Hunters might not get drawn quite as often or have one less day to hunt, but I would much rather hunt less than be restricted, pestered, fined, cited, convicted, and punished by the new Department of "handgun, shotgun, rifle and muzzleloader" control. The definitions for pistols, shotguns, muzzle loaders and rifles don't need to be changed; they already exist and are universally accepted. Imagine two sets of nonconforming rules or laws; it would be a mess that becomes more confusing and tangled over time. The Department will get more hunting and fishing participation and funds in the future if you quit taking the fun out of it through unnecessary rules.

**Agency Response:** The Commission used a combination of the state and federal definitions to create the proposed definition. The federal firearm definitions are part of the Gun Control Act of 1968; the purpose of the act is to provide support to federal, state, and local law enforcement officials in their fight against crime and violence. The act regulates the manufacture, trade, possession, transfer, record keeping, transport, and destruction of firearms, ammunition, and firearms accessories. They are enforced by state agencies and the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The state firearm definitions are part of Arizona Revised Statutes, Title 13 - Criminal Code. The purpose of the code is to maintain order, resolve disputes, protect persons and their property, provide for smooth functioning of society, and safeguard civil liberties. In a nutshell, the code protects citizens from criminals who would inflict physical harm on others or take their worldly goods. The Commission's intent in defining firearms used for the purpose of hunting is not to "control" any citizen but to regulate methods of take within specific hunting seasons; the definitions are proposed to simply facilitate consistent interpretation of Commission rules.

***The following comments address the proposed amendment that prohibits the use of any ammunition that does not expand upon impact for the take of wildlife:***

**Written Comment: July 16, 2018.** Reasons for concern regarding the proposed rule change requiring ammunition for taking wildlife to be "expanding." Are the following fixed ammunition and or projectiles considered "expanding?" Soft and hard cast lead bullets Round nose, semi wadcutter of any point type; .22 long rifle 40 grain that does not have a hollow point; Elmer Keith hard cast semi wadcutter. He took much big game; Plated bullets; Copper plated bullets of all styles; Amax 750 grain .50 BMG projectile - Aluminum tip (11,000 Lb. muzzle energy); Cast lead bullets with flat points used in lever action tube magazines; Patched Round ball for muzzleloaders; BBs; Monolithic copper or brass bullets (solids) of any point type other than hollow point; Tungsten core solids used for dangerous game and Bison; Solid brass or copper bullets with high ballistic coefficients such as marketed by Barnes Bullets; Cast lead bullets that are hollow pointed by the user to expand. Commercial reloading equipment is available to do this; Plated and drawn bullets of all bullet nose types; Full metal jacket pistol bullets drilled to hollow point; Steel shotgun pellets; Lead shotgun pellets; Bismuth shotgun pellets; Tungsten shotgun pellets; Barnes Tac LR solid brass bullet line of lathe turned monolithic without hollow points; All Barnes Banded solid bullets. These are designed and intended for hunting; and Hornady's whole line of Frontier Lead bullets which are cold swaged without hollow points. Regarding non-expanding bullets over-penetrating and endangering people's property and wildlife, please review TAB plus 1. What has become of know your target and what lies beyond? Full metal jacket military bullets have long been used legally in some states for predator hunting to minimize pelt damage. Two holes help drain more blood over time. Pittman Robertson money is still collected from the sale of military full metal jacketed ammunition to generate revenue for wildlife conservation. If the animal is large there is opportunity for these projectiles to yaw and tumble with substantial killing power. Who is going to decide all this in the field? Does the Department's intent and reason for the proposed rule change (to prohibit full metal jacket, tracer and armor piercing military ammunition used to take wildlife) strictly restrict the new law to that alone? I do not see that written. If that is the stated purpose then leave the existing rule in place because it is clearly stated. I believe the Arizona Republic ran an article featuring a Department wildlife manager who had written more citations than any of his peers in a year's time; the article mentioned someone in second place. Since there seemed to be a suggestion of competition to be the most prolific citation writer, there could be motive for abuses. The proposed rule is less specific than the current rule. I met resistance when I asked if I could get a written statement regarding specifics of the rule so I may be assured my manner of hunting is lawful. I believe most people who hunt see it as a vehicle to commune with nature; they do not leave their house to get a citation. I would like a written "yes" or "no" from the Department before I go afield; I understand this is not an option. Perhaps there is an unstated concern that non-expanding ammunition is more prone to defeat soft body armor and that is definitely appreciated. If that is a concern it should be stated and considered in the rulemaking process.

**Oral Comment: August 14 and 20, 2018.** The commenter felt the proposed language change for jacketed bullets would negatively affect predator, furbearer, and other small game hunters. The Commenter stated, particularly for furbearer hunters, bullets that expand upon impact damage the animals pelt and that the prohibition on bullets that do not expand was an unneeded regulation and recommended the Commission exempt certain species from the restriction (proposed rule language was provided August 16, 2018). The commenter also indicated there are certain bullets available that are specific for the take of predator, furbearers, and other small game species that are currently legal that would now be restricted because of the proposed language change.

**Agency Response:** The Commission's intent in amending R12-4-303(A) is to prohibit the use of full-jacketed ammunition because the use of this type of ammunition on big game, regardless of manufacturer or designation, is not considered humane for the purpose of take of big game as it does not create 'quick kills' and may result in additional wounding losses. There is no hidden purpose or intent. The Department is often asked whether full-jacketed ammunition is lawful for the take of big game because full-jacketed ammunition sold in sporting goods stores is often labeled for use in hunting. Confusion exists because full-jacketed ammunition is readily available in sporting goods stores and the rule prohibits the use of full-jacketed ammunition "designed for *military use*."
This change is proposed as a result of customer comments received by the Department.

***The following comments support the proposed amendment removing the prohibition on the use of any trail camera within one-fourth mile of a developed water source:***

**Written Comment: July 13, 2018.** As I understand the proposed rule regarding passive trail cameras being banned from a man-made water source has been dropped. I'm glad to see this as I see little use for this rule and I feel that the Department should do more to promote the use of trail cameras. It's a great non-consumptive wildlife activity that I think will spark more interest in wildlife among those of the upcoming generation. As far a scouting tool, they are helpful but not so helpful that they violate the principle of fair chase. The most common complaints about trail camera use can be reduced by education and the Department is in a perfect position to provide this education.

**Written Comment: August 2, 2018.** I wish to thank the Department and the Commission for their effort and action at the Payson Commission meeting held on June 8, 2018 in which the Commission unanimously voted to amend the previously proposed Article 3 Rule R12-4-303 affecting the use of trail cameras. I am in complete support of the decision that was made that day and the current rule in which there are no restrictions on the use of standard trail cameras and no restrictions on the use of standard trail cameras adjacent to water holes. Unfortunately, it did not seem possible to craft a rule that would address the problems with trail cameras at water holes in some isolated units without it also having adverse impacts on other legitimate, useful, and beneficial trail camera uses throughout the state. I also would have wanted to see no restrictions on the use of live action trail cameras but understand and will respect the Commission's decision to do so.

**Agency Response:** The Department appreciates your support.

***The following comments oppose the amendment that prohibits the use of any live-action trail camera for the purpose of taking wildlife:***

**Written Comment: July 28, 2018.** Real time cameras are used by many different people. Many people just to enjoy nature and its many wonders. I would think it would be difficult to police the use of these cameras. I think they do give an added advantage in the process of hunting game. Not many people can afford the high cost of the software. Depending upon when and where we are drawn for either elk and deer we may use passive cameras. It does help but most of the time not. Realistically as a hunter you need do your due diligence to have a successful hunt. I think passive cameras are just fine, but I do not like real time cameras.

**Written Comment: July 31, 2018.** Leave the rule as it is; it means there will be less people in area than there would be and if a person chooses to hunt a waterhole this does not change that. Even with a live-action trail camera, you still need to be able to stalk the animal and get close enough for a shot. Most hunters do not have 20 cameras out in field, they have one to see if the hunting area produces good animals. I see no problem with using trail cameras. Prohibiting them on water is okay. Also suggest prohibiting the use of blinds within one-fourth mile of water.

**Written Comment: August 12, 2018.** Trail cameras should be legal in Arizona.

**Agency Response:** The Commission recognizes there is some opposition to the rule change on the use of trail cameras but hope persons regulated by the rule will understand this was brought up as a Fair Chase issue by sportsmen and women. Due to the advancement and availability of technology, the use of trail cameras to pursue and take wildlife has risen to such a level that it demanded the attention of the Fair Chase Committee. The definition of "live-action trail camera" is meant to address what current technology can and does do and what future technology may be capable of doing. The objective is to stay in front of technology by being proactive rather than reactive. For clar-

ification, only those cameras that are capable of transmitting images to an electronic device are prohibited when used for locating and/or taking wildlife. Cameras that use a Secure Digital (SD) card will still be allowed.

***The following comments support prohibiting the use of all trail cameras for the purpose of taking wildlife:***

**Written Comment: July 30, 2018.** In reference to any proposal regarding trail cameras; the only way to level the playing field is to outlaw them. The everyday hunter does not stand a chance against the outfitters that are placing hundreds of cameras. This will force everyone to scout the hunts. I realize the big business part of hunting, but is the Department more concerned with the views of a small portion of outfitters or the average everyday hunter?

**Written Comment: July 28, 2018.** The Commission in a 5-0 vote agreed to prohibit live-action trail cameras, but allow all other cameras on water holes. I think the Commission had a chance to really benefit wildlife and blew it. I do not know if this decision was made to appease the hunters who do not have the time, skill, or desire to scout on their own or to not upset the trail camera manufacturers. I would like to know why the Commission did not make this decision. The following are some reasons why I think the Commission made a bad decision for wildlife and hunters: How can you tell if a camera is a live-action trail camera? I am sure some people will abide by the rule, but many will not. How will the Department enforce this? By allowing regular trail cameras at water, the wildlife is still being monitored 24 hours a day - what time they come and go, which direction they come in from, and if the water is being used or not. I know they have to be manually checked, but that just means someone has to go to the water every day or two. Guides have become so numerous, they have so many cameras, and they can hire someone to check their cameras. It is really bothersome to come up to a water hole to check for signs and see two, three, or more cameras staring at me. Why won't the Commission give wildlife a break? Water is critical need for wildlife in Arizona, especially in a draught - they have to come to the water to drink. I think the Commission missed a great opportunity to help wildlife in this State and their ruling to allow trail cameras on water gives hunters an unfair advantage over wildlife. Let them put their cameras anywhere else, just not on water.

**Written Comment: July 31, 2018.** No one in this state, other than people who make a living off of our big game animals, want to see the Department issue hunt tags for raffles and auctions. It is hard to believe that a Commissioner said no to any type of funding from licenses or fees. A simple low cost habitat stamp for $5 a year would raise far more money than "Conserve and Protect" will generate. If the Department surveyed Arizona hunters and asked if they favor issuing tags for fundraising or a habitat stamp, I bet 70% of those surveyed would vote for the stamp. The Department is letting for profit people influence game management too much. Nevada just outlawed trail cameras during the hunts and the Commission just allowed this to continue. You know full well outfitters place hundreds of trail cameras so they know the size and habits of any decent elk or deer in the unit; that is not fair chase. Now, the Sportsmen for Wildlife group is leading Conserve and Protect Arizona and they are in it for the tags. Please stick to allowing biologists to manage our animals and keep the outfitters out of the advisory element.

**Written Comment: August 6, 2018.** I am a licensed guide in Arizona. I feel that the use of trail cameras in such a dry state as Arizona is not fair to the wildlife. The use of trail cameras has increased a tremendous amount in the few years that I have been hunting. Technology without limitations will certainly have a negative impact on Arizona wildlife populations. The regulation of trail camera use is like regulation of the use of aircraft for hunting. Please give our big game animals a fighting chance and keep hunting fair chase.

**Written Comment: August 6, 2018.** The Commission recognized there is a problem with the use of trail cameras. The Commission said they bench marked with other states and spoke with members of the industry and only chose to prohibit the use of wireless remote devices. This is a good start but, only a small part of the camera problem. I would like to know what states and industry they chose to listen to. I believe they left out the voice of the true Arizona sportsman. I have enjoyed the many wonderful opportunities this state has to offer and I have seen many negative things come from the use of trail cameras. It is a shame to see our wildlife commercialized by big outfitters using their pictures to make "hit lists." The outfitters are fighting very hard against regulating trail cameras because this how they sell Arizona's wildlife. It is not ethical. Trail cameras are put on water where animals have no choice but to come drink. This is harassment to the wildlife having multiple cameras flashing, making noise, and excessive human foot traffic to regularly check cameras. This happens all year, even when there are active hunters sitting on the water. Again this is not ethical. Trail cameras have put hunters against hunters. Trail cameras make many sportsmen like me uncomfortable; no one likes to have their picture taken while scouting, hunting, or enjoying the outdoors. After a recent scouting trip, I witnessed cameras set up on the roads to capture the vehicles going to game waters to see who and when they were there. One water had 12 cameras on it. I visited three of the Department's drinkers, and counted 27 cameras between them. This is harassment of the animals and other hunters. I would like to point out Babbitt Ranches and the Big Bo Ranch have placed restrictions of the use of trail cameras on their land, because of hunter confrontations, harassment to their livestock, and the increased human activity around water. I understand that some Sportsman use trail cameras in a "good" way. But, the use of trail cameras has gotten out of hand. They need to be regulated. Nevada addressed this issue by implementing a season on the use of trail cameras. The general public perception of hunting is fragile. If they were made aware of outfitters selling pictures of our trophy animals, creating "hit lists", harassing the wildlife, and other hunters turning hunting into commercialized money motivated, and ego driven taking of wildlife.

**Agency Response:** After receiving significant opposition to the proposed amendment from persons regulated by the rule, the Commission chose to remove the following language from R12-4-303(A)(5), "Within one-fourth mile (440 yards) of the outer perimeter of a developed water source, a person shall not use any trail camera, or images from a trail camera, for the purpose of taking or aiding in the take of wildlife." Because the proposed prohibition is being removed, the definition of "developed water source" was deemed unnecessary and was removed from R12-4-301.

***The following comments support prohibiting the use of any trail camera near a water source:***

**Written Comment: August 6, 2018.** My wife and I own and operate a 55,000-acre cattle ranch in Arizona. We are writing in support of the ban of trail cameras on developed water. Nearly all the permanent water on our ranch has been developed and maintained by us and is located, mostly, on our private land. Currently, we allow hunters to access our private land to hunt and scout, but trail camera use has increased dramatically in recent years. Much of the activity associated with trail cameras occurs during the most critical summer months when our cattle and the wildlife are extremely dependent on permanent water sources. Hunters who are checking their cameras often drive right up to the water trough, scaring our cattle away. Additional stress during this difficult time likely has a negative impact on the health of our herd along with wildlife populations. We like hunters and want to keep our lands open to hunting, but if this trend continues to increase and negatively affects our livestock operation, we might have to make changes. We have many friends in the ranching business who have similar concerns. A camera ban on developed waters would not affect anyone's ability to hunt and would be a big plus for hunter/landowner relations.

**Written Comment: August 6, 2018.** I own and operate a guide business in Arizona, and I am writing in support of a complete ban of trail cameras within one-fourth mile of developed waters in Arizona. With some shame, we admit to using trail cameras in our operation because it is very difficult to be competitive without them. I do not believe it is fair to the wildlife to use them on water in such a dry state. In many of Arizona's big game units, nearly all water sources are man-made and susceptible to complete coverage with trail cameras. To survive, wildlife has no choice but to be regularly monitored. With all the other advancements in hunting technology, and constant surveillance at a location that wildlife cannot possibly avoid, I cannot see how any reasonable person can think this is "fair chase". If a buck or bull gets big enough, he will be very well known, and it is only a matter of time before he is killed. If these top specimens are never

allowed to live out their lives, I think that it will eventually limit the genetic potential in Arizona's wildlife. I also feel that trail cameras are contributing to young hunters' lack of traditional hunting skills, hard work, and ethics. If this generation of hunters is taught to be reliant on technology and that it should have no limitations, they will likely feel the same about further technological advancements that are sure to come. I have been involved in several "governor's tag" hunts and I completely support the program, as the conservation funding it provides at such a small cost to the State's wildlife is unmatched. That said, the groups that are guiding these hunts are without a doubt the biggest users, and often the biggest abusers, of trail cameras. The high monetary value and extreme competition for the biggest animals tends to bring out the worst in people. Banning the use of trail cameras for a certain portion of the year will likely only play into their favor. A yearlong ban is the only reasonable and enforceable solution. I have a couple of stories of events that I was personally involved in within the last year that might give you an idea of how bad things are getting. I helped my son on a 13B deer hunt a few years ago and it was an incredible experience. It is a big unit with an amazing deer herd and low hunter densities. Fast forward to 2018 and I am helping a friend with the same hunt. There are a great many trail cameras on every water and the hunter traffic in and out of these waters in unbelievable, day and night. These hunters are obviously largely basing their hunt on the constant monitoring of their cameras at water holes. My friend's cameras were stolen during this hunt, and another hunter we know also had cameras stolen. The evening before the opening day, we glassed up a big buck that my friend wanted to hunt. We knew that the buck was well known at the water holes in the area, but we decided it would be worth giving it a try. Knowing there would likely be others hunting this buck, we went in extra early. There were two prominent hills in the area and I set up on one in the dark. We were parked near the end of a long, rough, dead end road and before daylight, nine other vehicles had parked near ours. I had a headlamp on and they all knew I was there, yet seven other people in three groups joined me on top of this small hill and set up to glass before the sun came up. Everyone was friendly and there were no problems, but I doubt if any of us considered it a quality experience. I have no doubt that without the use of trail cameras, these hunters would have been scattered over a large area. On another morning, I climbed a different hill without knowing another hunter was present and he met me with his rifle in his hands and told me that he was there first and I needed to go somewhere else. I left without incident, but I have no doubt that the continued use of trail cameras and subsequent concentration of hunters will lead to dangerous altercations. This next story took place in June and July 2018, I am going to give the people involved fictitious names: Late in 2017, one of my trail cameras that I placed on a water development photographed a giant buck. There were only a couple of other cameras on the water, but I knew that would change as soon as they looked at their photographs. Fast forward to early June 2018, there are now many cameras at this water hole. I got a call from Randy, who told me that all the cameras placed on that water development were vandalized and that he had placed two new cameras there. A couple of weeks later, John called to tell me that all of the cameras at this water were stolen, including mine and his, except for the two that Randy had placed there. A week later, Brent called to tell me he had two cameras at the same water and there were pictures of Tom, with a battery powered steel grinder, cutting the locks and cables and stealing all the other cameras. I have no doubt that Tom's decision to steal the cameras had something to do with the trophy buck that was using this water source. I hope the Commission can see that the problems with trail cameras on developed water sources far outweigh the benefits. Their use continues to increase at a rapid pace, and so will the problems.

**Agency Response:** After receiving significant opposition to the proposed amendment from persons regulated by the rule, the Commission chose to remove the following language from R12-4-303(A)(5), "Within one-fourth mile (440 yards) of the outer perimeter of a developed water source, a person shall not use any trail camera, or images from a trail camera, for the purpose of taking or aiding in the take of wildlife." Because the proposed prohibition is being removed, the definition of "developed water source" was deemed unnecessary and was removed from R12-4-301.

***The following comments propose regulating the use of trail cameras in some manner:***

**Written Comment: July 8, 2017**: I am a lifetime resident and hunter of Arizona and I am very pleased the Department is addressing the abuse of game cameras. It has become completely out of control in certain units with the number of cameras on water sources. I believe this would be a step in the right direction, but I would rather see them banned completely, or put a season on them such as February 1st to August 1st when they can be used in the field because you are going to run into enforcement issues. I know your agency is going to have a lot opposition with the game cameras but it has to be done. The hunting technology has come so far that you have to give some trophy animals a chance to survive and I believe restricting cameras will do that. This will make people have to physically scout again and give our wildlife a well needed break from 24/7, 365 days a year surveillance. Think about the majority of hunters, myself included that have long range guns, bows, range finders and big optics how much more of an advantage do we need? I would like to see more wins for wildlife in Arizona. I feel like the fight is no longer for the wildlife in our state, it's more about the money and the outfitters. This is not going to be an easy decision for your department because the commercial hunting in Arizona has become a big money business and a bunch of the large outfitters are running thousands of cameras. Make people hunt again. I also am very amazed that the archery deer hunts have not gone to a draw. We are the only state in the U.S. that offers an over the counter tag during the peak of the rut for a month long. I believe making the archery hunts a draw or disbanding the January hunt completely, or at least shortening the season would greatly benefit the deer in Arizona. If you still have to have over the counter tags make it for youth 18 and under. I know this would be a big money issue, but it's time to fight for the wildlife and not money. Between the big money, Social Media, and people basically selling animals on the internet the future of hunting looks very sad. I hope you will take the time to read this and discuss these issues. Please bring back the respect for wildlife and the real meaning of hunting. Don't let social media, outfitters, and money ruin it.

**Written Comment: July 16, 2018.** I support the rule as amended by the Commission in June, 2018 to prohibit the use of trail cameras that have the ability to transmit photos or other information; to include all methods of transmission including uploading to satellites or cell phones. I am disappointed a compromise was not considered to establish a trail camera "season" so as to prohibit their use just before and during hunting seasons. I have witnessed a number of technological advances that have lessened the hunting experience. I fear, if these trends continue along with the trophy infatuation, hunting as I have known it will cease to exist. Technology and commercialization are no friends of hunters or the activity of hunting.

**Written Comment: July 18, 2018.** I wrote a letter prior to the last meeting; after listening to the web casts and reading as many responses as I could, I still believe that the use of trail cameras should be eliminated from water, especially during hunting seasons. I do not believe the current use of cameras is ethically defensible. Eliminate the use of cameras on water during any hunting season. I have included an overview of Nevada's trail camera regulations, which I believe is very succinct. "*The Nevada Department of Wildlife wants to ensure that all outdoor enthusiasts are aware of the new seasonal restrictions on the use of trail cameras. Since 2010, trail cameras have been a topic of discussion in Nevada. The regulation was discussed in dozens of open meetings, including County Advisory Boards to Manage Wildlife, the Nevada Board of Wildlife Commission, and the Legislative Commission. The use of trail cameras, the technology associated with them, and the issues surrounding the use of them have all continued to escalate. Proponents of the regulation raised several significant issues of concern including the growing commercialization of animal location data. New internet businesses have begun buying and selling GPS location data of animals captured on trail cameras. Also, saturating all or most available water sources with trail cameras in a hunt unit not only disrupts the animals ability to obtain water as camera owners come and go from waters that have as many as 25 or more cameras, but also creates hunter congestion and hunter competition issues. The accessibility to our public lands combined with our wildlife's dependence on our extremely limited water sources make for some real challenges for both wildlife and outdoor enthusiasts. Proponents of the regulation were quick to point out that whether enhanced, protected, or human created water sources (guzzlers), the waters' primary purpose is to assist in herd health and herd growth, not for placement of a technological device at an animal concentra-*

*tion site that potentially makes it easier to kill trophy animals. The new trail camera regulation states that a person shall not place, maintain, or use a trail camera or similar device on public land, or private land without permission from the land owner, from August 1 to December 31 of each year, or if the camera is capable of transmitting the images or video, it shall not be used from July 1 to December 31. The regulation does provide some limited exemptions for livestock monitoring, research, and other miscellaneous uses. NDOW recognizes that there are wholesome and legitimate uses of trail cameras, and unfortunately the use of cameras have been exploited far beyond most sportsmen's definition of reasonable. If you come across a trail camera on public land from August 1 to December 31, NDOW is asking that you leave the camera alone, and consider calling an NDOW office to report its location.*"

**Written Comment: July 18, 2018.** I have lived in Arizona for 37 years and have hunted or at least put in for the draw every year that I have lived here. I have seen many changes to the hunting industry in that time period, some good some not so good. I do not support the use of trail cameras in Arizona for a number of reasons. It seems that every water source that I go to during a hunting season has multiple cameras ether nailed/screwed and chained to the trees surrounding the water source. The limbs of the trees are often cut to allow the camera to get a wider field to view. I would assume that cutting live trees is not be allowed in Arizona without a special permit. Cameras at water sources greatly increases the amount of foot/truck traffic to the water sources which often scares the animals away. The animals can't water or feed normally. Pictures of game can now be sent to a mobile devices which give that person an unfair advantage of other hunters. Where's the sport in knowing when and where the animals will be? There's a reason that you don't allow hunters to fly over areas during hunting seasons. I feel the use of trail cameras is the same thing as using airplanes to find game! I have attached the changes that the Nevada Game and Fish have just adopted (please see italicized text above). I am in support of those changes and would like to see them adopted in Arizona.

**Written Comment: July 20, 2018.** Please consider not allowing the use of trail cameras at least one week before or at any time during hunting season. In my opinion it gives the hunter an unfair advantage over the animal and is contrary the rules of fair chase.

**Written Comment: July 28, 2018.** I have been an Arizona resident for 60 years and have hunted Arizona for 55 years. I think the live feed cameras should definitely be banned along with those that allow you to check you camera photos from your phone/computer. I also agree that there should be a one-fourth mile rule banning against cameras around man-made water sources, just like camping. I also believe the should be a five camera limit per individual or licensed guiding operation, it is a pretty sad day when it is nearly impossible for a wild big game animal to live his life without having an extensive internet audience following his every move. A true monster does not stand a chance come hunting season, especially with the high dollar guiding operations, their employees, and their paid "scouting associates."

**Written Comment: August 1, 2018.** I have hunted and put in for the draw for the past 27 years and have never used a trail camera. I have seen the changes that trail cameras have brought, they are mostly negative changes. I do not support the use of trail cameras during hunting season for the following reasons: The impact the users have on cutting down trees or limbs to mount cameras and get better shots is an issue. The driving of stakes into the ground at drinkers causing leaks and water to be wasted and not there for the animals. The traffic at 3:00 am of people and scouts driving all over a unit checking cameras to see where an animal hit, which drives animals off the water before they have rehydrated fully is unhealthy for the animals. Once an animal is seen on camera they then call their hunter to have him come to that area. The use of cameras is comparable to having an alarm company having 24/7 monitoring of your home. This creates a situation for the animals that is not fair chase. Outfitters and other hunters are now putting pics and GPS coordinates up for sale. It is common that outfitters on the strip or Unit 9 are running close to 200 cameras each this is just one unit, this does not allow for a scenario that is fair chase to the animals. Other states such as Nevada have also recognized this issue and made changes to eliminate them during hunting season, I think that this is a very fair change. People can use cameras up to a certain date, but once hunting starts they must use actually hunting skills rather than monitoring skills to harvest an animal. These are just a few of the reasons I am against the use trail cameras during any hunting season. I have also included the rule changes made by Nevada for reference (please see italicized text above).

**Written Comment: August 10, 2018.** It is beyond me how the Commission could consider allowing the use of trail cameras to aid in the taking of animals in Arizona, especially during an active season, and a reasonable period before such season. The hunting regulations are full of prohibitions against various illegal methods of aiding or assisting in the taking of wildlife including: motor vehicles of all types, lures and other attractants, edible and ingestible substances, aircraft, powerboats, sailboats, spotlights, and dogs in certain cases. If all of these things (and more) are considered illegal and presumably unfair methods of taking game, how could the Commission allowing trail cameras at night (or daytime) at water sources, or otherwise, before and during an actual season?

**Written Comment: August 13, 2018.** The use of trail cameras is getting out of hand. While scouting for elk this year, I drove up to a tank that had 13 cameras on the drinker and two on the road to catch the trucks driving down the road. There is no privacy in the woods any more. My wife and kids got out of the truck to go to the bathroom and there was a camera mounted on a tree on the road going into the tank Trail cameras are being used for commercial use more than anything else. A person cannot sell their game meat after having it butchered. What is the difference? There is none; trail cameras need to go away and people need to go back to the old way of scouting and looking for animals. My daughter and I ran into numerous trail cameras that were left out during hunting seasons for both deer and elk. Trail cameras should not be used during any hunt; they should be taken down before any big game hunt. Trail cameras are being left up year around that is ridiculous. The Commission needs to implement the same rule that Nevada just passed (please see italicized text above). This would be a fair; the only people having problems with the previous trail camera ruling are the outfitters because they are commercializing the use of trail cameras. They are relying on the trail cameras to do the work for them; the sportsmanship has been taken out of hunting.

**Agency Response:** After receiving significant opposition to the proposed amendment from persons regulated by the rule, the Commission chose to prohibit the use of live-action trail cameras for the taking or aiding in the take of wildlife or locating wildlife for the purpose of taking or aiding in the take of wildlife.

***The following comment pertained to the Notice of Proposed Rulemaking, see 24 A.A.R. 529, March 16, 2018:***

**Written Comment: August 2, 2018.** I read the proposed changes and most sounds fine and justifiable. However, this proposal, "A person shall not use any trail camera, or images from a trail camera, for the purpose of taking or aiding in the take of wildlife within one-fourth mile (440 yards) of the outer perimeter of a developed water source." I do not think it is a necessary rule. It does not mention anything about a live-action camera or anything that indicates an animal is there right now (and sounds like tree hugger talk). To see what animals may be using the water source and what may be available to hunters should be fine and it is extremely entertaining to see what animals use a water source. I will be very disappointed if this change is approved. The magazines I read say that Arizona bowhunters have a 7-8% success rate; this is extremely low and anything that gives us a slightly better chance should be okay. There are still a ton of things that need to go just right for a bowhunter to be successful. Do not allow this change to go into effect, it will be so disappointing.

**Agency Response:** It appears the person is commenting on an earlier version of the rule that was included in the Notice of Proposed Rulemaking, see 24 A.A.R. 529, March 16, 2018. The person was provided with a copy of the Notice of Supplemental Proposed Rulemaking as approved by the Commission at the June 2018 meeting as published in the Arizona Administrative Register on July 13, 2018 and was advised the Commission's rulemaking to which his comment pertained to is on begins on page 1936 (actual page, 40th), the justification for the trail camera prohibition is in the third paragraph from the bottom on page 1939 (actual page, 43rd), and the proposed rule language is on page 1954 (actual page, 58th) under subsection (A)(4).

**THE FOLLOWING COMMENTS WERE RECEIVED IN RESPONSE TO THE NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING (SEE 24 A.A.R. 2910, OCTOBER 19, 2018):**

**Written Comment: November 2, 2018.** In my opinion, the water source is the most vital part of survival for all animals in the wild setting. Animals that may not be the target of the intended scouting suffer from the frequent visits by hunters checking their camera or set blinds, etc., because of the strain placed on the animals that use the water. Some say cameras do not violate fair chase, but they allow a person to be at home eating supper, watching their favorite hunting channel, and then getting a good night sleep while their camera is working for them 24/7. How can this be fair chase? The law throughout Arizona states you cannot leave equipment or property unattended for certain amounts of time or it becomes abandoned and subject to confiscation. If the Department is not discouraging this illegal practice then it is encouraging it. The next move will be to ban the use of trail cameras statewide or put into effect laws that require checking or moving a camera within 24 hours of placement. Some people will say a trail camera never killed an animal, is that fair chase? An airplane never killed an animal, is that fair chase? If the trail camera is not wisely managed, then it may become banned completely from use statewide; it is a case of give a little or take a lot.

**Agency Response:** As a response to the use of trail cameras comment, please see the Agency Response in the appropriate section. Under A.R.S. § 37-503(D), when mechanical equipment bearing a serial number or registration number (trail camera) is deemed "abandoned" on State land, the agency that confiscates the property is required to take all reasonable efforts to identify any lienholder of record, provide written notice to any identified lienholder of record and refrain from disposal of the property until thirty days after the date of the notice. This means the Department would be required to establish and maintain a system for storing and disposing of any confiscated property. The Department's principle operational revenue comes from the sale of hunting and fishing licenses, hunt permit-tags, stamps, and matching funds from federal excise taxes hunters and anglers pay on guns, ammunition, fishing tackle, motorboat fuels, and related equipment and Department responsibilities continue to increase or expand. The Commission and the Department have made numerous budget adjustments to address rising costs and flat revenue. Some of these budget adjustments included keeping positions vacant and making cuts to program budgets to address rising costs. At this time and under these circumstances, the Department chooses not to expend valuable resources on programs and processes that do not meet the Commission and Department's visions and goals.

**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:**

For R12-4-307, the rule complies with A.R.S. § 41-1037. The trapping license and bobcat seal described in the rule falls within the definition of "general permit" as defined under A.R.S. § 41-1001(11).

For R12-4-309, the rule complies with A.R.S. § 41-1037. The authorization described in the rule falls within the definition of "general permit" as defined under A.R.S. § 41-1001(11).

For R12-4-310, the rule complies with A.R.S. § 41-1037. The permits described in the rule falls within the definition of "general permit" as defined under A.R.S. § 41-1001(11).

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

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

For R12-4-303 and R12-4-304, Federal regulation 50 C.F.R. 20.21 is applicable to the subject of the rule. 50 C.F.R. 20.21 establishes general requirements, exceptions, and specific provisions for migratory bird hunting. The Commission has determined the rule is not more stringent than the corresponding federal law.

For R12-4-319, Federal regulation 50 C.F.R. 19 is applicable to the subject of the rule. The Commission has determined the rule is not more stringent than the corresponding federal law. 50 C.F.R. 19 establishes general prohibitions and exceptions for the use of aircraft for the taking of wildlife, requirements for the contents and filing of annual reports by the States regarding permits issued for such shooting or harassing, and regulations necessary for effective enforcement of the Fish and Wildlife Act of 1956 as amended. The Commission has determined the rule is not more stringent than the corresponding federal law.

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

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

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

Under R12-4-101, 50 C.F.R. 17.11, revised October 1, 2013.

Under R12-4-101, 50 C.F.R. 10.13 revised October 1, 2014.

Under R12-4-303 and R12-4-304, 50 C.F.R. 20.21, revised October 1, 2015.

**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
R12-4-101. Definitions

### ARTICLE 2. LICENSES; PERMITS; STAMPS; TAGS

Section
R12-4-216. Crossbow Permit

### ARTICLE 3. TAKING AND HANDLING OF WILDLIFE

Section
R12-4-301. Definitions
R12-4-302. Use of Tags
R12-4-303. Unlawful Devices, Methods, and Ammunition
R12-4-304. Lawful Methods for Taking Wild Mammals, Birds, and Reptiles
R12-4-305. Possessing, Transporting, Importing, Exporting, and Selling Carcasses or Parts of Wildlife
R12-4-306. Buffalo Hunt Requirements
R12-4-307. Trapping Regulations, Licensing; Methods; Tagging of Bobcat Pelts
R12-4-308. Wildlife Inspections, Check Stations, and Roadblocks
R12-4-309. Authorization for Use of Drugs on Wildlife
R12-4-310. Fishing Permits
R12-4-311. Exemptions from Requirement to Possess an Arizona Fishing License or Hunting License While Taking Wildlife
R12-4-313. Lawful Methods of ~~Taking~~ Take and Seasons for Aquatic Wildlife
R12-4-314. Possession, Transportation, or Importation of Aquatic Wildlife
R12-4-315. ~~Possession of Live Fish; Unattended Live Boxes and Stringers~~ Repealed
R12-4-316. ~~Possession, Transportation, or Importation of Live Baitfish, Crayfish, or Waterdogs~~ Repealed
R12-4-317. ~~Seasons for Lawfully Taking Fish, Mollusks, Crustaceans, Amphibians, and Aquatic Reptiles~~ Repealed
R12-4-318. Seasons for Lawfully Taking Wild Mammals, Birds, and Reptiles
R12-4-319. Use of Aircraft to Take Wildlife
R12-4-320. Harassment of Wildlife
R12-4-321. Restrictions for Taking Wildlife in City, County, or Town Parks and Preserves
R12-4-322. Pickup and Possession of Wildlife Carcasses or Parts

### ARTICLE 4. LIVE WILDLIFE

Section
R12-4-401. Live Wildlife Definitions

### ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

**R12-4-101. Definitions**

**A.** In addition to the definitions provided under A.R.S. § 17-101, R12-4-301, R12-4-401, and R12-4-501, the following definitions apply to this Chapter, unless otherwise specified:

"Bobcat seal" means the tag a person is required to attach to the raw pelt or unskinned carcass of any bobcat taken by trapping in Arizona or exported out of Arizona regardless of the method of take.

"Bonus point" means a credit that authorizes the Department to issue an applicant an additional computer-generated random number.

"Bow" means a long bow, flat bow, recurve bow, or compound bow of which the bowstring is drawn and held under tension entirely by the physical power of the shooter through all points of the draw cycle until the shooter purposely acts to release the bowstring either by relaxing the tension of the toes, fingers, or mouth or by triggering the release of a hand-held release aid.

"Certificate of insurance" means an official document, issued by the sponsor's and sponsor's vendors, or subcontractors insurance carrier, providing insurance against claims for injury to persons or damage to property which may arise from, or in connection with, the solicitation or event as determined by the Department.

"Cervid" means a mammal classified as a Cervidae, which includes but is not limited to caribou, elk, moose, mule deer, reindeer, wapiti, and whitetail deer; as defined in the taxonomic classification from the Integrated Taxonomic Information System, available online at www.itis.gov.

"Commission Order" means a document adopted by the Commission that does one or more of the following:

Open, close, or alter seasons,
Open areas for taking wildlife,
Set bag or possession limits for wildlife,
Set the number of permits available for limited hunts, or

Specify wildlife that may or may not be taken.

"Crossbow" means a device consisting of a bow affixed on a stock having a trigger mechanism to release the bowstring.

"Day-long" means the 24-hour period from one midnight to the following midnight.

"Department property" means those buildings or real property and wildlife areas under the jurisdiction of the Arizona Game and Fish Commission.

"Export" means to carry, send, or transport wildlife or wildlife parts out of Arizona to another state or country.

"Firearm" means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun, or other weapon that will discharge, is designed to discharge, or may readily be converted to discharge a projectile by the action of an explosion caused by the burning of smokeless powder, black powder, or black powder substitute.

"Handgun" means a firearm designed and intended to be held, gripped, and fired by one or more hands, not intended to be fired from the shoulder, and that uses the energy from an explosive in a fixed cartridge to fire a single projectile through a barrel for each single pull of the trigger.

"Hunt area" means a management unit, portion of a management unit, or group of management units, or any portion of Arizona described in a Commission Order and not included in a management unit, opened to hunting.

"Hunt number" means the number assigned by Commission Order to any hunt area where a limited number of hunt permits are available.

"Hunt permits" means the number of hunt permit-tags made available to the public as a result of a Commission Order.

"Hunt permit-tag" means a tag for a hunt for which a Commission Order has assigned a hunt number.

"Identification number" means the number assigned to each applicant or license holder by the Department as established under R12-4-111.

"Import" means to bring, send, receive, or transport wildlife or wildlife parts into Arizona from another state or country.

"License dealer" means a business authorized to sell hunting, fishing, and other licenses as established under ~~to~~ R12-4-105.

"Live baitfish" means any species of live freshwater fish designated by Commission Order as lawful for use in taking aquatic wildlife under R12-4-317.

"Management unit" means an area established by the Commission for management purposes.

"Nonpermit-tag" means a tag for a hunt for which a Commission Order does not assign a hunt number and the number of tags is not limited.

"Nonprofit organization" means an organization that is recognized under Section 501(c) of the U.S. Internal Revenue Code.

"Person" has the meaning as provided under A.R.S. § 1-215.

"Proof of purchase," for the purposes of A.R.S. § 17-331, means an original, or any authentic and verifiable form of the original, of any Department-issued license, permit, or stamp that establishes proof of actual purchase.

"Restricted nonpermit-tag" means a tag issued for a supplemental hunt as established under R12-4-115.

"Solicitation" means any activity that may be considered or interpreted as promoting, selling, or transferring products, services, memberships, or causes, or participation in an event or activity of any kind, including organizational, educational, public affairs, or protest activities, including the distribution or posting of advertising, handbills, leaflets, circulars, posters, or other printed materials for these purposes.

"Solicitation material" means advertising, circulars, flyers, handbills, leaflets, posters, or other printed information.

"Sponsor" means the person or persons conducting a solicitation or event.

"Stamp" means a form of authorization in addition to a license that authorizes the license holder to take wildlife specified by the stamp.

"Tag" means the Department authorization a person is required to obtain before taking certain wildlife as established under A.R.S. Title 17 and 12 A.A.C. 4.

"Waterdog" means the larval or metamorphosing stage of a salamander.

"Wildlife area" means an area established under 12 A.A.C. 4, Article 8.

**B.** If the following terms are used in a Commission Order, the following definitions apply:

"Antlered" means having an antler fully erupted through the skin and capable of being shed.

"Antlerless" means not having an antler, antlers, or any part of an antler erupted through the skin.

"Bearded turkey" means a turkey with a beard that extends beyond the contour feathers of the breast.

"Buck antelope" means a male pronghorn antelope.

"Adult bull ~~buffalo~~ bison" means a male ~~buffalo~~ bison of any age or any ~~buffalo~~ bison designated by a Department employee during an adult bull ~~buffalo~~ bison hunt.

"Adult cow ~~buffalo~~ bison" means a female ~~buffalo~~ bison of any age or any ~~buffalo~~ bison designated by a Department employee during an adult cow ~~buffalo~~ bison hunt.

"Bull elk" means an antlered elk.

"Designated" means the gender, age, or species of ~~an animal~~ wildlife or the specifically identified ~~animal~~ wildlife the Department authorizes to be taken and possessed with a valid tag.

"Ram" means any male bighorn sheep.

"Rooster" means a male pheasant.

"Yearling ~~buffalo~~ bison" means any ~~buffalo~~ bison less than three years of age or any ~~buffalo~~ bison designated by a Department employee during a yearling ~~buffalo~~ bison hunt.

## ARTICLE 2. LICENSES; PERMITS; STAMPS; TAGS

**R12-4-216. Crossbow Permit**

**A.** For the purposes of this Section, **"**healthcare provider**"** means a person who is licensed to practice by the federal government, any state, or U.S. territory with one of the following credentials:
Medical Doctor,
Doctor of Osteopathy,
Doctor of Chiropractic,
Nurse Practitioner, or
Physician Assistant.

**B.** A crossbow permit allows a person to use ~~a crossbow or any bow to be drawn and held with an assisting device,~~ the following devices during an archery-only season, as prescribed under R12-4-318, when authorized under R12-4-304 as lawful for the species hunted:
1. A crossbow as defined under R12-4-101,
2. Any bow to be drawn and held with an assisting device, or
3. Pre-charged pneumatic weapons, as defined under R12-4-301, using arrows or bolts and with a capacity of holding and firing only one arrow or bolt at a time.

**C.** The crossbow permit does not exempt the permit holder from any other applicable method of take or licensing requirement. The permit holder shall be responsible for compliance with all applicable regulatory requirements.

**D.** The crossbow permit does not expire, unless:
1. The medical certification portion of the application indicates the person has a temporary physical disability; then the crossbow permit shall be valid only for the period of time indicated on the crossbow permit as specified by the healthcare provider,
2. The permit holder no longer meets the criteria for obtaining the crossbow permit, or
3. The Commission revokes the person's hunting privileges under A.R.S. § 17-340. A person whose crossbow permit is revoked by the Commission may petition the Commission for a rehearing as established under R12-4-607.

**E.** An applicant for a crossbow permit shall apply by submitting an application to the Department. The application form is furnished by the Department and is available at any Department office and online at www.azgfd.gov. A crossbow permit applicant shall provide all of the following information on the application:
1. The applicant's:
   a. Name;
   b. Date of birth;
   c. Physical description, to include the applicant's eye color, hair color, height, and weight;
   d. Department identification number, when applicable;
   e. Residency status;
   f. Mailing address, when applicable;
   g. Physical address;
   h. Telephone number, when available; and
   i. E-mail address, when available;
2. Affirmation that:
   a. The applicant meets the requirements of this Section, and
   b. The information provided on the application is true and accurate, and
3. Applicant's signature and date.
4. The certification portion of the application shall be completed by a healthcare provider. The healthcare provider shall:
   a. Certify the applicant has one or more of the following physical limitations:
      i. An amputation involving body extremities required for stable function to use conventional archery equipment;
      ii. A spinal cord injury resulting in a disability to the lower extremities, leaving the applicant nonambulatory;
      iii. A wheelchair restriction;
      iv. A neuromuscular condition that prevents the applicant from drawing and holding a bow;
      v. A failed functional draw test that equals 30 pounds of resistance and involves holding it for four seconds;
      vi. A failed manual muscle test involving the grading of shoulder and elbow flexion and extension or an impaired range-of-motion test involving the shoulder or elbow; or
      vii. A combination of comparable physical disabilities resulting in the applicant's inability to draw and hold a bow.
   b. Indicate whether the disability is temporary or permanent and, when temporary, specify the expected duration of the physical limitation; and
   c. Provide the healthcare provider's:
      i. Typed or printed name,
      ii. License number,

iii. Business address,
iv. Telephone number, and
v. Signature and date;

5. A person who holds a valid Challenged Hunter Access/Mobility Permit (CHAMP) and who is applying for a crossbow permit is exempt from the requirements of subsection (E)(4) and shall indicate "CHAMP" in the space provided for the medical certification on the crossbow permit application.

**F.** All information and documentation provided by the applicant is subject to Department verification. The Department shall return the original or certified copy of a document to the applicant after verification.

**G.** The Department shall deny a crossbow permit when the applicant:
1. Fails to meet the criteria prescribed under this Section,
2. Fails to comply with the requirements of this Section, or
3. Provides false information during the application process.

**H.** The Department shall provide written notice to the applicant stating the reason for the denial. The applicant may appeal the denial to the Commission as prescribed under A.R.S. Title 41, Chapter 6, Article 10.

**I.** The applicant claiming a temporary or permanent disability is responsible for all costs associated with obtaining the medical documentation, re-evaluation of the information, or a second medical opinion.

**J.** When acting under the authority of a crossbow permit, the crossbow permit holder shall possess the permit, and exhibit the permit upon request to any peace officer, wildlife manager, or game ranger.

**K.** A crossbow permit holder shall not:
1. Transfer the permit to another person, or
2. Allow another person to use or possess the permit.

## ARTICLE 3. TAKING AND HANDLING OF WILDLIFE

**R12-4-301. Definitions**

In addition to the definitions provided under A.R.S. § 17-101 and R12-4-101, the following definitions apply to this Article unless otherwise specified:

"Administer" means to ~~pursue, capture, or otherwise restrain wildlife in order to directly~~ apply a drug directly to wildlife by injection, inhalation, ingestion, or any other means.

"Aircraft" means any contrivance used for flight in the air or any lighter-than-air contrivance, including unmanned aircraft systems also known as drones.

"Artificial ~~lures and~~ flies and lures" means man-made devices intended as visual attractants ~~for~~ to catch fish ~~and~~. Artificial flies and lures does not include living or dead organisms or edible parts of those organisms, natural or prepared food stuffs, ~~artificial salmon eggs, artificial corn,~~ or ~~artificial marshmallows~~ chemicals or organic materials intended to create a scent, flavor, or chemical stimulant to the device regardless of whether it is added or applied during or after the manufacturing process.

"Barbless hook" means any ~~fishhook~~ fish hook manufactured without barbs or on which the barbs have been completely closed or removed.

"Body-gripping trap" means a device designed to capture an animal by gripping the animal's body.

~~"Cervid" means any member of the deer family (Cervidae); which includes caribou, elk, moose, mule deer, reindeer, wapiti, and whitetail deer.~~

"Confinement trap" means a device designed to capture wildlife alive and hold it without harm.

"Crayfish net" means a net that does not exceed 36 inches on a side or in diameter and is retrieved by means of a hand-held line.

"Deadly weapon" has the same meaning as provided under A.R.S. § 13-3101.

"Device" has the same meaning as provided under A.R.S. § 17-101.

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

"Drug" means any chemical substance, other than food or mineral supplements, ~~which~~ that affects the structure or biological function of wildlife.

"Edible portions of game meat" means, for:

Upland game birds, migratory game birds and wild turkey: breast.

Bear, bighorn sheep, bison, deer, elk, javelina, mountain lion, and pronghorn antelope: front quarters, hind quarters, loins (backstraps), neck meat, and tenderloins.

Game fish: fillets of the fish.

"Evidence of legality" means the wildlife is accompanied by the applicable license, tag, stamp, or permit required by law and is identifiable as the "legal wildlife" prescribed by Commission Order, which may include evidence of species, gender, antler or horn growth, maturity, and size.

"Foothold trap" means a device designed to capture an animal by the leg or foot.

"Hybrid device" means a device with a combination of components from two or more lawful devices and is used for the take of wildlife, such as but not limited to a firearm, pneumatic weapon, or slingshot that shoots arrows or bolts.

"Instant kill trap" means a device designed to render an animal unconscious and insensitive to pain quickly with inevitable subsidence into death without recovery of consciousness.

"Land set" means any trap used on land rather than in water.

"Live-action trail camera" means an unmanned device capable of transmitting images, still photographs, video, or satellite imagery, wirelessly to a remote device such as but not limited to a computer, smart phone, or tablet. This does not include a trail camera that only records photographic or video data and stores the data for later use, provided the device is not capable of transmitting data wirelessly.

"Minnow trap" means a trap with dimensions that do not exceed 12 inches in depth, 12 inches in width, and 24 inches in length.

"Muzzleloading handgun" means a firearm intended to be fired from the hand, incapable of firing fixed ammunition, ~~having a single barrel,~~ and loaded ~~through the muzzle~~ with black powder or synthetic black powder and a single projectile.

"Muzzleloading rifle" means a firearm intended to be fired from the shoulder, incapable of firing fixed ammunition, having a single barrel ~~and single chamber~~, and loaded through the muzzle with black powder or synthetic black powder and a single projectile.

"Muzzleloading shotgun" means a firearm intended to be fired from the shoulder, incapable of firing fixed ammunition, having a single or double smooth barrel and loaded through the muzzle with black powder or synthetic black powder and using ball shot as a projectile.

~~"Nonprofit organization" means an organization that is recognized as nonprofit under Section 501(c) of the U.S. Internal Revenue Code.~~

"Paste-type bait" means a partially liquefied substance used as a lure for animals.

~~"Person" means any individual, corporation, partnership, limited liability company, non-governmental organization or club, licensed animal shelter, government entity other than the Department, and any officer, employee, volunteer, member or agent of a person.~~

"Pneumatic weapon" means a device that fires a projectile by means of air pressure or compressed gas. This does not include tools that are common in the construction and art trade such as, but not limited to, nail and rivet guns.

"Pre-charged pneumatic weapon" means an air gun or pneumatic weapon that is charged from ~~an external~~ a high compression source such as an air compressor, air tank, or internal or external hand pump.

"Prohibited possessor" has the same meaning as provided under A.R.S. § 13-3101.

"Prohibited weapon" has the same meaning as provided under A.R.S. § 13-3101.

"Rifle" means a firearm intended to be fired from the shoulder that uses the energy from an explosive in a fixed cartridge to fire a single projectile through a rifled bore for each single pull of the trigger. This does not include a pre-charged pneumatic weapon.

"Shotgun" means a firearm intended to be fired from the shoulder and that uses the energy from an explosive in a fixed shotgun shell to fire either ball shot or a single projectile through a smooth bore or rifled barrel for each pull of the trigger.

"Sight-exposed bait" means a carcass, or parts of a carcass, lying openly on the ground or suspended in a manner so that it can be seen from above by a bird. This does not include a trap flag, dried or bleached bone with no attached tissue, or less than two ounces of paste-type bait.

"Simultaneous fishing" means taking fish by using only two lines at one time and not more than two hooks or two artificial flies or lures ~~or flies~~ per line.

"Single-point barbless hook" means a fishhook with a single point, manufactured without barbs, or on which the barbs have been completely closed or removed. This does not include a treble fishhook.

"Sinkbox" means a low-floating device with a depression that affords a hunter a means of concealment beneath the surface of the water.

"Smart device" means any device equipped with a target-tracking system or an electronically-controlled, electronically-assisted, or computer-linked trigger or release. This includes but is not limited to smart rifles.

"Trap flag" means an attractant made from materials other than animal parts that is suspended at least three feet above the ground.

"Water set" means any trap used and anchored in water rather than on land.

**R12-4-302. Use of Tags**

**A.** In addition to meeting requirements prescribed under A.R.S. § 17-331, ~~an individual~~ a person who takes wildlife shall have in possession any tag required for the particular season or hunt area.

**B.** A tag obtained in violation of statute or rule is invalid and shall not be used to take, transport, or possess wildlife.

**C.** ~~An individual~~ A person who lawfully possesses both a nonpermit-tag and a hunt permit-tag shall not take a genus or species in excess of the bag limit established by Commission Order for that genus or species.

**D.** ~~An individual~~ A person shall:

1. Take and tag only the wildlife identified on the tag~~; and~~.
2. Use a tag only in the season and hunt for which the tag is valid~~,~~ as specified by Commission Order.

**E.** Except as permitted under R12-4-217, ~~an individual~~ a person shall not:
1. Allow their tag to be attached to wildlife killed by another ~~individual~~ person,
2. Allow their tag to be possessed by another ~~individual who is in a hunt area~~ person while taking wildlife,
3. Allow wildlife killed by that person to be tagged with another person's tag,
~~3.~~4. Attach their tag to wildlife killed by another ~~individual~~ person,
~~4. Attach a tag issued to another individual to wildlife,~~ or
5. Possess a tag issued to another ~~individual~~ person while ~~in a hunt area~~ taking wildlife.

**F.** Except as permitted under R12-4-217, immediately after ~~an individual~~ a person kills wildlife, the ~~individual~~ person shall attach the tag to the wildlife carcass in the manner indicated on the tag.

**G.** ~~An individual~~ A person who lawfully takes wildlife with a valid tag and authorizes another ~~individual~~ person to possess, transport, or ship the tagged portion of the carcass shall complete the Transportation and Shipping Permit portion of the original tag authorizing the take of that ~~animal~~ wildlife.

**H.** If a tag is cut, notched, mutilated, or the Transportation and Shipping Permit portion of the tag is signed or filled out, the tag is no longer valid for the take of wildlife.

**R12-4-303. Unlawful Devices, Methods, and Ammunition**

**A.** In addition to the prohibitions prescribed under A.R.S. §§ 17-301 and 17-309, the following devices, methods, and ammunition are unlawful for taking ~~any~~ wildlife in this state:
1. ~~An individual~~ A person shall not use any of the following to take wildlife:
   a. Fully automatic firearms, including firearms capable of selective automatic fire~~; or~~.
   b. Tracer~~,~~ or armor-piercing~~, or full-jacketed~~ ammunition designed for military use.
   c. Any smart device as defined under R12-4-301.
   d. Any self-guided projectiles.
2. A person shall not take big game using full-jacketed or total-jacketed bullets that are not designed to expand upon impact,
~~2.~~3. ~~An individual~~ A person shall not use or possess any of the following while taking wildlife:
   a. Poisoned projectiles or projectiles that contain explosives or a secondary propellant~~;~~.
   b. Pitfalls of greater than 5-gallon size, explosives, poisons, or stupefying substances, except as permitted under A.R.S. § 17-239 or as allowed by a scientific collecting permit issued under A.R.S. § 17-238~~;~~.
   c. Any lure, attractant, or cover scent containing any cervid urine~~;~~.
   d. Electronic night vision equipment, electronically enhanced light-gathering devices, thermal imaging devices or laser sights projecting a visible light; except for devices such as laser range finders projecting a non-visible light, scopes with self-illuminating reticles, and fiber optic sights with self-illuminating sights or pins that do not project a visible light onto an animal.
~~3.~~4. ~~An individual~~ A person shall not by any means:
   a. Hold wildlife at bay other than during daylight hours, unless authorized by Commission Order.
   b. Injure, confine, ~~or~~ place, or use a tracking device in or on wildlife for the purpose of taking or aiding ~~another individual to~~ in the take of wildlife.
   c. Place any substance, device, or object in, on, or by any water source to prevent wildlife from using that water source.
   d. Place any substance in a manner intended to attract bears.
   e. Use a manual or powered jacking or prying device to take reptiles or amphibians.
   f. Use dogs to pursue, tree, corner or hold at bay any wildlife for a hunter, unless that hunter is present for the entire hunt.
   g. Take migratory game birds, except Eurasian ~~Collared~~ collared-doves~~, using a shotgun larger than 10 gauge, a shotgun of any description capable of holding more than three shells unless it is plugged with a one-piece filler that cannot be removed without disassembling the shotgun so that its total capacity does not exceed three shells, electronically amplified bird calls, or baits, as prohibited under 50 CFR 20.21, revised October 1, 2009. The material incorporated by reference in this Section does not include any later amendments or editions. The incorporated material is available at any Department office, online from the Government Printing Office web site www.gpoaccess.gov, or may be ordered from the Superintendent of Documents, U.S. Government Printing Office, 732 N. Capitol St. N.W., Stop IDCC, Washington, D.C. 20401~~:
      i. Using a shotgun larger than 10 gauge, a shotgun of any description capable of holding more than three shells unless it is plugged with a one-piece filler that cannot be removed without disassembling the shotgun so that its total capacity does not exceed three shells.
      ii. Using electronically amplified bird calls or baits.
      iii. By means or aid of any motordriven land, water, or air conveyance, or any sailboat used for the purpose of or resulting in the concentrating, driving, rallying, or stirring up of any migratory bird.
      iv. Activities described under subsections (g)(i) through (g)(iii) are prohibited under 50 C.F.R. 20.21, revised October 1, 2015. The material incorporated by reference in this Section does not include any later amendments or editions. The incorporated material is available at any Department office, online from the Government Printing Office website www.gpoaccess.gov, or may be ordered from the Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000.
   h. Discharge ~~a pneumatic weapon .30 caliber or larger~~ any of the following devices while taking wildlife within one-fourth mile (440 yards) of an occupied farmhouse or other residence, cabin, lodge or building without permission of the owner or resident:
      i. Arrow or bolt,
      ii. Hybrid device, or
      iii. Pneumatic weapon .35 caliber or larger.
5. A person shall not use a live-action trail camera, or images from a live-action trail camera, for the purpose of:
   a. Taking or aiding in the take of wildlife, or

b. Locating wildlife for the purpose of taking or aiding in the take of wildlife.

6. A person shall not use images of wildlife produced or transmitted from a satellite or other device that orbits the earth for the purpose of:
   a. Taking or aiding in the take of wildlife, or
   b. Locating wildlife for the purpose of taking or aiding in the take of wildlife.
   c. This subsection does not prohibit the use of mapping systems or programs.

~~4.~~7. ~~An individual~~ A person shall not use edible or ingestible substances to aid in taking big game. The use of edible or ingestible substances to aid in taking big game is unlawful when:
   a. ~~An individual~~ A person places edible or ingestible substances for the purpose of attracting or taking big game, or
   b. ~~An individual~~ A person knowingly takes big game with the aid of edible or ingestible substances placed for the purpose of attracting wildlife to a specific location.

~~5.~~8. Subsection ~~(A)(4)~~ (A)(7) does not limit Department employees or Department agents in the performance of their official duties.

~~6.~~9. For the purposes of subsection ~~(A)(4)~~ (A)(7), edible or ingestible substances do not include any of the following:
   a. Water.
   b. Salt.
   c. Salt-based materials produced and manufactured for the livestock industry.
   d. Nutritional supplements produced and manufactured for the livestock industry and placed during the course of livestock or agricultural operations.

**B.** It is unlawful for a person who is a prohibited possessor to take wildlife with a deadly weapon or prohibited weapon.

~~**B.**~~**C.** Wildlife taken in violation of this Section is unlawfully taken.

~~**C.**~~**D.** This Section does not apply to any activity allowed under A.R.S. § 17-302, to ~~an individual~~ a person acting within the scope of their official duties as an employee of the state or United States, or as authorized by the Department.

**R12-4-304. Lawful Methods for Taking Wild Mammals, Birds, and Reptiles**

**A.** A hybrid device is lawful for the take of wildlife provided all components of the device are authorized for the take of that species under this Section.

**B.** ~~An individual~~ A person may only use the following methods to take big game when authorized by Commission Order and subject to the restrictions under R12-4-303 and R12-4-318.

~~1. To take antelope:~~
   ~~a. Centerfire rifles;~~
   ~~b. Muzzleloading rifles;~~
   ~~c. All other rifles using black powder or synthetic black powder;~~
   ~~d. Centerfire handguns;~~
   ~~e. Handguns using black powder or synthetic black powder;~~
   ~~f. Shotguns shooting slugs, only;~~
   ~~g. Pre-charged pneumatic weapons .35 caliber or larger;~~
   ~~i. Bows with a standard pull of 30 or more lbs, using arrows with broadheads no less than 7/8 inch in width with metal cutting edges; and~~
   ~~j. Crossbows with a minimum draw weight of 125 lbs, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal cutting edges or bows as described in subsection (A)(1)(h) to be drawn and held with an assisting device.~~

~~2.~~1. To take bear:
   a. Centerfire rifles;
   b. Muzzleloading rifles;
   c. All other rifles using black powder or synthetic black powder;
   d. Centerfire handguns;
   e. ~~Handguns using black powder or synthetic black powder~~ Muzzleloading handguns;
   f. Shotguns shooting slugs, only;
   g. Pre-charged pneumatic weapons .35 caliber or larger;
   h. Pre-charged pneumatic weapons using arrows or bolts with broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges and capable of firing a minimum of 250 feet per second;
   ~~h.~~i. Bows with a standard pull of 30 or more ~~lbs~~ pounds, using arrows with broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges;
   ~~i.~~j. Crossbows with a minimum draw weight of 125 ~~lbs~~ pounds, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges or bows as described in subsection ~~(A)(2)(h)~~ (B)(1)(i) to be drawn and held with an assisting device; and
   ~~j.~~k. Pursuit with dogs only between August 1 and December 31, provided the ~~individual~~ person shall immediately kill or release the bear after it is treed, cornered, or held at bay. For the purpose of this subsection, "release" means the ~~individual~~ person removes the dogs from the area so the bear can escape on its own after it is treed, cornered, or held at bay.

~~3.~~2. To take bighorn sheep:
   a. Centerfire rifles;
   b. Muzzleloading rifles;
   c. All other rifles using black powder or synthetic black powder;
   d. Centerfire handguns;
   e. ~~Handguns using black powder or synthetic black powder~~ Muzzleloading handguns;
   f. Shotguns shooting slugs, only;
   g. Pre-charged pneumatic weapons .35 caliber or larger;

h. Pre-charged pneumatic weapons using arrows or bolts with broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges and capable of firing a minimum of 250 feet per second;

~~h.~~i. Bows with a standard pull of 30 or more ~~lbs~~ pounds, using arrows with broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges; and

~~i.~~j. Crossbows with a minimum draw weight of 125 ~~lbs~~ pounds, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges or bows as described in subsection ~~(A)(3)(h)~~ (B)(2)(i) to be drawn and held with an assisting device.

~~4.~~3. To take ~~buffalo~~ bison:

a. ~~State-wide~~ Statewide, except for the ~~game~~ management units identified under subsection ~~(A)(4)(b)~~ (B)(3)(b):

i. Centerfire rifles;

ii. Muzzleloading rifles;

iii. All other rifles using black powder or synthetic black powder;

iv. Centerfire handguns no less than .41 Magnum or centerfire handguns with an overall cartridge length of no less than two inches;

v. Pre-charged pneumatic weapons 40 caliber or larger a minimum of 500 foot pounds of energy;

vi. Pre-charged pneumatic weapons using arrows or bolts with broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges and capable of firing a minimum of 250 feet per second; and

~~v.~~vii. Bows with a standard pull of 40 or more ~~lbs~~ pounds, using arrows with broadheads of no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges; ~~and~~

~~vi.~~viii. Crossbows with a minimum draw weight of 125 ~~lbs~~ pounds, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges or bows as described in subsection ~~(A)(4)(a)(~~ (B)(3)(a)(vi) to be drawn and held with an assisting device.

b. In ~~game management units~~ Management Units 5A and 5B:

i. Centerfire rifles,

ii. Muzzleloading rifles, and

iii. All other rifles using black powder or synthetic black powder.

~~5.~~4. To take deer:

a. Centerfire rifles;

b. Muzzleloading rifles;

c. All other rifles using black powder or synthetic black powder;

d. Centerfire handguns;

e. ~~Handguns using black powder or synthetic black powder~~ Muzzleloading handguns;

f. Shotguns shooting slugs, only;

g. Pre-charged pneumatic weapons .35 caliber or larger;

h. Pre-charged pneumatic weapons using arrows or bolts with broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges and capable of firing a minimum of 250 feet per second;

~~h.~~i. Bows with a standard pull of 30 or more ~~lbs~~ pounds, using arrows with broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges; and

~~i.~~j. Crossbows with a minimum draw weight of 125 ~~lbs~~ pounds, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges or bows as described in subsection ~~(A)(5)(h)~~ (B)(4)(i) to be drawn and held with an assisting device.

~~6.~~5. To take elk:

a. Centerfire rifles;

b. Muzzleloading rifles;

c. All other rifles using black powder or synthetic black powder;

d. Centerfire handguns;

e. ~~Handguns using black powder or synthetic black powder~~ Muzzleloading handguns;

f. Shotguns shooting slugs, only;

g. Pre-charged pneumatic weapons 40 caliber or larger and capable of firing a minimum of 500 foot pounds of energy;

h. Pre-charged pneumatic weapons using arrows or bolts with broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges and capable of firing a minimum of 250 feet per second;

~~g.~~i. Bows with a standard pull of 30 or more ~~lbs~~ pounds, using arrows with broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges; and

~~h.~~j. Crossbows with a minimum draw weight of 125 ~~lbs~~ pounds, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges or bows as described in subsection ~~(A)(6)(g)~~ (B)(5)(h) to be drawn and held with an assisting device.

~~7.~~6. To take javelina:

a. Centerfire rifles;

b. Muzzleloading rifles;

c. All other rifles using black powder or synthetic black powder;

d. Centerfire handguns;

e. ~~Handguns using black powder or synthetic black powder~~ Muzzleloading handguns;

f. Shotguns shooting slugs, only;

g. Pre-charged pneumatic weapons .35 caliber or larger;

h. Pre-charged pneumatic weapons using arrows or bolts with broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges and capable of firing a minimum of 250 feet per second;

~~h.~~i. Bows with a standard pull of 30 or more ~~lbs~~ pounds, using arrows with broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges;
~~i.~~j. Crossbows with a minimum draw weight of 125 ~~lbs~~ pounds, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges or bows as described in subsection ~~(A)(7)(h)~~ (B)(6)(i) to be drawn and held with an assisting device;
~~j.~~k. .22 rimfire magnum rifles; and
~~k.~~l. 5 mm rimfire magnum rifles.

~~8.~~7. To take mountain lion:
a. Centerfire rifles;
b. Muzzleloading rifles;
c. All other rifles using black powder or synthetic black powder;
d. Centerfire handguns;
e. ~~Handguns using black powder or synthetic black powder~~ Muzzleloading handguns;
f. Shotguns shooting slugs or shot;
g. Pre-charged pneumatic weapons .35 caliber or larger;
h. Pre-charged pneumatic weapons using arrows or bolts with broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges and capable of firing a minimum of 250 feet per second;
~~h.~~i. Bows with a standard pull of 30 or more ~~lbs~~ pounds, using arrows with broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges;
~~i.~~j. Crossbows with a minimum draw weight of 125 ~~lbs~~ pounds, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges or bows as described in subsection ~~(A)(8)(h)~~ (B)(7)(i) to be drawn and held with an assisting device;
~~j.~~k. Artificial light, during seasons with day-long hours, provided the light is not attached to or operated from a motor vehicle, motorized watercraft, watercraft under sail, or floating object towed by a motorized watercraft or a watercraft under sail; and
~~k.~~l. Pursuit with dogs, provided the ~~individual~~ person shall immediately kill or release the mountain lion after it is treed, cornered, or held at bay. For the purpose of this subsection, "release" means the ~~individual~~ person removes the dogs from the area so the mountain lion can escape on its own after it is treed, cornered, or held at bay.

8. To take pronghorn antelope:
a. Centerfire rifles;
b. Muzzleloading rifles;
c. All other rifles using black powder or synthetic black powder;
d. Centerfire handguns;
e. Muzzleloading handguns;
f. Shotguns shooting slugs, only;
g. Pre-charged pneumatic weapons .35 caliber or larger;
h. Pre-charged pneumatic weapons using arrows or bolts with broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges and capable of firing a minimum of 250 feet per second;
i. Bows with a standard pull of 30 or more pounds, using arrows with broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges; and
j. Crossbows with a minimum draw weight of 125 pounds, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges or bows as described in subsection (B)(8)(i) to be drawn and held with an assisting device.

9. To take turkey:
a. Shotguns shooting shot;
b. Bows with a standard pull of 30 or more ~~lbs~~ pounds, using arrows with broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges; and
c. Crossbows with a minimum draw weight of 125 ~~lbs~~ pounds, using bolts with a minimum length of 16 inches and broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges or bows as described in subsection ~~(A)(9)(b)~~ (B)(9)(b) to be drawn and held with an assisting device.
d. Pre-charged pneumatic weapons using arrows or bolts with broadheads no less than 7/8 inch in width with metal, ceramic-coated metal, or ceramic cutting edges and capable of firing a minimum of 250 feet per second;

~~B.~~C. ~~An individual~~ A person may only use the following methods to take small game, when authorized by Commission Order and subject to the restrictions under R12-4-303 ~~and~~, R12-4-318, and R12-4-422.

1. To take cottontail rabbits and tree squirrels:
a. Firearms,
b. Bow and arrow,
c. Crossbow,
d. Pneumatic weapons,
e. Slingshots,
f. Hand-held projectiles,
g. Falconry, and
h. Dogs.

2. To take all upland game birds and Eurasian ~~Collared~~ collared-dove:
a. Bow and arrow;
b. Falconry;

c. Pneumatic weapons;
d. Shotguns shooting shot, only;
e. Handguns shooting shot, only;
f. Crossbow;
g. Slingshot;
h. Hand-held projectiles; and
i. Dogs.

3. To take migratory game birds, except Eurasian ~~Collared~~ collared-dove:
a. Bow and arrow;
b. Crossbow;
c. Falconry;
d. Dogs;
e. Shotguns shooting shot:
i. Ten gauge or smaller, except that lead shot shall not be used or possessed while taking ducks, geese, swans, mergansers, common moorhens, or coots; and
ii. Incapable of holding more than a total of three shells~~,~~ as prescribed under 50 ~~CFR~~ C.F.R. 20.21, published October 1, ~~2009~~ 2015. The material incorporated by reference in this subsection does not include any later amendments or editions. The material is available at any Department office, online from the Government Printing Office ~~web site~~ website www.gpoaccess.gov, or may be ordered from the Superintendent of Documents, ~~U.S. Government Printing Office, 732 N. Capitol St. N.W., Stop: IDCC, Washington, D.C. 20401~~ P.O. Box 979050, St. Louis, MO 63197-9000.

**C.D.** ~~An individual~~ A person may take waterfowl from any watercraft, except a sinkbox, subject to the following conditions:
1. The motor is shut off, the sail is furled, as applicable, and any progress from a motor or sail has ceased;
2. The watercraft may be:
a. Adrift as a result of current or wind action;
b. Beached;
c. Moored;
d. Resting at anchor; or
e. Propelled by paddle, oars, or pole; and
3. The ~~individual~~ person may only use the watercraft under power to retrieve dead or crippled waterfowl; shooting is prohibited while the watercraft is ~~underway~~ under power.

~~**D.**~~**E.** ~~An individual~~ A person may take predatory and ~~furbearing~~ fur-bearing animals by using the following methods, when authorized by Commission Order and subject to the restrictions under R12-4-303 and R12-4-318:
1. Firearms;
2. Pre-charged pneumatic weapons .22 caliber or larger;
3. Bow and arrow;
4. Crossbow;
5. Traps not prohibited under R12-4-307;
6. Artificial light while taking raccoon provided the light is not attached to or operated from a motor vehicle, motorized watercraft, watercraft under sail, or floating object towed by a motorized watercraft or a watercraft under sail;
7. Artificial light while taking coyote during seasons with day-long hours, provided the light is not attached to or operated from a motor vehicle, motorized watercraft, watercraft under sail, or floating object towed by a motorized watercraft or a watercraft under sail; and
8. Dogs.

~~**E.**~~**F.** ~~An individual~~ A person may take nongame mammals and birds by any method authorized by Commission Order and not prohibited under R12-4-303 ~~or~~, R12-4-318, and R12-4-422, subject to the following restrictions. ~~An individual~~ A person:
1. Shall not take nongame mammals and birds using foothold traps;
2. Shall check pitfall traps of any size daily, release non-target species, remove pitfalls when no longer in use, and fill any holes;
3. Shall not use firearms at night; and
4. May use artificial light while taking nongame mammals and birds, if the light is not attached to or operated from a motor vehicle, motorized watercraft, watercraft under sail, or floating object towed by a motorized watercraft or a watercraft under sail.

~~**F.**~~**G.** ~~An individual~~ A person may take reptiles by any method not prohibited under R12-4-303 or R12-4-318 subject to the following restrictions. ~~An individual~~ A person:
1. Shall check pitfall traps of any size daily, release non-target species, remove pitfalls when no longer in use, and fill any holes;
2. Shall not use firearms at night; and
3. May use artificial light while taking reptiles provided the light is not attached to or operated from a motor vehicle, motorized watercraft, watercraft under sail, or floating object towed by a motorized watercraft or a watercraft under sail.

**R12-4-305. Possessing, Transporting, Importing, Exporting, and Selling Carcasses or Parts of Wildlife**

**A.** ~~An individual~~ A person shall ensure that evidence of legality remains with the carcass or parts of a carcass of any ~~wild mammal, bird, or reptile~~ wildlife that the ~~individual~~ person possesses, transports, or imports until arrival at the ~~individual's~~ person's permanent abode, a commercial processing plant, or the place where the wildlife is to be consumed.

**B.** In addition to the requirement ~~in~~ under subsection (A), ~~an individual~~ a person possessing or transporting the following wildlife shall ensure each:
1. Big game animal, sandhill crane, and pheasant has the required valid tag attached ~~as prescribed under R12-4-302~~ in the manner indicated on the tag;
2. Migratory game bird, except sandhill cranes, has one fully feathered wing attached;
3. Sandhill crane and Eurasian-collared dove has either the fully feathered head or one fully feathered wing attached; ~~and~~

4. Quail has attached a fully feathered head, or a fully feathered wing, or a leg with foot attached, when the current Commission Order has established separate bag or possession limits for any species of quail; and
5. Freshwater fish has the head, tail, or skin attached so the species can be identified and the total number and required length determined.

**C.** ~~An individual~~ A person who has lawfully taken wildlife that requires a valid tag when prescribed by the Commission may authorize its transportation or shipment by completing and signing the Transportation and Shipping Permit portion of the valid tag for that animal. A separate Transportation and Shipping Permit issued by the Department is necessary to transport or ship to another state or country any big game taken with a resident license. Under A.R.S. § 17-372(B), ~~an individual~~ a person may ship other lawfully taken wildlife by common carrier after obtaining a valid Transportation and Shipping Permit issued by the Department. The ~~individual~~ person shall provide the following information ~~on the permit form~~:
1. Number and description of the wildlife to be transported or shipped;
2. Name, address, license number, and license class of the ~~individual~~ person who took the wildlife;
3. Tag number;
4. Name and address of the ~~individual~~ person receiving a portion of the carcass of the wildlife as authorized under subsection (D), if applicable;
5. Address of destination where the wildlife is to be transported or shipped; and
6. Name and address of transporter or shipper.

**D.** ~~An individual~~ A person who lawfully takes wildlife under a tag may authorize another individual to possess the head or carcass of the wildlife by separating and attaching the tag as prescribed under R12-4-302.

**E.** ~~An individual~~ A person who receives a portion of the wildlife shall provide the identity of the ~~individual~~ person who took and gave the portion of the wildlife upon request to any peace officer, wildlife manager, or game ranger.

**F.** ~~An individual~~ A person shall not possess the horns of a bighorn sheep, taken by a hunter in this state, unless the horns are marked or sealed as ~~prescribed~~ established under R12-4-308.

**G.** Except as provided under R12-4-307, before ~~an individual~~ a person may sell, offer for sale, or export the raw pelt or unskinned carcass of a bobcat taken in this state, the ~~individual~~ person shall:
1. Present the bobcat for inspection at any Department office, and
2. Purchase a bobcat seal by paying the fee established under R12-4-102 at any Department office or other location as determined and published by the Department. Department personnel or an authorized agent shall attach and lock the bobcat seal only to a pelt or unskinned carcass presented with a validated transportation tag.

**H.** ~~An individual~~ A person who takes bear or mountain lion under A.R.S. § 17-302 ~~during a closed season~~ may retain the carcass of the wildlife if the ~~individual~~ person has a valid hunting license and the carcass is immediately tagged with a nonpermit-tag or a valid hunt permit-tag as required under R12-4-114 and R12-4-302, ~~unless~~ provided the ~~individual~~ person has ~~already taken~~ not reached the applicable bag limit for that big game animal. An animal retained under this subsection shall count ~~towards~~ toward the applicable bag limit for bear or mountain lion as authorized by Commission Order. The ~~individual~~ person shall comply with inspection and reporting requirements established under R12-4-308.

**I.** ~~An individual~~ A person may possess, transport, or import only the following portions of a cervid lawfully taken in another state or country:
1. Boneless portions of meat, or meat that has been cut and packaged either personally or commercially;
2. Clean hides and capes with no skull or soft tissue attached, except as required for proof of legality;
3. Clean skulls with antlers, clean skull plates, or antlers with no meat or soft tissue attached, this includes velvet antlers;
4. Finished taxidermy mounts or products; and
5. Upper canine teeth with no meat or tissue attached.

**J.** A private game farm license holder may transport a cervid lawfully killed or slaughtered at the license holder's game farm to a licensed meat processor.

**K.** ~~An individual~~ A person may possess or transport only the following portions of a cervid lawfully killed or slaughtered at a private game farm authorized under R12-4-413:
1. Boneless portions of meat, or meat that has been cut and packaged either personally or commercially;
2. Clean hides and capes with no skull or soft tissue attached;
3. Clean skulls with antlers, clean skull plates, or antlers with no meat or soft tissue attached, this includes velvet antlers;
4. Finished taxidermy mounts or products; and
5. Upper canine teeth with no meat or tissue attached.

**L.** ~~An individual~~ A person who obtains ~~buffalo~~ bison meat as authorized under R12-4-306 may sell the meat.

**M.** Except for cervids, which are subject to requirements established under subsections (I), (J), and (K), ~~an individual~~ a person may import into this state the carcasses or parts of wildlife, including aquatic wildlife, lawfully taken in another state or country if transported and exported in accordance with the laws of the state or country of origin.

~~**N.** An individual in possession of or transporting the carcass of any freshwater fish taken within this state shall ensure that the head, tail, or skin is attached so that the species can be identified, numbers counted, and any required length determined.~~

~~**O.**~~**N.** ~~An individual~~ A person shall not transport live crayfish from the site where taken, except as permitted under R12-4-316.

~~**P.**~~**O.** ~~An individual~~ A person in possession of a common carp (*Cyprinus carpio*), buffalofish (*Ictiobus* spp.), or crayfish (families *Astacidae, Cambaridae*, and *Parastacidae*) carcass taken under Commission Order may sell the carcass.

**R12-4-306. ~~Buffalo~~ Bison Hunt Requirements**

**A.** When authorized by Commission Order, the Department shall conduct a hunt to harvest ~~buffalo~~ bison from the state's ~~buffalo~~ bison herds.

**B.** A hunter with a ~~buffalo~~ bison permit-tag or nonpermit-tag shall, when required:
1. Provide a signed written acknowledgment that the hunter received, read, understands, and agrees to comply with the requirements of this Section.

2. Hunt in the order scheduled.
~~2. Be accompanied by an authorized Department employee, when required, and~~
3. Be accompanied by an authorized Department employee who:
   a. Shall designate the bison to be harvested, and
   b. May assist in taking the bison if the hunter fails to dispatch a wounded bison within a reasonable period of time.

~~3.~~4. Take only the ~~buffalo~~ bison designated by the Department employee~~, when required~~.

~~C. For the House Rock Herd (Units 12A, 12B, and 13A): when required by the Department, a hunter with a nonpermit-tag shall:~~
~~1. Hunt in the order scheduled.~~
~~2. Be accompanied by a Department employee who:~~
~~a. Shall designate the buffalo to be harvested, and~~
~~b. May assist in taking the buffalo if the hunter fails to dispatch a wounded buffalo within a reasonable period.~~

~~D. For the Raymond Herd (Units 5A and 5B):~~
~~1. A hunter with a permit-tag shall:~~
~~a. Hunt in the order scheduled, and~~
~~b. Be accompanied by an authorized Department employee who:~~
~~i. Shall designate the buffalo to be harvested, and~~
~~ii. May assist in taking the buffalo if the hunter fails to dispatch a wounded buffalo within a reasonable period.~~
~~2. When required by the Department, a hunter with a nonpermit-tag shall:~~
~~a. Hunt in the order scheduled,~~
~~b. Be accompanied by a Department employee who:~~
~~i. Shall designate the buffalo to be harvested.~~
~~ii. May assist in taking the buffalo if the hunter fails to dispatch a wounded buffalo within a reasonable period.~~

~~E.~~C. A hunter issued a ~~buffalo~~ bison permit-tag or ~~non-permit~~ nonpermit-tag shall check out no more than three days after the end of the hunt, regardless of whether the hunter ~~was successful, unsuccessful,~~ harvested a bison, did not harvest a bison, or did not participate in ~~a buffalo~~ the bison hunt.
1. House Rock Herd (Units 12A, 12B, and 13A): a hunter may check out either in person, electronically, or by telephone ~~at the House Rock Wildlife Area headquarters,~~ with the Department's Flagstaff regional office or Jacob Lake Check station, when open during deer season~~, or the Department's Flagstaff regional office~~.
2. Raymond Herd (Units 5A and 5B):
   a. A ~~successful~~ hunter ~~shall~~ may check out either in person, electronically, or by telephone ~~at~~ with the Department's Flagstaff regional office, or when required, with the Raymond Wildlife Area headquarters ~~or the Department's Flagstaff regional office~~. ~~The hunter shall present the buffalo harvested bison to the Department for the purpose of gathering biological data.~~
   b. ~~An unsuccessful hunter shall check out by telephone at the Raymond Wildlife Area headquarters or the Department's Flagstaff regional office~~ A hunter may be required to present the harvested bison to the Department for the purpose of gathering biological data when the bison was taken in Units 5A or 5B and a Department employee did not accompany the hunter during the bison hunt.
3. At the time of ~~check-out~~ check out, the hunter shall provide all of the following information:
   a. Hunter's name,
   b. Hunter's contact number,
   c. Tag number,
   d. Sex of ~~buffalo~~ bison taken,
   e. Age of the ~~buffalo~~ bison taken: adult or yearling,
   f. Number of days hunted, and
   g. Number of ~~buffalo~~ bison seen while hunting.
4. ~~When accompanied by an~~ An authorized Department employee who accompanies the hunter, ~~the employee~~ shall conduct the ~~check-out~~ check out at the end of the hunt.

~~F.~~D. Failure to comply with the requirements of this Section shall result in the invalidation of the hunter's permit-tag or nonpermit-tag, consistent with the written acknowledgment signed and agreed to by the hunter.

**R12-4-307. Trapping Regulations, Licensing; Methods; Tagging of Bobcat Pelts**

**A.** An Arizona trapping license permits ~~an individual~~ a person to trap predatory and fur-bearing animals. ~~The Department shall issue a registration number to a trapper and enter the number on the trapping license at the time the trapper purchases the license. The trapper registration number is not transferable.~~

**B.** A trapping license is required for any ~~individual~~ person ~~14~~ 10 years of age and older. ~~An individual~~ A person under the age of ~~14~~ 10 is not required to purchase a trapping license, but shall apply for and obtain a registration number. The trapper registration number is not transferable.

**C.** ~~An individual~~ A person born on or after January 1, 1967 shall successfully complete a Department-approved trapping education course before applying for a trapping license.

**D.** ~~An individual~~ A person applying for a trapping registration number or trapping license shall pay the applicable fees established under R12-4-102.

**E.** ~~An individual~~ A person applying for a trapping registration number or trapping license shall apply using a form furnished by the Department. The form is available at any Department office and online at www.azgfd.gov. The ~~individual~~ person shall provide all of the following information on the form:
~~1. Applicant's:~~
~~a. Full name, address, and telephone number;~~
~~b. Date of birth and physical description;~~
~~2. Identification number assigned by the Department;~~

1. The applicant's personal information:
   a. Name;
   b. Date of birth;
   c. Physical description, to include the applicant's eye color, hair color, height, and weight;
   d. Department identification number;
   e. Residency status and number of years of residency immediately preceding application, when applicable;
   f. Mailing address, when applicable;
   g. Physical address;
   h. Telephone number, when available; and
   i. E-mail address, when available;
~~3.~~2. Category of license:
   a. Resident,
   b. Nonresident, or
   c. ~~Juvenile~~ Youth, and
~~4.~~3. The applicant's signature and date.

**F.** A trapper may only trap predatory and fur-bearing animals during trapping seasons established by Commission Order.

**G.** A trapper shall:
1. Inspect traps daily;
2. Kill or release all predatory and fur-bearing animals;
3. Possess a choke restraint device that enables the trapper to release a javelina from a trap when trapping in a javelina hunt unit~~,~~ as designated by Commission Order;
4. Possess a device that is designed or manufactured to restrain a trapped animal while it is being removed from a trap when its release is required ~~by~~ under this Section; and
5. Release, without additional injury, all animals that cannot lawfully be taken by trap.
6. Subsections (G)(3) and (G)(4) do not apply when the trapper is using a confinement trap.

**H.** A trapper shall not:
1. Bait a confinement trap with:
   a. A live animal;
   b. Any edible parts of small game, big game, or game fish; or
   c. Any part of any game bird or nongame bird.
2. Set any trap within:
   a. One-half mile (880 yards) of any of the following areas developed for public use:
      i. Boat ramp or launching area,
      ii. Camping area,
      iii. Picnic area, ~~or~~
      iv. Roadside rest area, or
      v. Developed wildlife viewing platform.
   b. One-half mile of any occupied ~~residence~~ farmhouse or other residence, cabin, lodge or building without permission of the owner or resident.
   c. One-hundred yards of an interstate highway or any other highway maintained by the Arizona Department of Transportation.
   d. Fifty feet of any trail maintained for public use by a government agency.
   e. Seventy-five feet of any other road as defined under A.R.S. § 17-101.
   f. Subsections (H)(2)(b), (H)(2)(c), (H)(2)(d), and (H)(2)(e) do not apply when the trapper is using a confinement trap.
3. Set a foothold trap within 30 feet of sight-exposed bait.
4. Use any:
   a. Body-gripping or other instant kill trap with an open jaw spread that exceeds 5 inches for any land set or 10 inches for any water set;
   b. Foothold trap with an open jaw spread that exceeds 7 1/2 inches for any water set;
   c. Snare, unless authorized under subsection (I);
   d. Trap with an open jaw spread that exceeds 6 1/2 inches for any land set; or
   e. Trap with teeth.

**I.** A trapper who uses a foothold trap to take wildlife with a land set shall use commercially manufactured traps that meet the following specifications:
1. A padded or rubber-jawed trap or an unpadded trap with jaws permanently offset to a minimum of 3/16 inch and a device that allows for pan tension adjustment;
2. A foothold trap that captures wildlife by means of an enclosed bar or spring designed to prevent the capture of non-targeted wildlife or domestic animals; or
3. A powered cable device with an inside frame hinge width no wider than 6 inches, a cable loop stop size of at least 2 inches in diameter to prevent capture of small non-target species, and a device that allows for a pan tension adjustment.

**J.** A trapper who uses a foothold trap to take wildlife with a land set shall ensure that the trap has an anchor chain equipped with at least two swivels as follows:
1. An anchor chain 12 inches or less in length shall have a swivel attached at each end.
2. An anchor chain greater than 12 inches in length shall have one swivel attached at the trap and one swivel attached within 12 inches of the trap. The anchor chain shall be equipped with a shock-absorbing spring that requires less than 40 pounds of force to extend or open the spring.

**K.** A trapper shall ensure that each trap has either the name and address or the registration number of the trapper marked on a metal tag attached to the trap. The registration number assigned by the Department is the only acceptable registration number.

**L.** A trapper shall immediately attach a valid bobcat transportation tag to the pelt or unskinned carcass of a bobcat taken in this state. The trapper shall validate the transportation tag by providing all of the following information on the bobcat transportation tag:
1. Current trapping license number,
2. ~~Game management~~ Management unit where the bobcat was taken,
3. Sex of the bobcat, and
4. Method by which the bobcat was taken.

**M.** The Department shall provide transportation tags with each trapping license. Additional transportation tags are available at any Department office at no charge.

**N.** A trapper shall ensure that all bobcats taken in this state have a bobcat seal attached and locked either through the mouth and an eye opening or through both eye openings no later than ~~10 days after the close of trapping season~~ April 1 of each year.
1. When available, bobcat seals are issued on a first-come, first-served basis at Department offices and other locations at those times and places as determined and published by the Department.
2. The trapper shall pay the bobcat seal fee established under R12-4-102.
3. Department personnel or an authorized agent shall attach and lock a bobcat seal only to a pelt or unskinned carcass presented with a validated transportation tag and a complete lower jaw identified with labels provided with the transportation tag. Department personnel or authorized agents shall collect the transportation tags and jaws before attaching the bobcat seal.

**O.** Department personnel shall attach a bobcat seal to a bobcat pelt seized under A.R.S. § 17-211(E)(4) before disposal by the Department to the public.

**P.** A licensed trapper shall file the annual report prescribed under A.R.S. § 17-361(D). The report form is available at any Department office and online at www.azgfd.gov.
1. The trapper shall submit the report to Arizona Game and Fish Department, ~~Game~~ Terrestrial Wildlife Branch, 5000 W. Carefree Highway, Phoenix, AZ 85086 by April 1 of each year.
2. A report is required even when trapping activities were not conducted. ~~The report form is available at any Department office and online at www.azgfd.gov.~~
3. The Department shall deny a trapping license to any trapper who fails to submit an annual report until the trapper complies with reporting requirements.

**Q.** Persons suffering property loss or damage due to wildlife and who take responsive measures as permitted under A.R.S. §§ 17-239 and 17-302 are exempt from this Section. This exemption does not authorize any form of trapping prohibited under A.R.S. § 17-301.

**R12-4-308. Wildlife Inspections, Check Stations, and Roadblocks**

**A.** The Department has the authority to establish mandatory wildlife check stations.
1. The Department shall publish in the Commission Order establishing the season the:
   a. Location,
   b. Check in requirements, and
   c. ~~Check-out~~ Check out requirements for that specific season.
2. The Department shall ensure a wildlife check station with a published:
   a. Check in requirement is open:
      i. 8:00 a.m. the day before the season until 8:00 p.m. the first day of the season, and
      ii. 8:00 a.m. to 8:00 p.m. during each day of the season.
   b. ~~Check-out~~ Check out requirement is open:
      i. 8:00 a.m. to 8:00 p.m. during each day of the season, and
      ii. Until 12:00 ~~noon~~ p.m. on the day after the close of the season.
3. A hunter shall:
   a. Check in at a wildlife check station in person before hunting when the Department includes a check in requirement in the Commission Order for that season;
   b. Check out at a wildlife check station in person after hunting when the Department includes a ~~check-out~~ check out requirement in the Commission Order for that season and shall:
      i. Present for inspection any wildlife taken; and
      ii. Display any license, tag, or permit required for taking or transporting wildlife.

**B.** The Department may conduct inspections of lawfully taken wildlife at the Department's Phoenix and regional offices or designated locations during the posted business hours.
1. A bighorn sheep hunter shall check out either in person or by designee within three days after the close of the season. The hunter or designee shall submit the intact horns and skull for inspection and photographing. A Department representative shall affix a mark or seal to one horn of each bighorn sheep lawfully taken under Commission Order. It is unlawful for any person to remove, alter, or obliterate the mark or seal.
2. A ~~successful~~ hunter who harvests a bear or mountain lion ~~hunter~~ shall:
   a. Report information about the kill to the Department either in person or by telephone within 48 hours of taking the wildlife. The report shall include the:
      i. Name of the hunter,
      ii. Hunter's hunting license number,
      iii. Sex of the wildlife taken,
      iv. Management unit where the wildlife was taken,
      v. Telephone number where the hunter can be reached for additional information, and
      vi. Any additional information required by the Department.

b. Present either in person or by designee the skull, hide, and attached proof of sex for inspection within 10 days of taking the wildlife. If a hunter freezes the skull or hide before presenting it for inspection, the hunter shall prop the jaw open to allow access to the teeth and ensure that the attached proof of sex is identifiable and accessible.

3. For seasons other than bear, bighorn sheep, or mountain lion, ~~where~~ a hunter who harvests wildlife for which a harvest objective is established, ~~a successful hunter~~ shall report information about the kill either in person or by telephone within 48 hours of taking the wildlife. The report shall include the information required under subsection (B)(2)(a).

**C.** The Director may establish vehicle roadblocks at specific locations when necessary to ensure compliance with applicable wildlife laws. Any occupant of a vehicle at a roadblock shall, upon request, present for inspection all wildlife in possession, and ~~produce and display any license, tag, stamp, or permit required for taking or transporting wildlife~~ provide evidence of legality as defined under R12-4-301.

**D.** This Section does not limit the game ranger or wildlife manager's authority to conduct stops, searches, and inspections authorized under A.R.S. §§ 17-211(E), 17-250(A)(4), and 17-331, or to establish voluntary wildlife survey stations to gather biological information.

**R12-4-309. Authorization for Use of Drugs on Wildlife**

**A.** A person shall not administer any drug to any wildlife under the jurisdiction of the state, including but not limited to drugs used for fertility control, disease prevention or treatment, immobilization, or growth stimulation without written authorization from the Department or as otherwise provided under subsection (E). This authorization does not:

1. Exempt a person from any state or federal statute, rule, or regulation, or any municipal or county code or ordinance; or
2. Authorize a person to engage in any activity using federally protected wildlife.

**B.** A person requesting written authorization for the use of drugs on wildlife shall submit the request in writing to the Department at 5000 W. Carefree ~~Hwy~~ Highway, Phoenix, AZ 85086 and at least 120 days before the anticipated start date of the activity ~~and provide~~. The written request shall include all of the following:

1. A plan that includes:
   a. The purpose and need for the proposed activity;
   b. A clear statement of the objectives; for fertility control the statement shall include the target wildlife population goals or densities and the anticipated time-frame for meeting these objectives;
   c. A description of the agent, drug, or method ~~including federal approvals or permits obtained, as applicable,~~ and any mandated labeling restrictions or limitations designed to reduce or minimize detrimental effects to wildlife and humans;
   ~~d. Required approvals, including, but not limited to, any federal or state agency approvals for specific use;~~
   ~~e.~~d. Citations of published scientific literature documenting field studies on the efficacy and safety for both target and non-target species, including predators, scavengers, and humans;
   ~~f.~~e. A description of the activity area;
   ~~g.~~f. A description of the target species population and current status;
   ~~h.~~g. A description of the field methodology for delivery that includes the following, as applicable:
      i. Timing,
      ii. Sex and number of animals to be treated,
      iii. Percentage of the population to be treated,
      iv. Calculated population effect, and
      v. Short and long term monitoring and evaluation procedures.
2. Documentation regarding the experience and credentials of the applicant or the applicant's agents as it applies to the requested activity;
~~3. Written endorsement from the agency or institution; required when the applicant is a government agency, university, or other institution; and~~
~~4.~~3. Written permission from landowners or lessees in all locations where the drug will be administered~~.~~; and
4. Written endorsement from the agency or institution; required when the applicant is a government agency, university, or other institution. The person signing the written endorsement shall have the authority to execute the written endorsement on behalf of the agency or institution.

**C.** The Department shall notify the applicant of the Department's decision to grant or deny the request within 90 days. The Department has the authority to place conditions on the written authorization regarding:

1. Locations and time-frames,
2. Drugs and methodology,
3. Limitations,
4. Reporting requirements, and
5. Any other conditions deemed necessary by the Department.

**D.** A person with authorization shall:

1. Carry written authorization while engaged in the activity and exhibit it upon request to any peace officer, wildlife manager, or game ranger;
2. Allow Department personnel to be present to monitor activities for compliance, public safety, and proper treatment of animals;
3. Adhere to all drug label restrictions and precautions;
4. Provide an annual and final report:
   a. The annual report ~~must~~ shall include the number of animals treated, the level of treatment effect obtained to date, and any problems including mortalities or morbidities of target animals. The person shall submit the annual report to the Department by January 31 of each year or as otherwise specified in the written authorization.
   b. The final report ~~must~~ shall include the end results, including the number of wildlife treated and treatment effects on target and non-target wildlife, including mortalities, morbidities, and reproductive rate changes. The person shall submit the final report to the Department no later than 90 days after the completion of the project for which the permit was issued.

5. Comply with all conditions and requirements set forth in the written authorization.

**E.** This Section does not prohibit the treatment of wildlife by a licensed veterinarian or holder of a special license in accordance with ~~R12-4-407(A)(2)~~ R12-4-407(B)(2) and (8), ~~R12-4-428(B)(13),~~ R12-4-413(K)(5), R12-4-420(J)(3), activities as authorized under R12-4-418, R12-4-420, R12-4-421, and R12-4-423, ~~an individual~~ a person exempt from special licensing under R12-4-407(A)(4) and (5), or reasonable lethal removal activities for wildlife control as authorized under A.R.S. § 17-239(A).

**F.** This Section does not limit:
1. Department employees or Department agents in the performance of their official duties related to wildlife management,
2. The practices of aquaculture facilities administered by the ~~US~~ U.S. Fish and Wildlife Service, and commercial aquaculture facilities operating under a valid license from the Arizona Department of Agriculture, or
3. The use of supplements or drugs as a part of conventional livestock operations where those supplements may incidentally be consumed by wildlife.

**G.** The Department shall take possession of and dispose of any remaining wildlife drugs administered in violation of this Section and any devices and paraphernalia used to administer those drugs~~,~~ as authorized under A.R.S. §§ 17-211(E), 17-231(A), and 17-240(B).

**H.** Require the person with authorization to indemnify the Department against any injury or damage resulting from the use of animal drugs.

**R12-4-310. Fishing Permits**

**A.** The Department may issue a fishing permit to state, county, or municipal agencies or departments and to nonprofit organizations ~~licensed by or contracted with the Department of Economic Security or Department of Health Services,~~ whose primary purpose is to provide ~~physical or mental rehabilitation or training~~ treatment and care for ~~individuals~~ persons with physical, developmental, or mental disabilities.

**B.** The permit:
1. Is valid for ~~the~~ any two days ~~specified on the permit~~ within a 30 day period;
2. Authorizes ~~up to 20 individuals~~ persons with physical, developmental, or mental disabilities to fish without a fishing license upon any public waters except that fishing in the waters of the Colorado River is restricted to fishing from the Arizona shoreline only, unless the persons fishing under the authority of the permit also possess a valid Colorado River stamp from the adjacent state; and
3. Does not exempt ~~individuals~~ persons fishing under the authority of the permit from compliance with other statutes, Commission Orders, and rules not contained in this Section.

**C.** An applicant for a fishing permit shall submit a properly completed application to the Department. The application is furnished by the Department and is available from any Department office and online at www.azgfd.gov.
1. The applicant shall provide all of the following information:
   a. The name, address, and telephone number of the agency, department, or nonprofit organization requesting the permit;
   b. The name, position title, and telephone number of the ~~individuals~~ persons responsible for supervising the ~~individuals~~ persons fishing under the authority of the permit;
   c. The total number of ~~individuals~~ persons who will be fishing under the authority of the permit;
   d. The dates ~~of the two days~~ for which the permit will be ~~valid~~ used; and
   e. The location for which the permit will be valid.
2. In addition to the information required under subsection (C)(1), nonprofit organizations shall also submit ~~documentation that they are licensed by or have a contract with the Department of Economic Security or the Department of Health Services for the purpose of providing rehabilitation or treatment services to individuals or groups with physical, developmental, or mental disabilities~~:
   a. A copy of the organization's articles of incorporation and evidence that the organization has tax-exempt status under Section 501(c) of the Internal Revenue Code, unless a current and correct copy is already on file with the Department; and
   b. Document identifying the organization's mission.

**D.** The Department shall ~~issue~~ either grant or deny the fishing permit ~~to an applicant within 30 calendar days of receiving an application~~ within the applicable overall time-frame established under R12-4-106.

**E.** The fishing permit holder shall provide instruction on fish identification, fishing ethics, safety, and techniques to the ~~individuals~~ persons who will be fishing under authority of the permit~~. The Department shall provide~~ the ~~lesson plan for this instruction to the permit holder~~ curriculum outline provided by the Department.

**F.** Each ~~individual~~ person fishing ~~without a license~~ under the sole authority of the fishing permit may take only one-half the regular bag limit established by Commission Order for any species, unless the regular bag limit is one, in which case the permit authorizes the regular bag limit.

**G.** The permit holder shall submit a report to the Department ~~not~~ no later than 30 days after the end of the authorized fishing dates. The report form is furnished by the Department and is available at any Department office. The permit holder shall report all of the following information on the form:
1. The fishing permit number and the information contained in the permit;
2. The total number of ~~individuals~~ persons who fished and total hours fished;
3. The total number of fish caught, kept, and released, by species.

**H.** The Department may deny future fishing permits to a permit holder who failed to submit the report required under subsection (G) until the permit holder complies with reporting requirements.

**R12-4-311. Exemptions from Requirement to Possess an Arizona Fishing License or Hunting License While Taking Wildlife**

In addition to the exemptions prescribed under A.R.S. § 17-335, R12-4-206(E), R12-4-207(E), and R12-4-209(E) and provided the person's fishing ~~and~~, hunting, or trapping license privileges are not currently revoked by the Commission:
1. A fishing license is not required when a person is:
   a. Fishing from artificial ponds, tanks, and lakes contained entirely on private lands that are not:

i. Open to the public, and
ii. Managed by the Department.

b. Taking ~~terrestrial mollusks or crustaceans~~ from private property nonnative terrestrial mollusks, such as but not limited to brown garden snails (Helix aspersa) and decolatta snails (Rumina decollata), or crustaceans, such as crayfish.

c. Fishing in Arizona on any designated Saturday occurring during National Fishing and Boating Week, except in waters of the Colorado River forming the common boundaries between Arizona and California, Nevada, or Utah where fishing without a license is limited to the shoreline, unless the state with concurrent jurisdiction removes licensing requirements on the same day.

d. Participating in an introductory fishing education program sanctioned by the Department, during scheduled program hours, only. A sanctioned program shall have a Department employee, ~~sport fishing contractor,~~ or authorized volunteer instructor present during scheduled program hours. For the purposes of this subsection, "authorized volunteer instructor" means a person who has successfully passed the Department's required background check, or provided documentation of the person's application for a fingerprint clearance card, and sport fishing education workshop.

2. A hunting license is not required when a person is participating in an introductory hunting event organized, sanctioned, or sponsored by the Department. The person may hunt small game, ~~furbearing~~ fur-bearing, predator, and designated mammals during scheduled event hours, only. To hunt migratory game birds, the ~~individual~~ person shall have any stamps required by federal regulation. The introductory hunting event shall have a Department employee, certified hunter education instructor, or authorized volunteer present during scheduled hunting hours. For the purposes of this subsection, "authorized volunteer" means a person who has successfully passed the Department's required background check, or provided documentation of the person's application for a fingerprint clearance card, and Department event best practices training ~~or provide documentation of the person's application for a fingerprint clearance card~~. This subsection does not apply to any event that requires ~~participants~~ a participant to obtain a permit-tag or nonpermit-tag.

**R12-4-313. Lawful Methods of ~~Taking~~ Take and Seasons for Aquatic Wildlife**

**A.** ~~An individual may take aquatic wildlife as defined under A.R.S. § 17-101, subject~~ Subject to the restrictions ~~prescribed under R12-4-303, R12-4-317, and~~ of this Section~~. Aquatic~~, a person may take aquatic wildlife ~~may be taken~~ during the day or night ~~and may be taken~~ using artificial light as prescribed under A.R.S. § 17-301. When a fish die-off is imminent or when otherwise deemed appropriate, the Commission may designate a special season by Commission Order to allow fish to be taken by hand or by any hand-held, non-motorized implement that does not discharge a projectile.

**B.** ~~The Commission may, through Commission Order, prescribe legal sizes for possession of aquatic wildlife.~~

~~**C.**~~**B.** ~~An individual~~ A person who possesses a valid Arizona fishing license may take aquatic wildlife by angling or simultaneous fishing as defined under R12-4-301 with any bait, artificial ~~lure~~ fly, or ~~fly~~ lure subject to the following restrictions~~, an individual~~:

~~1. Shall not possess aquatic wildlife other than aquatic wildlife prescribed by Commission Order;~~

~~2.~~1. ~~Shall not use~~ Except for sunfish of the genus Lepomis, the flesh of game fish may not be used as bait~~, except sunfish of the genus Lepomis;~~.

~~3.~~2. ~~May use live~~ Live baitfish, as defined under R12-4-101, may only be used in designated areas ~~designated~~ prescribed by Commission Order~~;~~ and designated areas may subsequently be closed or restricted by Commission Order.

~~4.~~3. ~~Shall~~ Waterdogs may not ~~use waterdogs~~ be used as live bait in that portion of Santa Cruz County lying east and south of State Highway 82 or that portion of Cochise County lying west of the San Pedro River and south of State Highway 82.

4. Shall not use more than two lines at any one time.

5. The Commission may further restrict the lawful methods of take on particular waters by designating one or more of the following special seasons by Commission Order:

a. An "artificial flies and lures" season in which only artificial flies and lures may be used in designated areas,

b. A "barbless hooks" season in which only the use of barbless or single-point barbless hooks may be used in designated areas,

c. An "immediate kill or release" season in which a person must kill and retain the designated species as part of the person's bag limit or immediately release the wildlife,

d. A "catch and immediate release" in which a person must immediately release the designated species, or

e. An "immediate kill" season in which a person must immediately kill and retain the designated species as part of the person's bag limit.

~~**D.**~~**C.** In addition to angling, ~~an individual~~ a person who possesses a valid Arizona fishing license may also take the following aquatic wildlife using the following methods~~, subject to the restrictions established under R12-4-303, R12-4-317, and this Section~~:

1. A hybrid device is lawful for the take of aquatic wildlife provided all components of the device are authorized for the take of that species under this subsection.

~~1.~~2. Carp (Cyprinus carpio), buffalofish, mullet, tilapia, goldfish, and shad may be taken by:

a. Bow and arrow,
b. Crossbow,
c. Snare,
d. Gig,
e. Spear or spear gun, or
f. Snagging,

3. A person shall not use any of the methods of take listed under subsection (C)(2) within 200 yards of a designated swimming area as indicated by way of posted signs or notices.

~~2.~~4. Except for snagging, ~~an individual~~ a person shall not use any of the methods of take listed under subsection ~~(D)(1)~~ (C)(2) within 200 yards of any boat dock or ~~designated swimming area~~ fishing pier.

~~3.~~5. Striped bass may be taken by spear or spear gun in waters designated by Commission Order.

~~4. Live baitfish may be taken for personal use as bait by:~~

~~a. A cast net not to exceed a radius of 4 feet measured from the horn to the leadline;~~
~~b. A minnow trap, as defined under R12-4-301;~~
~~c. A seine net not to exceed 10 feet in length and 4 feet in width; or~~
~~d. A dip net.~~

~~5.~~6. Catfish may be taken by bow and arrow or crossbow in waters designated by Commission Order.

~~6.~~7. Amphibians, soft-shelled turtles, mollusks, and crustaceans may be taken by minnow trap, crayfish net, hand, or with any hand-held, non-motorized implement that does not discharge a projectile, unless otherwise permitted under this Section.

~~7.~~8. In addition to the methods described under subsection ~~(D)(6)~~ (C)(7), bullfrogs may be taken by:
a. Bow and arrow,
b. Crossbow,
c. Pneumatic weapon, or
d. Slingshot.

9. Live baitfish may be taken for personal use as bait by:
a. A cast net not to exceed a radius of 4 feet measured from the horn to the leadline;
b. A minnow trap, as defined under R12-4-301;
c. A seine net not to exceed 10 feet in length and 4 feet in width; or
d. A dip net.

~~8.~~10. In addition to the methods described under subsection ~~(D)(6)~~ (C)(7), crayfish may be taken with the following devices:
a. A trap not more than 3 feet in the greatest dimension,
b. A dip net as defined under R12-4-301, or
c. A seine net not larger than 10 feet in length and 4 feet in width.

~~E. An individual who uses a crayfish net and minnow trap shall:~~
~~1. Attach a water-resistant identification tag to the trap when it is unattended. The tag shall include the individual's:~~
~~a. Name,~~
~~b. Address, and~~
~~c. Fishing license number.~~
~~2. Raise and empty the trap daily.~~

11. The Commission may further restrict the lawful methods of take on particular waters by designating one or more of the following special seasons by Commission Order:
a. A "snagging" season in which a person may use this method only at times and locations designated by Commission Order, or
b. A "spear or spear gun" season in which a person may use this method only at times and locations designated by Commission Order.

**D.** Aquatic wildlife taken in violation of this Section is unlawfully taken.

**R12-4-314. ~~Repealed~~ Possession, Transportation, or Importation of Aquatic Wildlife**

**A.** The Commission may prescribe legal sizes for possession of aquatic wildlife through Commission Order.

**B.** A person who possesses a valid Arizona fishing license may possess live aquatic wildlife lawfully taken on the waters where taken, but the person shall not transport the aquatic wildlife alive from the waters where taken except that:
1. A person may transport live baitfish listed in subsection C(1);
2. A person may transport live waterdogs except in the portion of Santa Cruz County lying east and south of State Highway 82 or the portion of Cochise County lying west of the San Pedro River and south of State Highway 82; and
3. Any crayfish taken on waters within Yuma or La Paz Counties may be transported alive for use as live bait in that portion of La Paz County west of Highway 95 and south of Interstate 10, Yuma County, and on the Colorado River from the Palo Verde Diversion Dam downstream to the Southern international boundary with Mexico.

**C.** A person who possesses a valid Arizona fishing license may import, transport, or possess live baitfish, crayfish, or waterdogs for personal use as live bait only as follows:
1. A person may possess or transport only the following live baitfish for personal use as live bait:
a. Fathead minnow (Pimephales promelas),
b. Golden shiners (Notemigonus crysoleucas),
b. Goldfish (Carassius auratus),
c. Longfin Dace (Agosia chrysogaster)
d. Sonora Sucker (Catostomus insignis),
e. Speckled Dace (Rhynicthys osculus), and
f. Desert Sucker (Catostomus clarki).
2. A person may import for personal use live baitfish listed in subsection (C)(1) from:
a. California or Nevada, or
b. From any other state with accompanying documentation certifying that the fish are free of Furunculosis.
3. A person may import, transport, or possess live waterdogs for personal use as bait, except in the portion of Santa Cruz County lying east and south of State Highway 82 or the portion of Cochise County lying west of the San Pedro River and south of State Highway 82.
4. A person shall not import, transport, or move live crayfish between waters for personal use as live bait except as allowed in 12 A.A.C. 4, Article 4, or except as allowed in subsection (B)(3).

**D.** A person shall attach water-resistant identification to any unattended live boxes or stringers holding fish and ensure the identification bears the person's:
1. Name,
2. Address, and

3. Fishing license number.

**E.** A person who uses a crayfish net or a minnow trap shall raise and empty the trap daily and shall attach water-resistant identification to any unattended traps and ensure the identification bears the person's:
1. Name,
2. Address, and
3. Fishing license number.

**F.** A person shall not knowingly disturb the crayfish net, live box, minnow trap, or stringer of another unless authorized to do so by the owner.

**R12-4-315. ~~Possession of Live Fish; Unattended Live Boxes and Stringers~~ Repealed**

~~**A.** An individual may possess fish taken alive as provided under R12-4-313 on the waters where taken, except when the take or possession is expressly prohibited under R12-4-313 or R12-4-317, but the individual shall not transport the fish alive from the waters where taken except as authorized under R12-4-316.~~

~~**B.** An individual shall attach water resistant identification to any unattended live boxes or stringers holding fish and ensure the identification bears the individual's:~~
~~1. Name,~~
~~2. Address, and~~
~~3. Fishing license number.~~

**R12-4-316. ~~Possession, Transportation, or Importation of Live Baitfish, Crayfish, or Waterdogs~~ Repealed**

~~**A.** An individual may possess live baitfish, crayfish, or waterdogs for use as live bait only as established under R12-4-317 and this Section.~~

~~**B.** An individual may possess or transport the following live baitfish for personal use as live bait as established under R12-4-317:~~
~~1. Fathead minnow (*Pimephales promelas*),~~
~~2. Mosquitofish (*Gambusia affinis*),~~
~~3. Threadfin shad (**Dorosoma petenense**),~~
~~4. Golden shiners (*Notemigonus crysoleucas*), and~~
~~5. Goldfish (*Carassius auratus*).~~

~~**C.** An individual who possesses a valid Arizona fishing license may:~~
~~1. Import, transport, or possess live waterdogs for personal use as bait, except in the portion of Santa Cruz County lying east and south of State Highway 82 or the portion of Cochise County lying west of the San Pedro River and south of State Highway 82.~~
~~2. Import live baitfish listed under subsection (B) from California or Nevada without accompanying documentation certifying the fish are free of disease.~~
~~3. Import live baitfish listed under subsection (B) from any other state with accompanying documentation certifying that the fish are free of Furunculosis.~~

~~**D.** An individual may:~~
~~1. Trap or capture live crayfish as provided under R12-4-313.~~
~~2. Use live crayfish as bait only in the body of water where trapped or captured, not in an adjacent body of water, except for the portion of La Paz County west of Highway 95 and south of Interstate 10, Yuma County, and on the Colorado River from the Palo Verde Diversion Dam downstream to the Southern international boundary with Mexico.~~

~~**E.** An individual shall not:~~
~~1. Import, transport, move between waters, or possess live crayfish for personal use as live bait except as allowed in 12 A.A.C. 4, Article 4, and except for the portion of La Paz County west of Highway 95 and south of Interstate 10, Yuma County, and on the Colorado River from the Palo Verde Diversion Dam downstream to the southern international boundary with Mexico.~~
~~2. Transport crayfish alive from the site where taken except for the portion of La Paz County west of Highway 95 and south of Interstate 10, Yuma County, and on the Colorado River from the Palo Verde Diversion Dam downstream to the southern international boundary with Mexico.~~
~~3. Import, transport, move between waters, or possess live red shiner (Cyprinella lutrensis) for personal use.~~

**R12-4-317. ~~Seasons for Lawfully Taking Fish, Mollusks, Crustaceans, Amphibians, and Aquatic Reptiles~~ Repealed**

~~**A.** Methods of lawfully taking aquatic wildlife during seasons designated by Commission Order as "general" seasons are designated under R12-4-313.~~

~~**B.** Other seasons designated by Commission Order have specific requirements and lawful methods of take more restrictive than those for general seasons, as prescribed under this Section. While taking aquatic wildlife under R12-4-313 an individual participating in:~~
~~1. An "artificial lures and flies only" season shall use only artificial lures and flies as defined under R12-4-301. The Commission may further restrict "artificial lures and flies only" season to the use of barbless or single barbless hooks as defined under R12-4-301.~~
~~2. A "live baitfish" season shall not possess or use any species of fish as live bait at, in, or upon any waters unless that species is specified as a live baitfish for those waters by Commission Order. Live baitfish shall not be transported from the waters where taken except as authorized under R12-4-316.~~
~~3. An "immediate kill or release" season shall kill and retain the designated species as part of the bag limit or immediately release the wildlife. Further fishing is prohibited after the legal bag limit is killed.~~
~~4. A "catch and immediate release" season shall immediately release the designated species.~~
~~5. An "immediate kill" season shall immediately kill and retain the designated species as part of the bag limit.~~
~~6. A "snagging" season shall use this method only at times and locations designated by Commission Order.~~
~~7. A "spear or spear gun" season shall use this method only at times and locations designated by Commission Order.~~

~~C. A "special" season may be designated by Commission Order to allow fish to be taken by hand or by any hand-held, non-motorized implement that does not discharge a projectile. The "special" season may apply to any waters where a fish die-off is imminent due either to poor or low water conditions, Department fish renovation activities, or as designated by Commission Order.~~

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

**A.** Methods of lawfully taking wild mammals, birds, and reptiles during seasons designated by Commission Order as **"**general**"** seasons are designated under R12-4-304.
1. Lawful devices are defined under R12-4-101 and R12-4-301.
2. Lawful devices are listed under this Section by the range of effectiveness, from greatest range to least range.
3. A hybrid device may be used in a general season, provided:
   a. All components of the hybrid device are designated as lawful for a given species under R12-4-304, and
   b. No components are prohibited under R12-4-303.

**B.** Methods of lawfully taking big game during seasons designated by Commission Order as **"**special**"** are designated under R12-4-304. "Special" seasons are open only to a person who possesses a special big game license tag authorized under A.R.S. § 17-346 and R12-4-120.

**C.** When designated by Commission Order, the following seasons have specific requirements and lawful methods of take more restrictive than those for general and special seasons~~,~~ as ~~prescribed~~ established under this Section. While taking the species authorized by the season, a person participating in:
1. A "CHAMP" season shall be a challenged hunter access/mobility permit holder as established under R12-4-217.
2. A "youth-only hunt" shall be under the age of 18. A youth hunter whose 18th birthday occurs during a "youth-only hunt" for which the youth hunter has a valid permit or tag may continue to participate for the duration of that "youth-only hunt."
3. 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. A person participating in a "pursuit-only" season shall possess and, at the request of Department personnel, produce an appropriate and valid hunting license and any required tag for taking the animal pursued, even though there shall be no kill.
4. 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 "archery-only" season shall not use 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. A person participating in an "archery-only" season may use one or more of the following methods or devices if authorized under R12-4-304 as lawful for the species hunted:
   a. Bows and arrows, and
   b. Falconry.
6. A "handgun, archery, and muzzleloader (HAM)" season may use one or more of the following methods or devices if authorized under R12-4-304 as lawful for the species hunted:
   ~~a. Bows and arrows,~~
   ~~b. Crossbows or bows to be drawn and held with an assisting device,~~
   ~~c. Handguns, and~~
   ~~d. Muzzle-loading rifles as defined under R12-4-301.~~
   a. Muzzleloading rifles,
   b. Handguns,
   c. Muzzleloading handguns,
   d. Bows and arrows,
   e. Crossbows or bows to be drawn and held with an assisting device, and
   f. Pre-charged pneumatic weapons capable of holding and discharging a single projectile .35 caliber or larger.
7. A "muzzleloader" season may use one or more of the following methods or devices if authorized under R12-4-304 as lawful for the species hunted:
   ~~a. Bows and arrows;~~
   ~~b. Crossbows or bows to be drawn and held with an assisting device; and~~
   ~~c. Muzzleloading rifles or handguns, as defined under R12-4-301.~~
   a. Muzzleloading rifles or muzzleloading handguns,
   b. Bows and arrows, and
   c. Crossbows or bows to be drawn and held with an assisting device.
8. A "limited weapon" season may use one or more of the following methods or devices for taking wildlife, if authorized under R12-4-304 as lawful for the species hunted:
   ~~a. Any trap except foothold traps,~~
   ~~b. Bows and arrows,~~
   ~~c. Capture by hand,~~
   ~~d. Crossbows or bows to be drawn and held with an assisting device,~~
   ~~e. Dogs,~~
   ~~f. Falconry,~~
   ~~g. Hand-propelled projectiles,~~
   ~~h. Nets,~~
   ~~i. Pneumatic weapons discharging a single projectile .25 caliber or smaller, or~~
   ~~j. Slingshots.~~
   a. Bows and arrows,
   b. Crossbows or bows to be drawn and held with an assisting device,
   c. Pneumatic weapons capable of holding and discharging a single projectile .25 caliber or smaller,

d. Hand-propelled projectiles,
e. Any trap except foothold traps,
f. Slingshots,
g. Dogs,
h. Falconry,
i. Nets, or
j. Capture by hand.

9. A "limited weapon hand or hand-held implement" season may use one or more of the following methods or devices for taking wildlife, if authorized under R12-4-304 as lawful for the species hunted:
   a. Catch-pole,
   b. Hand,
   c. Snake hook, or
   d. Snake tongs.
10. A "limited weapon-pneumatic" season may use one or more of the following methods or devices for taking wildlife, if authorized 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 .25 caliber or smaller, or~~
   ~~g. Slingshots.~~
   a. Pneumatic weapons discharging a single projectile .25 caliber or smaller,
   b. Hand-propelled projectiles,
   c. Slingshots,
   d. Dogs,
   e. Falconry,
   f. Nets, or
   g. Capture by hand.
11. A "limited weapon-rimfire" season may use one or more of the following methods or devices for taking wildlife, if authorized under R12-4-304 as lawful for the species hunted:
   ~~a. Any trap except foothold traps,~~
   ~~b. Bows and arrows,~~
   ~~c. Capture by hand,~~
   ~~d. Crossbows 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.~~
   a. Rifled firearms using rimfire cartridges,
   b. Shotgun shooting shot or slug,
   c. Bows and arrows,
   d. Crossbows or bows to be drawn and held with an assisting device,
   e. Pneumatic weapons,
   f. Hand-propelled projectiles,
   g. Any trap except foothold traps,
   h. Slingshots,
   i. Dogs,
   j. Falconry,
   k. Nets, or
   l. Capture by hand.
12. A "limited weapon-shotgun" season may use one or more of the following methods or devices for taking wildlife, if authorized under R12-4-304 as lawful for the species hunted:
   ~~a. Any trap except foothold traps,~~
   ~~b. Bows and arrows,~~
   ~~c. Capture by hand,~~
   ~~d. Crossbows 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.~~
a. Shotgun shooting shot or slug,
b. Muzzleloading shotgun,
c. Bows and arrows,
d. Crossbows or bows to be drawn and held with an assisting device,
e. Pneumatic weapons,
f. Hand-propelled projectiles,
g. Any trap except foothold traps,
h. Slingshots,
i. Dogs,
j. Falconry,
k. Nets, or
l. Capture by hand.

13. A "limited weapon-shotgun shooting shot" season may use one or more of the following methods or devices for taking wildlife, if authorized under R12-4-304 as lawful for the species hunted:
~~a. Any trap except foothold traps,~~
~~b. Bows and arrows,~~
~~c. Capture by hand,~~
~~d. Crossbows 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.~~
a. Shotgun shooting shot,
b. Muzzleloading shotgun shooting shot,
c. Bows and arrows,
d. Crossbows or bows to be drawn and held with an assisting device,
e. Pneumatic weapons,
f. Hand-propelled projectiles,
g. Any trap except foothold traps,
h. Slingshots,
i. Dogs,
j. Falconry,
k. Nets, or
l. Capture by hand.

14. 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. A "raptor capture" season shall be a falconer licensed under R12-4-422 unless exempt under R12-4-407.

**R12-4-319. Use of Aircraft to Take Wildlife**

~~**A.** For the purposes of this Section, "locate" means any act or activity that does not take or harass wildlife and is directed at locating or finding wildlife in a hunt area.~~

~~**B.**~~**A.** ~~An individual~~ A person shall not take or assist in taking wildlife from or with the aid of aircraft, including drones.

~~**C.**~~**B.** Except in hunt units with Commission-ordered special seasons under R12-4-115 and R12-4-120 and hunt units with seasons only for mountain lion and no other concurrent big game season, ~~an individual~~ a person shall not locate or assist in locating wildlife from or with the aid of an aircraft, including drones, in a hunt unit with an open big game season. This restriction begins 48 hours before the opening of a big game season in a hunt unit and extends until the close of the big game season for that hunt unit.

~~**D.**~~C. ~~An individual~~ A person who possesses a special big game license tag for a special season under R12-4-115 or R12-4-120 or ~~an individual~~ a person who assists or will assist such a licensee shall not use an aircraft, including drones, to locate wildlife beginning 48 hours before and during a Commission-ordered special season.

~~**E.**~~**D.** This Section does not apply to any ~~individual~~ person acting within the scope of official duties as an employee or authorized agent of the state or the United States to manage or protect or aid in the management or protection of land, water, wildlife, livestock, domesticated animals, human life, or crops.

**E.** For the purposes of this Section, "locate" means any act or activity that does not take or harass wildlife and is directed at locating or finding wildlife in a hunt area.

**R12-4-320. Harassment of Wildlife**

**A.** In addition to the provisions established under A.R.S. § 17-301, it is unlawful to harass, molest, chase, rally, concentrate, herd, intercept, torment, or drive wildlife with or from any aircraft, including drones, as defined under R12-4-301, or with or from any motorized terrestrial or aquatic vehicle.

**B.** This Section does not apply to ~~individual's~~ person's acting:
1. In accordance with the provisions established under A.R.S. § 17-239; or

2. Within the scope of official duties as an employee or authorized agent of the state or the United States to manage or protect or aid in the management or protection of land, water, wildlife, livestock, domesticated animals, human life, or crops.

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

**A.** All city, county, and town parks and preserves are closed to hunting and trapping, 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~~ person from hunting ~~or trapping~~ within ~~1/4~~ one-fourth mile (440) yards) or trapping within one half mile (880 yards) of any:
   a. Developed picnic area,
   b. Developed campground,
   c. Developed trailhead,
   d. Developed wildlife viewing platform,
   ~~e~~c. Boat ramp,
   ~~d~~f. Shooting range,
   ~~e~~g. Occupied structure, or
   ~~f~~h. Golf course.
2. Require ~~an individual~~ a person entering a city, county, or town park or preserve, for the purpose of hunting, to declare the ~~individual's~~ person's intent to hunt within ~~when entering~~ the park or preserve, if the park or preserve has ~~an entry station in operation~~ a check in process established.
3. Allow ~~an individual~~ a person to take wildlife in a city, county, or town park or preserve only during the posted park or preserve hours.

**C.** The requirements of subsection (B)(1) do not apply to a reptile and amphibian limited weapon hand or hand-held implement season established by Commission Order.

**R12-4-322. Pickup and Possession of Wildlife Carcasses or Parts**

**A.** For the purposes of this Section, the following definitions apply:

1. "Fresh" means the majority of the wildlife carcass or part is not exposed dry bone and is comprised mainly of hair, hide, or flesh.
2. "Not fresh" means the majority of the wildlife carcass or part is exposed dry bone due to natural processes such as scavenging, decomposition, or weathering.

**B.** If not contrary to federal law or regulation, ~~an individual~~ a person may pick up and possess naturally shed antlers or horns or other wildlife parts that are not fresh without a permit or inspection by a Department law enforcement officer.

**C.** If not contrary to federal law or regulation, ~~an individual~~ a person may only pick up and possess a fresh wildlife carcass or its parts under this Section if the ~~individual~~ person notifies the Department prior to pick up and possession and:

1. The Department's first report or knowledge of the carcass or its parts is voluntarily provided by the ~~individual~~ person wanting to possess the carcass or its parts;
2. A Department law enforcement officer or an authorized Department employee or agent is able to observe the carcass or its parts at the site where the animal was found in the same condition and location as when the animal was originally found by the ~~individual~~ person wanting to possess the carcass or its parts; and
3. A Department law enforcement officer, using the officer's education, training, and experience, determines the animal died from natural causes. The Department may require the ~~individual~~ person to take the officer to the site where the animal carcass or parts were found when an adequate description or location cannot be provided to the officer.

**D.** If a Department law enforcement officer determines that the ~~individual~~ person wanting to possess the carcass or its parts is authorized to do so under subsection (C), the officer may authorize possession of the carcass or its parts.

**E.** Wildlife parts picked up and possessed from areas under control of jurisdictions that prohibit such activity, such as other states, reservations, or national parks, are illegal to possess in this state.

**F.** This Section does not authorize the pickup and possession of a threatened or endangered species carcass or its parts.

**R12-4-401. Live Wildlife Definitions**

In addition to definitions provided under A.R.S. § 17-101, and for the purposes of this Article, the following definitions apply:

"Adoption" means the transfer of custody of live wildlife to a member of the public, initiated by either the Department or its authorized agent, when no special license is required.

"Agent" means the person identified on a special license and who assists a special license holder in performing activities authorized by the special license to achieve the objectives for which the license was issued. "Agent" has the same meaning as "sublicensee" and "subpermittee" as these terms are used for the purpose of federal permits.

"Aquarium trade" means the commercial industry and its customers who lawfully trade in aquatic live wildlife.

"Aversion training" means behavioral training in which an aversive stimulus is paired with an undesirable behavior in order to reduce or eliminate that behavior.

"Captive live wildlife" means live wildlife held in captivity, physically restrained, confined, impaired, or deterred to prevent it from escaping to the wild or moving freely in the wild.

"Captive-reared" means wildlife born, bred, raised, or held in captivity.

~~"Cervid" means a mammal classified as a Cervidae or member of the deer family found anywhere in the world as defined in the taxonomic classification from the Integrated Taxonomic Information System, available online at www.itis.gov.~~

"Circus" means a scheduled event where a variety of entertainment is the principal business, primary purpose, and attraction. "Circus" does not include animal displays or exhibits held as an attraction for a secondary commercial endeavor.

"Commercial purpose" means the bartering, buying, leasing, loaning, offering to sell, selling, trading, exporting or importing of wildlife or their parts for monetary gain.

"Domestic" means an animal species that does not exist in the wild, and includes animal species that have only become feral after they were released by humans who held them in captivity or individuals or populations that escaped from human captivity.

"Educational display" means a display of captive live wildlife to increase public understanding of wildlife biology, conservation, and management without requiring or soliciting payment from an audience or an event sponsor. For the purposes of this Article, "to display for educational purposes" refers to display as part of an educational display.

"Educational institution" means any entity that provides instructional services or education-related services to persons.

"Endangered or threatened wildlife" means wildlife listed under 50 C.F.R. 17.11, revised October 1, 2013, which is incorporated by reference. A copy of the list is available at any Department office, online at www.gpoaccess.gov, or may be ordered from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000. This incorporation by reference does not include any later amendments or editions of the incorporated material.

"Evidence of lawful possession" means any license or permit authorizing possession of a specific live wildlife species or individual, or other documentation establishing lawful possession. Other forms of documentation may include, but are not limited to, a statement issued by the country or state of origin verifying a license or permit for that specific live wildlife species or individual is not required.

"Exhibit" means to display captive live wildlife in public or to allow photography of captive live wildlife for any commercial purpose.

"Exotic" means wildlife or offspring of wildlife not native to North America.

"Fish farm" means a commercial operation designed and operated for propagating, rearing, or selling aquatic wildlife for any purpose.

"Game farm" means a commercial operation designed and operated for the purpose of propagating, rearing, or selling terrestrial wildlife or the parts of terrestrial wildlife for any purpose stated under R12-4-413.

"Health certificate" means a certificate of an inspection completed by a licensed veterinarian verifying the animal examined appears to be healthy and free of infectious, contagious, and communicable diseases.

"Hybrid wildlife" means an offspring from two different wildlife species or genera. Offspring from a wildlife species and a domestic animal species are not considered wildlife.

"Live baitfish" means any species of live freshwater fish designated by Commission Order as lawful for use in taking aquatic wildlife under R12-4-313 and R12-4-317.

"Live bait" means aquatic live wildlife used or intended for use in taking aquatic wildlife.

"Migratory birds" mean all species listed under 50 C.F.R. 10.13 revised October 1, 2014, and no later amendments or editions. The incorporated material is available from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000, and is on file with the Department.

"Noncommercial purpose" means the use of products or services developed using wildlife for which no compensation or monetary value is received.

"Nonhuman primate" means any nonhuman member of the order Primate of mammals including prosimians, monkeys, and apes.

"Nonnative" means wildlife or its offspring that did not occur naturally within the present boundaries of Arizona before European settlement.

~~"Person" has the same meaning as defined under A.R.S. § 1-215.~~

"Photography" means any process that creates durable images of wildlife or parts of wildlife by recording light or other electromagnetic radiation, either chemically by means of a light-sensitive material or electronically by means of an image sensor.

"Rehabilitated wildlife" means live wildlife that is injured, orphaned, sick, or otherwise debilitated and is provided care to restore it to a healthy condition suitable for release to the wild or for lawful captive use.

"Research facility" means any association, institution, organization, school, except an elementary or secondary school, or society that uses or intends to use live animals in research.

"Restricted live wildlife" means wildlife that cannot be imported, exported, or possessed without a special license or lawful exemption.

"Shooting preserve" means any operation where live wildlife is released for the purpose of hunting.

"Special license" means any license issued under this Article, including any additional stipulations placed on the license authorizing specific activities normally prohibited under A.R.S. § 17-306 and R12-4-402.

"Species of greatest conservation need" means any species listed in the Department's Arizona's State Wildlife Action Plan list Tier 1a and 1b published by the Arizona Game and Fish Department. The material is available for inspection at any Department office and online at www.azgfd.gov.

"Stock" and "stocking" means to release live aquatic wildlife into public or private waters other than the waters where taken.

"Taxa" means groups of animals within specific classes of wildlife occurring in the state with common characteristics that establish relatively similar requirements for habitat, food, and other ecological, genetic, or behavioral factors.

"Unique identifier" means a permanent marking made of alphanumeric characters that identifies an individual animal, which may include, but is not limited to, a tattoo or microchip.

"USFWS" means the United States Fish and Wildlife Service.

"Volunteer" means a person who:

Assists a special license holder in conducting activities authorized under the special license,

Is under the direct supervision of the license holder at the premises described on the license,

Is not designated as an agent, and

Receives no compensation.

"Wildlife disease" means any disease that poses a health risk to wildlife in Arizona.

"Zoo" means any facility licensed by the Arizona Game and Fish Department under R12-4-420 or, for facilities located outside of Arizona, licensed or recognized by the applicable governing agency.

"Zoonotic" means a disease that can be transmitted from animals to humans or, more specifically, a disease that normally exists in animals but that can infect humans.

# NOTICES OF RULEMAKING DOCKET OPENING

This section of the *Arizona Administrative Register* contains Notices of Rulemaking Docket Opening.

A docket opening is the first part of the administrative rulemaking process. It is an "announcement" that the agency intends to work on its rules.

When an agency opens a rulemaking docket to consider rulemaking, the Administrative Procedure Act (APA) requires the publication of the Notice of Rulemaking Docket Opening.

Under the APA effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process. Many times an agency may file the Notice of Rulemaking Docket Opening with the Notice of Proposed Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these notices. Questions about the interpretation of this information should be directed to the agency contact person listed in item #4 of this notice.

## NOTICE OF RULEMAKING DOCKET OPENING

### DEPARTMENT OF ENVIRONMENTAL QUALITY
### AIR POLLUTION CONTROL

[R19-73]

**1. Title and its heading:** 18, Environmental Quality

**Chapter and its heading:** 2, Department of Environmental Quality – Air Pollution Control

**Article and its heading:** 1, General

**Section numbers:** R18-2-101

**2. The subject matter of the proposed rule:**

The Arizona Department of Environmental Quality is considering amending its new source review (NSR) rules to remedy a deficiency identified by the Environmental Protection Agency (EPA) in its 2016 limited disapproval and 2017 conditional approval of the state's NSR program. The amendment that would be included in this rulemaking is necessary to secure EPA's approval of the rules as part of the state implementation plan (SIP) under the federal Clean Air Act.

The proposed change updates the definition of "significant" to add a specific significant emissions rate for major stationary sources of ammonia ($NH_3$) as a precursor to $PM_{2.5}$.

**3. A citation to all published notices relating to the proceeding:**

Notice of Proposed Rulemaking: 25 A.A.R. 991, April 26, 2019 (*in this issue*)

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

Name: Zachary Dorn
Address: Department of Environmental Quality
1110 W. Washington St.
Phoenix, AZ 85007
Telephone: (602) 771-4585
Fax: (602) 771-2366
E-mail: dorn.zachary@azdeq.gov

**5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**

Refer to the Notice of Proposed Rulemaking on page 991 of this issue.

**6. A timetable for agency decisions or other action on the proceeding, if known:**

See the Notice of Proposed Rulemaking in this issue.

# NOTICES OF PUBLIC INFORMATION

Notices of Public Information contain corrections that agencies wish to make to their notices of rulemaking; miscellaneous rulemaking information that does not fit into any other category of notice; and other types of information required by statute to be published in the Register.

Because of the variety of Notices of Public Information, the Office of the Secretary of State has not established a specific publishing format for these notices. We do however require agencies to use a numbered list of questions and answers and follow our filing requirements by presenting receipts with electronic and paper copies.

## NOTICE OF PUBLIC INFORMATION

### DEPARTMENT OF ENVIRONMENTAL QUALITY
### WATER POLLUTION CONTROL

[M19-37]

**1. Name of the agency:**

Arizona Department of Environmental Quality

**2. Subject of the notice:**

Notice of Public Information and Hearing Re: Proposed Reissuance of Construction General Permit (CGP) for Stormwater Discharges Associated with Construction Activities

**3. A brief description of the proposed general permit:**

Pursuant to 18 A.A.C. 9, Article 9, R18-9-C901 and -C903, the Department is proposing to reissue a general permit under the Arizona Pollutant Discharge Elimination System (AZPDES), authorizing stormwater discharges associated with construction activities (40 CFR § 122.26(b)(14)(x) and 122.26(b)(15)) to waters of the U.S. The proposed permit is intended to replace permit AZG2013-001.

These permits are issued pursuant to Section 402(p) of the federal Clean Water Act, in compliance with state statutes and rules.

**4. A description of the permit area:**

The proposed general permit authorizes stormwater discharges associated with construction activities in Arizona, except for Indian Country as defined in 18 U.S.C. § 1151.

**5. How to obtain copies of the draft permit documents:**

Copies of the proposed general permit and accompanying fact sheet are available upon request from the agency personnel listed in item 8, below, and on the Department's website at http://azdeq.gov/notices. The proposed general permit and fact sheet are also available in the Records Center at the Arizona Department of Environmental Quality, 1110 West Washington Street, Phoenix, Arizona, and may be reviewed any time between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding legal holidays.

**6. The time during which the agency will accept written comments:**

Comments on the proposed general permit must be submitted c/o Christopher Henninger at the address, or e-mail address provided below, and received or postmarked no later than May 28, 2019.

**7. Time, Date, and Location of Public Hearing:**

Date: Tuesday, May 28, 2019

Time: 9:00 a.m.

Location: Arizona Department of Environmental Quality
1110 W. Washington,
Phoenix, AZ 85007

**8. The name, address, and telephone number of agency personnel to whom questions and comments on the general permit may be addressed:**

Name: Christopher Henninger

Address: Arizona Department of Environmental Quality
Water Quality Division, Surface Water Section
1110 W. Washington, 5415A-1
Phoenix, AZ 85007

Telephone: (602) 771-4409

E-mail: henninger.christopher@azdeq.gov

# NOTICES OF SUBSTANTIVE POLICY STATEMENT

The *Administrative Procedure Act* (APA) requires the publication of Notices of Substantive Policy Statement issued by agencies (A.R.S. § 41-1013(B)(9)).

Substantive policy statements are written expressions which inform the general public of an agency's current approach to rule or regulation practice.

Substantive policy statements are advisory only. A substantive policy statement does not include internal procedural documents that only affect an agency's internal procedures and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the APA.

If you believe that a substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under A.R.S. § 41-1033 for a review of the statement.

## NOTICE OF SUBSTANTIVE POLICY STATEMENT

### DEPARTMENT OF HEALTH SERVICES

[M19-38]

**1. Subject of the substantive policy statement and the substantive policy statement number by which the policy statement is referenced:**

SP-099-PHS-EDC: Clarification of Responsibilities of Individuals Administering Vaccines

**2. Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date:**

Issuance and effective date: April 3, 2019

**3. Summary of the contents of the substantive policy statement:**

The substantive policy statement notifies the public how the Arizona Department of Health Services interprets the required provision of information related to the administration of a vaccine in Arizona Administrative Code (A.A.C.) R9-6-703(C)(1) and R9-6-703(D)(1).

**4. Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement:**

A.A.C. R9-6-703

**5. A statement as to whether the substantive policy statement is a new statement or a revision:**

This is a new substantive policy statement.

**6. The name and address of the person to whom questions and comments about the substantive policy statement may be directed:**

Name: Dana Goodloe, Office Chief
Address: Arizona Department of Health Services
Bureau of Epidemiology and Disease Control
150 N. 18th Ave., Suite 120
Phoenix, AZ 85007
Telephone: (602) 364-3630
Fax Number: (602) 364-3285
E-mail: Dana.Goodloe@azdhs.gov

or

Name: Robert Lane, Chief
Address: Arizona Department of Health Services
Office of Administrative Counsel and Rules
150 N. 18th Ave., Suite 200
Phoenix, AZ 85007
Telephone: (602) 542-1020
Fax: (602) 364-1150
E-mail: Robert.Lane@azdhs.gov

**7. Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement:**

A copy of the substantive policy statement is available, free of charge, from the Arizona Department of Health Services, Office of Administrative Counsel and Rules at the following web address: https://azdhs.gov/director/administrative-counsel-rules/rules/index.php#sps-preparedness. A copy of the substantive policy statement may also be obtained from the Arizona Department of Health Services, Bureau of Epidemiology and Disease Control, 150 N. 18th Avenue, Suite 120, Phoenix, AZ 85007 for 25 cents per page. Payment is accepted in cash or money order made payable to the Arizona Department of Health Services.

# GOVERNOR EXECUTIVE ORDER

Executive Order 2019-01 is being reproduced in each issue of the *Administrative Register* as a notice to the public regarding state agencies' rulemaking activities.

This order has been reproduced in its entirety as submitted.

## EXECUTIVE ORDER 2019-01

### Moratorium on Rulemaking to Promote Job Creation and Customer-Service-Oriented Agencies; Protecting Consumers Against Fraudulent Activities

[M19-04]

**WHEREAS**, government regulations should be as limited as possible; and

**WHEREAS**, burdensome regulations inhibit job growth and economic development; and

**WHEREAS**, protecting the public health, peace and safety of the residents of Arizona is a top priority of state government; and

**WHEREAS**, in 2015 the State of Arizona implemented a moratorium on all new regulatory rulemaking by State agencies through executive order and renewed the moratorium in 2016, 2017 and 2018; and

**WHEREAS**, the State of Arizona eliminated or repealed 422 needless regulations in 2018 and 676 in 2017 for a total of 1,098 needless regulations eliminated or repealed over two years; and

**WHEREAS**, estimates show these eliminations saved job creators more than $31 million in operating costs in 2018 and $48 million in 2017 for a total of over $79 million in savings over two years; and

**WHEREAS**, approximately 283,300 private sector jobs have been added to Arizona since January 2015; and

**WHEREAS**, all government agencies of the State of Arizona should continue to promote customer-service-oriented principles for the people that it serves; and

**WHEREAS**, each State agency shall continue to conduct a critical and comprehensive review of its administrative rules and take action to reduce the regulatory burden, administrative delay and legal uncertainty associated with government regulation while protecting the health, peace and safety of residents; and

**WHEREAS**, each State agency should continue to evaluate its administrative rules using any available and reliable data and performance metrics; and

**WHEREAS**, Article 5, Section 4 of the Arizona Constitution and Title 41, Chapter 1, Article 1 of the Arizona Revised Statutes vests the executive power of the State of Arizona in the Governor.

**NOW, THEREFORE, I, Douglas A. Ducey**, by virtue of the authority vested in me by the Constitution and laws of the State of Arizona hereby declare the following:

1. A State agency subject to this Order shall not conduct any rulemaking, whether informal or formal, without the prior written approval of the Office of the Governor. In seeking approval, a State agency shall address one or more of the following as justifications for the rulemaking:
   a. To fulfill an objective related to job creation, economic development or economic expansion in this State.
   b. To reduce or ameliorate a regulatory burden while achieving the same regulatory objective.
   c. To prevent a significant threat to the public health, peace, or safety.
   d. To avoid violating a court order or federal law that would result in sanctions by a federal court for failure to conduct the rulemaking action.
   e. To comply with a federal statutory or regulatory requirement if such compliance is related to a condition for the receipt of federal funds or participation in any federal program.
   f. To comply with a state statutory requirement.
   g. To fulfill an obligation related to fees or any other action necessary to implement the State budget that is certified by the Governor's Office of Strategic Planning and Budgeting.
   h. To promulgate a rule or other item that is exempt from Title 41, Chapter 6, Arizona Revised Statutes, pursuant to section 41-1005, Arizona Revised Statutes.
   i. To address matters pertaining to the control, mitigation, or eradication of waste, fraud or abuse within an agency or wasteful, fraudulent, or abusive activities perpetrated against an agency.
   j. To eliminate rules which are antiquated, redundant or otherwise no longer necessary for the operation of state government.
2. A State agency subject to this Order shall not publicize any directives, policy statements, documents or forms on its website unless such are explicitly authorized by Arizona Revised Statutes or Arizona Administrative Code.
3. A State agency subject to this Order and which issues occupational or professional licenses shall review the agency's rules and practices related to receiving and acting on substantive complaints about unlicensed individuals who are allegedly holding them-

selves out as licensed professionals for financial gain and are knowingly or recklessly providing or attempting to provide regulated services which the State agency director believes could cause immediate and/or significant harm to either the financial or physical health of unknowing consumers within the state. Agencies shall identify and execute on opportunities to improve its complaint intake process, documentation, tracking, enforcement actions and coordination with proper law enforcement channels to ensure those allegedly trying to defraud unsuspecting consumers and putting them at risk for immediate and/or significant harm to their financial or physical health are stopped and effectively diverted by the State agency to the proper law-enforcement agency for review. A written plan on the agency's process shall be submitted to the Governor's Office no later than May 31, 2019.

4. For the purposes of this Order, the term "State agencies" includes, without limitation, all executive departments, agencies, offices, and all state boards and commissions, except for: (a) any State agency that is headed by a single elected State official; (b) the Corporation Commission; and (c) any board or commission established by ballot measure during or after the November 1998 general election. Those state agencies, boards and commissions excluded from this Order are strongly encouraged to voluntarily comply with this Order in the context of their own rulemaking processes.
5. This Order does not confer any legal rights upon any persons and shall not be used as a basis for legal challenges to rules, approvals, permits, licenses or other actions or to any inaction of a State agency. For the purposes of this Order, "person," "rule," and "rulemaking" have the same meanings prescribed in section 41-1001, Arizona Revised Statutes.

**IN WITNESS THEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

**Douglas A. Ducey**
**GOVERNOR**

**DONE** at the Capitol in Phoenix on this ninth day of January in the Year Two Thousand and Nineteen and of the Independence of the United States of America the Two Hundred and Forty-Third.

**ATTEST:**
**Katie Hobbs**
**SECRETARY OF STATE**

# REGISTER INDEXES

The *Register* is published by volume in a calendar year (See "General Information" in the front of each issue for more information).

Abbreviations for rulemaking activity in this Index include:

**PROPOSED RULEMAKING**
PN = Proposed new Section
PM = Proposed amended Section
PR = Proposed repealed Section
P# = Proposed renumbered Section

**SUPPLEMENTAL PROPOSED RULEMAKING**
SPN = Supplemental proposed new Section
SPM = Supplemental proposed amended Section
SPR = Supplemental proposed repealed Section
SP# = Supplemental proposed renumbered Section

**FINAL RULEMAKING**
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FM = Final amended Section
FR = Final repealed Section
F# = Final renumbered Section

**SUMMARY RULEMAKING**
**PROPOSED SUMMARY**
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PSMM = Proposed Summary amended Section
PSMR = Proposed Summary repealed Section
PSM# = Proposed Summary renumbered Section
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FSMR = Final Summary repealed Section
FSM# = Final Summary renumbered Section

**EXPEDITED RULEMAKING**
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PEM = Proposed Expedited amended Section
PER = Proposed Expedited repealed Section
PE# = Proposed Expedited renumbered Section
**SUPPLEMENTAL EXPEDITED**
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SPEM = Supplemental Proposed Expedited amended Section
SPER = Supplemental Proposed Expedited repealed Section
SPE# = Supplemental Proposed Expedited renumbered Section
**FINAL EXPEDITED**
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FER = Final Expedited repealed Section
FE# = Final Expedited renumbered Section

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XM = Exempt amended Section
XR = Exempt repealed Section
X# = Exempt renumbered Section
**EXEMPT PROPOSED**
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PXM = Proposed Exempt amended Section
PXR = Proposed Exempt repealed Section
PX# = Proposed Exempt renumbered Section
**EXEMPT SUPPLEMENTAL PROPOSED**
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SPXR = Supplemental Proposed Exempt repealed Section
SPXM = Supplemental Proposed Exempt amended Section
SPX# = Supplemental Proposed Exempt renumbered Section
**FINAL EXEMPT RULEMAKING**
FXN = Final Exempt new Section
FXM = Final Exempt amended Section
FXR = Final Exempt repealed Section
FX# = Final Exempt renumbered Section

**EMERGENCY RULEMAKING**
EN = Emergency new Section
EM = Emergency amended Section
ER = Emergency repealed Section
E# = Emergency renumbered Section
EEXP = Emergency expired

**RECODIFICATION OF RULES**
RC = Recodified

**REJECTION OF RULES**
RJ = Rejected by the Attorney General

**TERMINATION OF RULES**
TN = Terminated proposed new Sections
TM = Terminated proposed amended Section
TR = Terminated proposed repealed Section
T# = Terminated proposed renumbered Section

**RULE EXPIRATIONS**
EXP = Rules have expired
*See also "emergency expired" under emergency rulemaking*

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Public records, such as Governor Office executive orders, proclamations, declarations and terminations of emergencies, summaries of Attorney General Opinions, and county notices are also listed in this section of the Index and published by volume page number.

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# RULES EFFECTIVE DATES CALENDAR

A.R.S. § 41-1032(A), as amended by Laws 2002, Ch. 334, § 8 (effective August 22, 2002), states that a rule generally becomes effective 60 days after the day it is filed with the Secretary of State's Office. The following table lists filing dates and effective dates for rules that follow this provision. Please also check the rulemaking Preamble for effective dates.

| January | | February | | March | | April | | May | | June | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Date Filed | Effective Date | Date Filed | Effective Date | Date Filed | Effective Date | Date Filed | Effective Date | Date Filed | Effective Date | Date Filed | Effective Date |
| 1/1 | 3/2 | 2/1 | 4/2 | 3/1 | 4/30 | 4/1 | 5/31 | 5/1 | 6/30 | 6/1 | 7/31 |
| 1/2 | 3/3 | 2/2 | 4/3 | 3/2 | 5/1 | 4/2 | 6/1 | 5/2 | 7/1 | 6/2 | 8/1 |
| 1/3 | 3/4 | 2/3 | 4/4 | 3/3 | 5/2 | 4/3 | 6/2 | 5/3 | 7/2 | 6/3 | 8/2 |
| 1/4 | 3/5 | 2/4 | 4/5 | 3/4 | 5/3 | 4/4 | 6/3 | 5/4 | 7/3 | 6/4 | 8/3 |
| 1/5 | 3/6 | 2/5 | 4/6 | 3/5 | 5/4 | 4/5 | 6/4 | 5/5 | 7/4 | 6/5 | 8/4 |
| 1/6 | 3/7 | 2/6 | 4/7 | 3/6 | 5/5 | 4/6 | 6/5 | 5/6 | 7/5 | 6/6 | 8/5 |
| 1/7 | 3/8 | 2/7 | 4/8 | 3/7 | 5/6 | 4/7 | 6/6 | 5/7 | 7/6 | 6/7 | 8/6 |
| 1/8 | 3/9 | 2/8 | 4/9 | 3/8 | 5/7 | 4/8 | 6/7 | 5/8 | 7/7 | 6/8 | 8/7 |
| 1/9 | 3/10 | 2/9 | 4/10 | 3/9 | 5/8 | 4/9 | 6/8 | 5/9 | 7/8 | 6/9 | 8/8 |
| 1/10 | 3/11 | 2/10 | 4/11 | 3/10 | 5/9 | 4/10 | 6/9 | 5/10 | 7/9 | 6/10 | 8/9 |
| 1/11 | 3/12 | 2/11 | 4/12 | 3/11 | 5/10 | 4/11 | 6/10 | 5/11 | 7/10 | 6/11 | 8/10 |
| 1/12 | 3/13 | 2/12 | 4/13 | 3/12 | 5/11 | 4/12 | 6/11 | 5/12 | 7/11 | 6/12 | 8/11 |
| 1/13 | 3/14 | 2/13 | 4/14 | 3/13 | 5/12 | 4/13 | 6/12 | 5/13 | 7/12 | 6/13 | 8/12 |
| 1/14 | 3/15 | 2/14 | 4/15 | 3/14 | 5/13 | 4/14 | 6/13 | 5/14 | 7/13 | 6/14 | 8/13 |
| 1/15 | 3/16 | 2/15 | 4/16 | 3/15 | 5/14 | 4/15 | 6/14 | 5/15 | 7/14 | 6/15 | 8/14 |
| 1/16 | 3/17 | 2/16 | 4/17 | 3/16 | 5/15 | 4/16 | 6/15 | 5/16 | 7/15 | 6/16 | 8/15 |
| 1/17 | 3/18 | 2/17 | 4/18 | 3/17 | 5/16 | 4/17 | 6/16 | 5/17 | 7/16 | 6/17 | 8/16 |
| 1/18 | 3/19 | 2/18 | 4/19 | 3/18 | 5/17 | 4/18 | 6/17 | 5/18 | 7/17 | 6/18 | 8/17 |
| 1/19 | 3/20 | 2/19 | 4/20 | 3/19 | 5/18 | 4/19 | 6/18 | 5/19 | 7/18 | 6/19 | 8/18 |
| 1/20 | 3/21 | 2/20 | 4/21 | 3/20 | 5/19 | 4/20 | 6/19 | 5/20 | 7/19 | 6/20 | 8/19 |
| 1/21 | 3/22 | 2/21 | 4/22 | 3/21 | 5/20 | 4/21 | 6/20 | 5/21 | 7/20 | 6/21 | 8/20 |
| 1/22 | 3/23 | 2/22 | 4/23 | 3/22 | 5/21 | 4/22 | 6/21 | 5/22 | 7/21 | 6/22 | 8/21 |
| 1/23 | 3/24 | 2/23 | 4/24 | 3/23 | 5/22 | 4/23 | 6/22 | 5/23 | 7/22 | 6/23 | 8/22 |
| 1/24 | 3/25 | 2/24 | 4/25 | 3/24 | 5/23 | 4/24 | 6/23 | 5/24 | 7/23 | 6/24 | 8/23 |
| 1/25 | 3/26 | 2/25 | 4/26 | 3/25 | 5/24 | 4/25 | 6/24 | 5/25 | 7/24 | 6/25 | 8/24 |
| 1/26 | 3/27 | 2/26 | 4/27 | 3/26 | 5/25 | 4/26 | 6/25 | 5/26 | 7/25 | 6/26 | 8/25 |
| 1/27 | 3/28 | 2/27 | 4/28 | 3/27 | 5/26 | 4/27 | 6/26 | 5/27 | 7/26 | 6/27 | 8/26 |
| 1/28 | 3/29 | 2/28 | 4/29 | 3/28 | 5/27 | 4/28 | 6/27 | 5/28 | 7/27 | 6/28 | 8/27 |
| 1/29 | 3/30 | | | 3/29 | 5/28 | 4/29 | 6/28 | 5/29 | 7/28 | 6/29 | 8/28 |
| 1/30 | 3/31 | | | 3/30 | 5/29 | 4/30 | 6/29 | 5/30 | 7/29 | 6/30 | 8/29 |
| 1/31 | 4/1 | | | 3/31 | 5/30 | | | 5/31 | 7/30 | | |

| July | | August | | September | | October | | November | | December | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Date Filed | Effective Date | Date Filed | Effective Date | Date Filed | Effective Date | Date Filed | Effective Date | Date Filed | Effective Date | Date Filed | Effective Date |
| 7/1 | 8/30 | 8/1 | 9/30 | 9/1 | 10/31 | 10/1 | 11/30 | 11/1 | 12/31 | 12/1 | 1/30 |
| 7/2 | 8/31 | 8/2 | 10/1 | 9/2 | 11/1 | 10/2 | 12/1 | 11/2 | 1/1 | 12/2 | 1/31 |
| 7/3 | 9/1 | 8/3 | 10/2 | 9/3 | 11/2 | 10/3 | 12/2 | 11/3 | 1/2 | 12/3 | 2/1 |
| 7/4 | 9/2 | 8/4 | 10/3 | 9/4 | 11/3 | 10/4 | 12/3 | 11/4 | 1/3 | 12/4 | 2/2 |
| 7/5 | 9/3 | 8/5 | 10/4 | 9/5 | 11/4 | 10/5 | 12/4 | 11/5 | 1/4 | 12/5 | 2/3 |
| 7/6 | 9/4 | 8/6 | 10/5 | 9/6 | 11/5 | 10/6 | 12/5 | 11/6 | 1/5 | 12/6 | 2/4 |
| 7/7 | 9/5 | 8/7 | 10/6 | 9/7 | 11/6 | 10/7 | 12/6 | 11/7 | 1/6 | 12/7 | 2/5 |
| 7/8 | 9/6 | 8/8 | 10/7 | 9/8 | 11/7 | 10/8 | 12/7 | 11/8 | 1/7 | 12/8 | 2/6 |
| 7/9 | 9/7 | 8/9 | 10/8 | 9/9 | 11/8 | 10/9 | 12/8 | 11/9 | 1/8 | 12/9 | 2/7 |
| 7/10 | 9/8 | 8/10 | 10/9 | 9/10 | 11/9 | 10/10 | 12/9 | 11/10 | 1/9 | 12/10 | 2/8 |
| 7/11 | 9/9 | 8/11 | 10/10 | 9/11 | 11/10 | 10/11 | 12/10 | 11/11 | 1/10 | 12/11 | 2/9 |
| 7/12 | 9/10 | 8/12 | 10/11 | 9/12 | 11/11 | 10/12 | 12/11 | 11/12 | 1/11 | 12/12 | 2/10 |
| 7/13 | 9/11 | 8/13 | 10/12 | 9/13 | 11/12 | 10/13 | 12/12 | 11/13 | 1/12 | 12/13 | 2/11 |
| 7/14 | 9/12 | 8/14 | 10/13 | 9/14 | 11/13 | 10/14 | 12/13 | 11/14 | 1/13 | 12/14 | 2/12 |
| 7/15 | 9/13 | 8/15 | 10/14 | 9/15 | 11/14 | 10/15 | 12/14 | 11/15 | 1/14 | 12/15 | 2/13 |
| 7/16 | 9/14 | 8/16 | 10/15 | 9/16 | 11/15 | 10/16 | 12/15 | 11/16 | 1/15 | 12/16 | 2/14 |
| 7/17 | 9/15 | 8/17 | 10/16 | 9/17 | 11/16 | 10/17 | 12/16 | 11/17 | 1/16 | 12/17 | 2/15 |
| 7/18 | 9/16 | 8/18 | 10/17 | 9/18 | 11/17 | 10/18 | 12/17 | 11/18 | 1/17 | 12/18 | 2/16 |
| 7/19 | 9/17 | 8/19 | 10/18 | 9/19 | 11/18 | 10/19 | 12/18 | 11/19 | 1/18 | 12/19 | 2/17 |
| 7/20 | 9/18 | 8/20 | 10/19 | 9/20 | 11/19 | 10/20 | 12/19 | 11/20 | 1/19 | 12/20 | 2/18 |
| 7/21 | 9/19 | 8/21 | 10/20 | 9/21 | 11/20 | 10/21 | 12/20 | 11/21 | 1/20 | 12/21 | 2/19 |
| 7/22 | 9/20 | 8/22 | 10/21 | 9/22 | 11/21 | 10/22 | 12/21 | 11/22 | 1/21 | 12/22 | 2/20 |
| 7/23 | 9/21 | 8/23 | 10/22 | 9/23 | 11/22 | 10/23 | 12/22 | 11/23 | 1/22 | 12/23 | 2/21 |
| 7/24 | 9/22 | 8/24 | 10/23 | 9/24 | 11/23 | 10/24 | 12/23 | 11/24 | 1/23 | 12/24 | 2/22 |
| 7/25 | 9/23 | 8/25 | 10/24 | 9/25 | 11/24 | 10/25 | 12/24 | 11/25 | 1/24 | 12/25 | 2/23 |
| 7/26 | 9/24 | 8/26 | 10/25 | 9/26 | 11/25 | 10/26 | 12/25 | 11/26 | 1/25 | 12/26 | 2/24 |
| 7/27 | 9/25 | 8/27 | 10/26 | 9/27 | 11/26 | 10/27 | 12/26 | 11/27 | 1/26 | 12/27 | 2/25 |
| 7/28 | 9/26 | 8/28 | 10/27 | 9/28 | 11/27 | 10/28 | 12/27 | 11/28 | 1/27 | 12/28 | 2/26 |
| 7/29 | 9/27 | 8/29 | 10/28 | 9/29 | 11/28 | 10/29 | 12/28 | 11/29 | 1/28 | 12/29 | 2/27 |
| 7/30 | 9/28 | 8/30 | 10/29 | 9/30 | 11/29 | 10/30 | 12/29 | 11/30 | 1/29 | 12/30 | 2/28 |
| 7/31 | 9/29 | 8/31 | 10/30 | | | 10/31 | 12/30 | | | 12/31 | 3/1 |

# REGISTER PUBLISHING DEADLINES

The Secretary of State's Office publishes the Register weekly. There is a three-week turnaround period between a deadline date and the publication date of the Register. The weekly deadline dates and issue dates are shown below. Council meetings and Register deadlines do not correlate. Also listed are the earliest dates on which an oral proceeding can be held on proposed rulemakings or proposed delegation agreements following publication of the notice in the Register.

| Deadline Date (paper only) Friday, 5:00 p.m. | *Register* Publication Date | Oral Proceeding may be scheduled on or after |
|---|---|---|
| November 9, 2018 | November 30, 2018 | December 31, 2018 |
| November 16, 2018 | December 7, 2018 | January 7, 2019 |
| November 23, 2018 | December 14, 2018 | January 14, 2019 |
| November 30, 2018 | December 21, 2018 | January 22, 2019 |
| December 7, 2018 | December 28, 2018 | January 28, 2019 |
| December 14, 2018 | January 4, 2019 | February 4, 2019 |
| December 21, 2018 | January 11, 2019 | February 11, 2019 |
| December 28, 2018 | January 18, 2019 | February 19, 2019 |
| January 4, 2019 | January 25, 2019 | February 25, 2019 |
| January 11, 2019 | February 1, 2019 | March 4, 2019 |
| January 18, 2019 | February 8, 2019 | March 11, 2019 |
| January 25, 2019 | February 15, 2019 | March 18, 2019 |
| February 1, 2019 | February 22, 2019 | March 25, 2019 |
| February 8, 2019 | March 1, 2019 | April 1, 2019 |
| February 15, 2019 | March 8, 2019 | April 8, 2019 |
| February 22, 2019 | March 15, 2019 | April 15, 2019 |
| March 1, 2019 | March 22, 2019 | April 22, 2019 |
| March 8, 2019 | March 29, 2019 | April 29, 2019 |
| March 15, 2019 | April 5, 2019 | May 6, 2019 |
| March 22, 2019 | April 12, 2019 | May 13, 2019 |
| March 29, 2019 | April 19, 2019 | May 20, 2019 |
| April 5, 2019 | April 26, 2019 | May 28, 2019 |
| April 12, 2019 | May 3, 2019 | June 3, 2019 |
| April 19, 2019 | May 10, 2019 | June 10, 2019 |
| April 26, 2019 | May 17, 2019 | June 17, 2019 |
| May 3, 2019 | May 24, 2019 | June 24, 2019 |
| May 10, 2019 | May 31, 2019 | July 1, 2019 |
| May 17, 2019 | June 7, 2019 | July 8, 2019 |
| May 24, 2019 | June 14, 2019 | July 15, 2019 |
| May 31, 2019 | June 21, 2019 | July 22, 2019 |

# GOVERNOR'S REGULATORY REVIEW COUNCIL DEADLINES

The following deadlines apply to all Five-Year-Review Reports and any adopted rule submitted to the Governor's Regulatory Review Council. Council meetings and *Register* deadlines do not correlate. We publish these deadlines as a courtesy.

All rules and Five-Year Review Reports are due in the Council office by 5 p.m. of the deadline date. The Council's office is located at 100 N. 15th Ave., Suite 402, Phoenix, AZ 85007. For more information, call (602) 542-2058 or visit http://grrc.az.gov.

## GOVERNOR'S REGULATORY REVIEW COUNCIL DEADLINES FOR 2019

[M19-05]

| DEADLINE FOR PLACEMENT ON AGENDA* | FINAL MATERIALS SUBMITTED TO COUNCIL | DATE OF COUNCIL STUDY SESSION | DATE OF COUNCIL MEETING |
|---|---|---|---|
| *Tuesday* January 22, 2019 | *Tuesday* February 19, 2019 | *Tuesday* February 26, 2019 | *Tuesday* March 5, 2019 |
| *Tuesday* February 19, 2019 | *Tuesday* March 19, 2019 | *Tuesday* March 26, 2019 | *Tuesday* April 2, 2019 |
| *Tuesday* March 19, 2019 | *Tuesday* April 23, 2019 | *Tuesday* April 30, 2019 | *Tuesday* May 7, 2019 |
| *Tuesday* April 23, 2019 | *Tuesday* May 21, 2019 | ***Wednesday*** May 29, 2019 | *Tuesday* June 4, 2019 |
| *Tuesday* May 21, 2019 | *Tuesday* June 18, 2019 | *Tuesday* June 25, 2019 | *Tuesday* July 2, 2019 |
| *Tuesday* June 18, 2019 | *Tuesday* July 23, 2019 | *Tuesday* July 30, 2019 | *Tuesday* August 6, 2019 |
| *Tuesday* July 23, 2019 | *Tuesday* August 20, 2019 | *Tuesday* August 27, 2019 | ***Wednesday*** September 4, 2019 |
| *Tuesday* August 20, 2019 | *Tuesday* September 17, 2019 | *Tuesday* September 24, 2019 | *Tuesday* October 1, 2019 |
| *Tuesday* September 17, 2019 | *Tuesday* October 22, 2019 | *Tuesday* October 29, 2019 | *Tuesday* November 5, 2019 |
| *Tuesday* October 22, 2019 | *Tuesday* November 19, 2019 | *Tuesday* November 26, 2019 | *Tuesday* December 3, 2019 |
| *Tuesday* November 19, 2019 | *Tuesday* December 24, 2019 | *Tuesday* January 7, 2020 | *Tuesday* January 14, 2020 |
| *Tuesday* December 24, 2019 | *Tuesday* January 21, 2020 | *Tuesday* January 28, 2020 | *Tuesday* February 4, 2020 |

* Materials must be submitted by **5 PM** on dates listed as a deadline for placement on a particular agenda. Placement on a particular agenda is not guaranteed.