

NOTICES OF PROPOSED RULEMAKING

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

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

PREAMBLE

1. Sections Affected

	<u>Rulemaking Action</u>
R4-23-110	Amend
R4-23-421	New Section
R4-23-422	New Section
R4-23-423	New Section
R4-23-424	New Section
R4-23-425	New Section
R4-23-426	New Section
R4-23-427	New Section
R4-23-428	New Section
R4-23-429	New Section

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

Authorizing statute: A.R.S. § 32-1904(A)(1)

Implementing statute: A.R.S. § 32-1970

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

Notice of Rulemaking Docket Opening: 6 A.A.R. 1674, May 8, 2000

Notice of Rulemaking Docket Opening: 7 A.A.R. 4096, September 14, 2001

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

Name: Dean Wright, Compliance Officer

Address: Board of Pharmacy
4425 W. Olive Ave., Suite 140
Glendale, AZ 85302

Telephone: (623) 463-2727, ext. 131

Fax: (623) 934-0583

E-mail: rxcop@qwest.net

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

H.B. 2415 passed in the 2000 Legislative session. The bill establishes a new section, A.R.S. § 32-1970, that allows a pharmacist to participate in collaborative drug therapy management with a physician. H.B. 2415 mandates that the Board make rules approved by the allopathic board of medical examiners and the board of osteopathic examiners in medicine and surgery to implement A.R.S. § 32-1970. The proposed rule fulfills that mandate by establishing specific requirements and standards for the expansion of pharmacist practice into drug therapy management and collaborative

practice. The proposed rule adds three new definitions to R4-23-110 and establishes a new Section, R4-23-411 Drug Therapy Management. R4-23-411 establishes the criteria for drug therapy management by a pharmacist under written protocol from a physician, including pharmacist qualifications, supervisory physician qualifications, approval or denial and renewal of drug therapy management agreements, time-frames, drug therapy management advisory committee, initiating an approved drug therapy management agreement, scope of practice, physician supervision requirements, documentation, quality assurance, and privacy.

The Board believes that approval of these rules will benefit the public health and safety by expanding the use of pharmacist's under utilized knowledge of drugs and drug therapy to manage a specific patient under written protocol from the patient's physician. Because a pharmacist is more accessible than a physician, a patient whose drug therapy is managed by a pharmacist benefits by receiving drug therapy monitoring and adjustment that reduces health care costs, including the use of fewer or less costly drugs, more effective or better tolerated drugs, early recognition and treatment of adverse drug reactions, and fewer hospital admissions.

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

Not applicable

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

Not applicable

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

The rules' impact on established Board of Pharmacy procedures and office-related costs is minimal. The Board's office-related costs will increase slightly to support the new Drug Therapy Management Advisory Committee implemented by the rule. These costs will include such things as postage, new forms, photocopies, and staff time related to drug therapy management agreement application, approval, and renewal. The Board's compliance staff will have increased costs, including compliance inspections and complaint investigations specific to drug therapy management agreements. The number of possible drug therapy management agreements the Board will see is unknown, but we do not anticipate more than 25 to 50 total.

For pharmacists, the main impact of the rule is meeting the qualification standards. Because providing drug therapy management is not required of all pharmacists, the cost associated with meeting the qualifications of the rule are borne by the individual pharmacist who desires to perform drug therapy management. The rule does not require participation, but rather sets the standards for participation. The pharmacist will benefit from better utilization of knowledge and skills, improved self-worth, and job satisfaction.

For pharmacies or facilities where drug therapy management occurs, the rules' main impact is increased costs related to providing space for the pharmacist-patient interaction, payment for pharmacist-time in providing drug therapy management, other drug therapy management-related costs, such as recordkeeping and communication. The pharmacy will benefit from increased revenue from billing for drug therapy management services, improved patient relations, and the provision of better patient care.

For physicians who enter into drug therapy management agreements, the rules' main impact is improved patient care through the delegation of drug therapy management to a drug therapy expert, the pharmacist and improved time management that allows the physician to treat acutely ill patients.

For the individual patient, the rule's impact is substantial. The patient receives one-on-one consultation with a pharmacist regarding drug therapy. Pharmacist drug therapy management will increase drug regimen compliance, reduce drug-related problems and drug interactions, provide early intervention of drug-related problems and drug interactions, decrease overall drug costs, decrease hospital admissions and emergency room visits, and improve therapeutic outcomes.

For the public, the rules' economic impact is substantial. Pharmacist drug therapy management can reduce the negative therapeutic outcomes and associated costs caused by drug-related problems. The costs associated with negative therapeutic outcomes resulting from drug therapy were estimated to be between \$159.6 billion and \$195.1 billion for the year 2000, according to the article *Drug-Related Morbidity and Mortality: Updating the Cost-of-Illness Model* by Frank R. Ernst and Amy J. Grizzle in the March/April 2001 issue of the Journal of the American Pharmaceutical Association.

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The Board, pharmacist, pharmacies, physicians, and the public benefit from a rule that is clear, concise, and understandable. The rule establishes expanded practice standards that allow the provision of pharmacy services that will decrease health care costs and save lives.

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

Name: Dean Wright, Compliance Officer
Address: Board of Pharmacy
4425 W. Olive Ave., Suite 140
Glendale, AZ 85302
Telephone: (623) 463-2727 ext. 131
Fax: (623) 934-0583
E-mail: rxcop@qwest.net

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

Comments may be written or presented orally. Written comments must be received by 5:00 p.m., Monday, May 13, 2002. An oral proceeding is scheduled for:

Date: May 13, 2002
Time: 1:00 p.m.
Location: 4425 W. Olive Ave., Suite 140
Glendale, AZ 85302

A person may request information about the oral proceeding by contacting the person listed above.

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

Not applicable

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

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 1. ADMINISTRATION

Section
R4-23-110. Definitions

ARTICLE 4. PROFESSIONAL PRACTICES

Section
R4-23-421. Drug Therapy Management
R4-23-422. Drug Therapy Management - Duties of the Board
R4-23-423. Drug Therapy Management Advisory Committee
R4-23-424. Drug Therapy Management - Pharmacist and Physician Qualifications
R4-23-425. Drug Therapy Management - Pharmacist Duties
R4-23-426. Drug Therapy Management - Physician Duties
R4-23-427. Drug Therapy Management - Documentation
R4-23-428. Drug Therapy Management - Quality Assurance
R4-23-429. Drug Therapy Management - Privacy

ARTICLE 1. ADMINISTRATION

R4-23-110. Definitions

“Active ingredient” No change

“Alternate physician” means a physician licensed under A.R.S. Title 32 Chapter 13 or 17 who signs a drug therapy management agreement to temporarily assume responsibility for supervision and evaluation of the drug therapy management performed by a pharmacist if the supervisory physician is unavailable by direct telecommunication or physical presence at the practice site.

“Approved course in pharmacy law” No change

“Approved Provider” No change

“Authentication of product history” No change

“AZPLEX” No change

“Batch” No change

“Beyond-use date” No change

“Biological safety cabinet” No change

“Certified pharmacy technician” No change

“Class 100 environment” No change

“Community pharmacy” No change

“Component” No change

“Computer system” No change

“Computer system audit” No change

“Contact hour” No change

“Container” No change

“Continuing education” No change

“Continuing education activity” No change

“Continuing education unit” or “CEU” No change

“Correctional facility” No change

“CRT” No change

“Current good compounding practices” No change

“Current good manufacturing practice” No change

“Cytotoxic” No change

“Day” No change

“DEA” No change

“Delinquent license” No change

“Dispensing pharmacist” No change

“Drug sample” No change

“Drug therapy management” means any act or service provided by a pharmacist in compliance with a Board-approved drug therapy management agreement.

“Drug therapy management agreement” means a written protocol, approved and signed by a supervisory physician, alternate physician, and pharmacist that specifies the conditions under which a pharmacist:

Assesses patient status;

Orders and interprets laboratory tests; and

Modifies, implements, or monitors patient drug therapy.

“Extreme emergency” No change

“FDA” No change

“Immediate notice” No change

“Inactive ingredient” No change

“Internal test assessment” No change

“Limited-service correctional pharmacy” No change

“Limited-service mail-order pharmacy” No change

“Limited-service nuclear pharmacy” No change

“Limited-service pharmacy permittee” No change

“Long-term care consultant pharmacist” No change

“Lot” No change

“Lot number” or “control number” No change

“Materials approval unit” No change

“Mediated instruction” No change

“MPJE” No change

“NABP” No change

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“NABPLEX” No change
“NAPLEX” No change
“Other designated personnel” No change
“Outpatient” No change
“Outpatient setting” No change
“Patient profile” No change
“Pharmaceutical care” No change
“Pharmacy law continuing education” No change
“Pharmacy technician” No change
“Prepackaged drug” No change
“Provider pharmacist” No change
“Radiopharmaceutical” No change
“Radiopharmaceutical quality assurance” No change
“Radiopharmaceutical services” No change
“Red C stamp” No change
“Remodel” No change
“Remote drug storage area” No change
“Resident” No change
“Responsible person” No change
“Score transfer” No change
“Sight-readable” No change
“Single-drug audit” No change
“Single-drug usage report” No change
“Sterile pharmaceutical product” No change
“Strength” No change
“Supervision” No change
“Supervisory physician” means a physician licensed under A.R.S. Title 32 Chapter 13 or 17 who:
 Writes an order in a patient’s medical record and signs a drug therapy management agreement authorizing a pharmacist to provide patient-specific drug therapy management, and
 Assumes responsibility for the on-going supervision and evaluation of the drug therapy management performed by a pharmacist.
“Supplying” No change
“Support personnel” No change
“Transfill” No change
“Wholesale distribution” No change
“Wholesale distributor” No change

ARTICLE 4. PROFESSIONAL PRACTICES

R4-23-421. Drug Therapy Management

- A.** A pharmacist qualified under R4-23-424 may provide drug therapy management under A.R.S. § 32-1970 after a physician’s initial diagnosis of a patient if drug therapy management:
1. Is guided by a Board-approved drug therapy management agreement; and
 2. Occurs in one of the following pharmacy practice sites:
 - a. An acute care hospital.
 - b. A nursing care institution.
 - c. A staff model HMO, or
 - d. A community health center as defined in A.R.S. § 32-1921 and A.R.S. § 36-2907.06.
- B.** A drug therapy management agreement shall contain the following:
1. The criteria and medical conditions under which a pharmacist may modify the patient’s drug therapy;
 2. The specific modifications of drug therapy that a pharmacist may make including drug, dose, and dosage form;
 3. The criteria and medical conditions under which a pharmacist may implement the patient’s drug therapy;
 4. The specific drug therapy that a pharmacist may implement including drug, dose, and dosage form;
 5. The subjective and objective patient assessment parameters that a pharmacist uses to evaluate a patient’s drug therapy at each patient visit, including ordering and interpreting a patient’s laboratory tests;
 6. The subjective and objective patient assessment criteria that indicate when a pharmacist shall consult with a supervisory physician or if unavailable, an alternate physician, including the timing and nature of a consultation with or referral to a supervisory or alternate physician and the specific procedures for a consultation with or referral to a supervisory or alternate physician;

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7. The content and frequency of the periodic status report on a patient that a pharmacist shall provide in writing to or in a meeting with the supervisory physician;
8. The procedure for terminating the drug therapy management agreement;
9. The names of the supervisory physician, the alternate physician, and the pharmacist authorized to provide services under the agreement; and
10. The signature of all persons named in subsection (9).

R4-23-422. Drug Therapy Management - Duties of the Board

A. The Board shall:

1. Appoint a Drug Therapy Management Advisory Committee;
2. In consultation with Board staff and the Drug Therapy Management Advisory Committee, approve or deny an initial drug therapy management agreement and the annual renewal of an existing drug therapy management agreement;
3. Terminate a pharmacist's drug therapy management agreement if the pharmacist:
 - a. Does not renew the agreement on or before the approval date anniversary; or
 - b. Is found by the Board to lack the qualifications required in R4-23-424; and
4. In processing drug therapy management agreement applications, comply with the application process established in R4-23-602, except the substantive review time-frame is 180 days and the overall time-frame is 200 days.

B. The Board may terminate a pharmacist's drug therapy management agreement if the Board determines that the pharmacist is violating the requirements of the drug therapy management agreement or federal or state drug laws.

R4-23-423. Drug Therapy Management Advisory Committee

A. The Drug Therapy Management Advisory Committee shall:

1. Consist of an osteopathic physician, an allopathic physician, and two pharmacists with prior or current experience in drug therapy management;
2. Serve at the pleasure of the Board;
3. Serve for a term of two years unless removed or reappointed by the Board;
4. Review initial and renewal drug therapy management agreement applications; and
5. Advise the Board regarding the approval or denial of reviewed drug therapy management agreement applications.

B. The Drug Therapy Management Advisory Committee members are not eligible for compensation from the Board.

R4-23-424. Drug Therapy Management - Pharmacist and Physician Qualifications

A. Pharmacist qualifications.

1. Before initiating a drug therapy management agreement with a supervisory physician, a pharmacist shall have:
 - a. A current, unrestricted license issued by the Board; and
 - b. Proof of one of the following:
 - i. Completion of a pharmacy practice residency accredited by the American Society of Health Systems Pharmacists or the American Pharmaceutical Association;
 - ii. Current board specialty certification from the Board of Pharmaceutical Specialists or current certification as a Certified Geriatric Pharmacist;
 - iii. A Doctor of Pharmacy degree and completion of an American Council on Pharmaceutical Education approved certificate program in each area of practice covered in the drug therapy management agreement; or
 - iv. A Bachelor's degree in Pharmacy, satisfactory completion of an American Council on Pharmaceutical Education approved certificate program in each area of practice covered in the drug therapy management agreement, and appropriate credentialing issued by the governing body of a qualifying Arizona practice site described in A.R.S. § 32-1970.
2. To ensure that a pharmacist who provides drug therapy management is competent to continue providing the services delineated in a drug therapy management agreement, a pharmacist shall annually complete six contact hours (0.6 CEU's) of continuing education for each area of practice covered by the pharmacist's drug therapy management agreement. The continuing education hours may be used to satisfy the continuing education requirements for licensure as a pharmacist.

B. Supervisory physician qualifications. Before initiating a drug therapy management agreement with a pharmacist, a supervisory physician shall:

1. Have a current, unrestricted license from the Allopathic Board of Medical Examiners or the Board of Osteopathic Examiners in Medicine and Surgery; and
2. Not be a resident in a post-graduate medical training program.

C. Alternate physician qualifications. Before initiating a drug therapy management agreement with a pharmacist, an alternate physician shall:

1. Have a current, unrestricted license from the Allopathic Board of Medical Examiners or the Board of Osteopathic Examiners in Medicine and Surgery; and
2. Not be a resident in a post-graduate medical training program.

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R4-23-425. Drug Therapy Management - Pharmacist Duties

- A.** To obtain initial approval for a drug therapy management agreement, a pharmacist shall submit a completed application, on a form furnished by the Board, that includes:
1. Pharmacist name and Arizona pharmacist license number;
 2. Documentation of a pharmacist's qualifications as specified in R4-23-424;
 3. Practice site name, address, mailing address, if different, telephone number, and facsimile number;
 4. Documentation of practice site qualification under A.R.S. § 32-1970;
 5. Supervisory physician name, office address, mailing address, if different, telephone number, and facsimile number;
 6. Documentation of a supervisory physician's qualifications as specified in R4-23-424;
 7. Alternate physician name, office address, mailing address, if different, telephone number, and facsimile number;
 8. Documentation of an alternate physician's qualifications as specified in R4-23-424;
 9. Description of the pharmacist's practice area or areas for which approval is sought;
 10. An original and 11 copies of the drug therapy management agreement covering each practice area for which Board approval is sought;
 11. Dated and signed affirmation of the supervisory physician's acceptance of the responsibility for oversight of the pharmacist's drug therapy management;
 12. Dated and signed affirmation of an alternate physician's acceptance of the responsibility for temporary oversight of the pharmacist's drug therapy management; and
 13. Dated and signed affirmation of the pharmacist's acceptance of the responsibility to provide drug therapy management as described in the drug therapy management agreement.
- B.** To renew an existing drug therapy management agreement, a pharmacist shall submit a completed renewal application, on a form furnished by the Board, that includes, in addition to the requirements of subsection (A), the following:
1. Documentation that the supervisory physician, alternate physician, and participating pharmacist reviewed the protocols contained in the agreement;
 2. Documentation that the participating pharmacist completed the continuing education requirements specified in R4-23-424; and
 3. An original and 11 copies of the drug therapy management agreement covering each practice area for which renewal is sought, including highlighting any requested modifications to the agreement.
- C.** A pharmacist who participates in a Board-approved drug therapy management agreement shall:
1. Renew the agreement annually on or before the initial approval date anniversary;
 2. Before submission of the agreement's application for renewal, participate in the supervisory physician's annual review of the agreement;
 3. Notify the Board within 10 days of termination of the drug therapy management agreement.
 4. During the first appointment with a patient under a Board-approved drug therapy management agreement:
 - a. Verify the placement of a copy of the drug therapy management agreement in the patient's medical record, including the signature of the supervisory physician, alternate physician, and pharmacist;
 - b. Verify the placement of the supervisory physician's written order, authorizing the pharmacist to collaboratively manage the patient's drug therapy, in the patient's medical record;
 - c. Verify the placement of the patient's written consent in the patient's medical record, the patient's understanding of the pharmacist's role in the patient's care, the nature of the relationship with the supervisory physician, and the procedure for revoking consent; and
 5. Ensure compliance with the documentation requirements of R4-23-427;
 6. Ensure compliance with quality assurance program required in R4-23-428;
 7. Ensure compliance with the privacy requirements of R4-23-429; and
 8. Comply with the Board-approved drug therapy management agreement.

R4-23-426. Drug Therapy Management - Physician Duties

- A.** Before referring a patient to a pharmacist, a supervisory physician who participates in a Board-approved drug therapy management agreement shall:
1. Have a physician-patient relationship with the patient and make a diagnosis of the patient;
 2. Review the approved drug therapy management agreement with the patient;
 3. Obtain the patient's consent to participate in the drug therapy management agreement;
 4. Document the patient's consent to participate in the drug therapy management agreement by obtaining the patient's dated and signed consent that states that the patient has read, understood, and agreed to participate in the drug therapy management agreement. The signed consent shall be placed in the patient's medical records;
 5. Authorize a specific pharmacist to collaboratively manage a patient's drug therapy by placing a written order in the patient's medical record; and
 6. Place a copy of the approved drug therapy management agreement in the patient's medical record to provide notice to other health care providers of the drug therapy management.

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- B.** Physician supervision. A supervisory physician who supervises a pharmacist under a Board-approved drug therapy management agreement shall:
1. Before submission of the agreement's application for annual renewal and in consultation with the participating alternate physician and pharmacist, review and approve the drug therapy management agreement;
 2. Review and initial the pharmacist's documented care for appropriateness of care and compliance with the drug therapy management agreement when the patient visits the supervisory physician for follow-up or any other services;
 3. Routinely evaluate the patient care provided by the pharmacist as specified in the drug therapy management agreement; and
 4. Ensure that the supervisory physician or the alternate physician named in the drug therapy management agreement is readily available to the pharmacist for consultation, assistance, and direction by direct telecommunication or physical presence at the practice site.
- C.** Alternate physician duties. An alternate physician who participates in a Board-approved drug therapy management agreement shall ensure that the alternate physician is available to:
1. Temporarily assume responsibility for supervision and evaluation of the drug therapy management performed by the pharmacist;
 2. Provide consultation, assistance, and direction to the pharmacist if the supervisory physician is unavailable; and
 3. Before submission of the agreement's application for renewal, participate in the supervisory physician's annual review of the agreement.

R4-23-427. Drug Therapy Management - Documentation

Documenting pharmacist-provided drug therapy management. A pharmacist who participates in drug therapy management under a Board-approved drug therapy management agreement shall:

1. After each patient-pharmacist appointment, document the drug therapy management for the patient in the patient's medical record at the practice site, including patient data, assessment of patient status, and treatment plan;
2. Sign the documentation required in subsection (1) in a patient's medical record with the pharmacist's first and last name, title, and Arizona pharmacist license number;
3. Document a consultation with or referral to the supervisory physician or the alternate physician; and
4. Document a consultation with a supervisory or alternate physician that results in a pharmacist's need to generate the physician's verbal prescription order for a drug not included in the drug therapy management agreement. The documentation shall include:
 - a. The phrase "verbal order by Dr." and the name of the supervisory physician or alternate physician authorizing the verbal prescription order,
 - b. The signature of the pharmacist generating the verbal prescription order in the same manner described in subsection (2), and
 - c. The countersignature of the supervisory physician or alternate physician authorizing the verbal prescription order within 72 hours of the pharmacist-generated verbal prescription order.

R4-23-428. Drug Therapy Management - Quality Assurance

- A.** A pharmacist who provides drug therapy management shall, in cooperation with the supervisory physician and the appropriate committee of the practice site, develop and implement a continuous quality assurance and improvement program that includes standards and procedures to identify, evaluate, and improve the quality of pharmacist-provided drug therapy management.
- B.** Routine periodic meetings between a pharmacist and supervisory physician regarding care of a patient under the drug therapy management agreement shall include evaluating and documenting patient status and the quality of care provided by the pharmacist.

R4-23-429. Drug Therapy Management - Privacy

- A.** A pharmacist who provides drug therapy management shall perform drug therapy management activities in a private and distinct area of the practice site.
- B.** In a practice site where a pharmacist provides drug therapy management under a drug therapy management agreement, a pharmacy permittee shall ensure that a private and distinct area of similar size and environment to those utilized by other primary care providers at the practice site is available for the performance of pharmacist-provided drug therapy management activities.

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

Written and oral comments will be accepted at the location listed above between 8:00 a.m. and 5:00 p.m., Monday through Friday (excluding state holidays), until the close of record. No dates have been selected to the close of record. Oral proceedings will be conducted at all open public meetings as they are announced by Agenda. Meetings are schedules several months in advance and schedules may be received by calling telephone number (602) 589-8354.

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

None

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

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 49. BOARD OF ATHLETIC TRAINING

ARTICLE 4. ATHLETIC TRAINING PRACTICE

Section

R4-49-405. Direction of a Licensed Physician

ARTICLE 4. ATHLETIC TRAINING PRACTICE

R4-49-405. Direction of a Licensed Physician

A licensee shall render service or treatment under the direction of a physician.

1. The licensee shall have standard, written protocols for common athletic training activities approved by a physician.
2. The licensee shall have post-injury treatment guidelines approved by a physician.

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TITLE 9. HEALTH SERVICES

CHAPTER 13. DEPARTMENT OF HEALTH SERVICES

HEALTH PROGRAMS SERVICES

PREAMBLE

1. Sections Affected

Article I
R9-13-101
R9-13-102
R9-13-103
R9-13-104
R9-13-105
R9-13-106
R9-13-107
R9-13-107
R9-13-108
R9-13-109

Rulemaking Action

Amend
Amend
Amend
Amend
Amend
Amend
Repeal
Repeal
New Section
Amend
Amend

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

Authorizing statutes: A.R.S. §§ 36-104(3) and 36-136(F)

Implementing statutes: A.R.S. §§ 36-899.01, 36-899.02, and 36-899.03

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

Notice of Rulemaking Docket Opening: 7 A.A.R. 1777, April 27, 2001

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

Name: Karen Kuhfuss, Planning and Partnership Unit Manager

Address: Arizona Department of Health Services
Bureau of Community and Family Health Services
2927 N. 35th Ave., Suite 300
Phoenix, AZ 85017

Telephone: (602) 364-1400

Fax: (602) 364-1496

or

Name: Kathleen Phillips, Rules Administrator

Address: Department of Health Services
1740 W. Adams, Suite 102
Phoenix, AZ 85007

Telephone: (602) 542-1264

Fax: (602) 364-1150

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

The Department is amending 9 A.A.C. 13, Article 1 to update hearing screening rules and to address issues identified in the 1997 Five-year Review Report approved by the Governor's Regulatory Review Council on September 9, 1997. Specifically, the rules are amended to better protect the public, accurately reflect industry standards and practices, be consistent with state and federal statutes and rules, reflect current Department policy, and conform to current rule-making format and style requirements.

R9-13-102 is amended to clarify the population to be screened and to add screening requirements for children attending preschool in public schools. R9-13-103 is amended to specify when screening is required and to designate acceptable hearing screening methods. In R9-13-104, the criteria for passing each screening method is detailed and the requirements for a second screening are identified. R9-13-105 is amended to clarify requirements for student referrals, student evaluations, and follow-up. R9-13-106 is repealed. R9-13-107 is amended to identify hearing screener qualifications and training requirements. R9-13-108 is amended to clarify hearing screening equipment standards and requirements. Finally, amended language in R9-13-109 clarifies the information schools are required to maintain and to report to the Department.

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

Not applicable

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

Not applicable

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

The rulemaking directly impacts Arizona's 1500 public and private schools, the more than 400,000 students enrolled in these schools, and their families. (The number of students and schools is based on Arizona Department of Health Services 1997-98 and 1998-99 statistics.)

The rulemaking incorporates existing requirements and practices already established in rule, current practices of the schools and the Department that are already in place, and new requirements and changes that reflect current industry practice. The rulemaking is supported by stakeholders.

The overall economic impact of the rulemaking is expected to be minimal, with the benefits of the rulemaking outweighing the costs. The retention of requirements and practices already in rule should not result in cost increases for schools. The incorporation of current practices into rule may result in minimal to moderate cost increases for schools. New requirements and changes in existing requirements designed to improve the efficiency and effectiveness of the hearing screening process should also result in only minimal to moderate cost increases for schools.

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Cost Bearers

The rulemaking will directly impact public and private schools, school age children and their families, and the Department.

Public and Private Schools: The rulemaking does not significantly change the way in which public and private schools conduct student hearing screenings. Schools will continue to be responsible for administration of the hearing screening program, and the current costs associated with administering the hearing screenings should not change. In addition, schools will continue to be responsible for ensuring that all students receiving hearing evaluation referrals are evaluated, and that all students enrolled in special education services or under evaluation for special education services have hearing evaluations.

Schools may realize minimal cost increases due to the requirement that children enrolled in preschool have hearing screenings. This cost will be mitigated, however, to the extent that the majority of preschool children enrolled in public and private schools, many of whom are enrolled in preschool programs for children with disabilities, are already having hearing screenings. Arizona Department of Education information shows that for the school years 1998 and 1999 there were 4,672 and 5,209 children, respectively, enrolled in public preschool programs. Arizona Department of Health Services statistics for the same school years show that there were 12,105 (1998) and 9,367 (1999) preschool children screened for hearing in Arizona public and private preschool programs.

In addition, a school may incur slightly higher costs to purchase and maintain hearing testing equipment, if the school chooses to use otoacoustic emission testing.

Families: The parents and families of school age children will continue to bear the cost of paying for medical and/or audiological follow-up of identified hearing loss.

Department: The Department will bear administrative costs in keeping track of information regarding data collection and screener qualifications.

Small Businesses: Some private schools are small businesses and will bear some administrative costs in carrying out the requirements in this Article.

Beneficiaries

Arizona children and families will benefit from the revised rules as recipients of quality hearing screening services, early identification of significant hearing loss, and appropriate referral for treatment.

The addition of new technology and testing methodologies will allow for more accurate screening of the difficult-to-test populations resulting in potentially more reliable results and appropriate referrals.

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

Name: Dona Marie Markley, Senior Rules Analyst

Address: Arizona Department of Health Services
Bureau of Emergency Medical Services
1651 E. Morten, Suite 120
Phoenix, AZ 85020

Telephone: (602) 861-0708

Fax: (602) 861-9812

or

Name: Kathleen Phillips, Rules Administrator

Address: Department of Health Services
1740 W. Adams, Suite 102
Phoenix, AZ 85007

Telephone: (602) 542-1264

Fax: (602) 364-1150

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

The Department has scheduled the following oral proceeding:

Date: May 13, 2002
Time: 9:00 a.m.
Location: Conference Room
Department of Health Services
Bureau of Emergency Medical Services
1651 E. Morten, Suite 120
Phoenix, AZ 85020

Written comment on the proposed rulemaking or the preliminary economic, small business, and consumer impact summary may be submitted to the individuals listed in item #4 or #9 until 5:00 p.m., May 13, 2002, the date scheduled for the close of record.

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

Not applicable

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

The following is incorporated by reference in R9-13-108:

American National Standard Specification for Instruments to Measure Aural Acoustic Impedance and Admittance, S3.39-1987, Standards Secretariat, Acoustical Society of America, 335 East 45th Street, New York, New York 10017-3483, October 5, 1987.

13. The full text of the rules follows:

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 13. DEPARTMENT OF HEALTH SERVICES

ARTICLE 1. HEARING EVALUATION SERVICES SCREENING

Section

R9-13-101. Definitions
R9-13-102. Hearing Screening Population to be Screened
R9-13-103. Hearing Screening Test Requirements
R9-13-104. Criteria for ~~Pass/fail~~ Passing a Hearing Screening: Requirements for Performing a Second Hearing Screening
R9-13-105. Referral Criteria and Notifications: Notification: Follow-Up
R9-13-106. Follow-up Requirements ~~Repealed~~
R9-13-107. Personnel Requirements for Screening Screeener Qualifications
R9-13-108. Equipment Standards
R9-13-109. Recordkeeping, Reporting Requirements

ARTICLE 1. HEARING EVALUATION SERVICES SCREENING

R9-13-101. Definitions

In this Article, unless the context otherwise requires:

1. "ANSI" means the American National Standards Institute which approves the equipment standards for audiometers.
2. "At risk" means the presence of conditions or symptoms which indicate a possibility of developing hearing problems.
1. "Assistive listening device" means the same as in A.R.S. § 36-1901.
- 3.2. "Audiologist" means a professional who specializes in the identification and prevention of hearing problems and in the nonmedical rehabilitation of those who have hearing problems. An audiologist holds a Master's or Doctoral degree in audiology and holds an Certificate of Clinical Competence in Audiology from the American Speech-Lan-guage-Hearing Association an individual licensed under A.R.S. Title 36, Chapter 17.
- 4.3. "Audiometer" means an electronic device that generates signals used to measure hearing thresholds.

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- 5.4. “Calibration” means an electronic check to determine the precise characteristics of audiometric equipment a determination of the accuracy of an instrument by measurement of a variation from a standard.
6. ~~“Compliance” means the ease with which the eardrum and middle ear mechanism moves.~~
7. ~~“Certificate of Clinical Competence” means the professional standard of practice for individuals who provide independent clinical services in either audiology or speech-language pathology as set forth in the American Speech-Language Hearing Association (ASHA) publication, March 1989, Standards for the Certificate of Clinical Competence, c/o American Speech-Language Hearing Association, 10801 Rockville Pike, Rockville, Maryland 20852-3279, incorporated herein by reference and on file with the Office of the Secretary of State.~~
5. “Cochlear implant” means a surgically inserted device that electrically stimulates the hearing nerve in the inner ear.
6. “dB” means decibel.
7. “dB HL” means decibel hearing level.
8. “Deaf” means the same as in A.R.S. § 36-1941.
9. “Department” means the Arizona Department of Health Services.
10. “Documentation” means signed and dated information in written, photographic, electronic, or other permanent form.
11. “Effusion” means the escape of fluid from a blood or lymphatic vessel into tissue or a cavity.
- 8.12. ~~“Frequency” means the number of cycles per second of a sound wave.~~
9. ~~“HCP” means the Hearing Conservation Program, Division of Family Health Services, Department of Health Services.~~
13. “Hard of hearing” means the same as in A.R.S. § 36-1941.
14. “Hearing aid” means the same as in A.R.S. § 36-1901.
15. “Hearing screening” means a test of a student’s ability to hear certain frequencies at a consistent loudness performed in a school by an individual who meets the requirements in R9-13-107.
- 10.16. ~~“Hz” means Hertz, a unit of frequency equal to one cycle per second.~~
11. ~~“Hearing screening” means the evaluation of the ability to hear certain frequencies at a consistent loudness and may include an evaluation of the function of the middle ear system.~~
17. “Immittance” means the ease of transmission of sound through the middle ear.
18. “Inner ear” means the semicircular canals, auditory nerve, and cochlea.
- 12.19. ~~“Intensity” means the amount of acoustic energy which gives the sensation strength of a sound wave striking the eardrum resulting in the perception of loudness. Intensity is as expressed in decibels (dB) or decibels hearing level (dB HL).~~
13. ~~“Local Education Agency” means a public school district as defined in A.R.S. § 15-101.~~
14. ~~“Noise letter” means a letter containing information regarding the adverse effects of exposure to loud noise and a recommendation for audiological or medical examination.~~
20. “Kindergarten” means the grade level immediately preceding first grade.
21. “Middle ear” means the eardrum, malleus, incus, stapes, and eustachian tube.
22. “mm H₂O” means millimeters of water.
23. “Noise floor” means sounds present in the auditory canal from either the environment or bodily functions such as breathing and blood flow.
24. “Otitis media” means inflammation of the middle ear.
25. “Otoacoustic emissions” means the sounds generated from the inner ear.
26. “Outer ear” means the pinna, lobe, and auditory canal.
27. “Parent” means the same as in A.R.S. § 15-101.
28. “Physician” means an individual licensed under A.R.S. Title 32, Chapter 13 or 17.
29. “Preschool” means the instruction preceding kindergarten provided to individuals three to five years old through a:
 - a. School as defined in A.R.S. § 15-101.
 - b. Accommodation school as defined in A.R.S. § 15-101.
 - c. Charter school as defined in A.R.S. § 15-101, or
 - d. Private school as defined in A.R.S. § 15-101.
30. “Primary care practitioner” means an individual licensed as a registered nurse practitioner under A.R.S. Title 32, Chapter 15 or a physician assistant under A.R.S. 32, Chapter 25.
31. “Pure tone” means a single frequency sound.
32. “Reproducibility” means the correlation of two responses measured simultaneously and reported by percentage.
33. “School” means:
 - a. School as defined in A.R.S. § 15-101;
 - b. Preschool.
 - c. Kindergarten.
 - d. Accommodation school as defined in A.R.S. § 15-101.
 - e. Charter school as defined in A.R.S. § 15-101, or
 - f. Private school as defined in A.R.S. § 15-101

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34. “School administrator” means an individual or the individual’s designee assigned to act on behalf of a school by the body organized for the government and the management of the school.
35. “School year” means the period between July 1 and the following June 30.
36. “Screener” means an individual qualified to perform a hearing screening in a school according to R9-13-107.
37. “Special education” means the same as in A.R.S. § 15-761.
- ~~15-38. “Speech-language pathologist” means a professional who specializes in the assessment, prevention, and nonmedical treatment of communication disorders; holds a Master’s or Doctoral degree in speech language pathology; and holds a Certificate of Clinical Competence in speech language pathology from the American Speech-Language-Hearing Association an individual licensed under A.R.S. Title 36, Chapter 17.~~
16. “Threshold” means the lowest intensity level at which a pure tone is detectable during 50% of the presentations.
39. “Student” means an individual enrolled in a school.
40. “Supervision” means the same as in A.R.S. § 36-401.
- ~~17-41. “Tympanogram” means a chart of the results of compliance measurements of the eardrum and middle ear system as a function of pressure indirect measurements of the ease of movement of the parts of the middle ear as air pressure in the auditory canal changes. Information on a tympanogram shall include pressure, compliance, and physical volume.~~
42. “Tympanometer” means a device that indirectly measures the ease of movement of the parts of the middle ear as air pressure in the auditory canal changes.
- ~~18-43. “Tympanometry” means the measurement of changes in the compliance of the middle ear system as air pressure is varied in the external ear canal indirect measurement of the ease of movement of the parts of the middle ear as air pressure in the auditory canal changes.~~

R9-13-102. Hearing Screening Population to be Screened

~~Unless the parent or legal guardian objects and submits a statement of such objection, a public or private school shall administer a hearing screening, in accordance with R9-13-103, to each child who comes within one of the following categories during the school year:~~

- ~~1. Children in preschool handicapped programs, kindergarten, and grades 1, 2, 6, and 9 or 10;~~
 - ~~2. Children who repeated a grade within the past academic year;~~
 - ~~3. Children who currently are receiving special education services and/or related services;~~
 - ~~4. Children who enter school without record of a hearing test having been administered within one year prior to entry;~~
 - ~~5. Children who failed a hearing rescreening within the previous year;~~
 - ~~6. Children who have a documented hearing loss;~~
 - ~~7. Children who are referred by a parent; guardian; teacher; administrator; school nurse; other school professional, including a speech pathologist, a school psychologist, or a staff member of the HCP; or self-referred for screening;~~
 - ~~8. Students who have participated in industrial arts shop classes for more than one quarter; or~~
 - ~~9. Children identified as “at risk” for hearing problems during the previous year’s hearing screening.~~
- A.** A school administrator shall ensure that the following students have a hearing screening each school year:
1. A student enrolled in preschool, kindergarten, or grade 1, 2, 6, or 9;
 2. A student enrolled in grade 3, 4, or 5, unless there is written documentation that the student had a hearing screening in or after grade 2;
 3. A student enrolled in grade 7 or 8, unless there is written documentation that the student had a hearing screening in or after grade 6;
 4. A student enrolled in grade 10, 11, or 12 unless there is written documentation that the student had a hearing screening in or after grade 9;
 5. A student receiving special education; and
 6. A student that failed a second hearing screening in the prior school year.
- B.** A school administrator shall ensure that a student has a hearing screening at the request of the student, the student’s parent, a schoolteacher, a school nurse, a school psychologist, an audiologist, a physician, a primary care practitioner, a speech language pathologist, or Department staff.
- C.** A hearing screening is not required if a:
1. Student is age 16 years or over;
 2. Student’s parent objects in writing to the screening as allowed under A.R.S. § 36-899.04;
 3. Written diagnosis or evaluation from an audiologist states that a student is deaf or hard of hearing; or
 4. Student has a hearing aid, an assistive listening device, or a cochlear implant.
- D.** In addition to meeting the requirements in subsections (A) and (B), a school administrator shall ensure that a student who meets the criteria specified in State Board of Education rule R7-2-401 has a hearing screening required under R7-2-401.

R9-13-103. Hearing Screening Test Requirements

~~**A.** Children to be tested shall be given one of the following initial screening tests:~~

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1. ~~A four-frequency, pure-tone screening test. The following frequencies and their intensity in dB HL shall be utilized for the initial pure tone screening: 500 Hz at 25 dB HL, 1000 Hz at 20 dB HL, 2000 Hz at 20 dB HL, and 4000 Hz at 20 dB HL.~~
 2. ~~A tympanometry screening in conjunction with a three-frequency, pure-tone screening.~~
 - a. ~~The tympanogram shall be plotted at three points: +200 mm H₂O, point of maximum compliance, and -300 mm H₂O.~~
 - b. ~~The three-frequency screening shall occur at 1000 Hz, 2000 Hz, and 4000 Hz at 20 dB HL.~~
- B.** ~~Children who fail either of the initial screening procedures shall be retested within 4–6 weeks.~~
- C.** ~~Children who fail the second screening shall be given a threshold test within two weeks of the second screening utilizing the following frequencies: 500 Hz, 1000 Hz, 2000 Hz, 3000 Hz, 4000 Hz, and 8000 Hz.~~
- A.** Before performing a hearing screening, a screener shall visually inspect a student's outer ears for:
1. Fluid or drainage.
 2. Blood.
 3. An open sore, or
 4. A foreign object.
- B.** If a screener inspects a student's outer ears and finds any of the conditions in subsection (A), the screener shall not perform a hearing screening.
- C.** A screener shall perform a hearing screening in each ear using one of the following hearing screening methods:
1. Four-frequency, pure tone hearing screening that screens at each of the following frequencies and intensities:
 - a. 500 Hz at 25 dB HL.
 - b. 1000 Hz at 20 dB HL.
 - c. 2000 Hz at 20 dB HL, and
 - d. 4000 Hz at 20 dB HL.
 2. Three-frequency, pure tone hearing screening with tympanometry that:
 - a. Includes a tympanogram that is generated automatically or is plotted at a minimum of the following three points:
 - i. +100 mm H₂O.
 - ii. Point of maximum immittance, and
 - iii. -200 mm H₂O; and
 - b. Screens at each of the following frequencies at 20 dB HL:
 - i. 1000 Hz.
 - ii. 2000 Hz, and
 - iii. 4000 Hz; or
 3. Otoacoustic emissions hearing screening using otoacoustic emissions equipment that generates a pass or no pass result:
 - a. Using a minimum of three frequencies.
 - b. At no less than 3 dB above the noise floor, and
 - c. With reproducibility greater than 50%.

R9-13-104. Criteria for ~~Pass/fail~~ Passing a Hearing Screening; Requirements for Performing a Second Hearing Screening

- A.** ~~A child shall fail the initial four-frequency pure-tone screening if there is not a response to each frequency at the prescribed screening level in each ear.~~
- B.** ~~A child shall fail the tympanometry and three-frequency initial screening if any of the following conditions exist:~~
1. ~~Peak compliance occurs outside the range of +100 mm H₂O to -200 mm H₂O.~~
 2. ~~No point of maximum compliance occurs between +100 and -300 mm H₂O (Type B tympanogram), or~~
 3. ~~No response occurs to the pure-tone screen at 1000 Hz, 2000 Hz, or 4000 Hz in either ear.~~
- A.** A student passes a hearing screening if:
1. During a four-frequency, pure tone hearing screening, the student responds in each ear to each frequency at each intensity listed in R9-13-103(C)(1)(a) through (C)(1)(d);
 2. During a three-frequency, pure tone hearing screening with tympanometry, the student:
 - a. Responds in each ear to each frequency as described in R9-13-103(C)(2)(b); and
 - b. Reaches a point of maximum immittance in each ear within the range of +100mm H₂O to -200mm H₂O; or
 3. During an otoacoustic emissions hearing screening, the student receives a pass result in each ear according to R9-13-103(C)(3).
- B.** If a student does not pass a hearing screening according to subsection (A), a screener shall perform a second hearing screening on the student no earlier than 30 days and no later than 45 days from the date of the first hearing screening. The screener shall perform the second hearing screening using the same method as the first hearing screening.

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R9-13-105. Referral Criteria and Notifications; Notification; Follow-up

- A.** The school shall provide a medical referral notification to the child's parent or legal guardian when any of the following conditions are determined to exist:
1. A hearing threshold level in one or more of the following frequencies which equals or exceeds 30 dB at 500 Hz, or 25 dB at 1000 Hz, 2000 Hz, 3000 Hz, 4000 Hz, and 8000 Hz in either ear;
 2. Tympanometry indicates that peak compliance occurs outside the range of +100 to -200 mm H₂O; or
 3. Tympanometry indicates that the point of maximum compliance does not occur between +100 and -300 mm H₂O.
- B.** The school shall provide a referral notification for an audiological evaluation to the child's parent or legal guardian when any of the following conditions exist:
1. The tympanometry portion of the screening is passed while the pure tone portion of the screening is failed;
 2. A child with a confirmed hearing loss responds to pure tone threshold testing at a level of more than 10 dB poorer, at any frequency, than that indicated by threshold test results of the previous year; or
 3. A child is wearing a hearing aid, in which case an annual audiological referral shall be made that includes a recommendation for an electroacoustic analysis of the aid to verify that it is functioning according to manufacturer's specifications.
- C.** The school shall notify the child's parent or legal guardian if the hearing test results indicate the need for medical or audiological referral. The referral notification shall be by letter or documented telephone call within ten working days of the test. A copy of the hearing test results and the otologic report form, to be completed by the child's physician, also shall be sent to the parent or legal guardian.
- D.** The school shall send a noise letter to the child's parent or legal guardian if the child's greatest degree of loss occurs at 4000 Hz in either ear.
- E.** Subsequent to tympanometry rescreening and threshold testing, the school shall consider a child "at risk" for hearing problems if peak compliance occurs from -160 mm through -200 mm H₂O and the child's hearing threshold levels are within screening limits. The "at risk" determination shall require the school to send a letter to the child's parent or legal guardian containing suggestions for identification of behaviors which indicate possible
- A.** If a school administrator finds that a student does not require a hearing screening under R9-13-102(C)(3) or (C)(4), the school administrator shall provide to the student's parent, within 10 days from the date the finding is made, a referral to have the student's current hearing status evaluated by an audiologist, including an electroacoustic analysis of any hearing aid or assistive listening device, unless there is documentation from an audiologist specifying a different evaluation schedule.
- B.** If a screener finds any of the conditions listed in R9-13-103(A) and a student does not have a hearing screening:
1. A school administrator shall provide to the student's parent, within 10 days from the date the condition is found, a referral to have the student's outer ears evaluated by a physician or primary care practitioner; and
 2. A screener shall perform the hearing screening on the student no earlier than 30 days and no later than 45 days from the date the screener finds the condition.
- C.** If a student does not pass a second hearing screening or does not complete a second hearing screening within the time period required under R9-13-104(B), a school administrator shall provide to the student's parent, within 10 days from the date of the second hearing screening or from the date the time period for completing a second hearing screening ends, a referral to have the student's current hearing status evaluated by one of the following:
1. An audiologist, a physician, or a primary care practitioner if the screener used only the four-frequency, pure tone hearing screening method;
 2. A physician or primary care practitioner if the student did not pass the tympanometry portion, but passed the three-frequency, pure tone portion of the hearing screening;
 3. An audiologist if the student did not pass the three-frequency, pure tone portion, but passed the tympanometry portion of the hearing screening; or
 4. An audiologist, a physician, or a primary care practitioner if the screener used the otoacoustic emissions hearing screening method.
- D.** A referral identified in subsection (D) is not required if a school-provided audiologist:
1. Assesses a student's hearing status and the condition of the middle ear at the conclusion of a hearing screening; and
 2. Within 10 days from date of the assessment, provides the student's parent with a written diagnosis and recommendation for treatment, if applicable.
- E.** A referral required under subsections (A), (B), or (C), shall include a form requesting the following:
1. The name, address, and telephone number of the student evaluated;
 2. The date of evaluation;
 3. An assessment of the condition of the outer ear, if applicable;
 4. An assessment of hearing status and the condition of the middle ear, if applicable;
 5. A diagnosis and recommendation for treatment, if applicable;
 6. The signature and title of the individual evaluating the student and completing the form; and
 7. A request that the individual completing the form or the student's parent return the completed form to the school.

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F. Under State Board of Education rule R7-2-401, a school administrator shall ensure that a student referred under subsections (A) or (C) is evaluated.

G. If a school receives notice of a diagnosis that a student is deaf or hard of hearing from an audiologist, the school administrator shall notify, within 10 days from the date the notice of diagnosis is received, each of the student's teachers and the person responsible for the school's special education services of the diagnosis.

R9-13-106. Follow-up Requirements Repealed

~~A. The school shall request that a child's parent or legal guardian return the otologic report form to the school subsequent to the child's medical examination.~~

~~B. The school nurse or other person responsible for the school hearing program shall inform the classroom teachers of the presence of students who have documented hearing loss.~~

~~C. The parent, legal guardian, school nurse, audiologist, physician, or other consultants, including a speech pathologist, a school psychologist, or a staff member of the HCP may request that a child with documented hearing loss be referred for evaluation for special education placement and services in accordance with the State Board of Education rule A.A.C. R7-2-401 (Special Education Standards for Public Schools and State-supported Institutions).~~

~~D. The local education agency shall be responsible for audiological evaluations for students enrolled in special education services or under evaluation for special education services in accordance with the State Board of Education rule A.A.C. R7-2-401 (Special Education Standards for Public Schools and State-supported Institutions).~~

R9-13-107. Personnel Requirements for Screening Screener Qualifications

~~A. Aides may perform initial pure-tone screening under the direct supervision of an audiologist, speech-language pathologist, or an individual who has completed an HCP certification course.~~

~~B. Threshold testing and tympanometry shall be performed only by an audiologist, speech-language pathologist, or an individual who has completed an HCP certification course.~~

A. An audiologist may perform a hearing screening.

B. An individual who is not an audiologist may perform a hearing screening only if the individual passes a hearing screener course that:

1. Includes 90 minutes of classroom instruction in the introduction to hearing covering:

- a. Development of speech and language;
- b. Anatomy and physiology of the ear;
- c. Signs and prevention of hearing loss in children; and
- d. A.R.S. Title 36, Chapter 7.2 and 9 A.A.C. 13, Article 1;

2. Includes 120 minutes of classroom instruction in hearing screening covering:

- a. Auditory development.
- b. Early identification of hearing loss.
- c. Principles of hearing screening.
- d. Selection of hearing screening methods, and
- e. Components of setting-up a hearing screening program;

3. Includes 75 minutes of classroom instruction in referral and reporting covering:

- a. Results of a hearing screening,
- b. Responses to a hearing screening outcome,
- c. Procedures for recording and tracking,
- d. Communication with parents,
- e. Role of community resources, and
- f. Reporting hearing screening results;

4. For an individual who will perform a hearing screening using three-frequency or four-frequency, pure tone hearing screening, includes 120 minutes of classroom instruction covering:

- a. Selecting and setting-up a hearing screening site,
- b. Performing a pure tone hearing screening, and
- c. Identifying children who need referral and evaluation;

5. For an individual who will perform a hearing screening using tympanometry with three-frequency, pure tone hearing screening, includes 60 minutes of classroom instruction covering:

- a. The anatomy and functions of the middle ear,
- b. What tympanometry measures and identifies,
- c. Using a tympanometer,
- d. Performing a tympanometry hearing screening, and
- e. Identifying children who need referral and evaluation;

6. For an individual who will perform a hearing screening using otoacoustic emissions hearing screening, includes 60 minutes of classroom instruction covering:

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- a. What otoacoustic emissions identify and measure.
 - b. Using otoacoustic emissions equipment.
 - c. Performing an otoacoustic emissions hearing screening, and
 - d. Identifying children who need referral and evaluation:
7. Requires an individual to pass the course by scoring 80% or more on an examination that tests what the individual has learned;
8. Is taught by an individual who:
- a. Is an audiologist, or
 - b. Meets the screener qualifications in subsection (B) or (C) and has performed at least 50 hearing screenings within 24 months before teaching a hearing screener course; and
9. Provides an individual who passes the course with a certificate of completion that includes:
- a. The individual's name;
 - b. Whether the following were completed:
 - i. Introduction to hearing.
 - ii. Hearing screening.
 - iii. Referral and reporting.
 - iv. Pure tone hearing screening.
 - v. Tympanometry hearing screening, and
 - vi. Otoacoustic emissions hearing screening;
 - c. An attestation that the course meets the requirements in subsection (B) or (C); and
 - d. The name and signature of the individual who taught the course.
- C.** Every five years after completing a hearing screener course described in subsection (B), a screener who is not an audiologist shall pass a hearing screener course that:
1. Includes 195 minutes of classroom instruction covering the material required under subsections (B)(1), (B)(2), and (B)(3);
 2. For an individual who will perform a hearing screening using three-frequency or four-frequency, pure tone hearing screening, includes 60 minutes of classroom instruction covering the material required under subsection (B)(4);
 3. For an individual who will perform a hearing screening using tympanometry with three-frequency, pure tone hearing screening, includes 30 minutes of classroom instruction covering the material required under subsection (B)(5);
 4. For an individual who will perform a hearing screening using otoacoustic emissions hearing screening, includes 30 minutes of classroom instruction covering the material required under subsection (B)(6); and
 5. Meets the requirements in subsection (B)(7), (B)(8), and (B)(9).
- D.** Before performing a hearing screening, an individual who passes a hearing screener course described in subsection (B) or (C) shall give a copy of the certificate of completion described in subsection (B)(9) to the school.
- E.** An individual who does not meet the screener qualifications in subsection (A), (B), or (C) may perform a four-frequency, pure tone hearing screening, other than a second hearing screening required under R9-25-104(B), only under the supervision of an individual who meets the screener qualifications in subsection (A), (B), or (C).

R9-13-108. Equipment Standards

- A.** ~~For pure-tone testing, the pure-tone audiometer and the pure-tone component of an acoustic impedance meter shall be calibrated to ANSI standards which are set forth in The American National Standard Specification for Audiometers, ANSI S3.6-1989, Standards Secretariat, c/o Acoustical Society of America, 335 East 45th Street, New York, New York 10017-3483, incorporated herein by reference and on file with the Office of the Secretary of State.~~
- B.** ~~If tympanometry is included in the testing protocol, the acoustic impedance meter shall be equipped with either a calibration test cavity or programmed to self-calibrate. The acoustic impedance meter shall be calibrated on a daily basis, shall have an air pressure range of +200 mm to -300 mm H₂O, and shall utilize a low frequency probe tone of 220 to 300 Hz.~~
- C.** ~~Each audiometer or acoustic impedance meter shall have a complete calibration check annually as follows:~~
1. ~~The check for audiometers shall meet the ANSI standards set forth in subsection (A).~~
 2. ~~The check for acoustic impedance meters shall be performed according to manufacturer's specifications. If there is an audiometer component to the acoustic impedance meter, that component shall be tested in accordance with the requirements of subsection (A) for pure-tone audiometers.~~
 3. ~~Listening checks of the audiometers shall be made each day they are used and each time they are moved to a different location. The listening checks shall assure the following:~~
 - a. ~~Power source and power indicator lights are working,~~
 - b. ~~Earphone cords are free of breaks and loose connections,~~
 - e. ~~All test frequencies are present at screening levels as specified in R9-13-103(A)(1),~~
 - d. ~~Earphones are free of crossover of the signal to the opposite earphone, and~~
 - e. ~~Earphones are free of any extraneous noise or distortion that may interfere with the screening.~~
 4. ~~Acoustic impedance meters shall comply with the following:~~

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- a. ~~Test cavity calibration checks shall be performed daily per manufacturer's specifications before initial testing and each time that the unit is moved.~~
 - b. ~~Routine inspections for obstruction in the probe unit shall be performed prior to testing each child.~~
 - e. ~~If the acoustic impedance meter contains a pure tone component, a listening check shall be performed as outlined in paragraph (3).~~
- D.** ~~If equipment is not found to meet minimum standards outlined above, it shall not be used for testing.~~
- A.** A school administrator shall ensure that a pure tone audiometer used to perform a three-frequency or four-frequency, pure tone hearing screening is:
- 1. Calibrated every 12 months according to the American National Standard Specification for Audiometers, S3.6-1996, Standards Secretariat, c/o Acoustical Society of America, 120 Wall Street, 32nd Floor, New York, New York 10005-3993, January 12, 1996, incorporated by reference in R9-16-209(B)(1); and
 - 2. Inspected within 24 hours before use to ensure that:
 - a. The calibration complies with subsection (A)(1).
 - b. The power source and power indicator are working.
 - c. The earphone cords are securely connected and have no breaks.
 - d. Each frequency and intensity required under R9-13-103(C)(1) is present.
 - e. A signal does not cross from one earphone to the other, and
 - f. Each earphone is free of noise or distortion that could interfere with a hearing screening.
- B.** A school administrator shall ensure that a tympanometer used to perform the tympanometry portion of a hearing screening:
- 1. Is calibrated every 12 months according to the American National Standard Specifications for Instruments to Measure Aural Acoustic Impedance and Admittance, S3.39-1987, Standards Secretariat, Acoustical Society of America, 335 East 45th Street, New York, New York 10017-3483, October 5, 1987, not including any later amendments or editions, incorporated by reference and on file with the Department and the Office of the Secretary of State; and
 - 2. Is inspected within 24 hours before use to ensure that the calibration complies with subsection (B)(1).
- C.** A school administrator shall ensure that otoacoustic emissions equipment used to perform an otoacoustic emissions hearing screening is:
- 1. Calibrated every 12 months according to manufacturer's specifications; and
 - 2. Inspected within 24 hours before use to ensure that:
 - a. The calibration complies with manufacturer's specifications.
 - b. No obstruction is in the probe microphone, and
 - c. The test signal is present.

R9-13-109. Recordkeeping, Reporting Requirements

- A.** ~~The result of each child's hearing test shall be recorded on the school or health record together with the date of the test and the child's grade, or age equivalent.~~
- B.** ~~By June 30th of each year, each school shall submit a written report of the school year's HCP results to the Director utilizing forms prescribed by the Department. The report shall include the number of students classified into the following categories:~~
- 1. ~~Screened initially;~~
 - 2. ~~Failed the first screening;~~
 - 3. ~~Received the second screening;~~
 - 4. ~~Failed the second screening and were given:~~
 - a. ~~Threshold test,~~
 - b. ~~Medical referrals,~~
 - e. ~~Medical examinations,~~
 - d. ~~Audiological referrals,~~
 - e. ~~Audiological examinations,~~
 - f. ~~Hearing aid evaluations, and~~
 - g. ~~Special education evaluations; and~~
 - 5. ~~Wore hearing aids.~~
- C.** ~~By June 30th of each year, each school shall report the name of the person responsible for administering the hearing screening program to the Director along with a copy of that person's HCP training course certificate or Certificate of Clinical Competence in audiology or speech language pathology.~~
- A.** A school administrator shall retain, for Department review and inspection, a written record of:
- 1. The date and results of a student's hearing screening for no less than three complete school years beginning on the first July 1 after the student's last date of attendance at the school, and
 - 2. All calibration dates for a piece of hearing screening equipment currently used in the school.

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- B.** By June 30th of each year, a school administrator shall submit to the Department the following information for the school year ending that June 30th:
1. On a form available from the Department, the number of students by grade in each of the following categories:
 - a. Were enrolled at the time of a first hearing screening.
 - b. Did not have a first hearing screening under R9-13-102(C).
 - c. Had a first hearing screening.
 - d. Did not pass a first hearing screening.
 - e. Had a second hearing screening.
 - f. Did not pass a second hearing screening.
 - g. Were evaluated by an audiologist.
 - h. Were evaluated by a physician or a primary care practitioner.
 - i. Were first diagnosed as deaf or hard of hearing during the current school year, and
 - j. Were diagnosed as deaf or hard of hearing during a prior school year; and
 2. The name of each individual who performed a hearing screening in the school and:
 - a. The individual's license number to practice audiology, or
 - b. Evidence that the individual successfully completed a hearing screening course described in R9-13-107(B) or (C).

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

PREAMBLE

1. Sections Affected

R12-4-501
R12-4-502
R12-4-503
R12-4-505
R12-4-506
R12-4-507
R12-4-511
R12-4-512
R12-4-513
R12-4-517
R12-4-520
R12-4-522
R12-4-523
R12-4-524
R12-4-525

Rulemaking Action

Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
New Section
New Section

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

Authorizing statutes: A.R.S. § 5-311(A)(1) for all rules; A.R.S. §§ 5-321(A) and 5-391(A) for R12-4-502

Implementing statutes: A.R.S. § 5-301 for R12-4-501, A.R.S. § 5-311(A)(5) for R12-4-502, R12-4-507, and R12-4-517, A.R.S. § 5-321 for R12-4-503, A.R.S. § 5-311 for R12-4-506, A.R.S. § 5-331 for R12-4-511, A.R.S. §§ 5-311(A)(5) and 5-332 for R12-4-512, A.R.S. § 5-349 for R12-4-513, A.R.S. §§ 5-311(A)(4) and 5-361 for R12-4-520, R12-4-522, and R12-4-523, A.R.S. §§ 5-346(C) and 5-311 for R12-4-524, A.R.S. § 5-391(H) for R12-4-525

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

Notice of Rulemaking Docket Opening: 7 A.A.R. 1681, April 20, 2001

Notice of Public Meeting on Open Rulemaking Docket: 7 A.A.R. 2332, June 8, 2001

Notice of Public Meeting on Open Rulemaking Docket: 7 A.A.R. 3056, July 13, 2001

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

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

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

Telephone: (602) 789-3289

Fax: (602) 789-3677

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

The proposed rulemaking is primarily a result of the 2000 five-year rules review of Article 5, which identified potential amendments to the Article 5 rules to update and clarify specific and general provisions of the Arizona Game and Fish Commission Boating and Water Sports rules.

R12-4-501. Boating and Water Sports Definitions

The proposed rulemaking for R12-4-501 involves administrative housekeeping and drafting style changes identified in the 2000 Five-year Rules Review of Article 5. These changes will make the rule consistent with recent statutory changes and will correct outdated material and improve the accuracy, clarity, and understandability of the rule. The objective of R12-4-501 is to define the terms used in Article 5. Boating and Water Sports. The proposed rulemaking makes the following amendments to R12-4-501:

- Revises subsection (9) to clarify that no person shall be towed on inflatable devices [in “NO SKI” areas].
- Revises subsection (10) to add a reference to “flat wake,” as identified in A.R.S. § 5-350(C)(1).
- Revises existing subsection (19) to identify that for the purposes of registration only, “watercraft” does not mean nonmotorized watercraft of any length (Title 5 changed in 1999 to no longer require the registration of canoes).
- Adds a definition of “personal flotation device” to the list of definitions.
- Amends the rule where necessary to make the rule language consistent with the current Administrative Procedures Act requirements for rulemaking language and style.

R12-4-502. Application for Watercraft Registration

The proposed rulemaking for R12-4-502 involves administrative housekeeping and drafting style changes identified in the 2000 Five-year Rules Review of Article 5. These changes will make the rule consistent with recent statutory changes and will correct outdated material and improve the accuracy, clarity, and understandability of the rule. The objective of R12-4-502 is to establish application requirements for Arizona watercraft registration. The proposed rulemaking makes the following amendments to R12-4-502:

- Revises subsection (E) to add language conforming to the National Association of State Boating Law Administration (NASBLA) model act that clarifies that dealer numbers are for demonstration purposes only and not for personal use by a manufacturer, dealer, staff, or family.
- Deletes existing subsections (F) through (J) and replaces them with new subsections (F) through (H) to clarify and simplify the existing rule language.
- Amends the rule where necessary to make the rule language consistent with the rest of Article 5 and with the current Administrative Procedures Act requirements for rulemaking language and style.

R12-4-503. Renewal of Watercraft Registration

The proposed rulemaking for R12-4-503 involves administrative housekeeping and drafting style changes identified in the 2000 Five-year Rules Review of Article 5. These changes will make the rule consistent with recent statutory changes and will correct outdated material and improve the accuracy, clarity, and understandability of the rule. The objective of R12-4-503 is to specify the Department's time-frames for notifying owners of expiration of watercraft registration and to prescribe the owner's responsibilities for renewal. The proposed rulemaking makes the following amendments to R12-4-503:

- Amends the rule to incorporate changes to A.R.S. § 5-321, which allows watercraft owners to renew their registration by telecommunications.
- Amends the rule where necessary to make the rule language consistent with the current Administrative Procedures Act requirements for rulemaking language and style.

R12-4-505. Hull Identification Numbers

The objective of R12-4-505 is to prescribe the requirements for assigning a Hull Identification Number to a watercraft that is missing a number. The rule also establishes the requirements for the placement of a Hull Identification Number on a watercraft. The proposed rulemaking for R12-4-505 amends the rule to remove the word “improper” from subsection (B)(2). Under this provision of the rule, the Department has assigned new hull ID numbers in the case of improper existing hull ID numbers caused by a manufacturer error, errors by governmental jurisdictions, or noncompliance by previous owners. Watercraft under this scenario end up with two hull ID numbers, and this has been confusing to enforcement personnel, burdensome to the Department and watercraft manufacturers, and a potential safety issue for watercraft owners in the event of manufacturer safety recalls. The proposed rulemaking also makes technical corrections and drafting style changes to make the rule language consistent with the current Administrative Procedures Act requirements for rulemaking language and style.

R12-4-506. Invalidation of Watercraft Registration

The proposed rulemaking for R12-4-506 involves administrative housekeeping and drafting style changes identified in the 2000 Five-year Rules Review of Article 5. These changes will make the rule consistent with recent statutory changes and will correct outdated material and improve the accuracy, clarity, and understandability of the rule. The objective of R12-4-506 is to invalidate a registration obtained by fraud or misrepresentation, to demand the return of the invalid certificate and decals within 15 calendar days of receiving written notification from the Department, and to ensure that renewal or transfer of an invalid watercraft does not take place until the reason for invalidity has been corrected or no longer exists. The proposed rulemaking makes the following amendments to R12-4-506:

- Amends the rule to add subsection (B)(5) to prescribe that certificates and decals are invalid if incomplete or incorrect information is given and an applicant refuses to comply with the Department’s request to provide correct information or return certificates and decals. This is an administrative change necessary to make the rule consistent with the provisions of R12-4-502.
- Amends the rule to add subsection (B)(5) to make certificates and decals invalid if the Department has revoked the certificate of number, numbers, and decals as provided in A.R.S. § 5-391(H). This is an administrative change necessary to make the rule consistent with the provisions of proposed new Section R12-4-525.
- Amends the rule where necessary to make the rule language consistent with the current Administrative Procedures Act requirements for rulemaking language and style.

R12-4-507. Application for Registration of Abandoned or Unreleased Watercraft

The objective of R12-4-507 is to prescribe procedures to allow for the registration of a watercraft that has been abandoned or for which there is no legal release of interest from the registered owner. This rule also protects the interest of the legally registered owner by preventing the registration of a stolen watercraft to another person. The proposed rulemaking makes the following amendments to R12-4-507:

- Makes an administrative change to subsection (A) to delete the definition for “Unreleased watercraft,” which does not need to be defined since it is not used in the rule language.
- Adds the following definition to subsection (A) to clarify the intent of the rule: “*Release of interest* means a statement giving up, surrendering, or abandoning unconditionally any claim or right of ownership or use in a watercraft.”
- Adds to subsection (C) a requirement that applicants identify the state in which a watercraft will be used. This will allow the Department to verify that Arizona will be the state of primary use before undertaking the costly and time-consuming process of researching an abandoned or unreleased watercraft. In the past, this has been a problem with individuals registering a watercraft in Nevada, which has no process to identify ownership for abandoned watercraft.
- Amends subsection (D) for clarity and conciseness.
- Amends subsection (E)(1) to shorten and simplify the advertisement requirements for the registration of abandoned or unreleased watercraft, which will benefit the public by lowering the costs for advertising.
- Amends subsection (E)(2) to change “proof of publication” to “affidavit.”
- Makes technical corrections and drafting style changes to make the rule language consistent with the current Administrative Procedures Act requirements for rulemaking language and style.

R12-4-511. Personal Flotation Devices

The main objective of R12-4-511 is safety. A.R.S. § 5-331(A) requires all watercraft, except sailboards, to carry United States Coast Guard approved personal flotation devices, and R12-4-511 prescribes the type and category of the required devices. The proposed rulemaking makes the following amendments to R12-4-511:

- Deletes subsection (C), which is outdated and no longer relevant. This provision of the proposed rulemaking is hereafter referred to as an administrative housekeeping change to the rule.
- Adds new subsection (C) that clarifies that as prescribed in A.R.S. § 5-331(C) and A.R.S. § 5-350(A), children 12 years of age or under on board a watercraft, and any person on board a personal watercraft, shall wear an appropriately-sized, U.S. Coast Guard-approved personal flotation device. This provision of the proposed rulemaking is hereafter referred to as an administrative housekeeping change to the rule.
- Adds a new subsection that defines “wear” as it relates to the use of a personal flotation device: “Wear” means that the personal flotation device is being worn according to the manufacturer’s design or recommended use; that all closures of the personal flotation device are fastened, snapped, tied, zipped, or secured according to the manufacturer’s design or recommended use; and that the personal flotation device is adjusted for a snug fit.
- Adds a new subsection that specifies that subsections (A), (B), and (C) do not apply to the operation of a racing shell or rowing skull during competitive racing or supervised training if the racing shell or rowing skull is manually propelled; recognized by a national or international association for use in competitive racing; and is designed to carry and does carry only equipment which is solely for competitive racing. Federal regulations under 33 CFR 175.3 and 175.17(C) exempt racing shells and rowing skulls from the requirement to carry United States Coast Guard approved personal flotation devices, and the proposed rulemaking will make R12-4-511 consistent with these regulations. This provision of the proposed rulemaking is hereafter referred to as an administrative housekeeping change to the rule.
- Makes technical corrections and drafting style changes to make the rule language consistent with the current Administrative Procedures Act requirements for rulemaking language and style. This provision of the proposed rulemaking is hereafter referred to as an administrative housekeeping change to the rule.

R12-4-512. Fire Extinguishers Required for Watercraft

A.R.S. § 5-332 requires all watercraft that are fueled with volatile liquid to carry a fire extinguisher unless exempted by the Commission. R12-4-512 sets forth fire extinguisher requirements and exemptions, with safety as the first concern. The proposed rulemaking makes the following amendments to R12-4-512:

- Reorders the subsections in a more logical manner, with existing subsection (C) becoming new subsection (A); existing subsection (A) becoming new subsection (B); and existing subsection (B) becoming new subsection (C). This provision of the proposed rulemaking is hereafter referred to as an administrative housekeeping change to the rule.
- Adds new subsection (A)(7) to require that when a fixed fire extinguishing system is installed in the machinery space, there shall also be on board at least one B-I type approved hand portable fire extinguisher. This is to provide fire extinguisher coverage for other potential fire hazards on the watercraft that a fixed system cannot address.
- Makes technical corrections and drafting style changes to make the rule language consistent with the current Administrative Procedures Act requirements for rulemaking language and style. This provision of the proposed rulemaking is hereafter referred to as an administrative housekeeping change to the rule.

R12-4-513. Watercraft Casualty Reports

The objective of the rule is to ensure that boating accident information is provided to the Department for forwarding to the United States Coast Guard. The proposed rulemaking makes the following amendments to R12-4-513:

- Amends the rule to incorporate changes to A.R.S. § 5-349, which establish a minimum threshold of \$500 property damage for reporting watercraft accidents. Under the statutory change and the proposed rulemaking, only those individuals involved in an accident involving property damage exceeding \$500 are required to fill out a report.
- The proposed rulemaking also makes technical corrections and drafting style changes to make the rule language consistent with the current Administrative Procedures Act requirements for rulemaking language and style.

R12-4-517. Watercraft and Boat Motor and Engine Restrictions

The objective of R12-4-517 is to restrict the use of watercraft and boat engines on certain bodies of water in order to protect the public and the environment. The proposed rulemaking makes the following amendments to R12-4-517:

- Amends the rule to remove Becker Lake, Concho Lake, Lower Lake Pleasant, Nelson Reservoir, and River Reservoir from the list that restricts watercraft to an electric motor only.

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- Amends the rule to add Ackre Lake, Carnero Lake, Fortuna Lake, Goldwater Lake, Hulsey Lake, Horsethief Basin Lake, Pratt Lake, Quigley Lake, Redondo Lake, and Willow Lake to the list that restricts watercraft to an electric motor only.
- Amends the rule to raise the maximum allowable horsepower rating of motors in subsection (B) waterways from 8hp to 10hp, since 9.9hp is now the standard for electric start.
- Amends the rule to add Becker Lake, Concho Lake, Little Mormon Lake, Mexican Hay Lake, Nelson Reservoir, River Reservoir, Whipple Lake, and White Mountain Lake (in Apache County) to the list that restricts watercraft to an electric motor or gasoline engine not exceeding 10 manufacturer-rated horsepower.
- Makes technical corrections and drafting style changes to make the rule language consistent with the current Administrative Procedures Act requirements for rulemaking language and style. This provision of the proposed rule-making is hereafter referred to as an administrative housekeeping change to the rule.

R12-4-520. Arizona Uniform State Waterway Marking System

The proposed rulemaking for R12-4-520 involves administrative housekeeping and drafting style changes identified in the 2000 Five-year Rules Review of Article 5. These changes will make the rule consistent with recent statutory changes and will correct outdated material and improve the accuracy, clarity, and understandability of the rule. A.R.S. § 5-361 prohibits marking the waters of this state in any manner in conflict with the uniform navigational marking standards as prescribed by the Commission or the U.S. Coast Guard. A.R.S. § 5-311(B) further requires that the Commission's rules cannot be in conflict with those prescribed by the U.S. Coast Guard. R12-4-520 prescribes the State's standards for regulatory markers and aids to navigation to be as established in the U.S. Coast Guard's Code of Federal Regulations. The proposed rulemaking makes the following amendments to R12-4-520:

- Amends the rule to update the incorporation by reference.
- Amends the rule where necessary to make the rule language consistent with the current Administrative Procedures Act requirements for rulemaking language and style.

R12-4-522. Establishment of Controlled-Use Markers

The proposed rulemaking for R12-4-522 involves administrative housekeeping and drafting style changes identified in the 2000 Five-year Rules Review of Article 5. These changes will make the rule consistent with recent statutory changes and will correct outdated material and improve the accuracy, clarity, and understandability of the rule. The objective of R12-4-522 is to delegate the Commission's authority to authorize the establishment of controlled-use areas and the placement of controlled-use markers on waters under the lawful jurisdiction of other governmental agencies and authorities; to establish criteria for controlling use; and to impose a requirement of proper notification of the controlled-use restriction. The proposed rulemaking makes the following amendments to R12-4-522:

- Deletes the first sentence of subsection (A), which is a confusing and misleading interpretation of A.R.S. § 5-361(A).
- Amends the rule where necessary to make the rule language consistent with the current Administrative Procedures Act requirements for rulemaking language and style.

R12-4-523. Controlled Operation of Watercraft

The proposed rulemaking for R12-4-523 involves administrative housekeeping and drafting style changes identified in the 2000 Five-year Rules Review of Article 5. These changes will make the rule consistent with recent statutory changes and will correct outdated material and improve the accuracy, clarity, and understandability of the rule. The objective of R12-4-523 is to require watercraft operators to comply with any controlled-use restrictions pursuant to lawfully established controlled-use markers. The rule allows certain exceptions for the conduct of official duties and for permitted regatta events. The proposed rulemaking makes the following amendments to R12-4-523:

- Amends the language of subsection (A) to clarify the meaning of "similar contrivance" as it applies to a person operating a watercraft or towing a person with a watercraft in a manner contrary to the lawfully imposed area restrictions identified by lawfully established controlled-use markers.
- Amends the rule where necessary to make the rule language consistent with the current Administrative Procedures Act requirements for rulemaking language and style.

R12-4-524. Water Skiing

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The proposed rulemaking adds a new Section requiring that a person be physically capable and mentally competent to act as an observer of a water skier. The proposed new Section will help to ensure that the observer, who holds a lot of responsibility for the safety of the water skier, has the judgment and skills necessary to properly display a ski flag. Water skiers will benefit directly by having an observer who is able to display a ski flag in a timely and consistent manner, thus increasing the water skier's safety. Other water users will benefit indirectly by knowing that a well-displayed ski flag means that there is a skier or a towrope in the water, which will reduce the chance of them having an accident with a skier or a towrope.

R12-4-525. Watercraft Certificate of Number, Numbers, and Decal Revocation

A.R.S. § 5-391(H) states that "Upon receipt of notice of conviction of a person under subsection F or G of this section, the department may revoke the numbers and decals issued to the watercraft which was involved in the violation and any other watercraft owned by the person convicted." R12-4-525 is a new Section that prescribes the procedures that the Department will use under A.R.S. § 5-391(H) to revoke the numbers and decals issued to the watercraft owned by a person convicted under A.R.S. § 5-391(F), and the numbers and decals issued to the watercraft involved in a violation under A.R.S. § 5-391(G). This rulemaking is in response to the Auditor General's findings in Sunset Factor 4 of the 2001 Auditor General's Performance Audit of the Arizona Game and Fish Department Wildlife Management Program.

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

None

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

Not applicable

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

R12-4-501.	Boating and Water Sports Definitions
R12-4-502.	Application for Watercraft Registration
R12-4-503.	Renewal of Watercraft Registration
R12-4-506.	Invalidation of Watercraft Registration
R12-4-520.	Arizona Uniform State Waterway Marking System
R12-4-522.	Establishment of Controlled-Use Markers
R12-4-523.	Controlled Operation of Watercraft

The proposed rulemaking, which involves administrative housekeeping and drafting style changes identified in the 2000 Five-year Rules Review of Article 5, will benefit the general public, private persons, and consumers by providing updated rules that are more readable and more easily understood. No additional costs are anticipated for the general public, private persons, and consumers who are directly or indirectly affected by the proposed rulemaking.

There will be no additional costs and no reduction in revenues to small or large businesses resulting from these rule amendments, and there is no anticipated effect on the revenues or payroll expenditures of employers who are subject to or affected by the proposed rulemaking.

The Department anticipates that the benefits from the proposed rulemaking will outweigh the costs to the Department, other agencies, political subdivisions, the general public, private persons, consumers, and any small or large businesses directly affected by the implementation and enforcement of the proposed rulemaking.

R12-4-505. Hull Identification Numbers

The proposed rulemaking for R12-4-505 will directly benefit individuals who purchase a new watercraft with an improper HIN (hull ID number), when the improper HIN is the result of manufacturer errors, errors by governmental jurisdictions, or noncompliance of previous owners. The proposed rulemaking eliminates the requirement for the Department to issue new HINs (hull ID numbers) in these cases. Under the proposed rulemaking, a watercraft owner who had no responsibility for the error or noncompliance is not unfairly penalized by having to place a secondary hull identification number on the watercraft. The proposed rulemaking also solves a potential safety issue, since watercraft safety recalls reference the original HINs, regardless of whether or not they are in the proper numbering format.

The rule does not impose any additional financial burdens on watercraft owners, manufacturers, or watercraft law enforcement agencies, and the Department has determined that the benefits of the proposed rulemaking outweigh any costs.

R12-4-507. Application for Registration of Abandoned or Unreleased Watercraft

Except for those costs directly associated with the rulemaking itself, the proposed rulemaking will result in no added cost to individuals, businesses, the Arizona Game and Fish Department, the political subdivisions of the state, or to other agencies.

Information about the proposed rule changes will be disseminated to Department personnel, the public, and other agencies as a part of the normal process of updating the information the Department annually publishes in the hunt regulations. Departmental enforcement related to the rulemaking will be integrated into existing enforcement responsibilities.

No other agencies or political subdivisions of the state are directly affected by the implementation and enforcement of the proposed rulemaking, and there are no small businesses subject to the proposed rulemaking.

The Department has determined that the overall benefits of the proposed rulemaking outweigh any costs.

R12-4-511. Personal Flotation Devices

I. The proposal to add a new subsection that defines “wear” as it relates to the use of a personal flotation device

The proposed rulemaking adds a definition of “wear” and adds a new subsection clarifying that as prescribed in A.R.S. § 5-331(C) and A.R.S. § 5-350(A), children 12 years of age or under on board a watercraft, and any person on board a personal watercraft, shall wear an appropriately-sized, U.S. Coast Guard-approved personal flotation device. Personal flotation devices are only effective when worn properly, and the ultimate purpose of the proposed rulemaking is to help save lives.

Enforcement related to the rulemaking will be integrated into the existing enforcement responsibilities of the Department and those political subdivisions of the state that enforce the Commission’s Boating and Water Sports rules. Enforcement officers can check for rule compliance when routinely patrolling the waterways of Arizona. The proposed rulemaking does have the potential to generate increased citations for personal flotation device safety violations, and this in turn may create an increased workload for the Department and political subdivisions of the state. An estimate of how many additional citations will be issued, and how large the corresponding workload increase will be cannot be determined at this time, since it will be dependent, to a significant degree, on how successful the Department’s boater safety education program is in educating the public about the proposed amendments to rule. If there is an increase in citations, a portion of any increased costs to the political subdivisions of the state will be offset by the additional fines collected as a result these citations.

The proposed rulemaking will benefit the general public, businesses, the Arizona Game and Fish Department, the political subdivisions of the state, and other agencies directly affected by the implementation and enforcement of the proposed rulemaking by increasing the safety on Arizona’s waterways, which will ultimately reduce the costs of boating safety enforcement.

The proposed rulemaking does not involve any additional costs or reduction in revenues to private persons and consumers who are directly affected by the proposed rulemaking, and the Department anticipates that the benefits from the proposed rulemaking will outweigh any costs to the Department, other agencies, political subdivisions, the general public, private persons, and any consumers, directly affected by the implementation and enforcement of the proposed rulemaking.

II. The proposed administrative housekeeping rule amendments

Except for those costs directly associated with the rulemaking itself, the proposed administrative housekeeping rule amendments will result in no added cost to individuals, businesses, the Arizona Game and Fish Department, the political subdivisions of the state, or to other agencies directly affected by the implementation and enforcement of the proposed rulemaking.

The proposed rulemaking will benefit the general public, businesses, the Arizona Game and Fish Department, the political subdivisions of the state, and other agencies directly affected by the implementation and enforcement of the proposed rulemaking by amending outdated language and by making the language of the rule consistent federal regulations and with the current Administrative Procedures Act requirements for rulemaking language and style.

The Department has therefore determined that the benefits of the proposed administrative housekeeping rule changes outweigh any costs.

R12-4-512. Fire Extinguishers Required for Watercraft

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I. The proposal to add new subsection (A)(7) to require that when a fixed fire extinguishing system is installed in the machinery space, there shall also be on board at least one B-I type approved hand portable fire extinguisher

Under the current provisions of the rule, a hand portable fire extinguisher is not required for watercraft under 26 feet if a fixed fire extinguishing system is installed in the machinery space. Implementing the proposed rule amendment will increase boater safety by requiring that a hand portable fire extinguisher be available to fight fires occurring outside of the range of the fixed fire extinguishing system. Examples of fires that can occur on a watercraft outside of the machinery space include fires associated with cooking (especially with barbecue grills), fires associated with careless disposal of smoking materials, dock fires, and fires on other watercraft. Approximately 1,000 to 10,000 watercraft owners with fixed fire extinguisher systems will be directly affected by the proposed rulemaking. There will be a direct cost to watercraft owners with fixed fire extinguishing systems who do not already have a hand portable fire extinguisher. These individuals will be required to purchase an extra fire extinguisher under the proposed rulemaking, at a cost of between \$12 and \$40 each.

Businesses that rent watercraft under 26 feet with fixed fire extinguishing systems in the machinery space will be subject to the proposed rule amendments and will be required to add portable hand fire extinguishers to any of these types of watercraft that they rent. In actuality, however, very few of these types of watercraft are rented, since they are mostly in the category of high performance and high dollar value. Additional costs to watercraft rental businesses will therefore be very limited in scope, and no impact is expected on the revenues or payroll expenditures of these types of businesses.

Any fire on a watercraft is a serious matter, and the Department has determined that the safety benefits of the proposed rulemaking outweigh any costs.

II. The proposed administrative housekeeping rule amendments

Except for those costs directly associated with the rulemaking itself, the proposed administrative housekeeping rule amendments will result in no added cost to individuals, businesses, the Arizona Game and Fish Department, the political subdivisions of the state, or to other agencies directly affected by the implementation and enforcement of the proposed rulemaking.

The proposed rulemaking will benefit the general public, businesses, the Arizona Game and Fish Department, the political subdivisions of the state, and other agencies directly affected by the implementation and enforcement of the proposed rulemaking by amending outdated language and by making the language of the rule consistent with the current Administrative Procedures Act requirements for rulemaking language and style.

The Department has therefore determined that the benefits of the proposed administrative housekeeping rule changes outweigh any costs.

R12-4-513. Watercraft Accident and Casualty Reports

The proposed rulemaking decreases monitoring, recordkeeping, and reporting burdens on the Department, other state agencies, political subdivisions, businesses, and individuals. Under A.R.S. § 41-1055(D)(3), the agency is thus exempt from providing an economic, small business, and consumer impact statement.

R12-4-517. Watercraft ~~and Boat~~ Motor and Engine Restrictions

I. The proposal to remove Becker Lake, Concho Lake, Lower Lake Pleasant, Nelson Reservoir, and River Reservoir from the list that restricts watercraft to an electric motor only

The proposed rulemaking will give individuals at Becker Lake, Concho Lake, Lower Lake Pleasant, Nelson Reservoir, and River Reservoir the option of using gasoline-powered engines on these lakes. Wind conditions make electric motors impractical at certain times of the year on these lakes, and under the proposed rulemaking boaters and anglers will have more usage days available to them. There will be no added cost to individuals, businesses, the Arizona Game and Fish Department, the political subdivisions of the state, or to other agencies directly affected by the implementation and enforcement of the proposed rulemaking. The Department has therefore determined that the benefits of the proposed rule changes outweigh any costs.

II. The proposal to add Ackre Lake, Carnero Lake, Fortuna Lake, Goldwater Lake, Hulsey Lake, Horsethief Basin Lake, Pratt Lake, Quigley Lake, Redondo Lake, and Willow Lake to the list that restricts watercraft to an electric motor only

There is currently limited usage (and in some cases, no usage) of gasoline engines at these lakes. While this is not expected to change in the short term (due mostly to the size of these lakes), watercraft usage is increasing statewide and the Department feels that it is prudent at this time to protect the quality of the boating and angling experience at

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these lakes by initiating rule changes which will prohibit the use of gasoline engines on these lakes. The impact on individuals is expected to be minimal, and the Department has therefore determined that the benefits of the proposed rule changes outweigh any costs.

III. The proposal to raise the maximum allowable horsepower rating of motors in subsection (B) waterways from 8hp to 10hp

Anglers and boaters with watercraft motors between 8hp. and 10hp. will be able to fish waterways that were previously off limits due to 8hp. motor restrictions. This change will be especially helpful to the elderly and the disabled since 9.9hp is now the standard for electric start engines. Under the current provisions of the rule, these 9.9hp electric start engines cannot be used. This forces the elderly and the disabled to use engines that require a manual start, which is difficult or impossible for some of these individuals. The proposed rulemaking will open up recreational opportunities to these individuals that would otherwise be denied due to the limitations imposed by the current provisions of the rule.

There will be no added cost to individuals, businesses, the Arizona Game and Fish Department, the political subdivisions of the state, or to other agencies directly affected by the implementation and enforcement of the proposed rulemaking. The Department has therefore determined that the benefits of the proposed rule changes outweigh any costs.

IV. The proposal to add Becker Lake, Concho Lake, Little Mormon Lake, Mexican Hay Lake, Nelson Reservoir, River Reservoir, Whipple Lake, and White Mountain Lake (in Apache County) to the list that restricts watercraft to an electric motor or gasoline engine not exceeding 10 manufacturer-rated horsepower

The proposed rulemaking will give individuals at Becker Lake, Concho Lake, Little Mormon Lake, Mexican Hay Lake, Nelson Reservoir, River Reservoir, Whipple Lake, and White Mountain Lake (in Apache County) the option of using electric motors or gasoline-powered engines not exceeding 10 manufacturer-rated horsepower on these lakes. Wind conditions make electric motors impractical at certain times of the year on these lakes, and under the proposed rulemaking boaters and anglers will have more usage days available to them. There will be no added cost to individuals, businesses, the Arizona Game and Fish Department, the political subdivisions of the state, or to other agencies directly affected by the implementation and enforcement of the proposed rulemaking. The Department has therefore determined that the benefits of the proposed rule changes outweigh any costs.

V. The proposed administrative housekeeping rule amendments

Except for those costs directly associated with the rulemaking itself, the proposed administrative housekeeping rule amendments will result in no added cost to individuals, businesses, the Arizona Game and Fish Department, the political subdivisions of the state, or to other agencies directly affected by the implementation and enforcement of the proposed rulemaking.

The proposed rulemaking will benefit the general public, businesses, the Arizona Game and Fish Department, the political subdivisions of the state, and other agencies directly affected by the implementation and enforcement of the proposed rulemaking by amending outdated language and by making the language of the rule consistent with the current Administrative Procedures Act requirements for rulemaking language and style.

The Department has therefore determined that the benefits of the proposed administrative housekeeping rule changes outweigh any costs.

R12-4-524. Water Skiing

The general public is the ultimate beneficiary of the proposed rulemaking. Individuals directly affected by the proposed rulemaking include all users of Arizona waters where water skiing is allowed. The proposed rulemaking will increase the safety for water skiers and for watercraft operators encountering water skiers on the waters of Arizona. Water skiers will benefit directly by having an observer who is able to display a ski flag in a timely and consistent manner, thus increasing the safety for a skier who is down in the water. Other water users will benefit indirectly by knowing that a well-displayed ski flag means that there is a skier or a towrope in the water, which will reduce the chance of them having an accident with a skier or a towrope.

Enforcement activities related to the rulemaking will be integrated into the existing enforcement responsibilities of the Department and any other agencies charged with enforcement of the Commission's Boating and Water Sports rules. Enforcement officers can check for rule compliance when routinely patrolling the waterways of Arizona. Operating costs to the Department will thus be minimal, associated only with the dissemination of information regarding the rulemaking to watercraft users, water sport participants, boat dealers, other law enforcement agencies, the general public, and other interested parties.

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The rule change does have the potential to generate increased citations for water skiing safety violations, and this in turn may create an increased workload for the political subdivisions of the state that are responsible for the prosecution of this type of misdemeanor violation. An estimate of how many additional citations will be issued, and how large the corresponding workload increase will be to the political subdivisions of the state cannot be determined at this time, since it will be dependent, to a significant degree, on how successful the Department's boater safety education program is in educating the public about the new rule. If there is an increase in citations, a portion of any increased costs to the political subdivisions of the state will be offset by the additional fines collected as a result these citations.

There will be no additional costs and no reductions in revenues to businesses resulting from the proposed rulemaking. There is no anticipated effect on the revenues or payroll expenditures of employers, since there are no businesses that are subject to the proposed rulemaking. No impact on private and public employment in businesses, agencies and political subdivisions of this state is anticipated as a consequence of the proposed rulemaking.

Small businesses are not subject to the proposed rulemaking. The proposed rulemaking involves the competency of the observer of a water skier and does not involve any additional costs or reduction in revenues to small businesses. Additionally, there is no anticipated effect on the revenues or payroll expenditures of employers.

The only other costs associated with the proposed rulemaking will be those resulting from the rulemaking itself. The Department thus anticipates that the benefits from the proposed rulemaking will outweigh the costs to the Department, other agencies, political subdivisions, the general public, private persons, consumers, and any small or large businesses directly affected by the implementation and enforcement of the proposed rulemaking.

R12-4-525. Watercraft Certificate of Number, Numbers, and Decal Revocation

Individuals convicted of a felony or misdemeanor offense under A.R.S. § 5-391(F) or (G) will be directly affected by the proposed rulemaking, as will any small and large businesses that sell or rent watercraft if they are involved in the violations. The proposed rulemaking will, at a minimum, affect individual watercraft owned by a person convicted under A.R.S. § 5-391(F) or (G), and for those offenses involving stolen watercraft, all of the watercraft owned by a convicted individual will be impacted. For those violations involving businesses and stolen watercraft, the affect will be significant and may force these businesses to cease operation, which would in turn have an impact on private employment in these businesses.

The revocation of the certificates of number, numbers, and decals does not affect the legal title to or any property rights in the watercraft, and upon application to the Department, the Department shall terminate the revocation and allow the owner to transfer the owner's entire interest in the watercraft if the Department is satisfied that such transfer is proposed in good faith and not for the purpose of defeating the revocation. These provisions are set forth in the proposed new rule and will mitigate the effect of the proposed rulemaking on any businesses involved in convictions by allowing ownership interest in any impacted watercraft to be sold.

Small businesses involved in felony and misdemeanor convictions under A.R.S. § 5-391(F) and (G) are subject to the proposed rulemaking and there are therefore no less costly compliance requirements possible for these businesses. It is likewise not possible to exempt small businesses involved in felony and misdemeanor convictions under A.R.S. § 5-391(F) and (G) from the provisions of the proposed rulemaking.

Departmental enforcement related to the rulemaking will be integrated into existing enforcement responsibilities and current Department operating procedures. Enforcement officers will check for revocation compliance when routinely patrolling the waterways of Arizona. Operating costs to the Department will thus be minimal, associated only with the Administrative Procedures Act requirements under Title 41 and with the dissemination of information regarding the rulemaking to Department personnel, watercraft users, boat dealers, other law enforcement agencies, the general public, and other interested parties.

The general public is the ultimate beneficiary of the proposed rulemaking, which will act as a deterrent to the criminal offenses outlined in A.R.S. § 5-391(H). The Department anticipates that the benefits from the proposed rulemaking will outweigh the costs to the Department, other agencies, political subdivisions, and any members of the general public directly affected by the implementation and enforcement of the proposed rulemaking.

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

Name: Mark E. Naugle, Manager, Rules and Risk Management
Address: Arizona Game and Fish Department DORR
2221 W. Greenway Road
Phoenix, AZ 85023-4399

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Telephone: (602) 789-3289

Fax: (602) 789-3677

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

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

Date: May 17, 2002

Time: To be announced. The Commission Meeting Agenda will be available to the public on April 26, 2002. Copies of the Commission Meeting Agenda may be obtained by contacting the following person:

Mark E. Naugle, Manager, Rules and Risk Management
Arizona Game and Fish Department DORR
2221 W. Greenway Road
Phoenix, AZ 85023-4399

Telephone: (602) 789-3289

Fax: (602) 789-3677

Location: Best Western Inn Suites
6201 N. Oracle Rd.
Tucson, AZ 85704

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

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

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

Not applicable

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

R12-4-520. Arizona Uniform State Waterway Marking System

The Arizona Uniform State Waterway Marking System ~~shall be as is that~~ prescribed in 33 CFR ~~62.66-10~~, revised as of July 1, 1998, 1989, not including any later editions or amendments, which is incorporated by reference in this Section, herein. A copy of the ~~incorporated matter~~ is on file with the Secretary of State and is available from any Department office, or it may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

13. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 5. BOATING AND WATER SPORTS

Section

- R12-4-501. Boating and Water Sports Definitions
- R12-4-502. Application for Watercraft Registration
- R12-4-503. Renewal of Watercraft Registration
- R12-4-505. Hull Identification Numbers
- R12-4-506. Invalidation of Watercraft Registration
- R12-4-507. Application for Registration of Abandoned or Unreleased Watercraft

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R12-4-511.	Personal Flotation Devices
R12-4-512.	Fire Extinguishers Required for Watercraft
R12-4-513.	Watercraft <u>Accident and</u> Casualty Reports
R12-4-517.	Watercraft and Boat <u>Motor and</u> Engine Restrictions
R12-4-520.	Arizona Uniform State Waterway Marking System
R12-4-522.	Establishment of Controlled-Use Markers
R12-4-523.	Controlled Operation of Watercraft
R12-4-524.	Reserved <u>Water Skiing</u>
R12-4-525.	Reserved <u>Watercraft Certificate of Number, Numbers, and Decal Revocation</u>

ARTICLE 5. BOATING AND WATER SPORTS

R12-4-501. Boating and Water Sports Definitions

- A. In addition to the definitions provided in A.R.S. § 5-301, the following definitions apply to this Article unless the context requires otherwise ~~requires~~:
1. "Aids to navigation" means buoys, beacons, or other fixed objects placed on, in, or near the water to mark obstructions to navigation or to direct navigation through channels or on a safe course.
 2. "Bill of sale" means a written agreement transferring ownership, ~~and including:~~ of a watercraft and listing the following: the name of the buyer and seller; the manufacturer of the watercraft sold, if known; the hull identification number, unless exempted by R12-4-505; the purchase price and sales tax paid, if any; and the signature of the seller.
 3. "Boats keep out" means that an operator or user of a watercraft, or a person being towed by a watercraft on waterskis, surfboards, or similar ~~contrivances~~ devices or equipment shall not enter.
 4. "Controlled-use marker" means an anchored or fixed marker on the water, shore, or on a bridge that controls the operation of watercraft, water skis, surfboard, or similar ~~contrivances~~ devices or equipment.
 5. "Homemade watercraft" means a watercraft ~~which~~ that was not fabricated or manufactured for resale and to which a manufacturer has not attached a hull identification number. A watercraft assembled from a kit, or constructed from an unfinished manufactured hull, is a "homemade watercraft" if not already assigned a hull identification number by the manufacturer.
 6. "Hull identification number" means a number assigned to a specific watercraft by the manufacturer or by a government jurisdiction as prescribed by the U.S. Coast Guard.
 7. "Letter of gift" means a document; transferring ownership of a watercraft, ~~signed by the previous owner, stating that the watercraft is a gift and listing and listing the following:~~ the name of both the previous owner and the new owner; the name of the manufacturer of the watercraft if known; ~~and~~ the hull identification number, unless exempted by R12-4-505; a statement that the watercraft is a gift; and the signature of the previous owner.
 8. "Livery" means a business authorized to rent watercraft without an operator ~~pursuant to~~ under A.R.S. § 5-371.
 9. "No ski" means a person shall not be towed on water skis, inflatable devices, or similar ~~devices~~ equipment.
 10. "No wake" means wakeless speed, as defined by A.R.S. § 5-301, and flat wake as referenced in A.R.S. § 5-350.
 11. "Owner" in reference to a watercraft means a person who claims lawful possession of a watercraft by virtue of legal title or equitable interest, which entitles that person to possession.
 12. "Personal flotation device" means a U. S. Coast Guard approved Type I, II, III, or V wearable, or Type IV throwable device for use on any watercraft, as prescribed by A.R.S. § 5-331(A), (C), and (D); A.R.S. § 5-350(A); and R12-4-511.
 - ~~12-13.~~ "Regatta" means an organized water event of limited duration ~~which~~ that affects the use of waterways by the public; ~~which and~~ is conducted according to a prearranged schedule, for which a lawful jurisdiction has issued a permit, but excluding the term does not include fishing tournaments ~~as addressed in A.R.S. § 17-347.~~
 - ~~13-14.~~ "Registered owner" means the person or persons to whom a watercraft is currently registered by any jurisdiction.
 - ~~14-15.~~ "Regulatory marker" means a waterway marker placed on, in, or near the water to indicate the presence of a danger or a restricted or controlled-use area or to convey general information and directions.
 - ~~15-16.~~ "Sound level" means the noise level measured in decibels on the A-weighted scale of a sound level instrument that conforms ~~with~~ to recognized industry standards and is maintained according to the manufacturer's instructions ~~the requirements set forward by the American National Standards Institute in Specifications for Sound Level Meters.~~
 - ~~16-17.~~ "Staggered registration" means the system of renewing watercraft registrations that expire in accordance with the schedule contained in R12-4-504.
 - ~~17-18.~~ "State of principal use" means the state on whose waters the ~~vessel~~ watercraft is used or to be used most during the calendar year.
 - ~~18-19.~~ "Use" in reference to a watercraft means any watercraft underway, moored, anchored, or beached on the waterways of the state.
 - ~~19-20.~~ "Watercraft" means a boat or other floating device of rigid or inflatable construction, designed to carry people or cargo on the water that is propelled by machinery, oars, paddles, or wind action on a sail. Exceptions are sea-planes,

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makeshift contrivances constructed of innertubes, or other floatable materials ~~which that~~ are not propelled by machinery, personal flotation devices worn or held in hand, and other objects used as floating or swimming aids. For the purpose of registration only, "watercraft" ~~does not include nonmotorized inflatable watercraft which are 12 feet or less in length means motorized.~~

~~20-21.~~ "Watercraft agent" means a person authorized by the Department to collect appropriate fees for the registration and numbering of watercraft.

~~21-22.~~ "Watercraft number" means the registration number issued by the Department under A.R.S. § 5-321.

~~22-23.~~ "Watercraft registration" means the validated certificate of number and validating decals issued by the Department.

R12-4-502. Application for Watercraft Registration

- A.** A person shall apply for watercraft registration ~~pursuant to~~ under A.R.S. § 5-321 using a form provided by the Department. The applicant shall provide the following information for registration of all watercraft except homemade watercraft, which are addressed in subsection (B):
1. Type of watercraft and propulsion type;
 2. Overall length of ~~craft~~ watercraft;
 3. Manufacturer's name, if known;
 4. Year built or model year, if known;
 5. Hull identification number;
 6. Hull material;
 7. Fuel type;
 8. Category of use;
 9. Watercraft number previously issued for the watercraft, if any;
 10. State of principal use; and
 11. Name, mailing address, and date of birth of each owner. To simplify the description of joint ownership when a watercraft is owned by more than 1 person, the applicant shall indicate ownership by use of 1 of the following methods:
 - a. Where ownership is joint tenancy with right of survivorship or community property with right of survivorship, the applicant shall use "and/or" between the names of the owners. To transfer registration of the watercraft, each party shall provide a signature if both are living. Upon legal proof of the death of either party, the living party may transfer registration of the watercraft upon the signature of the living party.
 - b. Where ownership is a tenancy in common the applicant shall use "and" between the names of the owners. To transfer registration of the watercraft, each party shall provide a signature. In the event of the death of any party, the interest of the deceased party ~~must shall~~ be handled through ~~probate~~ appropriate legal proceedings.
 - c. Where the ownership is joint tenancy with an express intent that either of the owners have full authority to transfer registration, the applicant shall use "or" between the names of the owners. ~~As a condition of transferring registration as just indicated above, each~~ Each owner ~~must shall~~ sign the application for registration. To transfer registration, either party's signature is sufficient for transfer.
- B.** The owner or owners of a homemade watercraft shall sign the application and have it notarized unless it is signed in the presence of a Department employee. The applicant shall provide the following information for registration of homemade watercraft, using the same ownership designations specified in subsection (A); ~~The owner shall sign the application and have it notarized unless it is signed in the presence of a Department employee.~~
1. Type of watercraft and propulsion type;
 2. Overall length of ~~craft~~ watercraft;
 3. Year built;
 4. Hull material;
 5. Fuel type;
 6. Category of use;
 7. Name, mailing address, and date of birth of each owner;
 8. State of principal use;
 9. Whether the watercraft was assembled from a kit or rebuilt from a factory or manufacturer's hull; and
 10. Hull identification number, if assigned.
- C.** In accordance with A.R.S. § 5-321, the applicant shall submit with the application for registration a receipt for use tax paid from the Arizona Department of Revenue unless at least one of the following applies:
1. The applicant is exempt from use tax as provided in 15 A.A.C. 5~~;~~~~or~~₁
 2. The applicant is transferring the watercraft from another jurisdiction to Arizona without changing ownership;~~or~~₂
 3. Sales or use tax paid is shown on the bill of sale or receipt submitted by the applicant;~~2~~₃ or
 4. The applicant submits a notarized affidavit of exemption stating that the acquisition of the watercraft was for rental or resale purposes.

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- D. To obtain registration as a commercial watercraft under A.R.S. § 5-322(H), the owner shall provide evidence of payment of the *ad valorem* property tax under the provisions of Article 9, Section 16 of the Arizona Constitution; the tax privilege license number; and the business name, address, and telephone number.
- E. To obtain watercraft dealer registration under A.R.S. § 5-322(G), the applicant shall be a business offering watercraft for sale, or a watercraft manufacturer registered by the U.S. Coast Guard. The applicant shall provide the following information on a form available from the Department. A person shall display dealer numbers for demonstration purposes only. "Demonstration" means to operate a watercraft on the water for the purpose of selling, trading, negotiating, or attempting to negotiate the sale or exchange of interest in new watercraft. Demonstration also includes operation by a manufacturer for purposes of testing a watercraft. Demonstration does not include operation of a watercraft for personal purposes by a dealer or manufacturer, employee of a dealer or manufacturer, family member of a dealer or manufacturer, or an associate of a dealer or manufacturer. The Department shall issue the number of certificates and decals specified on the application, or deny issuance; within 30 calendar days of receiving the application. The applicant shall provide the following information on a form available from the Department:
1. All business names used for the sale or manufacture of watercraft in Arizona, and the mailing address and telephone number for each business to be issued watercraft dealer registrations;
 2. Tax privilege license number;
 3. U.S. Coast Guard manufacturer identification code, if applicable;
 4. Total ~~The total~~ number of certificates of number and decals to be issued; and
 5. Name, address, signature, and phone number of the owner or manager of the principal business.
- ~~F. An applicant registering a watercraft which has never previously been registered by any jurisdiction shall submit the following:-~~
- ~~1. A bill of sale.~~
 - ~~2. A letter of gift, if the watercraft was acquired as a gift instead of by purchase. The previous owner shall state in the letter of gift that the watercraft was never previously registered; or~~
 - ~~3. Watercraft may be registered without either a bill of sale or a letter of gift or compliance with R12-4-507 only if the owner submits a form either notarized or signed in the presence of a Department employee, attesting to subsection (3)(a), (b), or (c) below:~~
 - ~~a. That the watercraft was manufactured prior to 1972, that it is 12 feet or less in length, and that it is not propelled by machinery other than an outboard engine; or~~
 - ~~b. That the watercraft was previously owned by the applicant in a state that required neither registration nor titling; or~~
 - ~~c. That the watercraft was previously owned by the applicant in a state that did require registration and titling, but that the applicant did not register or title the watercraft because the watercraft was not used; and~~
 - ~~d. The applicant shall provide all of the following on the form:-~~
 - ~~i. Full name and mailing address of each owner;~~
 - ~~ii. Type of watercraft and propulsion type;~~
 - ~~iii. Overall length of craft;~~
 - ~~iv. Manufacturer's name, if known;~~
 - ~~v. Year built or model year, if known;~~
 - ~~vi. Hull identification number, unless exempted by R12-4-505;~~
 - ~~vii. Hull material;~~
 - ~~viii. Fuel type;~~
 - ~~ix. Horsepower of engine, if any.~~
- E.** In addition to submitting the application form and any other information required by this Section, the applicant for watercraft registration shall submit one of the following additional forms of documentation:
1. An original title if the watercraft was titled in another state, and a release of interest if the watercraft is being transferred to an individual other than the original listed owner;
 2. An original registration if the watercraft is from a registration state, and a release of interest if the watercraft is being transferred to an individual other than the original listed owner;
 3. A bill of sale as defined in R12-4-501 if the watercraft has never been registered or titled in any state;
 4. A letter of gift as defined in R12-4-501 if the watercraft was received as a gift and was never registered or titled in another state;
 5. A court order or other legal documentation establishing lawful transfer of ownership; or
 6. A statement of fact form available from any Department office if none of the documentation identified in subsections (F)(1) through (F)(5) exists, either in the possession of the watercraft owner or in the records of any jurisdiction responsible for registering or titling watercraft. The owner or owners of the watercraft shall sign the statement of fact form and shall have it notarized unless it is signed in the presence of an authorized Department employee. The owner or owners of the watercraft shall provide the hull identification number of the watercraft on the statement of fact form and shall certify one of the following:

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- a. The watercraft was manufactured prior to 1972, is 12 feet in length or less, and is not propelled by an inboard engine;
 - b. The watercraft is owned by the applicant, and it has never been registered or titled;
 - c. The watercraft was owned in a state that required registration, but the watercraft was never registered or titled; or
 - d. The watercraft has not been registered, titled, or otherwise documented in the past five years.
- G.** ~~An applicant transferring registration of an Arizona-registered watercraft to a new owner shall surrender to the Department the original certificate of number assigned by the registered owner, or a bill of sale, or letter of gift. If the bill of sale or letter of gift is not signed by the registered owner, the Department shall not transfer registration until it has received a release of interest from the registered owner or until the applicant has complied with the procedures prescribed in R12-4-507. The only exception is if the watercraft has not been registered within the past 5 years, was manufactured prior to 1972, and is 12 feet or less in length and is not propelled by machinery other than an outboard engine, in which case the applicant shall comply with the same requirements prescribed in subsections (F)(3)(a) and (d).~~
- G.** The Department shall register a watercraft, if the watercraft's original title or registration is lost, upon receipt of one of the following:
- 1. A letter or printout from any jurisdiction responsible for registering or titling watercraft that verifies the owner of record for that specific watercraft.
 - 2. A statement of fact by the applicant as prescribed in subsection (F)(6) if the watercraft has not been registered, titled, or otherwise documented in the past five years, or
 - 3. An affidavit of publication demonstrating the applicant's compliance with R12-4-507.
- H.** ~~If ownership has been transferred from a registered owner in a manner other than sale or gift of the watercraft, or pursuant to subsection (A)(11), the applicant shall present legal documentation to prove such transfer of ownership.~~
- H.** If the original title is held by a lien holder, the applicant for a watercraft registration shall submit a form furnished by the Department and available from any Department office along with a copy of the title. The applicant shall comply with the following requirements when submitting the form:
- 1. The applicant shall provide the following information on the form:
 - a. The applicant's name,
 - b. The applicant's address,
 - c. The watercraft make, and
 - d. The watercraft hull identification number (HIN).
 - 2. The applicant shall ensure that the lien holder provides the following information on the form:
 - a. The lien holder's name,
 - b. The lien holder's address,
 - c. The name of the person completing the form for the lien holder,
 - d. The title of the person completing the form for the lien holder, and
 - e. The notarized signature of the person completing the form for the lien holder.
- I.** ~~An applicant for registration of a watercraft registered in another jurisdiction shall surrender 1 of the following to the Department in order to obtain registration:-~~
- 1. ~~Original registration documentation by the other jurisdiction to the same applicant.~~
 - 2. ~~Original registration documentation by the other jurisdiction showing that ownership has been transferred to the applicant.~~
 - 3. ~~When the other jurisdiction's registration documentation does not include any area for showing transfer of ownership, the applicant shall submit a bill of sale or letter of gift from the registered owner to the applicant with the other jurisdiction's original registration documentation.~~
 - 4. ~~The applicant shall submit 1 of the following if registration documentation has been lost:~~
 - a. ~~A letter from the issuing jurisdiction verifying that the registered owner in that jurisdiction is the same person shown as the seller or giver on the bill of sale or letter of gift submitted to the Department.~~
 - b. ~~A letter from the issuing jurisdiction verifying that the registered owner in that jurisdiction is the same person that is applying for registration in Arizona.~~
 - 5. ~~Proof of compliance with R12-4-507.~~
- J.** ~~An applicant for registration of a watercraft titled in another jurisdiction shall surrender 1 of the following to the Department in order to obtain registration:~~
- 1. ~~The applicant's original title, or documentation from the lien holder lawfully holding such title, with a copy of the title.~~
 - 2. ~~When ownership has transferred, the original title showing transfer of ownership to the Arizona applicant.~~
 - 3. ~~The applicant shall submit 1 of the following if the title to the watercraft has been lost:~~
 - a. ~~A letter from the issuing jurisdiction verifying that the titled owner in that jurisdiction is the same person shown as the seller or giver on the bill of sale or letter of gift submitted to the Department.~~
 - b. ~~A letter from the issuing jurisdiction verifying that the titled owner in that jurisdiction is the same person that is applying for registration in Arizona.~~

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4. ~~Proof of compliance with R12-4-507.~~

~~K.L.~~ A person shall not apply for or obtain a watercraft registration by making a false statement or providing false information on any application, statement of fact, or written instrument submitted to the Department. The Department shall provide notice that a watercraft registration is invalid if the registration was obtained by an applicant who made a false statement or provided false information on any application, statement of fact, or written instrument submitted to the Department, and as prescribed in R12-4-506.

~~L.J.~~ The Department shall issue a watercraft registration within 30 calendar days of receiving a valid application and documentation as required by this rule, Section, whether from the applicant or from a watercraft agent ~~pursuant to~~ under R12-4-509. An application is not considered valid if the Department receives legal documentation that legal action may affect ownership of the watercraft.

~~M.K.~~ All watercraft registrations and supporting documentation are subject to verification by the Department and to the requirements of R12-4-505. The Department ~~may~~ shall require a watercraft to be presented for inspection to verify the information provided by an applicant. ~~See R12-4-506. if the Department has reason to believe that the information provided by the applicant is inaccurate or false.~~

R12-4-503. Renewal of Watercraft Registration

A. The Department shall mail renewal notices to the address of the watercraft owner, as shown on the certificate of number, 6 weeks ~~prior to~~ before the last day of the month of expiration established under R12-4-504. ~~It is the responsibility of the~~ The owner of a watercraft shall ensure that renewal is achieved the watercraft's registration is renewed regardless of whether or not the renewal notice is received.

B. In order to renew a watercraft's registration in person or by mail, the applicant shall submit the registration fee required by A.R.S. ~~Title 5, Chapter 3, § 5-321~~ and the renewal notice provided by the Department. In the absence of the renewal notice, the registered owner shall present 1 of the following:

1. ~~Current~~ A current or prior certificate of number;
 2. A valid driver's license;
 3. A valid Arizona Motor Vehicle Division identification card; or
 4. A valid passport.
2. ~~One of the following:~~
- a. ~~Valid driver's license;~~
 - b. ~~Valid Arizona Motor Vehicle Division identification card;~~
 - e. ~~Passport.~~

~~C.~~ In order to renew a watercraft's registration by telecommunications, the applicant shall pay the registration fee required by A.R.S. § 5-321 and shall provide the following information to the Department or its agent:

1. The name and address of the watercraft's registered owner as it appears on the renewal notice.
2. The assigned Arizona watercraft number (AZ number) of the watercraft being renewed, or
3. The Department-assigned identification number or password.

~~C.D.~~ The Department or its agent shall renew ~~watercraft~~ a watercraft's registration within 30 calendar days of receiving ~~the a~~ a valid application for renewal. The Department shall mail the renewal to the address of record unless the applicant ~~has achieved renewal~~ renews the watercraft's registration in person, or unless there is a notarized request from the registered owner to mail it to another address.

R12-4-505. Hull Identification Numbers

A. The Department shall not register a watercraft without a hull identification number.

B. The Department shall assign a hull identification number to a watercraft with a missing ~~or improper~~ hull identification number only ~~when~~ if the Department determines that:

1. A hull identification number has not been ~~fraudulently~~ illegally removed or altered, unless the application is made by a governmental agency and is accompanied by an order of forfeiture or order of seizure or other civil process; or
2. The missing ~~or improper~~ hull identification number was caused by error of the manufacturer or a government jurisdiction or failure of a previous owner of a watercraft to comply with this rule, or because the watercraft is a "home-made watercraft" as defined in R12-4-501.

C. The Department shall assign or deny assignment of a hull identification number within 30 days of receipt of a valid application, as described in R12-4-502.

D. The Department shall accept a bill of sale presented with a missing or improper hull identification number for registration purposes only if:

1. It matches the improper hull identification number or ~~lack of there is no~~ hull identification number on the watercraft; or
2. A hull identification number is issued by the Department under subsection (B).

E. The applicant or the Department shall affix the hull identification number as follows:

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1. On watercraft with transoms, affix the hull identification number to the right or starboard side of the transom within 2 inches of the top of the transom or hull/deck joint, whichever is lowest.
2. On watercraft without transoms, affix the hull identification number to the starboard outboard side of the hull, back or aft within 1 foot of the stern and within 2 inches of the top of the hull, gunwale, or hull/deck joint, whichever is lowest.
3. On catamarans and pontoon boats, affix the hull identification number on the aft crossbeam within 1 foot of the starboard hull attachment.
4. If the hull identification number would not be visible because of rails, fittings, or other accessories, affix it as ~~close~~ close as possible ~~in the manner to the applicable location~~ prescribed in subsection (E)(1).
5. Affix a duplicate of the visibly affixed hull identification number in an unexposed location on a permanent part of the hull.
6. ~~Each~~ Burn, carve, stamp, emboss, mold, bond, or otherwise permanently affix each hull identification number ~~is to be burned, carved, stamped, embossed, molded, bonded, or otherwise permanently affixed~~ to a non-removable part of the watercraft so that alteration, removal, or replacement ~~would~~ will be obvious.
7. ~~The~~ Ensure that the characters of each hull identification number affixed to the watercraft ~~are to be~~ are no less than 1/4 inch in height.

R12-4-506. Invalidation of Watercraft Registration

- A. Any watercraft registration obtained by fraud or misrepresentation ~~shall be~~ is invalid from the date of issuance, ~~thereof.~~
- B. A certificate of number and any decals issued ~~shall be~~ are invalid ~~when if~~ any of the following occurs:
 1. Any check, money order, or other currency certificate presented to the Department for payment of watercraft registration or renewal is found to be non-negotiable;
 2. Any person whose name appears on the certificate of number loses ownership of the watercraft by legal process;
 3. ~~When~~ Arizona is no longer the state of principal use;
 4. The watercraft is documented by the U.S. Coast Guard;
 5. An applicant provides incomplete or incorrect information to the Department and fails to provide the correct information within 30 days after a request by the Department; or
 6. The Department revokes the certificate of number, numbers, and decals as provided in A.R.S. § 5-391(H).
- C. ~~Certificates~~ A person shall return the certificate of number and decals that are invalid pursuant to under subsections (A) and ~~or (B)(1) shall be returned~~ to the Department within 15 calendar days of receiving written notification from the Department that ~~they~~ the certificate of number and decals are invalid.
- D. The Department shall not validate or renew an invalid watercraft registration until the reason for invalidity has been corrected or no longer exists.

R12-4-507. Application for Registration of Abandoned ~~or Unreleased~~ Watercraft

- A. For the purpose of this ~~rule~~, Section the following definitions shall apply ~~unless the context otherwise requires:~~
 1. "Abandoned watercraft" means a watercraft ~~which that~~ has been deserted on a highway, a public street, or on public or private property or waters. A watercraft left under a written ~~or verbal~~ repair or storage order is not an abandoned watercraft.
 2. "Release of interest" means a statement giving up, surrendering, or abandoning unconditionally any claim or right of ownership or use in a watercraft.
 2. ~~"Unreleased watercraft" means there is no release of interest from the registered owner of the watercraft.~~
- B. Unless an abandoned watercraft has been reported stolen, ~~the abandonment constitutes an assumption that~~ the last registered owner is presumed to be responsible for the abandonment of the watercraft.
- C. ~~The~~ An applicant seeking registration of an abandoned watercraft shall submit the following information, ~~when if~~ if available, on a form ~~available~~ obtained from the Department:
 1. Hull identification number, unless exempted by R12-4-505;
 2. Registration number;
 3. Decal number;
 4. State of registration;
 5. Year of registration;
 6. Name, address, and daytime ~~phone~~ telephone number of the person who found the watercraft;
 7. Description or address of the location where the watercraft was found;
 8. Whether there is any known written ~~or verbal~~ agreement for storage or repair;
 9. Condition of the watercraft; whether wrecked, stripped, or intact; and
 10. State in which the watercraft will be used.
- D. ~~The Department shall attempt to determine the name and address of the registered owner and, if successful, shall send written notice of the attempt to register the watercraft by the applicant to the registered owner by certified mail, return~~

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receipt requested. Within 45 calendar days of receiving the form required by subsection (C), the Department shall advise the applicant in writing of the results, in accordance with the following:

1. ~~If the registered owner provides written release of interest in the watercraft, the Department shall provide the applicant with the release and the applicant may then register the watercraft pursuant to R12-4-502.~~
2. ~~If the registered owner declines to release interest in the watercraft, the Department shall so advise the applicant, and the Department shall not register the watercraft to the applicant unless the applicant proves ownership by other legal remedy and complies with R12-4-502.~~
3. ~~If the Department cannot determine who is the registered owner of the watercraft, or if the written notice returns unclaimed, or if a period of 21 calendar days from the date of mailing passes without response from the registered owner, the Department shall advise the applicant of failure to contact the registered owner.~~

D. ~~The Department shall attempt to determine the name and address of the registered owner and, if successful, shall send written notice of the attempt to register the watercraft by the applicant to the registered owner by certified mail, return receipt requested.~~

1. ~~After a period of 30 calendar days from the date the Department mails the notice, if service is successful, or upon receipt of a response from the registered owner, the Department shall advise the applicant in writing according to the following:~~

- a. ~~If the registered owner provides a written release of interest in the watercraft, the Department shall provide the applicant with the release and the applicant may then register the watercraft under R12-4-502.~~
- b. ~~If the registered owner provides written notice to the Department refusing to release an interest in the watercraft, the Department shall advise the applicant of the refusal, and the Department shall not register the watercraft to the applicant unless the applicant provides proof of ownership and complies with R12-4-502.~~
- c. ~~If the registered owner does not respond to the notice in writing within 30 days from the date of mailing, when service was successful, the Department shall so advise the applicant of the failure to respond, and the Department shall not register the watercraft to the applicant unless the applicant provides proof of ownership and complies with R12-4-502.~~

2. ~~If the Department cannot determine who the registered owner of the watercraft is, or if the written notice is returned unclaimed or refused, the Department shall advise the applicant in writing within 15 days of the notice being returned that the attempt to identify or contact the registered owner was unsuccessful.~~

E. ~~In order to register the watercraft when if the Department has failed to been unsuccessful in its attempt to identify or contact the registered owner pursuant to under subsection (D), the applicant shall:~~

1. ~~Advertise twice, two weeks apart, ensuring that the second advertisement is published at least two weeks after the first advertisement, in a newspaper of statewide general circulation, in the state; if If the watercraft is traceable to another state's registration, the applicant shall also advertise in the same manner in a newspaper of statewide general circulation in the state of registration. The applicant shall ensure that the advertised notice shall include includes a complete description of the watercraft, including any identifying numbers, the date and location of the watercraft's finding, where the watercraft was found, the present location of the watercraft, and the means by which the applicant can be contacted, a statement that the owner shall contact the Department or risk losing ownership of the watercraft. The applicant shall also ensure that the notice shall also include a statement that the includes the following warning: watercraft will the Department shall be registered register the watercraft to the applicant by the Arizona Game and Fish Department if no other person can prove provides proof of ownership.~~
2. ~~Thirty calendar days after the second newspaper advertisement, the applicant shall submit proof to the Department an affidavit of publication pursuant to under this rule to the Department Section and shall follow, in addition to following the application procedures prescribed in R12-4-502-, unless the Department or the applicant receives notice from the registered owner refusing to release interest in the watercraft.~~

R12-4-511. Personal Flotation Devices

A. ~~The operator of a canoe, kayak, or other watercraft that is less than 16 feet in length shall ensure that the canoe, kayak, or other watercraft is equipped with at least 1 appropriately-sized, U.S. Coast Guard-approved, wearable personal flotation device that is in good and serviceable condition for each person on board the canoe, kayak, or other watercraft. The operator of a canoe, kayak, or other watercraft shall also ensure that the wearable personal flotation devices on board the canoe, kayak, or other watercraft are readily accessible and available for immediate use. The following wearable personal flotation devices are approved by the U.S. Coast Guard:~~

1. ~~Type I Personal Flotation Device: off-shore life jacket,.~~
2. ~~Type II Personal Flotation Device: near-shore buoyant buoyancy vest,.~~
3. ~~Type III Personal Flotation Device: flotation aid, and~~
4. ~~Type V Special Use Device.~~

B. ~~No person may use In addition to the personal flotation devices prescribed in subsection (A), the operator of a watercraft that is 16 feet or more in length, except a canoe or kayak, shall ensure that the watercraft unless it is also equipped with a U.S. Coast Guard-approved buoyant cushion, or ring life buoy, or horseshoe buoy (Type IV Personal Flotation Device).~~

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Such watercraft shall also be equipped with at least 1 of the following U.S. Coast Guard-approved wearable personal flotation devices of appropriate size for each person on board:

1. Type I Personal Flotation Device: off-shore life jacket;
2. Type II Personal Flotation Device: near-shore buoyant vest, and;
3. Type III Personal Flotation Device: flotation aid.

- C.** Before May 1, 1996, a Type IV personal flotation device may be carried on a canoe, kayak, or other watercraft that is less than 16 feet in length for use by persons on board if the canoe, kayak, or other watercraft is:
1. Leased or rented to another for the latter's pleasure as part of a livery or rental business;
 2. Manually propelled; and
 3. Less than 16 feet.
- D.** This rule is effective January 1, 1996.
- C.** Persons on board a watercraft or personal watercraft shall wear an appropriately-sized, U.S. Coast Guard-approved personal flotation device as prescribed in A.R.S. § 5-331(C) and A.R.S. § 5-350(A).
- D.** For the purpose of this Section, "wear" means that the personal flotation device is being worn according to the manufacturer's design or recommended use; that all closures of the personal flotation device are fastened, snapped, tied, zipped, or secured according to the manufacturer's design or recommended use; and that the personal flotation device is adjusted for a snug fit.
- E.** Subsections (A), (B), and (C) of this Section do not apply to the operation of a racing shell or rowing skull during competitive racing or supervised training, if the racing shell or rowing skull is manually propelled, recognized by a national or international association for use in competitive racing, and designed to carry and does carry only equipment which is used solely for competitive racing.

R12-4-512. Fire Extinguishers Required for Watercraft

- A.** Pursuant to A.R.S. § 5-332(B) and as prescribed by the U.S. Coast Guard, all Class 2 watercraft (26 feet to less than 40 feet) shall carry on board the following equipment as designated and approved by the United States Coast Guard:
1. At least two B-I type hand portable fire extinguishers or at least one B-II type hand portable fire extinguisher.
 2. When a fixed fire extinguishing system is installed in the machinery space, there shall be on board at least one B-I type approved hand portable fire extinguisher.
- B.** Pursuant to A.R.S. § 5-332(B) and as prescribed by the U.S. Coast Guard, all Class 3 watercraft (40 feet to not more than 65 feet) shall carry on board the following equipment as designated and approved by the United States Coast Guard:
1. At least three B-I type hand portable fire extinguishers or at least one B-I plus one B-II type hand portable fire extinguishers.
 2. When a fixed fire extinguishing system is installed in the machinery space, there shall be on board at least two B-I type hand portable fire extinguishers or at least one B-II type hand portable fire extinguisher.
- C.** Watercraft less than 26 feet in length shall be required to carry one B-I type fire extinguisher on board only if one or more of the following conditions exist:
1. Inboard engine.
 2. Closed compartments under thwarts and seats where portable fuel tanks may be stored.
 3. Double bottoms not sealed to the hull or which are not completely filled with flotation materials.
 4. Closed living spaces.
 5. Closed stowage compartments in which combustible or flammable materials are stored.
 6. Permanently installed fuel tanks. Fuel tanks secured so they cannot be moved in case of fire or other emergency shall be considered permanently installed.
- A.** Under A.R.S. § 5-332, an operator of a watercraft less than 26 feet in length shall carry one U.S. Coast Guard approved B-I type fire extinguisher on board if the watercraft has one or more of the following:
1. An inboard engine,
 2. Closed compartments where portable fuel tanks may be stored,
 3. Double bottoms not sealed to the hull or which are not completely filled with flotation materials,
 4. Closed living spaces,
 5. Closed stowage compartments in which combustible or flammable materials are stored,
 6. Permanently installed fuel tanks (fuel tanks secured so that they cannot be moved in case of fire or other emergency are considered permanently installed), and
 7. A fixed fire extinguishing system installed in the engine compartment.
- B.** Under A.R.S. § 5-332, an operator of a Class 2 watercraft (26 feet to less than 40 feet) shall carry on board the following equipment as designated and approved by the U. S. Coast Guard:
1. At least two B-I type hand-portable fire extinguishers or at least one B-II type hand-portable fire extinguisher, or
 2. At least one B-I type approved hand-portable fire extinguisher if a fixed fire extinguishing system is installed in the engine compartment.

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- C.** Under A.R.S. § 5-332, an operator of a Class 3 watercraft (40 feet to not more than 65 feet) shall carry on board the following equipment as designated and approved by the U. S. Coast Guard:
1. At least three B-I type hand-portable fire extinguishers or at least one B-I and one B-II type hand-portable fire extinguishers, or
 2. At least two B-I type hand-portable fire extinguishers or at least one B-II type hand-portable fire extinguisher when a fixed fire extinguishing system is installed in the engine compartment.

R12-4-513. Watercraft Accident and Casualty Reports

- A.** The operator or owner of any a watercraft involved in any collision, accident or other casualty that results in injury or death shall submit the report required by A.R.S. § 5-349 on a form provided by the Department. The form shall be completed in full. Information The operator or owner of a watercraft involved in any collision or accident that results in property damage only shall submit the report required by A.R.S. § 5-349, on a form provided by the Department, only if the property damage exceeds \$500. The operator or owner of the watercraft submitting the report required by A.R.S. § 5-349 shall complete the form provided by the Department in full, and shall clearly identify on the form any information that is not applicable or that is unknown, shall be so marked. The following information shall be provided The operator or owner of the watercraft submitting the report required by A.R.S. § 5-349 shall provide the following information on the form provided by the Department:
1. The operator's name, address, date of birth, ~~sex,~~ gender, and telephone number;
 2. The owner's name, address, date of birth, and telephone number;
 3. The operator's hours of experience in operating watercraft;
 4. ~~Boat~~ The operator's amount of boating safety instruction;
 5. Information on the watercraft involved:
 - a. Type of ~~boat,~~ watercraft, make, and model;
 - b. ~~Boat~~ Watercraft propulsion and year built;
 - c. ~~Boat~~ Watercraft construction and year built;
 - d. Hull material;
 - e. Hull identification number; and
 - f. State registration number;
 6. Information on the accident:
 - a. Date and time;
 - b. General and specific location;
 - c. Type of operation at time of accident;
 - d. Type of accident;
 - e. Weather, water conditions, wind, visibility, and estimated temperature at the time of accident; and
 - f. Cause of accident;
 7. Estimated cost of damage to the watercraft;
 8. Whether the watercraft was sunk sank, and if so, whether recovered, and the name, address, and telephone number of the person who made recovery;
 9. Whether the ~~boat~~ watercraft was adequately equipped with U.S. Coast Guard-approved personal flotation devices, whether they were accessible, and whether they were used:-
 - a. ~~Whether they were accessible;~~
 - b. ~~Whether they were used;~~
 10. Whether fire extinguishers were used, and the types and number of fire extinguishers used;
 11. Information on operators and owners of each of the other watercraft involved in the accident: name, address, telephone number, and watercraft registration number;
 12. Information on persons killed or injured in the accident: name, address, date of birth, cause of death or nature of injury, and the name and location of the receiving hospital;
 13. The name, address, date of birth, and telephone number of all passengers in the watercraft;
 14. The location of passengers, skiers, and swimmers at the time of the accident;
 15. If there was damage to property other than any of the watercraft involved:
 - a. Name, address, and telephone number of owner;
 - b. Description of damage; and
 - c. Estimated cost of damage;
 16. The name, address, and telephone number of any witnesses other than passengers;
 17. A diagram and narrative explaining the accident.
- B.** The person Any person filling out the form shall sign the form; designate whether they are the person is the owner, operator, or any other party; and provide their name, address, telephone number, and the date the form was is submitted to the Department.

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R12-4-517. Watercraft ~~and Boat~~ Motor and Engine Restrictions

- A. ~~Persons~~ A person operating ~~motor power boats~~ a motorized watercraft on the following waters shall use ~~a single~~ an electric ~~trolling~~ motor only:

<u>Ackre Lake</u>	Granite Basin Lake	Rucker Canyon Lake
Arivaca Lake	<u>Hulsey Lake</u>	Santa Fe Lake
Bear Canyon Lake	<u>Horsethief Basin Lake</u>	Scott's Reservoir
Becker Lake	J.D. Lake	Sierra Blanca Lake
Black Canyon Lake	Knoll Lake	Soldier Lake (in Coconino County)
Bunch Reservoir	Lee Valley Lake	Stehr Lake
<u>Carnero Lake</u>	Lower Lake Pleasant	Stoneman Lake
Chaparral Lake	Lynx Lake	Tunnel Reservoir
Cluff Ponds	McKellips Park Lake	Whitehorse Lake
Coconino Reservoir	Nelson Reservoir	<u>Willow Lake</u>
Concho Lake	Pena Blanca Lake	Woodland Reservoir
Coors Lake	<u>Pratt Lake</u>	Woods Canyon Lake
Dankwork Pond	<u>Quigley Lake</u>	
Dogtown Reservoir	<u>Redondo Lake</u>	
<u>Fortuna Lake</u>	Riggs Flat Lake	
<u>Goldwater Lake</u>	River Reservoir	
	Roper Lake	

- B. ~~Persons~~ A person operating ~~power boats~~ a motorized watercraft on the following waters shall use only a single electric ~~trolling~~ motor or a single gasoline ~~motor~~ engine not exceeding ~~8~~ 10 manufacturer-rated horsepower:

Ashurst Lake	Cholla Lake Hot Pond	Luna Lake
<u>Becker Lake</u>	Crescent Lake	<u>Mexican Hay Lake</u>
Big Lake	Fool Hollow Lake	<u>Nelson Reservoir</u>
Blue Ridge Reservoir	Kaibab Lake	Parker Canyon Lake
Cataract Lake	Kinnikinick Lake	Rainbow Lake
Chevelon Canyon Lake	<u>Little Mormon Lake</u>	<u>River Reservoir</u>
<u>Concho Lake</u>		Show Low Lake
		Willow Springs Lake
		<u>Whipple Lake</u>
		<u>White Mountain Lake (in Apache County)</u>

- C. ~~Persons~~ A person shall not operate a watercraft on Frye Mesa Reservoir, Rose Canyon Lake, ~~and~~ or Snow Flat Lake.
D. This rule does not apply to ~~boats~~ watercraft of governmental agencies or to Department-approved emergency standby ~~boats~~ watercraft operated by lake concessionaires ~~when~~ if operating to address public safety or public welfare.

R12-4-520. Arizona Uniform State Waterway Marking System

The Arizona Uniform State Waterway Marking System ~~shall be as is that~~ shall be as is that prescribed in 33 CFR ~~66.10; 62,~~ revised ~~as of~~ July 1, 1989, 1998, not including any later editions or amendments, which is incorporated by reference ~~herein~~ in this Section. A copy ~~of the incorporated matter~~ is on file with the Secretary of State and is available from any Department office, or it may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

R12-4-522. Establishment of Controlled-Use Markers

- A. Any agency or person may control the operation of watercraft, water skis, surfboards or similar contrivances on waters within their lawful jurisdiction by establishing controlled-use markers pursuant to the following requirements. ~~When such~~ If a lawful jurisdiction has not exercised its authority to control watercraft under A.R.S. § 5-361, or ~~when~~ if waters are directly under the jurisdiction of the Commission, the Department ~~may~~ has the authority to control watercraft within that jurisdiction in accordance with the following requirements:
- ~~Controlled~~ The Department shall place controlled-use markers ~~shall be placed~~ only where controlled operation of watercraft is necessary to protect life, property, or habitat, and ~~may be moved or removed~~ shall move or remove only ~~when~~ if the need for such protection has changed.
 - ~~Restrictions~~ The Department shall ensure that restrictions imposed ~~shall be~~ are clearly communicated to the public as prescribed by rule or by wording on the markers.
- B. A governmental agency, excluding federal agencies ~~having~~ with jurisdiction over federal navigable waterways, shall report to the Department ~~when~~ if controlled-use markers have been placed and ~~shall~~ include in that report the type, purpose, and placement of markers, and whether the markers are expected to be permanent or temporary; the governmental

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agency shall also advise the Department of the removal of controlled-use markers. The report shall be made within 30 days of establishment or removal of controlled-use markers. ~~No~~ A report is not required for establishment or removal of markers for a period of less than 30 days.

- C. Any person or government agency may request establishment, change, or removal of controlled-use markers on waters under the jurisdiction of the Commission or on waters not under the jurisdiction of another agency by submitting the reasons for the request to the Director of the Arizona Game and Fish Department, who shall either accept or deny the request within 60 days of receipt. A person may appeal the Director's denial of a request to the Commission ~~pursuant to R12-4-608: as an appealable agency action under A.R.S. Title 41, Chapter 6, Article 10.~~

R12-4-523. Controlled Operation of Watercraft

- A. ~~No~~ A person shall not operate any watercraft, ~~water ski, surfboard~~ or use any watercraft to tow a person on waterskis, surfboards, inflatable devices, or similar ~~contrivance~~ objects, devices or equipment in a manner contrary to the area restrictions imposed by lawfully ~~established~~ placed controlled-use markers, except for:
1. Law enforcement officers acting within the scope of their lawful duties;
 2. Persons involved in rescue operations;
 3. Persons engaged in government-authorized activities; and
 4. ~~When~~ Persons participating in a regatta, during the time limits of the event only, if a permit has been issued by the authority ~~having~~ with lawful jurisdiction for a the regatta ~~which that~~ is to take place within a controlled area, ~~during the time limits of the event.~~
- B. The exemptions listed in subsection (A) ~~shall do~~ not authorize any person to operate a watercraft in a careless, negligent or reckless manner as ~~stated~~ prescribed in A.R.S. § 5-341. ~~See also R12-4-517.~~

R12-4-524. Reserved Water Skiing

An operator of a watercraft shall ensure that the observer of a water skier is physically capable and mentally competent to act as an observer.

R12-4-525. Reserved Watercraft Certificate of Number, Numbers, and Decal Revocation

- A. For the purposes of this Section, "person" has same meaning as prescribed in A.R.S. § 5-301(8).
- B. Upon notice of conviction of a person under A.R.S. § 5-391(F), the Department shall revoke for a period not to exceed two years the certificates of number, numbers, and decals of any Arizona registered watercraft involved in the violation that the convicted person owns. If the conviction under A.R.S. § 5-391(F) involved stolen watercraft, the Department shall revoke for a period not to exceed two years the certificates of number, numbers, and decals of any Arizona registered watercraft that the convicted person owns.
- C. Upon notice of conviction of a person under A.R.S. § 5-391(G), the Department shall revoke for a period not to exceed one year the certificates of number, numbers, and decals for the Arizona registered watercraft involved in the violation.
- D. Upon receiving notice of conviction, the Department shall serve notice under A.R.S. §§ 41-1092.03 and 41-1092.04 on the person convicted that the certificates of number, numbers, and decals of watercraft the person owns are subject to revocation.
- E. A person whose certificates of number, numbers, and decals are subject to revocation may request a hearing. The person shall submit a written request to the Arizona Game and Fish Department, Director's Office, 2221 W. Greenway Rd., Phoenix, AZ 85023, within 15 calendar days of receiving the notice provided in subsection (D).
- F. If the person requests a hearing, the Department shall, within 30 days of receiving the request, schedule a hearing before the Director or request, in accordance with A.R.S. § 41-1092.05, that the Office of Administrative Hearings schedule a hearing.
- G. After a final decision to revoke, the Department shall serve upon the person an Order of Revocation. Within 15 calendar days of receipt of the notice, the person shall surrender to the Department the revoked certificates of number and decals.
- H. The revocation of the certificates of number, numbers, and decals does not affect the legal title to or any property rights in the watercraft. Upon application to the Department, the Department shall terminate the revocation and allow the owner to transfer the owner's entire interest in the watercraft if the Department is satisfied that such transfer is proposed in good faith and not for the purpose of defeating the revocation.