

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 46. BOARD OF APPRAISAL

PREAMBLE

- 1. Sections Affected** **Rulemaking Action**
R4-46-401 Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):**
Authorizing statute: A.R.S. § 32-3605(A)
Implementing statutes: A.R.S. §§ 32-3605(B)(1) and 32-3635(A)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 10 A.A.R. 4195, October 15, 2004
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Deborah G. Pearson, Executive Director
Address: 1400 W. Washington, Suite 360
Phoenix, AZ 85007
Telephone: (602) 542-1539
Fax: (602) 542-1598
E-mail: deborah.pearson@appraisal.state.az.us
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
The change in this existing rule is to comply with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, which requires state licensing boards to recognize and enforce the *Uniform Standards of Professional Appraisal Practice* (USPAP); and A.R.S. § 32-3605(B)(1), which requires the Board to adopt standards for professional appraisal practice that are at least equal to the USPAP. The amended rule incorporates by reference the 2005 edition of USPAP. The 2005 edition is the result of exposure drafts that occurred on February 17, 2004, and April 26, 2004. On the basis of written responses, substantial public testimony at Appraisal Standards Board (ASB) public meetings and extensive deliberation by The ASB, the *Uniform Standard of Professional Appraisal Practice* (USPAP), 2005 Edition, was formally adopted by the ASB on June 15, 2004. The effective date of the 2005 USPAP is January 1, 2005. The key features of the 2005 edition are:
 - A. DEFINITIONS:
 - (1) The definition of APPRAISAL REVIEW has been edited to clarify that Appraisal Review is only intended to include the review of another appraiser's work performed in an appraisal, appraisal review or appraisal consulting assignment.
 - (2) The definition of CASH FLOW ANALYSIS was deleted because it no longer appears in USPAP.
 - (3) The references to the types of reports found in the Comment under the definition of REPORT were deleted because they were unnecessary to adequately define the term, and the list was not complete.
 - B. STANDARDS RULES 1-3(B) AND 6-2(K): Language in the Comments to these Standards Rules that addresses how to appraise land as though vacant was deleted.
 - C. STANDARDS RULES 2, 3, 5, 6, 8, and 10:
 - (1) Edits have been made to these Standards Rules to clarify an appraiser's obligations to ensure clear disclosure of

all assumptions, extraordinary assumptions, and hypothetical conditions that affect assignment results and can be grouped into the following three categories:

- (a) Eliminating the requirement to “indicate the impact of value” for extraordinary assumptions, hypothetical conditions, etc. found in STANDARDS 2, 5, 6, 8 and 10.
- (b) Eliminating a portion of the Comments found in STANDARDS RULES 2, 6, 8 and 10 that addresses the location in reports for disclosures of assumptions and conditions.
- (c) Eliminating other requirements in STANDARDS RULES 2, 3, 5, 6, 8 and 10 related to the location of disclosures for assumptions and conditions, and providing edits to clarify appropriate disclosure.

The terms, “assumption, extraordinary assumption, and hypothetical condition” were edited where necessary for consistency.

(2) STANDARDS RULES 2-3, 3-3, 5-3, 6-8, 8-3 and 10-3 were edited to clarify the responsibility of each appraiser in assignments where appraisers of different disciplines jointly prepare a report that communicates assignment results of multiple asset types.

(3) STANDARDS RULES 2-2, 6-7, 8-2 and 10-2 concerning reporting requirement regarding reconciliation were edited for improved clarity.

D. STANDARDS RULE 3: The language has been edited to clarify that Standard 3 only applies to the review of work performed as part of an appraisal, appraisal review or appraisal consulting assignment.

E. STATEMENT ON APPRAISAL STANDARDS NO. 6 (SMT-6): This Statement titled “Reasonable Exposure Time in Real Property and Personal Property Market Value Opinions” has been edited to delete the requirement to report exposure time. However, this change does not affect the requirement for the appraiser to develop an estimate of exposure time in market value assignments. Requirements to provide any comments needed to clearly indicate how the definition of value is being applied, including exposure time, remain in the Comments to Standards Rules 2-2(a)(v), 2-2(b)(v), 8-2(a)(v) and 8-2(b)(v).

F. STATEMENT ON APPRAISAL STANDARDS NO. 7 (SMT-7): This Statement titled “Permitted Departure from Specific Requirements in Real Property and Personal Property Appraisal Assignments” was revised to separate the concept of reliability from departure. The edits correct the inaccurate statement indicating that a Complete Appraisal is always more reliable than a Limited Appraisal.

G. STATEMENT ON APPRAISAL STANDARDS NO. 10 (SMT-10): This Statement titled “Assignments for Use by a Federally Insured Depository Institution in a Federally Related Transaction” was edited to clarify an appraiser’s obligations to ensure clear disclosure of all assumptions, extraordinary assumptions, and hypothetical conditions that affect assignment results and to ensure consistency with the edits made to Standards Rules 2, 3, 5, 6, 8 and 10.

H. ADVISORY OPINION 6 (AO-6): This Advisory Opinion titled “The Appraisal Review Function” was retired because more recent guidance has been issued since first publishing AO-6 in 1992. Specifically, Advisory Opinion 20 (AO-20) and the newly revised Advisory Opinion 21 (AO-21) offer more up-to-date guidance, as does the *Frequently Asked Questions* publication.

I. ADVISORY OPINION 21 (AO-21): This Advisory Opinion titled “When Does USPAP Apply in Valuation Services” was modified to promote the understandability of USPAP through improved clarity. The Advisory Opinion offers guidance on when an individual should comply with USPAP and how an appraiser recognizes an obligation to comply with USPAP. The Advisory Opinion also addresses the difference between valuation services and appraisal practice, USPAP obligations in appraisal practice, and USPAP obligations outside of appraisal practice. The edits are extensive and include:

- (1) Changing the title of the Advisory Opinion to “*USPAP Compliance*.”
- (2) Restructuring and editing “The Issue” and the “Advice from the ASB on the Issue” sections to improve organization and clarity.
- (3) Revising the diagrams that describe the relationship of key concepts.
- (4) Incorporating an illustration to address the application of USPAP to review services.
- (5) Incorporating an illustration to address the application of USPAP to litigation services.

I. For clarity, edits were made throughout the document regarding the term “PURPOSE”. This word has been used in USPAP with different meanings. It will now only be used to mean “intent”; it will not be used as a reference to the type and definition of value.

J. NOTE: Administrative edits were made to appropriate sections of the document to improve consistency.

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

None

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a precedent 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 rule is being changed to adopt the latest standards of practice in the profession, as required by federal and state law. The primary groups that will be affected are the Board, the licensed or certified appraisers, and the public. The Board annually adopts the latest standards for professional appraisal practice and there should be no appreciable changes in the economic impact. The cost for the new edition is \$30. Not all appraisers will find it necessary to own a copy. Some offices share copies. The cost is a deductible business expense.

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: Deborah G. Pearson, Executive Director
Address: 1400 W. Washington, Suite 360
Phoenix, AZ 85007
Telephone: (602) 542-1539
Fax: (602) 542-1598
E-mail: deborah.pearson@appraisal.state.az.us

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:

Date: November 18, 2004
Time: 9:00 a.m.
Location: 1400 W. Washington
Basement Conference Room B-2
Phoenix, Arizona

Nature: The Board will hold an open meeting to hear opinions and suggestions, and to adopt, amend or repeal the rule. The Agenda for this Board meeting will be available to the public the day before the meeting. It may be obtained by contacting the Board office at (602) 542-1539.

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. Incorporation by reference and their location in the rules:

The *Uniform Standards of Professional Appraisal Practice* (USPAP), 2005 Edition, published by the Appraisal Foundation and effective nationally January 1, 2005. The location in the rules is R4-46-401.

13. The full text of the rule follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 46. BOARD OF APPRAISAL

ARTICLE 4. STANDARDS OF PRACTICE

Section

R4-46-401. Standards of Appraisal Practice

ARTICLE 4. STANDARDS OF PRACTICE

R4-46-401. Standards of Appraisal Practice

Every appraiser, in performing the acts and services of an appraiser, shall comply with the Uniform Standards of Professional Appraisal Practice (USPAP), ~~2004~~ 2005 edition, published by The Appraisal Foundation, which is incorporated by reference and on file with the Board and the Office of the Secretary of State. This incorporation by reference contains no future additions or amendments. A copy of the USPAP ~~2004~~ 2005 edition may be obtained from ~~the~~ The Appraisal Foundation, 1029 Vermont Avenue, N.W., Suite 900, Washington, D.C. 20005; toll free 1-800-805-7857; (202) 347-7722; fax (202) 347-7727; or web site www.appraisalfoundation.org.

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

PREAMBLE

1. Sections Affected

R12-4-101
R12-4-107
R12-4-114
R12-4-124

Rulemaking Action

Amend
Amend
Amend
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. § 17-231

Implementing statute: A.R.S. §§ 17-231(A)(2), (3) and (8), 17-234, and A.R.S. § 17-331(A) for R12-4-114

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

Notice of Public Information: 10 A.A.R. 3093, August 6, 2004

Notice of Rulemaking Docket Opening: 10 A.A.R. 3762, September 10, 2004

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

Name: Mark E. Naugle, Rule & Risk Manager

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

Telephone: (602) 789-3289

Fax: (602) 789-3677

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

Loyalty Bonus Point and Increase to the Bonus Point Pass

The Commission believes that hunters who consistently apply for big game permits should be given some increase in the odds of receiving a permit through the random draw.

The Commission is amending R12-4-107 to establish a "loyalty bonus point." A loyalty bonus point is an additional bonus point that is issued to an individual that has applied for a hunt permit-tag for a particular genus for five consecutive years without being drawn for a tag. A loyalty bonus point is genus specific and awarded to an individual who applies for five consecutive years for a specific genus.

To maintain the loyalty bonus point, the individual that receives it must reapply every year following the year it was issued. For the purposes of the loyalty bonus point program, year one will be 2001.

The Commission's objective is to issue an additional bonus point to those individuals who have demonstrated continuous patronage and support. In general, those individuals tend to be resident hunters, though nonresidents will also be eligible, and thus receive loyalty bonus points.

As part of this rulemaking, the Commission is also amending R12-4-114 to increase from 10% to 20% the number of hunt permit-tags that will be issued to bonus point holders. The Commission's objective is to issue more hunt permit-tags to applicants who have accumulated bonus points.

Conservation Bonus Point

The Commission believes these amendments are necessary to reward individuals who, through volunteer effort, make significant contributions to the conservation of wildlife. The Commission also believes that these amendments will help maintain resident hunting opportunity because residents will participate in the program at a greater percentage.

The Commission is amending R12-4-101 and R12-4-107, and adopting new Section R12-4-124 to establish a Wildlife Conservation Bonus Point Program. The program will allow individuals that volunteer to work on Department-authorized projects that contribute to wildlife conservation and management to accumulate additional bonus points called "conservation bonus points."

The Commission's objective is to reward volunteers that assist the Department in achieving its wildlife conservation goals with additional bonus points that can be used during the seasonal hunt draw process to improve the chances that the volunteer will be drawn for a hunt permit-tag.

Notices of Proposed Rulemaking

The Commission is proposing amendments to R12-4-101 and R12-4-107 in this Notice and in another Notice of Proposed Rulemaking. This Notice amends R12-4-101 to add a new subsection (A)(4); and R12-4-107(B), (D), (E), (F), and (J). These amendments will not conflict with amendments proposed in any other Notice.

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:

None

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

Not applicable

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

Loyalty Bonus Point and Increase to the Bonus Point Pass

The proposed rulemaking will benefit hunters that have applied for a hunt permit-tag for a specific genus for five consecutive years. Because these individuals tend to be resident hunters, the proposed rulemaking will benefit them in general more than non-resident hunters; however, nonresident hunters will also be eligible and will thus benefit. The proposed rulemaking will not create any significant additional costs to the Department, and will benefit those who support the Department by awarding an additional bonus point. The proposed rulemaking will not create an impact to other agencies or political subdivisions of this state, or businesses, revenues, or payroll expenditures. It also will not impact public or private employment or general state revenues. The Department has determined that there are no alternative methods of achieving the objectives of the proposed rulemaking.

Conservation Bonus Point

The proposed rulemaking will benefit the Department and those individuals that are able to participate in volunteer projects. The Department benefits by offering programs that encourage more people to involve themselves in wildlife management. Volunteers benefit by contributing to wildlife resources and by receiving additional bonus points that will improve the chances that they will be drawn for hunt permit-tags. The proposed rulemaking may also benefit wildlife enthusiast organizations: these organizations coordinate projects internally and then cooperate with the Department to ensure that anyone who participates is eligible to receive a conservation bonus point. Therefore, individuals may be more inclined to participate and become group members in order to accumulate points. In the new Section R12-4-124, the Department prescribes that an individual, either a Department employee or a volunteer, act as a Certified Conservation Bonus Point Record Keeper. Regardless of who assumes the position, the Department will incur an indeterminate cost for outfitting that individual with the necessary materials to carry out their duties. The proposed rulemaking will create other costs for the Department to implement this program that have heretofore been undetermined. The proposed rulemaking will create a cost for volunteers measured in time: the rulemaking requires that a volunteer participate in 48 hours of work before receiving the point. The proposed rulemaking will not impact other agencies or political subdivisions of this state. It will not impact small businesses or general state revenues. The Commission has determined that the benefits of the proposed rulemaking outweigh any costs.

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 Naugle, Rules and Risk Manager

2221 W. Greenway Rd.
Phoenix, AZ 85023

Telephone: (602) 789-3289

Fax: (602) 789-3677

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:

Written comments will be accepted at the above address until December 6, 2004. The Game and Fish Commission will hold an additional public hearing and may take action to amend the rule on:

Date: December 10-11, 2004

Time: TBA

Location: TBA, Phoenix, AZ

The Arizona Game and Fish Commission follows Title II of the Americans with Disabilities Act. The Commission does not discriminate against persons with disabilities who wish to make oral or written comments on proposed rulemaking or otherwise participate in the public comment process. Individuals with disabilities who need a reasonable accommodation (including auxiliary aids or services) to participate in the public comment process, or who require this information in an alternate form, may contact Mark E. Naugle at (602)789-3289 (Voice); 1-800-367-8939

Notices of Proposed Rulemaking

(TDD); 2221 W. Greenway Road, Phoenix, Arizona 85023-4399. Requests should be made as soon as possible so that the Arizona Game and Fish Department will have sufficient time to respond.

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:

Not applicable

13. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

Section

- R12-4-101. Definitions
- R12-4-107. Bonus Point System
- R12-4-114. Issuance of Nonpermit-tags and Hunt Permit-tags
- R12-4-124. Conservation Bonus Point Program

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

R12-4-101. Definitions

- A. In addition to the definitions provided in A.R.S. § 17-101, R12-4-481 and R12-4-501, the following definitions apply to this Chapter, unless the context otherwise requires:
1. "Artificial lures and flies" means man-made devices intended as visual attractants for fish and does not include living or dead organisms or edible parts of those organisms, natural or prepared food stuffs, artificial salmon eggs, artificial corn, or artificial marshmallows.
 2. "Bonus point" means a credit that authorizes the Department to issue an applicant an additional computer-generated random number.
 3. "Commission order" means a document adopted by the Commission that does any or all of the following: open, close, or alter seasons and open areas for taking wildlife; specify wildlife that may or may not be taken; set bag or possession limits for wildlife; or set the number of permits available for limited hunts.
 4. "Conservation bonus point" means a bonus point awarded to an individual who has completed 48 hours of certified volunteer work on an eligible volunteer work project under the requirements of R12-4-124.
 45. "Crayfish net" means a net not exceeding 24 inches on a side or in diameter that is retrieved by means of a hand-held line.
 56. "Hunt area" means a game management unit, portion of unit, or group of units opened to hunting by a particular hunt number.
 67. "Hunt number" means the number assigned by Commission order to any hunt area where a limited number of hunt permits is available.
 78. "Hunt permits" means the number of hunt permit-tags made available to the public as a result of a Commission order.
 89. "Hunt permit-tag" means a tag for a hunt for which a Commission order has assigned a hunt number.
 910. "Identification number" means a number assigned to each applicant or licensee by the Department, as described in R12-4-111.
 1011. "License dealer" means a business authorized to sell hunting, fishing, and other licenses pursuant to R12-4-105.
 112. "Live baitfish" means any species of live freshwater fish designated by Commission order as lawful for use in taking aquatic wildlife pursuant to R12-4-313.
 1213. "Management unit" means an area established by the Commission for management purposes.
 1314. "Minnow trap" means a trap with dimensions not exceeding 12 inches in depth, 12 inches in width and 24 inches in length.
 1415. "Muzzle-loading handgun" means a firearm intended to be fired from the hand, incapable of firing fixed ammunition, having a single barrel and single chamber, and loaded through the muzzle with black powder or synthetic black powder and a single projectile.
 1516. "Muzzle-loading rifle" means a firearm intended to be fired from the shoulder, incapable of firing fixed ammunition, having a single barrel and single chamber, and loaded through the muzzle with black powder or synthetic black powder and a single projectile.

~~16~~17. "Nonpermit-tag" means a tag for a hunt for which a Commission order has not assigned a hunt number and the number of tags is not limited.

~~17~~18. "Restricted nonpermit-tag" means a tag issued to a hunter pool applicant for a supplemental hunt under R12-4-115.

~~18~~19. "Simultaneous fishing" means the taking of fish by two lines and not more than two hooks or two artificial lures or flies per line.

~~19~~20. "Sink box" means a low floating device having a depression affording the hunter a means of concealment beneath the surface of the water.

~~20~~21. "Tag" means the authorization that an individual is required to obtain from the Department under A.R.S. Title 17 and 12 A.A.C. 4 before taking certain wildlife.

~~21~~22. "Waterdog" means the larval or metamorphosing stage of salamanders.

~~22~~23. "Wildlife area" means an area established pursuant to 12 A.A.C. 4, Article 8.

B. If the following terms are used in a Commission order, the following definitions apply:

1. "Antlered" means having an antler fully erupted through the skin and capable of being shed.
2. "Bearded turkey" means a turkey with a beard that extends beyond the contour feathers of the breast.
3. "Buck antelope" means a male pronghorn antelope with a horn longer than its ear.
4. "Bull elk" means an antlered elk.
5. "Ram" means any male bighorn sheep, excluding male lambs.

R12-4-107. Bonus Point System

A. For the purpose of this Section, the following definitions apply: "bonus point hunt number" means the hunt number assigned by the Commission in a Commission Order for use by an applicant applying only for a bonus point for a genus identified in this Section.

1. "Bonus point hunt number" means the hunt number assigned by the Commission in a Commission Order for use by an applicant applying only for a bonus point for a genus identified in this Section; and

2. "Loyalty bonus point" means a bonus point awarded to an applicant who has applied for a specific genus identified in subsection (B) consecutively for a five-year period.

B. The bonus point system grants each person one entry in each drawing for elk, buffalo, bighorn sheep, antelope, or deer for each bonus point which that person has accumulated under this Section and under R12-4-124. Each bonus point entry is in addition to the entry normally granted by R12-4-104. When processing "group" applications as defined in R12-4-104, the Department shall use the average number of bonus points accumulated by the persons in the group, rounded to the nearest whole number. If the average is greater than or equal to .5, the total will be rounded up to the next highest number.

C. The Department shall award one bonus point to each applicant who submits a valid Hunt Permit-tag Application Form if all of the following apply:

1. The application is unsuccessful in the drawing, or the application is for a bonus point only;
2. The application is not for hunt permit-tags left over after the drawing which are available on a first-come, first-served basis as prescribed in R12-4-114; and
3. The applicant, before the drawing, has purchased a hunting license valid for the year ~~that corresponds with the applicable hunt number~~ in which the hunt takes place. The applicant shall either provide the hunting license number on the application, or submit an application and fees for the license with the Hunt Permit-tag Application Form, indicating that the applicant is to be issued the license even if not drawn for a hunt permit-tag.

D. Each applicant for a bonus point hunt number shall:

1. Submit a valid Hunt Permit-tag Application Form, as prescribed in R12-4-104, with the Commission-assigned bonus point hunt number for the particular genus as the first choice hunt number on the application. Placing the bonus point hunt number as a choice other than the first choice or in addition to another choice invalidates the application;
2. Include with the application, payment for ~~the applicable hunt permit tag fee for the particular genus~~, the permit application fee, and if ~~the applicant has not purchased a license is requested~~ for the season for which the application is being made, a fee for the license (the number of the applicant's license for the year in which the hunt will take place is required if the applicant has already purchased a license for the season for which application is being made); and
3. Submit only one Hunt Permit-tag Application Form for the same genus for each season that bonus points are issued for that ~~season~~ genus.

E. With the exception of conservation bonus points awarded under the provisions of R12-4-124 and the hunter education bonus point, Each each bonus point accumulated is valid only for the genus designated on the Hunt Permit-tag Application Form.

F. Except for a permanent bonus points-point awarded for hunter education, loyalty bonus points that are accrued and forfeited as prescribed in subsection (K), and conservation bonus points that are accrued and forfeited as prescribed in R12-4-124, all of a person's accumulated bonus points for a genus are forfeited if:

1. The person is issued a hunt permit-tag for that genus in a computer drawing; or
2. The person fails to submit a Hunt Permit-tag Application Form for that genus for five consecutive years.

G. An applicant issued a first-come hunt permit-tag under R12-4-114(C)(2)(d) after the computer drawing does not lose

Notices of Proposed Rulemaking

bonus points for that ~~tag~~ genus, and a valid but unsuccessful applicant for a first-come hunt permit-tag remaining after the computer drawing does not gain a bonus point.

- H. The Department shall award one permanent bonus point for each genus upon a person's first graduation from the Department's Arizona Hunter Education Course or for serving as a Department hunter education instructor.
1. The Department shall credit a person who graduated after January 1, 1980, but before January 1, 1991, or a person certified by the Department as an active hunter education instructor after January 1, 1980, with one permanent bonus point for each genus if the person provides the following information on a form available from the Department: Department identification number; name; address; residency status and length of Arizona residency, if applicable; date of birth; sex; weight; height; color of hair and eyes; and, for a person other than an instructor, the month and year of graduation from the Department's Arizona Hunter Education Course.
 2. An instructor or a person who has graduated shall submit the required form 30 days before a drawing's application date deadline, specified in the hunt permit-tag application schedule, in order for the bonus point to be counted by the Department in that drawing.
- I. The Department shall make an applicant's total number of accumulated bonus points available on the Department's application web site or IVR telephone system. If the applicant disagrees with the total, the applicant shall provide previous notices or proof of compliance with this Section or Section R12-4-124 to prove Department error. In the event of an error, the Department shall correct the applicant's record.
- J. The Department shall ~~record~~ credit bonus points under an applicant's Department identification number ~~and~~ for the genus on the application, and in the case of a conservation bonus point for each genus listed in subsection (B). The Department shall not transfer bonus points between persons or genera.
- K.** The following provisions apply to the loyalty bonus point program:
1. The Department shall award a loyalty bonus point if an applicant applies for a specific genus consecutively for a five-year period and has purchased a hunting license or combination hunting and fishing license for each of the five consecutive years.
 2. An applicant retains a loyalty bonus point once accrued as long as the applicant applies annually for the genus for which the loyalty bonus point was accrued.
 3. If an applicant who has accrued a loyalty bonus point fails to apply in any calendar year for the genus for which the loyalty bonus point was accrued, the applicant's loyalty bonus point for that genus shall be forfeited.
 4. For the purpose of the loyalty bonus point program, year one of the calculation of consecutive application years shall be 2001, and the Department shall award a loyalty bonus point to those applicants who have qualified for the loyalty bonus point on or after the effective date of this rule.
 5. Loyalty bonus points shall be accrued in addition to all other bonus points.
- ~~KL.~~ The Department shall reinstate any bonus points forfeited for a successful hunt permit-tag application for military personnel, military reserve personnel, national guard personnel, or public agency employees who are unable to use a hunt permit-tag due to mobilization, activation, or required duty in response to a declared national or state emergency, or required duty in response to an action by the President, Congress, or a governor of the United States or its territories. Under A.R.S. § 17-332(E), no refunds for a license or hunt permit-tag will be issued to an applicant who applies for reinstatement of bonus points under this Section. To request that forfeited bonus points be reinstated under these circumstances, an applicant shall submit the following to the Arizona Game and Fish Department, Draw Section, 2222 W. Greenway Rd., Phoenix, AZ 85023:
1. A letter from the applicant requesting reinstatement of bonus points;
 2. The hunt number for which the tag is valid;
 3. Evidence of mobilization or duty status, such as a letter from the public agency or official orders;
 4. An official declaration of a state of emergency from the public agency or authority making the declaration of emergency, if applicable;
 5. The valid, unused tag, which must be received before the beginning date of the hunt for which the tag is valid, or evidence of mobilization or activation that precluded the applicant from submitting the tag before the beginning date of the hunt.

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

- A. In accordance with A.R.S. § 17-332 and the provisions of this Section, the Department shall annually provide numbered tags for sale to the public. The Department shall ensure that each tag includes a transportation and shipping permit as prescribed in A.R.S. §§ 17-332 and 17-371, and that each tag is made of tear-resistant material with an adhesive back covered by a detachable paper backing and clearly identifies the animal for which the tag is valid.
- B. If the Commission establishes a big game season for which a hunt number is not assigned, the Department or its authorized agent, or both, shall sell nonpermit-tags.
1. To obtain a nonpermit-tag, an applicant shall provide to a license dealer or Department office the applicant's name, home mailing address, and Department identification number.
 2. An applicant shall not apply for or obtain nonpermit-tags in excess of the bag limit prescribed by the Commission

when it established the season for which the nonpermit-tags are valid.

- C. If the number of hunt permits for a species in a particular hunt area must be limited, a Commission order establishes a hunt number for that hunt area, and a hunt permit-tag is required to take the species in that hunt area.
1. To apply for a hunt permit-tag, an applicant shall submit an application under R12-4-104.
 2. The Department shall use the following procedure to determine whether a hunt permit-tag will be issued to an applicant:
 - a. The Department shall reserve a maximum of ~~10%~~ 20% of the hunt permits for each hunt number to issue to ~~persons~~ individuals and groups who have bonus points that have been issued according to R12-4-107.
 - b. The Department shall issue the reserved hunt permit-tags for hunt numbers designated by eligible applicants as their first or second choices. The Department shall issue the reserved hunt permit-tags by random selection:
 - i. First, to eligible applicants with the greatest number of bonus points for that genus;
 - ii. Next, if there are reserved hunt permit-tags remaining, to eligible applicants with the next greatest number of bonus points for that genus; and
 - iii. If there are still tags remaining, to the next eligible applicants with the next greatest number of bonus points; continuing until all of the reserved tags have been issued or until there are no more applicants for that hunt number who have bonus points.
 - c. The Department shall ensure that the first selection from all unreserved hunt permit-tags is by random drawing.
 - d. If the bag limit established by Commission order is more than one per calendar year, or if there are hunt permit-tags remaining unissued after the random drawings, the Department shall ensure that these hunt permit-tags are available on a set date on a first-come, first-served basis as specified in the hunt permit-tag application schedule published annually by, and available from, the Department.
- D. The Department shall ensure that no more than 10% of the total available bighorn sheep or buffalo hunt permit-tags in any calendar year are issued to nonresidents and that no more than 50% nor more than two bighorn sheep or buffalo hunt permit-tags of the total available in any hunt number are issued to nonresidents.
- E. ~~The Department shall ensure that no more than 10% of the total available hunt permit-tags are issued to nonresidents for the following hunts, except that when hunt numbers have 10 or less available hunt permit-tags, no more than one hunt permit tag is issued to a nonresident:~~
- ~~1. All hunts for bull elk, and~~
 - ~~2. All hunts for antlered deer north of the Colorado River.~~

R12-4-124. Conservation Bonus Point Program

- A. For the purpose of this Section, the following definitions apply:
1. “Certified Record Keeper” means a Department-authorized volunteer or Department employee who shall be responsible for certifying completion of volunteer work hours on projects that the Department has certified as eligible for the Conservation Bonus Point Program.
 2. “Conservation Bonus Point Program” means a program administered by the Department that provides an eligible participant with an opportunity to earn and accumulate additional bonus points to be used under the bonus point system as prescribed in this Section and R12-4-107.
 3. “Eligible participant volunteer” means an individual who has attended and completed any required project related orientation or safety training prior to beginning work on an eligible project.
 4. “Eligible project” means a project that is either Department sponsored, or that has been pre-approved by the Department as prescribed by this Section and that is based upon or in support of the Department’s mission statement.
- B. The certified record keeper shall be responsible for compiling and certifying all records and reporting requirements for eligible projects, including a volunteer’s hours of service. Certified record keepers shall complete a Department approved training course as a part of the certification process prior to being authorized to perform recordkeeping responsibilities for an eligible project.
- C. At the completion of an eligible project, the project’s certified record keeper shall submit an original Certified Volunteer Record Form to the Department. The certified record keeper shall submit the form to the Department at the Department address printed on the form.
- D. The Department has the authority to revoke a certified record keeper’s certification if there is evidence that the certified record keeper has failed to properly perform the duties prescribed by this Section.
- E. An individual’s ability to participate in an eligible project shall be on a first-come, first-served basis coordinated through the project’s certified record keeper or the Department’s designated project contact.
- F. The Department shall award an eligible participant volunteer conservation bonus points at the rate of one point per year for 48 certified hours of volunteer work on an eligible project or projects. An eligible participant volunteer shall have up to 3 consecutive calendar years to complete the 48 certified hours of volunteer work necessary to accrue one conservation bonus point. The Department shall not award more than 1 conservation bonus point per calendar year to an eligible participant volunteer.
- G. An individual’s accumulated conservation bonus points are valid for all genera listed in R12-4-107, but shall be forfeited

Notices of Proposed Rulemaking

for any one genus, if:

1. The individual is issued a hunt permit-tag for that genus in a computer drawing; or
2. The individual fails to submit a hunt permit-tag application form for that genus for five consecutive years.
- H.** To be credited with a conservation bonus point, an individual shall complete at least 48 certified hours of volunteer work on an eligible project or projects, as prescribed by this Section, and shall apply to the Department on a Department approved form or by a Department approved method, providing the following information:
 1. Name, home mailing address, residency status, and date of birth; and
 2. The applicant's Department identification number.
- I.** An applicant for a conservation bonus point shall submit the required application fee and form no later than 30 days before an application deadline date, specified in the hunt permit-tag application schedule, for the Department to credit the conservation bonus point for that application.
- J.** The Department shall credit a conservation bonus point under an applicant's Department identification number and apply the bonus point to each genus listed in R12-4-107.
- K.** An individual or organization that is sponsoring a project and seeking designation of a project as an eligible project for the conservation bonus point program shall submit the following project details to the Department on a Department approved form no later than 30 days before the project start date:
 1. Start and end dates of the project
 2. Location of the project.
 3. Number of volunteers required.
 4. A description of the project activity.
 5. A description of how the project supports the mission of the Department.
 6. Name and contact information for the Certified Conservation Bonus Point Record Keeper who will serve as the project contact, and
 7. Estimated number of hours the project will take to complete.
- L.** Eligible project service hours shall not include travel time to or from project locations.
- M.** The Department shall publish and maintain a list of eligible projects and project contacts, either through the Department's web site or through printed materials.

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R12-4-104 | Amend |
| R12-4-107 | Amend |
| R12-4-115 | Amend |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 17-231
Implementing statute: A.R.S. §§ 17-231(A)(3) and 17-234
 - 3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Public Information: 10 A.A.R. 3093, August 6, 2004
Notice of Rulemaking Docket Opening: 10 A.A.R. 3762, September 10, 2004
 - 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Mark E. Naugle, Rule & Risk Manager
Address: Game and Fish Department
2221 W. Greenway Rd. DORR
Phoenix, AZ 85023-4399
Telephone: (602) 789-3289
Fax: (602) 789-3677
 - 5. An explanation of the rule, including the agency's reasons for initiating the rule:**

Notices of Proposed Rulemaking

The Commission believes these amendments are necessary to improve the draw success rate for applicants and thereby maintain interest in hunting. The Commission also believes the amendments are necessary to maintain resident hunting opportunity.

The Commission is amending R12-4-104, R12-4-107, and R12-4-115 to require that an applicant for a hunt permit-tag or a restricted nonpermit-tag purchase a hunting license before or at the time the applicant applies. An applicant for a restricted nonpermit-tag will also be required to pay a five-dollar application fee to cover the administrative cost for the supplemental hunt application process.

The Commission is proposing amendments to R12-4-104, R12-4-107, and R12-4-115 in this Notice and in another Notice of Proposed Rulemaking. This Notice amends R12-4-104(D),(E), and (P); R12-4-107(C) and (D); and R12-4-115(H) and adds a new (I) and deletes (M). These amendments will not conflict with amendments proposed in any other Notice.

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:

None

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

Not applicable

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

The proposed rulemaking will benefit the Department by increasing revenue, and it will create a cost for individuals who choose to take advantage of the state's recreational wildlife hunting opportunities; however, those same individuals will benefit as increased costs to apply for tags diminish the number of competing applications submitted by those who are not as dedicated about recreational sport harvest. The proposed rulemaking will also create a cost to those individuals who apply for restricted nonpermit-tags. Overall, the wildlife resource and hunters will benefit from the proposed amendments because license fees go directly to wildlife conservation, development and management, which result in the state's quality resources that are recognized across the country. The proposed rulemaking will not affect other agencies or political subdivisions of this state, or businesses, revenues, or payroll expenditures. It will not affect private or public employment, or the state general fund. The Department has determined that there are no alternative methods to achieve the objectives 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 Naugle, Rules and Risk Manager

2221 W. Greenway Rd.
Phoenix, AZ 85023

Telephone: (602) 789-3289

Fax: (602) 789-3677

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:

Written comments will be accepted at the above address until December 6, 2004. The Game and Fish Commission will hold an additional public hearing and may take action to amend the rule on:

Date: December 10-11, 2004

Time: TBA

Location: TBA
Phoenix, AZ

The Arizona Game and Fish Commission follows Title II of the Americans with Disabilities Act. The Commission does not discriminate against persons with disabilities who wish to make oral or written comments on proposed rulemaking or otherwise participate in the public comment process. Individuals with disabilities who need a reasonable accommodation (including auxiliary aids or services) to participate in the public comment process, or who require this information in an alternate form, may contact Mark E. Naugle at (602) 789-3289 (Voice); 1-800-367-8939 (TDD); 2221 W. Greenway Road, Phoenix, Arizona 85023-4399. Requests should be made as soon as possible so that the Arizona Game and Fish Department will have sufficient time to respond.

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:

Not applicable.

13. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

Section

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

R12-4-107. Bonus Point System

R12-4-115. Supplemental Hunts and Hunter Pool

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

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

- A. For the purposes of this Section, "group" means all applications contained in a single envelope or submitted electronically over the internet as part of the same application. No more than four individuals may apply as a group except that no more than two individuals may apply as a group for bighorn sheep. Nonresidents, see subsection R12-4-114(D).
- B. An applicant applying for a hunt permit-tag or a bonus point shall apply using a Hunt Permit-tag Application Form, available at Department offices, the Department's internet web site, and license dealers. An applicant using the Hunt Permit-tag Application Form to apply for a hunt permit-tag or a bonus point shall also apply at times and locations established by the hunt permit-tag application schedule that is published annually by the Department and available at Department offices, the Department's internet web site, and license dealers.
- C. An applicant shall sign the Hunt Permit-tag Application Form, or provide permission to another person to sign the application form for them. If applying electronically over the internet, an applicant shall attest to, or provide permission to another person to attest to, the information electronically provided.
- D. Each applicant shall provide the following information on the Hunt Permit-tag Application Form:
1. ~~Name~~ Applicant's name, home mailing address, residency status, and date of birth;
 2. The applicant's social security number, as required under A.R.S. §§ 25-320(K) and 25-502(K), and the applicant's Department identification number, if different from the social security number on the Hunt Permit-tag Application Form;
 3. If licensed to take wildlife in this state, the number of the applicant's license for the ~~year that corresponds with the applicable hunt number~~ year in which the hunt will take place;
 4. If not licensed for the year ~~that corresponds with~~ in which the applicable hunt ~~number will take place~~, the applicant shall purchase a license by ~~complete~~ completing the License Application portion of the Hunt Permit-tag Application Form, providing the applicant's name, Department identification number, home mailing address, class of license for which application is made, residency status, length of Arizona residency (if applicable), date of birth, sex, weight, height, and color of hair and eyes; and
 5. Each applicant under the age of 14 applying for a hunt other than big game and not required to have a license under A.R.S. § 17-335(B) shall indicate "juvenile" in the space provided for the license number on the Hunt Permit-tag Application Form.
- E. Each applicant shall ~~enclose~~ include as part of the hunt permit-tag application, fees as set in R12-4-102 for the following:
1. The fee for the applicable hunt permit-tag, unless application is submitted electronically over the internet or telephone;
 2. ~~A~~The permit application fee; and
 3. ~~If a license is requested, a fee for the license.~~ The license fee if the applicant has not previously purchased a license for the year that corresponds with the applicable hunt number.
- F. Each applicant shall enclose payment as part of the hunt permit-tag application, made payable, in U.S. currency, to the Arizona Game and Fish Department by certified check, cashier's check, money order, or personal check. If applying electronically over the internet or telephone, an applicant shall include as a part of the hunt permit-tag application, payment by valid credit card.
- G. Each applicant shall apply for a specific hunt or a bonus point by the current hunt number. If all hunts selected by the applicant are filled at the time the application is processed in the drawing, the Department shall deem the application unsuccessful, unless the application is for a bonus point.
- H. Each applicant shall make all hunt choices for the same genus within one application.

Notices of Proposed Rulemaking

- I. An applicant shall not include applications for different genera of wildlife in the same envelope.
- J. All members of a group shall apply for the same hunt numbers and in the same order of preference. The Department shall not issue a hunt permit-tag to any group member unless sufficient hunt permit-tags are available for all group members.
- K. Each applicant shall submit only one valid application per genus of wildlife for any calendar year, except:
 - 1. If the bag limit is one per calendar year, an unsuccessful applicant may re-apply for remaining hunt permit-tags in unfilled hunt areas, as specified in the hunt permit-tag application schedule published annually by the Department.
 - 2. For genera that have multiple hunts within a single calendar year, hunters that successfully draw a hunt permit-tag during an earlier season may apply for a later season for the same genus if they have not taken the bag limit for that genus during a preceding hunt in the same calendar year.
 - 3. If the bag limit is more than one per calendar year, any person may apply as specified in the hunt permit-tag application schedule published annually by the Department for remaining hunt permit-tags in unfilled hunt areas.
- L. A person shall not apply for a bighorn sheep or buffalo hunt permit-tag when that person has taken the bag limit for that species.
- M. To participate in the bonus point system, an applicant shall comply with R12-4-107.
- N. Any Hunt Permit-tag Application Form not prepared or submitted in accordance with this Section, or not prepared in a legible manner, is not valid and shall be rejected and all fees refunded. If the Department rejects an application from any member of a group, the Department shall reject all applications from the group.
- O. Any hunt permit-tag issued for an application that is subsequently found not to be in accordance with this Section is invalid.
- P. The Department shall mail hunt permit-tags to successful applicants. The Department shall return application overpayments to an applicant designated "A" on the Hunt Permit-tag Application Form. ~~overpayments and hunt permit tag and license fees received with an unsuccessful application.~~ Permit application fees received with valid applications shall not be refunded. ~~Hunt permit tag fees~~ Permit application fees and license fees submitted with an application for a bonus point shall not be refunded.
- Q. If the Director determines that Department error resulted in the rejection of an application, the Director may authorize additional hunt permit-tags or the awarding of a bonus point in order to correct the error, provided the issuance of additional permits will have no significant impact on the wildlife population to be hunted and the application for a hunt permit-tag would have otherwise been successful based on its random number. An applicant who is denied a hunt permit-tag or a bonus point under this procedure may appeal to the Commission as provided under A.R.S. Title 41, Chapter 6, Article 10.

R12-4-107. Bonus Point System

- A. For the purpose of this Section, "bonus point hunt number" means the hunt number assigned by the Commission in a Commission Order for use by an applicant applying only for a bonus point for a genus identified in this Section.
- B. The bonus point system grants each person one entry in each drawing for elk, buffalo, bighorn sheep, antelope, or deer for each bonus point which that person has accumulated under this Section. Each bonus point entry is in addition to the entry normally granted by R12-4-104. When processing "group" applications as defined in R12-4-104, the Department shall use the average number of bonus points accumulated by the persons in the group, rounded to the nearest whole number. If the average is greater than or equal to .5, the total will be rounded up to the next highest number.
- C. The Department shall award one bonus point to each applicant who submits a valid Hunt Permit-tag Application Form if all of the following apply:
 - 1. The application is unsuccessful in the drawing, or the application is for a bonus point only;
 - 2. The application is not for hunt permit-tags left over after the drawing which are available on a first-come, first-served basis as prescribed in R12-4-114; and
 - 3. The applicant, before the drawing, has purchased a hunting license valid for the year ~~that corresponds with the applicable hunt number~~ in which the hunt takes place. The applicant shall either provide the hunting license number on the application, or submit an application and fees for the license with the Hunt Permit-tag Application Form, ~~indicating that the applicant is to be issued the license even if not drawn for a hunt permit tag.~~
- D. Each applicant for a bonus point shall:
 - 1. Submit a valid Hunt Permit-tag Application Form, as prescribed in R12-4-104, with the Commission-assigned bonus point hunt number for the particular genus as the first choice hunt number on the application. Placing the bonus point hunt number as a choice other than the first choice, or in addition to any other choice for that genus invalidates the application;
 - 2. Include with the application, ~~payment for the applicable hunt permit tag fee for the particular genus, the permit application fee, and if a license is requested, a fee for the license; and the license fee and all applicable information as designated under R12-4-104(D)(4) if the applicant has not already purchased a license for the year for which the applicant is applying; and~~
 - 3. Submit only one Hunt Permit-tag Application Form for the same genus for each season that bonus points are issued for that season genus.

Notices of Proposed Rulemaking

- E. Each bonus point accumulated is valid only for the genus designated on the Hunt Permit-tag Application Form.
- F. Except for permanent bonus points awarded for hunter education, all of a person's accumulated bonus points for a genus are forfeited if:
 - 1. The person is issued a hunt permit-tag for that genus in a computer drawing; or
 - 2. The person fails to submit a Hunt Permit-tag Application Form for that genus for five consecutive years.
- G. An applicant issued a first-come hunt permit-tag under R12-4-114(C)(2)(d) after the computer drawing does not lose bonus points for that ~~tag~~ genus, and a valid but unsuccessful applicant for a first-come hunt permit-tag remaining after the computer drawing does not gain a bonus point.
- H. The Department shall award one permanent bonus point for each genus upon a person's first graduation from the Department's Arizona Hunter Education Course or for serving as a Department hunter education instructor.
 - 1. The Department shall credit a person who graduated after January 1, 1980, but before January 1, 1991, or a person certified by the Department as an active hunter education instructor after January 1, 1980, with one permanent bonus point for each genus if the person provides the following information on a form available from the Department: Department identification number; name; address; residency status and length of Arizona residency, if applicable; date of birth; sex; weight; height; color of hair and eyes; and, for a person other than an instructor, the month and year of graduation from the Department's Arizona Hunter Education Course.
 - 2. An instructor or a person who has graduated shall submit the required form 30 days before a drawing's application date deadline, specified in the hunt permit-tag application schedule, in order for the bonus point to be counted by the Department in that drawing.
- I. The Department shall make an applicant's total number of accumulated bonus points available on the Department's application web site or IVR telephone system. If the applicant disagrees with the total, the applicant shall provide previous notices or proof of compliance with this Section to prove Department error. In the event of an error, the Department shall correct the applicant's record.
- J. The Department shall record bonus points under an applicant's Department identification number and the genus on the application. The Department shall not transfer bonus points between persons or genera.
- K. The Department shall reinstate any bonus points forfeited for a successful hunt permit-tag application for military personnel, military reserve personnel, national guard personnel, or public agency employees who are unable to use a hunt permit-tag due to mobilization, activation, or required duty in response to a declared national or state emergency, or required duty in response to an action by the President, Congress, or a governor of the United States or its territories. Under A.R.S. § 17-332(E), no refunds for a license or hunt permit-tag will be issued to an applicant who applies for reinstatement of bonus points under this Section. To request that forfeited bonus points be reinstated under these circumstances, an applicant shall submit the following to the Arizona Game and Fish Department, Draw Section, 2222 W. Greenway Rd., Phoenix, AZ 85023:
 - 1. A letter from the applicant requesting reinstatement of bonus points;
 - 2. The hunt number for which the tag is valid;
 - 3. Evidence of mobilization or duty status, such as a letter from the public agency or official orders;
 - 4. An official declaration of a state of emergency from the public agency or authority making the declaration of emergency, if applicable;
 - 5. The valid, unused tag, which must be received before the beginning date of the hunt for which the tag is valid, or evidence of mobilization or activation that precluded the applicant from submitting the tag before the beginning date of the hunt.

R12-4-115. Supplemental Hunts and Hunter Pool

- A. For the purposes of this Section, the following definitions apply:
 - 1. "Management objectives" means goals, recommendations, or guidelines contained in Commission-approved wildlife management plans, which include hunt guidelines, operational plans, or hunt recommendations;
 - 2. "Hunter pool" means a file of applications for supplemental hunts; and
 - 3. "Supplemental hunt" means a season established by the Commission for the following purposes:
 - a. Take of predated wildlife under A.R.S. § 17-239;
 - b. Take of wildlife under an Emergency Season if the Commission adopts, amends, or repeals a Commission order for reasons constituting an immediate threat to the health, safety, or management of wildlife or its habitat or to public health or safety; or
 - c. Take of wildlife under a population management hunt if the Commission has prescribed restricted nonpermit-tags by Commission order for the purpose of meeting management objectives because regular seasons are not, have not been, or will not be sufficient or effective to achieve management objectives.
- B. For the purposes of authorizing a population management hunt, the Commission through Commission order shall open a season or seasons and prescribe a maximum number of restricted nonpermit-tags that the Director may issue under this Section.
- C. The Director shall implement a population management hunt under the open season or seasons prescribed in subsection

- (B) if the Director finds that:
1. Regular seasons have not met or will not meet management objectives;
 2. Take of wildlife is necessary to meet management objectives; and
 3. Issuance of a specific number of restricted nonpermit-tags is likely to meet management objectives.
- D.** To implement a population management hunt under subsection (B), the Director shall do the following:
1. Select season dates, within the range of dates prescribed by the Commission through Commission order;
 2. Select specific hunt areas, within the range of hunt areas prescribed by the Commission through Commission order;
 3. Select the legal animal that may be taken from the list of legal animals prescribed by the Commission through Commission order;
 4. Determine the number of restricted nonpermit-tags that will be issued from the maximum number of tags prescribed by the Commission through Commission order; and
 5. Reduce restricted nonpermit-tag fees up to 75% for population management hunts if the normal fee structure will not generate adequate participation from applicants in the hunter pool.
- E.** The Director shall not issue more restricted nonpermit-tags than the maximum number prescribed by the Commission through Commission order.
- F.** To participate in a supplemental hunt, a person shall obtain a restricted non-permit tag as prescribed by this Section. A restricted non-permit tag is valid only for the supplemental hunt for which it is issued.
- G.** The Department or its authorized agent shall maintain a hunter pool for supplemental hunts. The hunter pool shall be purged and renewed annually. If the Commission establishes a supplemental hunt, and the number of hunters in the supplemental hunt must be limited, the Department or its authorized agent shall randomly select applicants from the current hunter pool file. The Department or its authorized agent shall attempt to contact each randomly-selected applicant by telephone at least three times during a 24-hour period. If an applicant cannot be contacted or cannot participate in the hunt, the Department or its authorized agent shall return the application to the hunter pool and draw another application. The Department or its authorized agent shall draw no more applications after the number of restricted nonpermit-tags prescribed in subsection (D)(4) have been issued.
- H.** An applicant for a supplemental hunt shall submit ~~the permit application fee prescribed in R12-4-102~~ along with the following information on a form available from the Department or its authorized agent:
1. ~~Name~~ Applicant's name, home mailing address, whether a resident or nonresident, and date of birth;
 2. Daytime and evening telephone numbers; ~~and~~
 3. The species that the applicant would like to hunt if drawn; ~~and~~
 4. The number of the applicant's license for the year that corresponds with the applicable hunt number.
- I.** Along with the application form, an applicant for a supplemental hunt shall submit the permit application fee prescribed in R12-4-102.
- ~~**J.** Neither a current hunting license number nor a fee or application for a hunting license is required with the supplemental hunt application form. The Department shall not accept group applications, as described in R12-4-104, for supplemental hunts.~~
- ~~**K.** A hunter pool applicant who is drawn and who wishes to participate in a supplemental hunt shall submit the following to the Department to obtain a restricted nonpermit-tag:~~
1. The fee for the tag as prescribed by R12-4-102, or as prescribed by subsection (D)(5) if the fee has been reduced, and
 2. The number of the applicant's hunting license, valid for the year of the supplemental hunt.
- ~~**L.** The Department reserves a restricted nonpermit-tag for an applicant only for the period of time specified by the Department when contact is made with the applicant. A restricted nonpermit-tag not purchased within the specified period of time shall be issued to another applicant drawn from the current hunter pool as prescribed by this Section. The Department or its authorized agent shall remove from the current hunter pool the application of any successful applicant who does not purchase a tag after being contacted and agreeing to purchase the tag.~~
- ~~**M.** The provisions of R12-4-104, R12-4-107, R12-4-114, and R12-4-609 do not apply to supplemental hunts. A supplemental hunt application submitted in accordance with this Section does not invalidate any application for a hunt permit-tag. The issuance of a restricted nonpermit-tag does not authorize an individual to exceed the bag limit established by the Commission for that calendar year.~~
- ~~**N.** The Department shall ensure that no more than 10% of the total available restricted nonpermit-tags issued for population management hunts are issued to nonresidents for the following hunts, except that if population management hunts have 10 or fewer available restricted nonpermit-tags, no more than one restricted nonpermit-tag shall be issued to a nonresident:~~
1. All hunts for bull elk; and
 2. All hunts for antlered deer north of the Colorado River.

No businesses are directly subject to the proposed rulemaking. Other than minimal administrative costs, the Department will not incur any additional costs beyond the costs of the rulemaking as a result of the proposed rulemaking. The Department has determined that there are no alternative methods of achieving the objectives of the proposed rulemaking.

Overall, the Department has determined that the benefits of this rulemaking outweigh any costs.

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, Rule & Risk Manager
Address: Game and Fish Department
2221 W. Greenway Rd. DORR
Phoenix, AZ 85023-4399
Telephone: (602) 789-3289
Fax: (602) 789-3677

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:

Written comments will be accepted at the above address until December 6, 2004. Public hearings to discuss this proposal will be held as follows:

Date: December 10 and 11, 2004
Time: TBA
Location: TBA

The Arizona Game and Fish Commission follows Title II of the Americans with Disabilities Act. The Commission does not discriminate against persons with disabilities who wish to make oral or written comments on proposed rulemaking or otherwise participate in the public comment process. Individuals with disabilities who need a reasonable accommodation (including auxiliary aids or services) to participate in the public comment process, or who require this information in an alternate form, may contact Mark E. Naugle at (602)789-3289 (Voice); 1-800-367-8939 (TDD); 2221 W. Greenway Road, Phoenix, Arizona 85023-4399. Requests should be made as soon as possible so that the Arizona Game and Fish Department will have sufficient time to respond.

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:

Not applicable.

13. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

Section

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

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

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

- A.** In accordance with A.R.S. § 17-332 and the provisions of this Section, the Department shall annually provide numbered tags for sale to the public. The Department shall ensure that each tag includes a transportation and shipping permit as prescribed in A.R.S. §§ 17-332 and 17-371, and that each tag is made of tear-resistant material with an adhesive back covered by a detachable paper backing and clearly identifies the animal for which the tag is valid.
- B.** If the Commission establishes a big game season for which a hunt number is not assigned, the Department or its authorized agent, or both, shall sell nonpermit-tags.
1. To obtain a nonpermit-tag, an applicant shall provide to a license dealer or Department office the applicant's name, address, and Department identification number.

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2. An applicant shall not apply for or obtain nonpermit-tags in excess of the bag limit prescribed by the Commission when it established the season for which the nonpermit-tags are valid.
- C. If the number of hunt permits for a species in a particular hunt area must be limited, a Commission order establishes a hunt number for that hunt area, and a hunt permit-tag is required to take the species in that hunt area.
 1. To apply for a hunt permit-tag, an applicant shall submit an application under R12-4-104.
 2. The Department shall use the following procedure to determine whether a hunt permit-tag will be issued to an applicant:
 - a. The Department shall reserve a maximum of 10% of the hunt permits for each hunt number to issue to persons and groups who have bonus points that have been issued according to R12-4-107.
 - b. The Department shall issue the reserved hunt permit-tags for hunt numbers designated by eligible applicants as their first or second choices. The Department shall issue the reserved hunt permit-tags by random selection:
 - i. First, to eligible applicants with the greatest number of bonus points for that genus;
 - ii. Next, if there are reserved hunt permit-tags remaining, to eligible applicants with the next greatest number of bonus points for that genus; and
 - iii. If there are still tags remaining, to the next eligible applicants with the next greatest number of bonus points; continuing until all of the reserved tags have been issued or until there are no more applicants for that hunt number who have bonus points.
 - c. The Department shall ensure that the first selection from all unreserved hunt permit-tags is by random drawing.
 - d. If the bag limit established by Commission order is more than one per calendar year, or if there are hunt permit-tags remaining unissued after the random drawings, the Department shall ensure that these hunt permit-tags are available on a set date on a first-come, first-served basis as specified in the hunt permit-tag application schedule published annually by, and available from, the Department.
- D. The Department shall ensure that no more than 10% of the total available ~~bighorn sheep or buffalo~~ hunt permit-tags in any calendar year are issued to nonresidents and that no more than 50% nor more than two ~~bighorn sheep or buffalo~~ hunt permit-tags of the total available in any hunt number are issued to nonresidents.
- E. The Department shall set aside an amount not greater than 15% of the total available bighorn sheep hunt permit-tags in any calendar year, rounded down to the nearest whole number, to be issued to nonresidents and shall ensure that no more than 50% nor more than two bighorn sheep hunt permit-tags of the total available in any hunt number are issued to nonresidents.
- E. ~~The Department shall ensure that no more than 10% of the total available hunt permit tags are issued to nonresidents for the following hunts, except that when hunt numbers have 10 or less available hunt permit tags, no more than one hunt permit tag is issued to a nonresident:~~
 1. ~~All hunts for bull elk, and~~
 2. ~~All hunts for antlered deer north of the Colorado River.~~

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

PREAMBLE

1. **Sections Affected**

Article 9	<u>Rulemaking Action</u>
R12-4-901	New Section
R12-4-902	New Section
R12-4-903	New Section
R12-4-904	New Section
R12-4-905	New Section
R12-4-906	New Section
2. **The specific authority for the rulemaking, including both the authorizing statutes (general) and the implementing statutes (specific):**

Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. § 17-299
3. **A list of all previous notices appearing in the Register addressing the proposed rules:**

Notice of Rulemaking Docket Opening: 10 A.A.R. 981, March 12, 2004
Notice of Public Meeting on Open Rulemaking Docket: 10 A.A.R. 2613, June 25, 2004

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

Name: Mark E. Naugle, Rules and Risk Manager
Address: Game and Fish Department DORR
2222 W. Greenway Rd.
Phoenix, AZ 85023-4399
Telephone: (602) 789-3289

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

In November 2002, the voters of Arizona passed the Indian Gaming Initiative, Proposition (Prop) 202. Article 7 of this initiative establishes the Arizona Wildlife Conservation Fund. A.R.S. § 17-299(A) stipulates that the Arizona Game and Fish Commission shall administer the fund. Section 17-299(C) states "All monies in the Arizona Wildlife Conservation Fund shall be spent by the Arizona Game and Fish Commission to conserve, enhance, and restore Arizona's diverse wildlife resources and habitat for present and future generations, and which may include the acquisition of real property. The Commission may grant monies to any agencies of the state or political subdivision, Indian Tribe, or non-profit organization exempt from federal taxation under Section 501(C) of the Internal Revenue Code for the purpose of conservation of wildlife for wildlife habitat or acquisition of real property or interest in real property that is wildlife habitat. A grant of money under this subsection to a non-profit organization is conditioned on the organization providing reasonable public access that is wholly or partly purchased with that money."

The proposed rulemaking will establish a new Article 9 that will prescribe the application process and general provisions of the Arizona Wildlife Conservation Fund Grant Program.

R12-4-901. Definitions

This rulemaking establishes definitions that assist the applicant in understanding the unique terms that are used throughout Article 9. The Department will develop rule language consistent with the current Administrative Procedures Act requirements for rulemaking language and style.

R12-4-902. General Provisions

This rulemaking establishes the general provisions under which eligible applicants may file an application and seek funding under the provisions of the Arizona Wildlife Conservation Fund. Under this Section, the rulemaking addresses requirements that eligible applicants or participants must adhere to relative to a successful award, such as: definition of eligible applicants, notification to applicants of funds availability, information on land-tenure and control, information regarding reasonable public access, long term operation and maintenance of awarded projects, and requirements of successful applicants to give public notice of awarded funds. The Department will develop rule language consistent with the current Administrative Procedures Act requirements rulemaking language and style.

R12-4-903. Review of Proposals

This Section prescribes guidelines for the Department to review proposals and to explain contingencies of an awarded project due to substantive changes. The Department will develop rule language consistent with the current Administrative Procedures Act requirements rulemaking language and style.

R12-4-904. Grant Applications

This Section prescribes the processes and criteria that the applicant will follow and what information that the applicant will be required to include with the completed application forms. The applicant will be required to answer all questions relevant to the grant in the application submittal process. The Department will develop rule language consistent with the current Administrative Procedures Act requirements rulemaking language and style.

R12-4-905. Grant Agreements

This Section prescribes the minimum terms and conditions to which the participant has agreed to complete the awarded project. Significant requirements located in this Section include but are not limited to: a description of the grant agreement, documenting the scope of work of the awarded project, a provision that allows the parties to amend the approved scope of work, a process for transferring grant funds to a participant, requirements governing equipment purchase with grant funds, and the requirement that the participant obtain current appraisal for acquisitions. The Department intends to establish criteria in this rule, which will allow the extension of project period. The Department will develop rule language consistent with the current Administrative Procedures Act requirements rulemaking language and style.

R12-4-906. Reporting and Recordkeeping Requirements

This Section prescribes the requirement that a participant submit biannual project status reports to the Department. In addition, the participants will be required to maintain all books, accounts, reports, files, and other records relating to the acquisition and performance of the contract for a period of five (5) years after completion of the contract. The

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Department will develop rule language consistent with the current Administrative Procedures Act requirements rule-making language and style.

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

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:

R12-4-901. Definitions

R12-4-902. General Provisions

R12-4-903. Review of Proposals

R12-4-904. Grant Applications

R12-4-905. Grant Agreements

R12-4-906. Reporting and Recordkeeping Requirements

The proposed rulemaking will benefit the Department and those agencies of the State, Indian tribes, and non-profit organizations applying for Arizona Wildlife Conservation Fund Grants by providing the resources to conserve, enhance, and restore Arizona's diverse wildlife resources and habitats. However, the Department is limited in terms of its explanation of the economic, small business, and consumer impact because no data is readily available to the Department that would indicate the probable impact in quantitative terms. Therefore, the Department projects that the proposed rulemaking could cost approximately \$50,000 for start up and annual administration costs for the implementation and operation of the new proposed rule.

Many of these funds may be expended to purchase goods and services from businesses in Arizona. Some of the businesses that could benefit from expenditure of these funds are construction companies, engineering firms, companies that supply high-tech equipment and computers, testing laboratories, scientific supply houses, lumber companies, archaeologists, consulting companies, sign companies, paper products companies, helicopter/flight service companies, fence companies, property appraisal companies, and landscaping companies. The expenditure of funds from the Arizona Wildlife Conservation Fund will have a very positive financial effect in terms of providing additional revenue opportunities for many businesses in the State.

There will not be any additional costs or reduction in revenues to businesses resulting from the adoption of these rules, and there is no anticipated effect on the revenues or payroll expenditures of employers who are subject to or affected by the adoption of the proposed rulemaking.

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

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, Rules and Risk Manager

Address: Game and Fish Department DORR
2222 W. Greenway Rd.
Phoenix, AZ 85023-4399

Telephone: (602) 789-3289

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 rules:

Date: December 10-11, 2004

Time: TBA

Place: Arizona State Fairgrounds, Wildlife Building
1826 W. McDowell Rd.
Phoenix, AZ 85005-6728

Nature: Game and Fish Commission meeting

The Arizona Game and Fish Commission follows Title II of the Americans with Disabilities Act. The Commission does not discriminate against persons with disabilities who wish to make oral or written comments on proposed rulemaking or otherwise participate in the public comment process. Individuals with disabilities who need a reasonable accommodation (including auxiliary aids or services) to participate in the public comment process, or who

require this information in an alternate form, may contact Mark E. Naugle at (602)789-3289; 2222 W. Greenway Rd., Phoenix, AZ 85023-4399. Requests should be made as soon as possible so that the Arizona Game and Fish Department will have sufficient time to respond.

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. Any material incorporated by reference and its location in the rules:

None

13. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 9. ARIZONA WILDLIFE CONSERVATION FUND GRANTS

Section

<u>R12-4-901.</u>	<u>Definitions</u>
<u>R12-4-902.</u>	<u>General Provisions</u>
<u>R12-4-903.</u>	<u>Review of Proposals</u>
<u>R12-4-904.</u>	<u>Grant Applications</u>
<u>R12-4-905.</u>	<u>Grant Agreements</u>
<u>R12-4-906.</u>	<u>Reporting and Recordkeeping Requirements</u>

ARTICLE 9. ARIZONA WILDLIFE CONSERVATION FUND GRANTS

R12-4-901. Definitions

In addition to the definitions provided in A.R.S. §§ 17-101 and 41-2701, the following definitions apply to this Article:

1. “Administrative subunit” means a branch, chapter, department, division, section, school, or other similar divisional entity of an eligible applicant that has a representative. For example, an individual school, but not an entire school district; an individual field office or project office, but not an entire agency; or an individual administrative department, but not an entire city government.
2. “Approved application” means an eligible applicant’s written request for a grant.
3. “Arizona Wildlife Conservation Fund prioritization” means the granting priorities prescribed by the Commission based upon the Department mission statement, strategic plans, and current guiding statements that define the Department’s priorities, to the extent that these priorities are consistent with A.R.S. § 17-299.
4. “Commission” means the state Game and Fish Commission.
5. “Department” means the state Game and Fish Department.
6. “Eligible applicant” means any state agency, political subdivision, Indian tribe, or non-profit organization exempt from federal income taxation under Section 501(c) of the internal revenue code that has met the requirements of this Article and not obtained an extension of the project period under R12-4-905(G).
7. “Facilities” means capital improvements.
8. “Fund” means the Arizona Wildlife Conservation Fund, established by A.R.S. § 17-299.
9. “Grant agreement” means the document that memorializes terms and conditions of a grant project that are binding on the participant and the Department.
10. “Grant effective date” means the date the Director of the Department signs the grant agreement.
11. “Participant” means an eligible applicant that has been awarded a grant from the fund.
12. “Pre-agreement costs” means costs identified within the scope of work and incurred by an applicant before an application is submitted.
13. “Project” means an activity, series of related activities, or services that are described in the scope of work and result in a specific end product.
14. “Project period” means the time during which a participant shall accomplish all approved work and related expenditures associated with an approved project.
15. “Representative” means an individual who is authorized to represent an eligible applicant or an administrative subunit and is responsible for administering a project.
16. “Scope of work” means the written description or units of work to be accomplished during the project period.

R12-4-902. General Provisions

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- A. The Department shall receive grant applications according to a schedule of due dates determined by the Director. The Director shall ensure that the schedule complies with A.R.S. Title 41, Chapter 24, Article 1. The Department shall provide public notice of the time, location, and due date for application submission. After providing public notice, the Department shall furnish materials necessary to complete the application.
- B. Any state agency, political subdivision, Indian tribe, or non-profit organization exempt from federal income taxation under Section 501(c) of the Internal Revenue Code may apply for a grant from the fund in accordance with A.R.S. § 17-299 and this Article.
- C. A participant shall not begin a project until after the grant effective date. A participant shall complete the project as specified under the terms and conditions of the grant collection agreement.
- D. The Department shall announce grant awards 30 days after the Commission reviews and acts on the Department's recommendations at a regularly scheduled public meeting, and notify each applicant of the result.
- E. An applicant shall demonstrate control of land or waters where projects are to be completed by providing documentation of a fee title, lease, easement, land use agreement, or similar evidence of control for the purposes of conservation enhancement, restoration, or public access that is sufficient to meet the terms and conditions in the grant agreement, and complies with A.R.S. § 17-299(C). The Department shall determine whether or not similar evidence of control and tenure of land or waters that the applicant submits with an application is sufficient during the grant application review process.
- F. In accordance with A.R.S. § 17-299, a non-profit participant shall provide evidence of reasonable public access to any land that is wholly or partly purchased with grant monies.
- G. A participant shall operate and maintain properties, facilities, equipment, and services funded by a grant for the benefit of the public as required under A.R.S. § 17-299 and the terms and conditions of the grant agreement.
- H. A participant shall provide public acknowledgment of the Arizona Wildlife Conservation Fund for the life of a project. If a project involves acquisition of property or improvements, development of public access, or renovation of a habitat site, the participant shall install a permanent sign that describes the Fund at the project site. The participant may include the cost of the sign as part of the project, but shall pay for maintenance or replacement of the sign through non-grant monies, if necessary. For other project types, a participant shall provide a substantially similar form of Fund acknowledgement.
- I. A participant shall not use grant monies to replace monies already budgeted for the work. The Department shall review each application to ensure that grant monies for proposed projects will not replace existing monies from another source.
- J. The Department has the authority to require an eligible applicant or a participant to provide evidence of compliance with local, state, and federal laws that are applicable to a project before the release of grant monies or project implementation.
- K. In accordance with A.R.S. Title 41, Chapter 6, Article 10, an unsuccessful applicant may submit an appeal within 30 calendar days after receiving notice of the decision.
- L. An applicant who does not comply with the terms or conditions of a grant agreement is not eligible to apply for other grants until the applicant's project is brought into compliance.
- M. If a representative has a grant funded project that has been extended under R12-4-905, an administrative subunit that employs the representative is not eligible to apply for other grant monies until the project is completed.
- N. If applicable, an applicant shall comply with A.R.S. Title 41, Chapter 4.2 (Historic Preservation), and provide evidence to the Department that the applicant has satisfied all the necessary requirements of that statute.

R12-4-903. Review of Proposals

- A. Grant proposals are competitive and the Department shall make awards based on a proposed project's compatibility with the priorities of the Department and the project's costs, benefits, feasibility, relative merit, and usefulness, to the extent that these priorities and factors are consistent with A.R.S. § 17-299. The Department shall evaluate and rank all proposals using the criteria established in this subsection and A.R.S. § 17-299.
- B. If applicable, the Department shall make funding of an awarded project contingent upon revision of the application if the Department determines that substantive changes are necessary for the successful completion of the project. In such cases, the applicant shall provide the information requested within 10 working days from the date on the notification provided by the Department.

R12-4-904. Grant Applications

- A. To be eligible for a grant, an applicant shall submit a grant application in accordance with the schedule described in R12-4-902.
- B. An applicant shall submit an original and one copy of each application.
- C. The Department does not accept facsimile or "faxed" copies of a grant application.
- D. An applicant shall provide the following information on the grant application form:
 - 1. The name of the applicant;
 - 2. The name, title, mailing address, and telephone number of the applicant's representative;
 - 3. If subsection (D)(2) does not apply, provide the name, title, address, and telephone number of the individual who will have the day-to-day responsibility for the proposed project;
 - 4. Any county and legislative district where the project will be developed or upon which the project will have a direct

- impact:
5. A descriptive project title;
 6. The name of the site, primary location, and any other locations of the project;
 7. A clear and concise description of the scope of work and the objective of the proposed project; the nature of the project; the methods for achieving the objective; and the desired result of the project;
 8. A map that clearly identifies the project location, locations, or area and if applicable, a site plan and floor plan;
 9. The beginning and ending dates for the project; and
 10. The resources that will be needed to accomplish the project, including the grant monies requested, and if applicable, evidence of secured matching funds or contributions.
- E.** An applicant or the applicant's representative shall provide documentation to the Department of the representative's authority to execute a grant agreement.
- F.** An applicant shall provide evidence of control and tenure of the project site with the application by submitting the following information:
1. If applicable, evidence that legal and reasonable physical access to the subject property or lands exists;
 2. If the project site is owned by the applicant, a copy of all documents showing title in the name of the applicant and the legal description of the property;
 3. If the project site will be managed by the applicant, a copy of the lease, special use permit, intergovernmental agreement, or other official instrument or documentation; or
 4. For project proposals that relate to sites not directly controlled by the applicant, a copy of the permit or agreement that allows the project or evidence of permission for public access from the land owner or manager.
- G.** An applicant shall submit an estimated cost sheet for the scope of work that contains the following information:
1. Project title, as designated on the application form;
 2. If applicable, pre-agreement costs to be used as a match. These costs shall only be applied as matching dollars and will not be considered for funding under the grant;
 3. If applicable, all estimated costs for the scope of work, including the total cost and an itemized list of work projects with a separate description of the costs of work that are necessary to achieve those desired result and the costs of secondary activities, and total costs;
 4. If applicable, a list of all land parcels to be acquired, in priority order, with the acreage involved and anticipated dates of acquisition;
 5. The hourly rate, title, and name of personnel who will accomplish the project objectives; and
 6. The total cost for the entire project proposal with each of the following amounts listed separately:
 - a. Grant monies requested;
 - b. Applicant match for the project, if applicable; and
 - c. Any other sources of funding.
- H.** As part of the application process, an applicant shall answer all questions relevant to the grant and to the Arizona Wildlife Conservation Fund prioritization.

R12-4-905. Grant Agreements

Before the Department will transfer any monies, a participant shall sign a grant agreement that includes the following terms and conditions:

1. A participant shall use awarded grant monies solely for the purposes defined in A.R.S. § 17-299, as approved by the Department. The participant shall not exceed the grant allocation unless the parties amend the grant agreement.
2. The Department shall transfer awarded grant monies, less 10 percent, to the participant within one year of the grant effective date. The Department shall transfer the remaining 10 percent, less any adjustment for actual expenditures, upon receipt of a written request and a certification of project completion from the participant, unless the participant violates state law or the grant agreement.
3. The Department has the authority, under the grant agreement, to perform completion inspections and reviews of an awarded project or projects before release of final payment.
4. A participant shall deposit transferred grant monies into a bank account for each project, under the name and number of the project. The participant shall expend monies and interest from the account only as authorized under the terms of the grant agreement. The participant shall maintain a list of itemized expenditures.
5. A participant shall submit project status reports, as required by R12-4-906. The Department shall not make any grant payment until the participant has submitted all past due project status reports.
6. If both participants agree, the Department and participant may amend the grant agreement to change the scope of work or extend the project period. During the project period, the participant shall submit a written request to amend the agreement:
 - a. A participant shall submit a written request with justification to amend the scope of work or other terms and conditions of the grant agreement.
 - b. A participant shall submit a written request with justification to amend the grant agreement for an extension of

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- the project period to not later than 30 days before the contract expiration date.
7. The Department shall prepare any approved amendment in writing, and both the Department and the participant shall sign the amendment. An amendment that lacks a required signature is invalid.
 8. Notwithstanding subsection (6), the Department has the authority to extend the project period for good cause.
 9. Upon completion of the awarded project, a participant shall return to the Department any unused monies. The participant may make a written request that the Department award the unused monies for an additional project that is consistent with the original scope of work.
 10. If a participant violates state or federal law or the grant agreement, the Department shall seek recovery of all monies awarded and classify the participant as ineligible for grant monies for a period that does not exceed five years.
 11. If applicable, a participant shall operate and maintain grant-assisted capital improvements, provide reasonable protection of any project improvements, and ensure that reasonable public access is maintained as specified in the grant agreement.
 12. If a participant contracts with a third party or subcontractor, the participant is responsible for compliance with the grant agreement provisions if the third party or subcontractor defaults or violates any terms or conditions of the grant agreement.
 13. The project period is two years from the grant effective date unless otherwise agreed upon by the Department and the participant.
 14. A participant shall use equipment purchased with grant funds in a manner consistent with the purposes of the grant agreement, for the useful life of the equipment, or surrender the equipment to the Department upon completion of the project if the equipment has an acquisition cost of more than \$500. If the equipment is sold, the participant shall pay to the Department the amount of any resulting proceeds according to a ratio equivalent to the Department's share of funds provided for the purchase.
 15. A participant shall ensure that the value of real property purchased with grant assistance is appraised by a state certified appraiser within six months before the acquisition, in accordance with the Uniform Standards of Professional Appraisal Practice. The Department has the authority to select an appraiser for an independent evaluation if the Department has evidence that the participant's appraised value of the real property is not accurate.
 16. Notwithstanding subsection (3), the Department has the authority to conduct inspections to ensure compliance with all terms and conditions of the grant agreement.
 17. The Department has the authority to inspect or audit participant and subcontractor records based on verified complaints or evidence that indicates the need for an inspection or audit. Upon the Department's request, a participant or subcontractor shall produce a legible copy of these records. The participant is responsible for the acceptable performance of a subcontractor under each subcontract.
 18. A participant shall not use grant monies for the purpose of generating income. If the participant generates income from a project, the participant shall use the money to pay costs of the project.

R12-4-906. Reporting and Recordkeeping Requirements

- A.** A participant shall submit biannual project status reports to the Department that describe ongoing and completed activities for the project period, unless another method of reporting is specified in the grant agreement. The participant shall include in the biannual report the following:
 1. Progress towards completing approved work;
 2. An itemized, cumulative project expenditure sheet;
 3. Any anticipated delays or other problems that may prevent on-time completion of the project; and
 4. Any additional information from the participant that the Department has the authority to request in accordance with the grant agreement.
- B.** Each participant shall retain and contractually require each subcontractor to retain all books, accounts, bank statements, reports, files, and other records that pertain to the acquisition and performance of the contract for a period of five years after completion of the contract.