

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 2. ADMINISTRATION

CHAPTER 5. DEPARTMENT OF ADMINISTRATION PERSONNEL ADMINISTRATION

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 on page 410.) The Governor's Office authorized the notice to proceed through the rulemaking process on December 8, 2009.

[R10-29]

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R2-5-303 | Amend |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the implementing statute (specific):**
Authorizing statutes: A.R.S. §§ 38-611(B) and 41-763
Implementing statute: A.R.S. § 41-763(6)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 16 A.A.R. 405, March 5, 2010 (*in this issue*)
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|------------|--|
| Name: | Christine Bronson, Employee Relations Manager |
| Address: | ADOA Human Resources
100 N. 15th Ave., Suite 261
Phoenix, AZ 85007 |
| Telephone: | (602) 542-1423 |
| Fax: | (602) 542-1980 |
| E-mail: | Christine.Bronson@azdoa.gov |
- 5. An explanation of the rule, including the agency's reasons for initiating the rulemaking:**
R2-5-303 prescribes the procedures for computing an employee's salary due to a personnel action. Specifically, R2-5-303(K) and (L) prescribe the computation of the salary of an employee who is reduced in grade due to a reduction in force (RIF) and who subsequently repromotes to the class held prior to the RIF or an intervening class, respectively. Currently, under R2-5-303(K), if an agency conducts a RIF and, as a result, an employee is reduced to a class in a lower pay grade, the employee's salary remains the same. R2-5-303(L) provides that the salary of an employee who is repromoted to the class held prior to the RIF is the salary paid at the time of the RIF or, who is repromoted to an intervening class is set in accordance with subsection (J)(1), which provides for an increase of 7% of the midpoint of the new grade.
Beginning in early 2009, budget reductions began to affect many state agencies and agencies were faced with RIFs that involved employees being reduced in grade due to the RIF. In accordance with the above-referenced rules, employees who were reduced in grade retained their salary, even if the salary exceeded the maximum of the employee's new pay grade. Thus, at a time when an agency is facing budget issues, employees may be reduced in grade and performing lower level duties but still being paid the higher salary. In addition, agencies are reporting that employees are declining offers of repromotion because employees reduced in grade due to the RIF have little incen-

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tive to repromote, as: (1) their salary has remained the same, even though they have less responsibility, (2) the employee's new position at the lower grade may be eligible for overtime at time and one-half, and (3) if the employee repromotes to the class held before the RIF, the employee will not receive any additional increases.

The Department is initiating this rulemaking to amend the referenced subsections to reduce the salary of an employee who is reduced in grade due to a RIF and to provide for corresponding increases to the salary of an employee who is repromoted. Clarifications and housekeeping revisions are also being made along with the specific changes.

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

The agency did not review any study and does not propose to rely on or not rely on any study for this rulemaking.

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 rule affects state agencies and state service employees only and will not have an impact on small businesses or consumers.

There will be a financial benefit to state agencies, but those benefits cannot be determined until specific situations are addressed.

The rulemaking will have a negative financial impact to employees who are reduced in grade due to a RIF. However, the negative impact is anticipated to be short-term, in that it can be offset if the employee repromotes to the class held prior to the RIF or an intervening class, or promotes to another position.

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: Christine Bronson, Employee Relations Manager
Address: ADOA Human Resources
100 N. 15th Ave., Suite 261
Phoenix, AZ 85007
Telephone: (602) 542-1423
Fax: (602) 542-1980
E-mail: Christine.Bronson@azdoa.gov

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:

An oral proceeding regarding the proposed rule will be held as follows:

Date: April 7, 2010
Time: 2:00 p.m.
Location: Department of Administration
100 N. 15th Ave., Room 204
Phoenix, AZ 85007

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

None

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

None

13. The full text of the rule follows:

TITLE 2. ADMINISTRATION

CHAPTER 5. DEPARTMENT OF ADMINISTRATION
PERSONNEL ADMINISTRATION

ARTICLE 3. CLASSIFICATION AND COMPENSATION

Section

R2-5-303. Salary Administration

ARTICLE 3. CLASSIFICATION AND COMPENSATION

R2-5-303. Salary Administration

- A.** Salary. The salary of an employee shall be not less than the minimum nor more than the maximum of the pay grade of the class to which the employee's position is allocated except for:
1. No change
 2. No change
 3. No change
 4. No change
 5. No change
 6. The salary of an employee that exceeds the maximum salary of the pay grade of a class due to receipt of a special performance adjustment; and
 7. The salary of an employee that exceeds the maximum salary of the pay grade of a class due to the receipt of special payments, such as hazardous duty pay; ~~and~~
 8. ~~The salary of an employee that exceeds the maximum salary of the pay grade of a class due to a reduction in force as provided in subsection (K).~~
- B.** No change
- C.** No change
1. No change
 2. No change
 3. No change
 4. No change
- D.** No change
1. No change
 2. No change
 - a. No change
 - b. No change
 3. No change
 4. No change
- E.** No change
- F.** No change
1. No change
 2. No change
 3. No change
 4. No change
 5. No change
- G.** No change
1. No change
 2. No change
 3. No change
 4. No change
- H.** No change
- I.** No change
1. No change
 2. No change
- J.** No change
1. No change
 2. No change
 3. No change
 4. No change
 5. No change
 - a. No change
 - b. No change
 6. No change
- K.** Reduction in force. The salary of an employee who is reduced to a class in a lower pay grade due to a reduction in force

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~~remains the same shall be decreased by 5% provided that the reduced salary is within the pay range for the position, even if the salary is higher than the maximum salary of the new pay grade. Unless the employee's salary is less than the maximum of the new pay grade at a later date, the employee is not eligible for a general salary adjustment or a performance increase. If the decrease results in a salary less than the minimum salary or greater than the maximum salary of the new pay grade, the employee's salary shall be within the range of the new pay grade.~~

L. Repromotion.

1. No change
2. The salary of an employee who is repromoted to a class with a higher pay grade than the current class but with a lower pay grade than the class held prior to the reduction in force, shall be set in accordance with subsection (J)(1), provided the new salary does not exceed the salary the employee was earning before the reduction to the lower pay grade. If the promotional increase to the employee's salary results in a salary that is greater than the employee's salary before the reduction, the employee shall be paid the same salary as that paid before the reduction plus the percentage or dollar amount of increase of an intervening general salary adjustment or special market adjustment for which the employee is eligible, and the dollar amount of a performance increase that the employee received at the lower pay grade.

3. No change

M. No change

1. No change
 - a. No change
 - b. No change
 - c. No change
2. No change
3. No change

N. No change

O. No change

P. No change

Q. No change

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

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 on page 410.) The Governor's Office authorized the notice to proceed through the rulemaking process on November 30, 2009.

[R10-27]

PREAMBLE

1. Sections Affected

R12-4-309
R12-4-318

Rulemaking Action

New Section
Amend

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

Authorizing statutes: A.R.S. §§ 17-102 and 17-231(A)(1), (A)(2), and (A)(3)

Implementing statutes: A.R.S. §§ 17-102, 17-211(E)(3) and (E)(4), 17-231(A)(1), (A)(2), (A)(3) and (A)(4), 17-309, 17-331, and 17-332

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

Notice of Rulemaking Docket Opening: 16 A.A.C. 407, March 5, 2010 (*in this issue*)

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

Name: Ron Day
Address: Arizona Game and Fish Department
5000 W. Carefree Hwy.
Phoenix, AZ 85086
Telephone: (623) 236-7352
Fax: (623) 236-7929
E-mail: Rday@azgfd.gov

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

Laws 2009, Third Special Session, Ch. 7, § 28(B)(3) allows an agency to pursue rulemaking to prevent a threat to the public health, peace, or safety. On November 30, the Governor's office approved the Department's request to pursue the rulemaking for R12-4-309 and R12-4-318.

The Commission proposes promulgating a new rule, R12-4-309 Authorization for Use of Drugs on Wildlife, to provide the Department with necessary proactive regulatory measures designed to address issues involving the use of drugs on wildlife including, but not limited to, fertility drugs, growth hormones, and tranquilizers. Individuals administering improper amounts of drugs to wildlife may cause unintended mortalities to occur. Thus, the Commission has determined that certain criteria and standards must be achieved by anyone requesting authorization to use drugs on wildlife in order to ensure the protection and preservation of Arizona's wildlife resources. The new rule provides the Department with the authority to regulate the use of drugs on wildlife by establishing an application and authorization process for allowable drug use on wildlife. In addition, the new rule is consistent with the regulatory language, addressing the use of drugs on wildlife, recommended by the Association of Fish and Wildlife Agencies. If the administration of drugs on wildlife is not controlled by the Department, there is a potential that drug substances could be inadvertently introduced into the environment resulting in possible risk to public health and safety and Arizona's wildlife resources. Other jurisdictions within the United States, including Texas and New York, have reactively enacted regulations addressing issues that negatively impacted the state's public health and wildlife.

The Commission proposes to amend R12-4-318 to allow individuals to possess a non-hunting handgun for personal protection during archery-only and muzzleloader-only seasons. Currently, individuals are not allowed to have a firearm in their immediate possession while participating in these seasons. The Department believes that it is necessary to allow individuals participating in these seasons to possess a personal handgun for their own personal protection. In addition, the Department has an enforcement directive in effect that allows individuals to possess a non-hunting handgun for personal protection during archery-only and muzzleloader-only seasons. As a result, the law enforcement directive allows an activity that is contrary to rule. The amended rule clearly stipulates that a non-hunting handgun is a handgun with a barrel length of six inches or less that does not have a scope or any type of electronic sight. The Department recently received a comment from a muzzleloader hunter asking to be allowed to carry a handgun for personal protection and the Department supports this change.

The Department believes that the proposed rulemaking will benefit the public health and welfare.

The Commission proposes additional amendments to ensure conformity with the Arizona Administrative Procedures Act, Secretary of State, and Governor's Regulatory Review Council rulemaking format and style requirements.

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

Not applicable

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:

The proposed new rule, R12-4-309, benefits the Department and public by ensuring the Department has authority over the use of drugs on wildlife. If the administration of drugs on wildlife is not regulated by the Department, there is a potential that drug substances may be inadvertently introduced into the environment, posing a possible risk to public health and safety.

The proposed amendment to R12-4-318 benefits the Department and public by aligning the rule with a current law enforcement directive regarding the use of non hunting handguns for personal protection during archery-only and muzzleloader-only seasons.

The only costs the Department will incur are those costs associated with the rulemaking process. The Commission has determined that the benefits of the rulemaking outweigh any costs.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the

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economic, small business, and consumer impact statement:

See item 4.

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

Written comments will be accepted at the above address for 30 days following publication of this Notice in the *Arizona Administrative Register*. An oral proceeding regarding the proposed rules will be held as follows:

Date: May 14, 2010
Time: 8:00 a.m. to 5:00 p.m.
Location: Arizona Game and Fish Department
5000 W. Carefree Hwy.
Phoenix, AZ 85086

The rulemaking record will close at 5:00 p.m. on May 14, 2010.

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 3. TAKING AND HANDLING OF WILDLIFE

Section

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

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

ARTICLE 3. TAKING AND HANDLING OF WILDLIFE

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

A. For the purposes of this Section:

1. "Drug" means any chemical substance, other than food or mineral supplements, which affect the structure or biological function of any wildlife under the jurisdiction of the state.
2. "Person" means any individual, corporation, partnership, limited liability company, non-governmental organization or club, licensed animal shelter, government entity other than the Department, and any officer, employee, volunteer, member or agent of a person.

B. A person shall not administer any drug to any wildlife under the jurisdiction of the state, including but not limited to drugs used for fertility control, disease prevention or treatment, immobilization, or growth stimulation without written authorization from the Department or as otherwise provided under subsection (F).

C. A person requesting written authorization for the use of drugs on wildlife shall submit the request in writing to the Department at least 120 days before the anticipated start date of the activity and provide all of the following:

1. A plan that includes:
 - a. The purpose and need for the proposed activity;
 - b. A clear statement of the objectives. For fertility control the statement shall include the target wildlife population goals or densities and the anticipated time-frame for meeting these objectives;
 - c. A description of the agent, drug, or method including federal approvals or permits obtained, as applicable, and any mandated labeling restrictions or limitations designed to reduce or minimize detrimental effects to wildlife and humans;
 - d. Required approvals, including, but not limited to, any federal or state agency approvals for specific use;
 - e. Citations of published scientific literature documenting field studies on the efficacy and safety for both target and non-target species, including predators, scavengers, and humans;
 - f. A description of the activity area;
 - g. A description of the target species population and current status;
 - h. A description of the field methodology for delivery including timing, sex and number of animals to be treated,

- percentage of the population to be treated, and if applicable, calculated population effect; and
- i. Short and long term monitoring and evaluation procedures.
 2. Documentation regarding the experience and credentials of the applicant or the applicant's agents as it applies to the requested activity.
 3. Written endorsement from the agency or institution; required when the applicant is a government agency, university, or other institution.
 4. Written permission from landowners or lessees in all locations where the drug will be administered.
- D.** The Department shall notify the applicant of the Department's decision to grant or deny the request within 90 days. The Department has the authority to place conditions on the written authorization in regards to:
1. Locations and time-frames.
 2. Drugs and methodology.
 3. Limitations.
 4. Reporting requirements, and
 5. Any other conditions deemed necessary by the Department.
- E.** A person with authorization shall:
1. Carry written authorization while engaged in the activity and exhibit it upon request to any peace officer;
 2. Allow Department personnel to be present to monitor activities for compliance, public safety, and proper treatment of animals;
 3. Adhere to all drug label restrictions and precautions;
 4. Provide an annual and final report:
 - a. The annual report must include the number of animals treated, the level of treatment effect obtained to date, and any problems including mortalities or morbidities of target animals.
 - b. The final report must include the end results, including the number of wildlife treated and treatment effects on target and non-target wildlife, including mortalities, morbidities, and reproductive rate changes; and
 5. Comply with all conditions and requirements set forth in the written authorization.
- F.** This Section does not prohibit the treatment of sick or injured wildlife by a licensed veterinarian or holder of a special license in accordance with R12-4-407(A)(2) and R12-4-428(B)(13), activities as authorized under R12-4-418 and R12-4-421, or reasonable lethal removal activities for wildlife control as authorized under A.R.S. § 17-239(A).
- G.** This Section does not limit Department employees in the performance of their official duties related to wildlife management.
- H.** The Department shall take possession of and dispose of any wildlife drugs administered in violation of this Section as authorized under A.R.S. § 17-231(A).

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

- A.** No change
- B.** Methods of lawfully taking big game during seasons designated by Commission order as "special" are designated ~~in~~ under R12-4-304. "Special" seasons are open only to individuals who possess special big game license tags issued under A.R.S. § 17-346 and R12-4-120.
- C.** When designated by Commission order, the following seasons have specific requirements and lawful methods of take more restrictive than those for general and special seasons, as prescribed in this Section. While taking the species authorized by the season:
 1. An individual participating in a "muzzleloader" season shall not use or possess any firearm other than muzzle-loading rifles or muzzle-loading handguns, as defined ~~in~~ under R12-4-101. Individuals participating in a "muzzleloader" season may possess a non-hunting handgun for personal protection. It is unlawful to take any wildlife with this handgun while participating in a "muzzleloader" season. For the purposes of this Section, a non-hunting handgun is defined as a handgun with a barrel length of six inches or less that does not have a scope or any type of electronic sight.
 2. An individual participating in an "archery-only" season shall ~~may only~~ use ~~and or~~ possess ~~only~~ a bow and arrow as prescribed ~~in~~ under R12-4-304 and shall not use or possess any other weapons, including crossbows or ~~any other~~ bows with a device that holds the bow in a drawn position except as authorized ~~by~~ under R12-4-216. Individuals participating in an "archery-only" season may possess a non-hunting handgun for personal protection. It is unlawful to take any wildlife with this handgun while participating in an "archery-only" season. For the purposes of this Section, a non-hunting handgun is defined as a handgun with a barrel length of six inches or less that does not have a scope or any type of electronic sight.
 3. No change
 4. No change
 5. No change
 6. An individual participating in a "limited weapon" season may only use or possess the following methods or devices for taking wildlife, when ~~prescribed in~~ authorized under R12-4-304 as lawful for the species hunted: ~~bow and arrow; crossbow; pneumatic weapons; falconry; slingshots; any trap except foot-hold steel traps; nets; hand-propelled pro-~~

- jectiles; or capture by hand
- a. Any trap except foothold steel traps.
 - b. Bow and arrow.
 - c. Capture by hand.
 - d. Crossbow.
 - e. Falconry.
 - f. Hand-propelled projectiles.
 - g. Nets.
 - h. Pneumatic weapons, or
 - i. Slingshots.
7. An individual participating in a “limited weapon-shotgun” season may only use or possess the following methods or devices for taking wildlife, when ~~prescribed in~~ authorized under R12-4-304 as lawful for the species hunted: ~~shotgun shooting shot or slug; bow and arrow; crossbow; pneumatic weapons; falconry; slingshots; any trap except foot hold steel traps; nets; hand-propelled projectiles; or capture by hand~~
- a. Any trap except foothold steel traps.
 - b. Bow and arrow.
 - c. Capture by hand.
 - d. Crossbow.
 - e. Falconry.
 - f. Hand-propelled projectiles.
 - g. Nets.
 - h. Pneumatic weapons.
 - i. Shotgun shooting shot or slug, or
 - j. Slingshots.
8. An individual participating in a “limited weapon-shotgun shooting shot” season may only use or possess the following methods or devices for taking wildlife, when ~~prescribed in~~ authorized under R12-4-304 as lawful for the species hunted: ~~shotgun shooting shot; bow and arrow; crossbow; pneumatic weapons; falconry; slingshots; any trap except foot hold steel traps; nets; hand-propelled projectiles; or capture by hand~~
- a. Any trap except foothold steel traps.
 - b. Bow and arrow.
 - c. Capture by hand.
 - d. Crossbow.
 - e. Falconry.
 - f. Hand-propelled projectiles.
 - g. Nets.
 - h. Pneumatic weapons.
 - i. Shotgun shooting shot or slug, or
 - j. Slingshots.
9. An individual participating in a “limited weapon-rimfire” season may only use or possess the following methods or devices for taking wildlife, when ~~prescribed in~~ authorized under R12-4-304 as lawful for the species hunted: ~~rifled firearms using rimfire cartridges; shotgun shooting shot or slug; bow and arrow; crossbow; pneumatic weapons; falconry; slingshots; any trap except foot hold steel traps; nets; hand-propelled projectiles; or capture by hand~~
- a. Any trap except foothold steel traps.
 - b. Bow and arrow.
 - c. Capture by hand.
 - d. Crossbow.
 - e. Falconry.
 - f. Hand-propelled projectiles.
 - g. Nets.
 - h. Pneumatic weapons.
 - i. Rifled firearms using rimfire cartridges.
 - j. Shotgun shooting shot or slug, or
 - k. Slingshots.
10. No change
11. An individual may participate in a “juniors-only hunt” up to and throughout the calendar year of the individual’s 17th birthday, provided the individual meets the requirements ~~of~~ prescribed under A.R.S. § 17-335.
12. No change
13. An individual participating in a “raptor capture” season shall be a falconer licensed ~~falconer~~ under R12-4-422 ~~or exempted unless exempt~~ under R12-4-407.

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 on page 410.) The Governor's Office authorized the notice to proceed through the rulemaking process on November 30, 2009.

[R10-25]

PREAMBLE

- 1. Sections Affected**

R12-4-601	Amend
R12-4-610	Amend
R12-4-611	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(A)(1)
Implementing statutes: A.R.S. §§ 17-304(B), 17-452, 41-1033, and Title 41, Chapter 6, Article 10
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 16 A.A.R. 407, March 5, 2010 (*in this issue*)
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Marty Fabritz
Address: Arizona Game and Fish Department
5000 W. Carefree Hwy.
Phoenix, AZ 85086
Telephone: (623) 236-7281
Fax: (623) 236-7299
E-mail: mfabritz@azgfd.gov
- 5. An explanation of the rules, including the agency's reasons for initiating the rulemaking:**

Laws 2009, Third Special Session, Ch. 7, § 28(B)(7) allows an agency to pursue rulemaking that eliminates or replace archaic rules. On November 30, the Governor's office approved the Department's request to pursue rulemaking for R12-4-601, R12-4-610, and R12-4-611.

Individual's submitting a petition, as well as the Department, are held to strict time constraints in regards to required statutory and regulatory actions. To ensure that actions requiring the submission of documents to the Department occur in a timely manner, the Commission proposes to amend R12-4-601, R12-4-610, and R12-4-611 to provide the Department's current mailing address.

The Commission proposes additional amendments to R12-4-601, R12-4-610, and R12-4-611 to ensure conformity with the Arizona Administrative Procedures Act, Secretary of State, and Governor's Regulatory Review Council rulemaking format and style requirements.
- 6. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, any analysis of each study and other supporting material:**

The Department did not rely on any study in its evaluation of or justification for the proposed rules.
- 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:**

The Department anticipates that the rulemaking will not impact state revenues, political subdivisions, private industry, or the public.

The only costs the Department will incur are those costs associated with the rulemaking process. The Commission has determined that the benefits of the rulemaking outweigh any costs.

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Individuals who petition the Arizona Game and Fish Commission for adoption, amendment, or repeal of a rule; individuals seeking review of an existing agency practice or policy that they allege to constitute a rule; political subdivisions of this state that submit petitions; and the Department will benefit from a rule that is clear, concise, and understandable.

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:

See item 4.

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

Written comments will be accepted at the above address for 30 days following publication of this Notice in the *Arizona Administrative Register*. An oral proceeding regarding the proposed rules will be held as follows:

Date: May 14, 2010
Time: 8:00 a.m. to 5:00 p.m.
Location: Arizona Game and Fish Department
5000 W. Carefree Hwy.
Phoenix, AZ 85086

The rulemaking record will close at 5:00 p.m. on May 14, 2010.

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

None

12. 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 6. RULES OF PRACTICE BEFORE THE COMMISSION

Section

- R12-4-601. Petition for Rule or Review of Practice or Policy
R12-4-610. Petitions for the Closure of State or Federal Lands to Hunting, Fishing, Trapping, or Operation of Motor Vehicles
R12-4-611. Petition for a Hearing Before the Commission When No Remedy is Provided in Statute, Rule, or Policy

ARTICLE 6. RULES OF PRACTICE BEFORE THE COMMISSION

R12-4-601. Petition for Rule or Review of Practice or Policy

- A. Any individual, including any organization or agency, requesting that the Commission make, amend, or repeal a rule, shall submit a petition as prescribed ~~in~~ under this Section.
B. Any individual, including any organization or agency, requesting that the Commission review an existing Department practice or substantive policy that the petitioner alleges to constitute a rule under A.R.S. § 41-1033, ~~(as defined in under A.R.S. § 41-1001)~~ ~~under A.R.S. § 41-1033~~, shall submit a petition as prescribed ~~in~~ under this Section.
C. No change
D. No change
E. A petitioner shall submit an original and one copy of a petition to the Arizona Game and Fish Department, Director's Office, ~~2221 West Greenway Rd., Phoenix, Arizona 85023~~ 5000 W. Carefree Highway, Phoenix, AZ 85086. The Commission shall render a decision on the petition as required ~~by~~ under A.R.S. § 41-1033.
F. Within five working days after a petition is submitted, the Director shall determine whether the petition complies with this Section.
1. If the petition complies with this Section, the Director shall place the petition on a Commission open meeting agenda. The petitioner may present oral testimony at that meeting, ~~by complying with~~ as established under R12-4-603.
2. No change
G. No change
H. No change

1. No change
2. No change
3. No change
- I. The title of Part 2 shall be "Request for Rule" or "Request for Review," as applicable. The title shall be centered at the top of the first page of this part. Part 2 shall contain:
 1. No change
 2. If the request is for amendment of a current rule, a statement to this effect, followed by the *Arizona Administrative Code* (~~A.A.C.~~) number of the current rule proposed for amendment, the heading of the rule, the specific, clearly readable language of the rule, indicating language to be deleted with strikeouts, and language to be added with underlining;
 3. If the request is for repeal of a current rule, a statement to this effect, followed by the *Arizona Administrative Code* (~~A.A.C.~~) number of the rule proposed for repeal and the heading of the rule; or;
 4. If the request is for review of an existing agency practice or substantive policy statement that the petitioner alleges qualifies as a rule, (as defined in under A.R.S. § 41-1001), a statement to this effect, followed by the practice or policy number, if any, the practice or policy heading, if any, or a brief description of the practice or policy subject matter.
- J. No change
 1. No change
 2. No change
 3. No change
 4. No change
- K. The title of Part 4 shall be "Statutory Authority." The title shall be centered at the top of the first page of this part. In Part 4, the petitioner shall identify any statute that authorizes the Commission to make the rule, if known, or cite ~~to~~ A.R.S. § 41-1033 if the petition relates to review of an existing practice or substantive policy statement.
- L. No change
 1. No change
 2. No change
 3. No change

R12-4-610. Petitions for the Closure of State or Federal Lands to Hunting, Fishing, Trapping, or Operation of Motor Vehicles

- A. ~~Any~~ An individual or agency requesting that the Commission consider closing state or federal land to hunting, fishing, or trapping as provided under R12-4-110 or A.R.S. § 17-304(B) or R12-4-110; or closing roads or trails on state lands as provided under R12-4-110, shall submit a petition as prescribed in this Section before the Commission will consider the request.
- B. No change
- C. No change
- D. ~~The~~ A petitioner shall ~~file~~ submit an original and one copy of the petition ~~shall be filed with~~ to the Director of the Arizona Game and Fish Department, ~~2221 West Greenway, Phoenix, Arizona 85023~~ Director's Office, 5000 W. Carefree Highway, Phoenix, AZ 85086, not less than 60 calendar days before a scheduled Commission meeting to be placed on the agenda for that meeting. If the Commission receives a petition after that time it will be considered at the next regularly-scheduled open meeting. At any time, the petitioner may withdraw the petition or request delay to a later regularly-scheduled open meeting.
- E. Within 15 business days after the petition is filed, the Department shall determine whether the petition complies with the requirements established under A.R.S. § 17-452, R12-4-110, and this Section, ~~R12-4-110, and A.R.S. § 17-452.~~ Once the Department determines that the petition meets these requirements, and if the petitioner has not agreed to an alternative solution or withdrawn the petition, the Department, in accordance with the schedule in subsection (D), shall place the petition on the agenda for the Commission's next open meeting and provide written notice to the petitioner of the date that the Commission will consider the petition.
 1. The petitioner may present oral testimony in support of the petition at the Commission meeting, in accordance with the provisions ~~of~~ established under R12-4-603.
 2. If a petition does not meet the requirements prescribed ~~in~~ under A.R.S. § 17-452, R12-4-110, and this Section, ~~R12-4-110, and A.R.S. § 17-452,~~ the Department shall return one copy of the petition as filed to the petitioner with the reasons why the petition does not meet the requirements, and not place the petition on a Commission agenda.
 3. No change
- F. No change
 1. No change
 2. No change
 3. No change
 4. No change

Notices of Proposed Rulemaking

- 5. No change
 - a. No change
 - b. No change
 - c. No change
- 6. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - i. No change
 - ii. No change
- 7. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
- 8. No change
 - a. No change
 - b. No change

R12-4-611. Petition for a Hearing Before the Commission When No Remedy is Provided in Statute, Rule, or Policy

- A. No change
- B. No change
- C. A petitioner shall ~~file the~~ submit an original and one copy of ~~the a~~ petition ~~with~~ to the Arizona Game and Fish Department, Director's Office, ~~2221 W. Greenway Rd., Phoenix, Arizona 85023~~ 5000 W. Carefree Highway, Phoenix, AZ 85086.
- D. No change
- E. No change
 - 1. No change
 - 2. No change
 - 3. No change
- F. No change
- G. No change
- H. No change
 - 1. No change
 - 2. No change
- I. No change
- J. No change
- K. No change
- L. No change
 - 1. No change
 - 2. No change