

# NOTICES OF FINAL RULEMAKING

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

## NOTICE OF FINAL RULEMAKING

### TITLE 2. ADMINISTRATION

#### CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

*Editor's Note: The following two Notices of Final Rulemaking were exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 791.)*

[R13-51]

#### PREAMBLE

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

R2-8-118	<b><u>Rulemaking Action</u></b>
R2-8-501	Amend
	Amend
- 2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. § 38-714(E)(4)  
Implementing statute: A.R.S. § 38-740(B)
- 3. The effective date for the rules:**

June 1, 2013

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

Not applicable
  - b. If the agency selected a date later than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**

Not applicable
- 4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**

Notice of Rulemaking Docket Opening: 18 A.A.R. 3325, December 21, 2012  
Notice of Proposed Rulemaking: 18 A.A.R. 3290, December 21, 2012
- 5. The agency's contact person who can answer questions about the rulemaking:**

Name:	Patrick M. Klein, Assistant Director
Address:	ASRS 3300 N. Central Ave., Suite 1400 Phoenix, AZ 85012-0250
Telephone:	(602) 240-2044
Fax:	(602) 240-5303
E-mail:	PatK@azasrs.gov
Web site:	www.azasrs.gov
- 6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**

Notices of Final Rulemaking

At its October 19, 2012, meeting, the Board decided to change the rate of interest paid on member account balances from four percent to two percent for the purpose of determining the amount in the account of a member who separates from ASRS service for reasons other than death or retirement. The Board made this decision because the two percent rate more closely aligns with current market interest rates and the reduced rate will mitigate future contribution rate increases for members who remain with the Plan. The Board is also amending R2-8-501(5) to delete reference to R2-8-123, which expired on July 14, 2010. This rulemaking is exempt from the rulemaking moratorium contained in Executive Order 2012-03 under paragraph (4)(c) of the Order.

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

The ASRS' actuary estimated that paying the lower interest rate on refunds will lower the aggregate employee and employer contribution rate by approximately .44 percent and result in a present value cost savings of \$510 million during the next 30 years. Employer savings on an annual basis attributable to the reduced contribution rate will approximate \$22.2 million. This is the only scientific principle or method that the Board relied on in its evaluation of and justification for the rulemaking.

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

Not applicable

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

If a Plan member separates from ASRS for a reason other than death or retirement, the member may choose to have the member's ASRS contribution refunded. If the member has at least five years of service, the member may also receive a refund of some or the entire amount contributed by the member's employer. As a result of reducing the rate at which interest accrues on funds in a member's account, a member who chooses to receive a refund will receive less interest on the amount refunded.

The ASRS' actuary estimates that paying the lower interest rate on refunds will lower the aggregate employee and employer contribution rate by approximately .44 percent and result in a present value cost savings of \$510 million during the next 30 years. Employer savings on an annual basis attributable to the reduced contribution rate will approximate \$22.2 million.

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

No changes were made between the proposed and final rules.

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

The Board received no comments regarding the rulemaking. No one attended the oral proceeding on January 24, 2013.

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

None

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

No permit is required.

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

Federal law applies to retirement programs. However, there is no federal law specifically applicable to this rulemaking.

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

No analysis was submitted.

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

No materials are incorporated by reference.

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

None of the rules was previously made, amended, or repealed as an emergency rule.

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

**Notices of Final Rulemaking**

**TITLE 2. ADMINISTRATION**

**CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**

**ARTICLE 1. RETIREMENT SYSTEM; DEFINED BENEFIT PLAN**

Section  
R2-8-118. Application of Interest Rates

**ARTICLE 5. PURCHASING SERVICE CREDIT**

Section  
R2-8-501. Definitions

**ARTICLE 1. RETIREMENT SYSTEM; DEFINED BENEFIT PLAN**

**R2-8-118. Application of Interest Rates**

- A. No change
  - 1. No change
  - 2. No change
  - 3. No change
  - 4. No change
- B. Application of interest from inception of the ASRS through the present is as follows:

Effective Date of Interest Rate Change	Assumed Actuarial Interest and Investment Yield Rate	Interest Rate Used to Determine Return of Contributions Upon Termination of Membership by Separation from Service by Other Than Retirement or Death		Interest Rate Used to Determine Survivor Benefits
7-1-1953	2.50%	2.50%		2.50%
7-1-1959	3.00%	3.00%		3.00%
7-1-1966	3.75%	3.75%		3.75%
7-1-1969	4.25%	4.25%		4.25%
7-1-1971	4.75%	4.75%		4.75%
7-1-1975	5.50%	5.50%		5.50%
7-1-1976	6.00%	5.50%		6.00%
7-1-1981	7.00%	5.50%		7.00%
7-1-1982	7.00%	7.00%		7.00%
7-1-1984	8.00%	8.00%		8.00%
7-1-2005	8.00%	4.00% for Plan Members	8.00% for System Members	8.00%
<u>7-1-2013</u>	<u>8.00%</u>	<u>2.00% for Plan Members</u>	<u>8.00% for System Members</u>	<u>8.00%</u>

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

**ARTICLE 5. PURCHASING SERVICE CREDIT**

**R2-8-501. Definitions**

The following definitions apply to this Article unless otherwise specified:

- 1. No change

Notices of Final Rulemaking

2. No change
  - a. No change
  - b. No change
  - c. No change
3. No change
4. No change
5. "Actuarial present value" means an amount in today's dollars of a member's future retirement benefit calculated using the appropriate actuarial assumptions in ~~R2-8-123~~ and the:
  - a. No change
  - b. No change
  - c. No change
  - d. No change
6. No change
7. No change
8. No change
9. No change
10. No change
11. No change
12. *No change*
  - a. *No change*
  - b. *No change*
  - c. *No change*
  - d. *No change*
  - e. *No change*
13. No change
14. No change
15. No change
  - a. No change
  - b. No change
16. No change
17. No change
18. No change
19. No change
20. No change
21. No change
22. No change
  - a. No change
  - b. No change
  - c. No change
  - d. No change
  - e. No change
23. No change
24. No change
25. No change
26. No change
27. No change
28. No change
29. No change
30. No change
31. No change
  - a. No change
  - b. No change
  - c. No change
  - d. No change
  - e. No change
32. No change
33. No change
34. No change
35. No change

Notices of Final Rulemaking

- 36. No change
- 37. No change
- 38. No change
- 39. No change
- 40. No change
- 41. No change
- 42. No change
- 43. No change
- 44. No change
- 45. No change
- 46. No change
- 47. No change
  - a. No change
  - b. No change
- 48. No change
- 49. No change
- 50. No change
- 51. No change

**NOTICE OF FINAL RULEMAKING**

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 4. GAME AND FISH COMMISSION**

[R13-55]

**PREAMBLE**

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

**Rulemaking Action**

R12-4-701	Amend
R12-4-702	Amend
R12-4-703	Renumber
R12-4-703	New Section
R12-4-704	Repeal
R12-4-704	Renumber
R12-4-704	Amend
R12-4-705	Repeal
R12-4-705	Renumber
R12-4-705	Amend
R12-4-706	Repeal
R12-4-706	Renumber
R12-4-706	Amend
R12-4-707	Repeal
R12-4-707	Renumber
R12-4-707	Amend
R12-4-708	Repeal
R12-4-708	Renumber
R12-4-708	Amend
R12-4-709	Renumber
R12-4-710	Renumber
R12-4-711	Renumber
R12-4-712	Renumber
R12-4-901	Amend
R12-4-902	Amend
R12-4-903	Renumber
R12-4-903	Amend
R12-4-904	Renumber
R12-4-904	Amend
R12-4-905	Amend
R12-4-906	Amend

**2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the imple-**

Notices of Final Rulemaking

**menting statute (specific):**

Authorizing statute: A.R.S. §§ 17-231(A)(1), 17-231(A)(2), 17-231(A)(6); 17-231(A)(7), and 17-231(A)(8)

Implementing statute: A.R.S. §§ 17-231(A)(1); 17-231(A)(2); 17-231(A)(6); 17-231(A)(7); 17-231(A)(8), 17-297, 17-298, 17-298.01, 17-299, and A.R.S. § 35-214

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

June 1, 2013

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

Not applicable

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

Not applicable

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

Notice of Rulemaking Docket Opening: 18 A.A.R. 2506, October 5, 2012

Notice of Proposed Rulemaking: 18 A.A.R. 2463, October 5, 2012

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

Name: Marty Herrera, Heritage Fund Administrator

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

Telephone: (623) 236-7527

Fax: (623) 236-7358

E-mail: mherrera@azgfd.gov

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

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

The Arizona Game and Fish Commission amends the rules in Title 12, Chapter 4, Article 7 and 9 in accordance with the preceding five-year review reports approved by the Governor's Regulatory Review Council on July 12, 2011, and January 5, 2010.

Over the past seven years, the Commission has awarded approximately 2.9 million dollars in Heritage Grant Funds to 114 participants. Total project costs including Heritage Grant awards, match and donations total over 6 million dollars. Currently, for the 2012 Heritage Grant cycle year, the Department received 99 applications and the Commission awarded \$415,647 to 23 Heritage Grants applicants. In the previous 5 Heritage Grant cycles, the Department received an average of 46 grant applications per year. In 2012, the Department implemented revised Heritage Grant Application materials with several significant improvements to the program and a total of 99 applications were received. The Heritage Grant program has not had any significant process improvements since the program was created. The Commission believes the current Heritage Grant application is too complex for some applicants, therefore, the application process needed to be simplified. The rulemaking also amends the Article 9 rules, governing the Arizona Wildlife Conservation Fund Grants to be consistent wherever possible with Article 7.

In addition to the nonsubstantive amendments made to ensure compliance with the Administrative Procedures Act, Secretary of State, and G.R.R.C. rulemaking format and style requirements and rewording of rule language to make rules clearer and more concise; the Commission proposes the following substantive amendments:

R12-4-701 is amended to remove definitions already provided in statute and reword or add definitions to provide additional clarity.

R12-4-702 is amended to update group applicant and participant responsibilities to eliminate redundancy and improve clarity. The rule is amended to allow the Department to accept Heritage Grant applications according to a schedule determined by the Director to allow the Department to award Heritage Grants during the calendar year as monies distributed under A.R.S. § 5-522 become available. The rule is amended to direct eligible applicants to the Grant application materials for the most up-to-date project information. In addition, the rule is amended to require applicants to provide written permission from property owners authorizing project activities and public access when applicable for eligibility and to protect the Department's investment in the project. The rule is further amended to

Notices of Final Rulemaking

eliminate the requirement that proposals be over \$1000, allowing the Department to award smaller Heritage grants for meaningful projects, and to require a participant's project to be in compliance and void of extensions before applying for any future Heritage Grants. This reflects the Department's current process and allows personnel to expend resources on valid applications. The rule is also amended to transfer the requirement that participants bear full responsibility for acceptable performance by subcontractors from the reporting and recordkeeping rule to R12-4-702 as it is more appropriately a general provision. The rule is amended to transfer the following provisions from the Grant Agreement rule as these are more appropriately general provisions rather than grant conditions and stipulations: (1) Heritage Grant Funds be deposited in a dedicated non-interest bearing account carrying the name and number of the project; (2) State that awarded Heritage Grant Funds be used only for eligible purposes of the funding program defined by law and as approved by the Department; (3) State equipment purchased with Heritage Grant funds shall be used in a manner consistent with the purposes of the Grant Agreement, and require the surrender of any equipment with an acquisition cost of more than \$500 upon completion of the project; (4) Prohibit the participant from using Heritage Grant funds to pay any public employee's salary, (5) Require a participant to allow Department employees or agents to conduct inspections and reviews to ensure compliance with all Grant Agreement terms and conditions before release of the final payment; (6) Require the return of remaining unused awarded Heritage Grant funds upon completion of an approved project, unless the Department approved use of those funds for an additional project consistent with the original scope of work; (7) Specify restrictions and limitations for use of funds to produce income, unless authorized by the Department; (8) Remove supplementary information that is provided in the Heritage Grant Application materials and allow the materials to be updated as needed, rather than in conjunction with a rulemaking; (9) Move the statement placing restrictions and limitations for using Heritage Grant Funds to produce income to R12-4-702, as it is more appropriate and this condition will remain a part of the Grant Agreement; and (10) Add language which allows the Department to audit participant and subcontractor records and hold the participant accountable for the subcontractor's performance.

R12-4-703 is renumbered to R12-4-705 and amended to specify award of Heritage Grant funds are based on a proposed project's compatibility with Department priorities. The rule is amended to create one overarching rule, "Heritage Grant Program Funds," to contain the five grants offered under the Heritage Fund Grant Program for rule clarity and to make it easier for the applicant to navigate through the different Heritage Grant Fund Programs. The rule is also amended to establish a new outreach education initiative sub-program grant, the "Outdoor Education Grant," to enhance awareness and involvement in any conservation, ecological or biological wildlife related field trip. The funds are specifically intended for school field trips and as a natural subset of the Environmental Education Grant.

R12-4-704, R12-4-705, R12-4-706, R12-4-707, and R12-4-708 are repealed, as the Commission amends the rules to create one overarching rule, Heritage Grant Program Funds.

R12-4-709 is renumbered to R12-4-704 and the title is amended to "Grant Application;" to ensure consistency in the terms used within the rule and the Heritage Grant Application materials and remove the number of copies an applicant is required to submit to allow the Department greater latitude in the manner and method in which applications are submitted. The rule is amended to remove the requirement that an applicant submit a completed checklist, as the checklist is included in the Heritage Grant Application materials. The rule is further amended to require an applicant to provide supporting information when applicable, as the variety in grant project proposals make it difficult to ensure all questions and requests for relevant information are provided for in rule.

R12-4-710 is renumbered to R12-4-706 and the title amended to "State Historic Preservation Office Plan Review" to clarify the role of the State Historic Preservation Office and improve conciseness. The rule requires applicants to provide documentation to the state historic preservation office prior to performing any construction, substantial alteration or demolition of historic or archaeological properties, in accordance with established State Historic Preservation Act policies, ((A.R.S. §§ 41-861 through 865) and the Arizona Antiquities Act (A.R.S. §§ 41-841 through 844). These statutes require that specific steps be taken to protect and preserve such properties and or discoveries, and are a condition and precedent to the award of any grant funds.

R12-4-711 is renumbered to R12-4-707 and the title amended to "Grant Agreement." The rule removes the statement that a participant shall not exceed the Heritage Grant allocation unless the parties amend the Grant Agreement. The implication is that the Department routinely amends an agreement to allow for the allocation of more grant funds, which is not a true statement. The rule is amended to remove the statement that once program funds are allocated, the only funds remaining are made up of the 10% withheld by the Department to be released once a project is completed. By removing this statement, the Department is not prohibited from amending a Grant Agreement to allocate remaining funds, if so desired. The rule also provides for removal of specific funds distribution information and states that the Department shall determine the distribution schedule to provide greater latitude when allocating participant funds. The rule is amended to state the Department may seek recovery of funds if a participant is in default of a contract, providing the Department with greater latitude when seeking recovery of grant monies. For example, if a grant participant has successfully completed 4.5 years of a 5 year contract, the Department would have the option of seeking only the remaining portion of the unused grant funds or, if it would be too costly for the Department to recover monies awarded, have the option not to pursue litigation; The rule is amended to transfer provisions to the General Provisions rule, as listed on page 3, as these are more appropriately specified as general provisions rather than grant conditions or stipulations.

Notices of Final Rulemaking

R12-4-712 is renumbered to R12-4-708 and the title amended to "Reporting and Recordkeeping Requirements;" The rule is amended to add language specific to additional financial reporting requirements for clarity. The rule is also amended to clarify compliance certification and record retention requirements and remove specific times for project reporting requirements already within grant application materials. The rule is further amended to clarify that participants are required to place grant funds in a non-interest bearing account.

R12-4-901 is amended to remove definitions provided in statute and reword remaining definitions to provide additional clarity.

R12-4-902 is amended to allow the Department to provide notification within 30 days of Commission review and approval of a grant award as earlier notification permits successful grant applicants to begin their project more quickly. The rule is amended to transfer the following provisions from the Grant Agreement rule to the General Provisions rule as these are more appropriately specified as general provisions rather than grant conditions or stipulations: (1) Specify that transferred Arizona Wildlife Conservation Fund Grant funds (AWCF) be deposited in a dedicated non-interest bearing account carrying the name and number of the project; (2) State that awarded AWCF Grant Funds may only be used for eligible purposes of the funding program as defined by law and as approved by the Department; (3) State that equipment purchased with AWCF Grant funds shall be used in a manner consistent with the purposes of the Grant Agreement and require the surrender of any equipment with an acquisition cost of more than \$500 upon completion of the project; (4) Prohibit the participant from using AWCF Grant funds to pay any permanent public employee's salary; (5) Require a participant to allow Department employees or agents to conduct inspections and reviews to ensure compliance with all terms and conditions established under the Grant Agreement before release of the final payment; (6) Require the return of the remaining unused awarded AWCF Grant funds upon completion of an approved project, unless the Department approved the use of those funds for an additional project consistent with the original scope of work; (7) Specify restrictions and limits for use of funds to produce income, unless authorized by the Department; (8) Require that a participant ensure that real property purchased with grant assistance is appraised by a state certified appraiser within six months before the acquisition; and (9) Add a statement that pre-agreement costs are not subject to reimbursement from grant funds, but the Department, in its discretion, may authorize these costs to serve as matching funds. This information was removed from grant applications and added to this rule as it is more appropriately a condition rather than an application requirement.

R12-4-903 is renumbered to R12-4-904 and amended to remove the criteria, which the Department uses to recommend grant awards, as this is contained in the grant materials. The rule is amended to allow the Commission, whose priorities change yearly based on ecological and environmental conditions, greater flexibility in determining the types of projects to be funded. The rule is also amended to require Arizona Wildlife Conservation Fund grants to support projects related to wildlife conservation and habitat, acquisition of or interest in real property that is wildlife habitat.

R12-4-904 is renumbered to R12-4-~~905~~ 903 and amended to require an applicant to include Arizona Wildlife Conservation Fund grant acknowledgment on any publicly available or accessible products resulting from the project for the entire project term, as current rule addresses only certain specific signage requirements. The rule is amended to remove the number of copies an applicant is required to submit to allow the Department greater latitude in the manner and method in which applications are submitted. The rule is amended to remove the statement that "pre-agreement costs" are to be used as a match, as this information is included in the Grant application materials and simplifies cost sheet requirements for easier understanding. The rule is also amended to remove the requirement that an applicant answer all relevant grant questions, as this is contained in the Arizona Wildlife Conservation Fund grant application materials. The rule is further amended to require an applicant to provide supporting information when applicable, as the variety in grant project proposals make it difficult to ensure all questions and requests for relevant information are provided for in rule.

R12-4-905 is amended to transfer the following provisions from the Grant Agreement rule to the General Provisions, as these are more appropriately specified as general provisions rather than grant conditions or stipulations: (1) Specify transferred Arizona Wildlife Conservation Fund Grant funds be deposited in a dedicated non-interest bearing account carrying the name and number of the project; (2) State that awarded Arizona Wildlife Conservation Fund Grant funds may only be used for eligible purposes of the funding program as defined by law and as approved by the Department; (3) State that equipment purchased with Arizona Wildlife Conservation Fund Grant funds shall be used in a manner consistent with the purposes of the Grant Agreement; (4) Require the surrender of any equipment with an acquisition cost of more than \$500 upon completion of the project; (5) Prohibit the participant from using Arizona Wildlife Conservation Fund Grant funds to pay any permanent public employee's salary; (6) Require a participant to allow Department employees or agents to conduct inspections and reviews to ensure compliance with all terms and conditions established under the Grant Agreement before release of the final payment; (7) Require the return of awarded Arizona Wildlife Conservation Fund Grant funds that remain unused upon completion of an approved project, unless the Department approved the use of those unexpended funds for an additional project consistent with the original scope of work; (8) Specify restrictions and limits for use of funds to produce income, unless authorized by the Department; and (9) Allow the Department greater latitude when seeking recovery of grant monies awarded to a participant who, after having been awarded a grant, is in default of the Grant Agreement. For example, if a grant participant has successfully completed 4.5 years of a 5 year contract, the Department would have the option of seeking only the remaining portion of the unused grant funds or, if it would be too costly for the Department to recover monies awarded, have the option not to pursue litigation. The rule is also amended to transfer the requirement that a participant ensure that real property purchased with grant assistance is appraised by a state certified appraiser within six



Notices of Final Rulemaking

months before the acquisition to the Grant Agreement rule, as this is more appropriately an agreement condition than a general provision.

R12-4-906 is amended to reference the applicable statute rather than provide specific criteria to ensure the rule will remain in compliance with the governing statute.

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

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

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

Not applicable

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

In many cases, the amendments to rules result in a reduction of the regulatory burden for grant fund applicants and will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated.

**(a) The conduct and its frequency of occurrence that the rule is designed to change.**

The Commission believes an applicant's potential frustration with a presumably cumbersome and complicated application process will be alleviated by the rulemaking's clarity. The amended rules are more concise and easier for an applicant to navigate.

**(b) The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed.**

The Commission believes an applicant's project proposal that was denied in the past may now meet less burdensome grant requirements due to the rulemaking. The Commission believes that the cost to administer the Heritage Grant Programs, including time expended on Department resources, will not be unduly burdened by the rulemaking.

**(c) The estimated change in frequency of the targeted conduct expected from the rule change.**

The Commission believes the number of applicants may increase with the ease of use and streamlined rulemaking requirements.

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

R12-4-701, Corrected subsection referenced under 'eligible applicant' to R12-4-707(B); Reinserted base text "is" and "or services" in "project" definition, subsequently stricken; Reinserted base text "are to be accomplished by the participant" in "project period" definition, subsequently stricken; Added definition of "in-kind" to clarify rule.

R12-4-702, Reinserted base text "An unsuccessful eligible applicant may submit an appeal regarding a grant award within 30 calendar days of the Commission meeting in accordance with A.R.S. Title 41, Chapter 6, Article 10, Uniform Administrative Appeals Procedures," subsequently stricken.

R12-4-702(C), Added "related to sites not controlled by an applicant," to clarify rule.

R12-4-704, Added e-mail address to list of required information.

R12-4-705, Reinserted base text "usefulness," subsequently stricken.

R12-4-706, Reinserted base text "cultural," subsequently stricken.

R12-4-707(F), Added "prior to signing the agreement and through amendment," to clarify rule.

R12-4-901, Corrected subsection referenced under 'eligible applicant' to R12-4-905(B).

R12-4-902(G), Added "related to sites not controlled by an applicant," to clarify rule.

R12-4-902(H), Added "unless specified otherwise," to clarify rule.

R12-4-902(V), Reinserted based text "that", subsequently stricken.

R12-4-903(D), Clarified applicant requirements; Added e-mail address to list of required information.

R12-4-905(10), Reinserted base text "for a period", subsequently stricken.

R12-4-906(F), Added "prior to signing the agreement and through amendment," to clarify rule.

In addition, minor grammatical and style corrections were made at the request of the Governor's Regulatory Review Council staff.

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

Notices of Final Rulemaking

**Written Comment: November 05, 2012.** The Willow Creek Riparian Preserve, Inc. is a for-profit habitat conservation and preservation organization developed to specifically begin the process and actively manage natural resources within the Willow Creek watershed approximately 30 miles east of Kingman. We would like to request that for-profit organizations, that are qualified, be added to the definition of those that can apply for both the Heritage Grant Program funds and the Arizona Wildlife Conservation Fund Grant program (see sections referenced above). We are currently in the process of creating one of the first ACOE mitigation banks in the State of Arizona and although this process will be a lengthy one there should be no reason that we should incur the full financial burden of continued habitat and natural resource protection within Willow Creek (we took out a second mortgage on our home in order to purchase the first 10 acres on Willow Creek). We have already partnered with the Commission on many aspects of our endeavors to conserve and protect our vanishing riparian system in this watershed. We would like to be able to continue this partnering to full effect through the application process in being able to obtain this vital grant funding.

**Agency Response:** Arizona voters created the Heritage Fund in 1990, designating up to \$10 million a year from lottery ticket sales for the conservation and protection of the state's wildlife and natural areas. The Arizona Game and Fish Commission spends its voter-approved Heritage Fund dollars to recover threatened and endangered species, to help urban residents appreciate and coexist with our unique wildlife, to educate children about the environment, and to create new opportunities for outdoor recreation. The Commission restricts the Heritage Grant funding to any public agency or non-profit organization sponsored by a public agency because it believes the voter-approved funds should not be used to provide support to for-profit business ventures. In addition, A.R.S. § 17-299(C) establishes who is eligible for Arizona Wildlife Conservation Fund Grant monies limits applicants to any agency of the state or any political subdivision, Indian tribe, or non-profit organization exempt from federal income taxation under section 501(c) of the internal revenue code. Modifying the applicant criteria to include for-profit organizations would require a statutory change through legislation.

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

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

The rule does not require a general permit.

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

Federal law is not applicable to the subject of the rule.

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

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

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

Not applicable

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

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

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

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 7. HERITAGE GRANTS

Section

- R12-4-701. Heritage Grant Definitions
- R12-4-702. General Provisions
- R12-4-703. Heritage Grant Program Funds
- ~~R12-4-704. Urban Wildlife and Urban Wildlife Habitat Grants Repealed~~
- ~~R12-4-709-R12-4-704. Grant Applications Application~~
- ~~R12-4-705. Public Access Grants Repealed~~
- ~~R12-4-703-R12-4-705. Review of Proposals~~
- ~~R12-4-706. Environmental Education Grants Repealed~~

Notices of Final Rulemaking

- ~~R12-4-710.~~ R12-4-706. State Historic Preservation Office ~~Certification~~ Review
- ~~R12-4-707.~~ Schoolyard Habitat Grants ~~Repealed~~
- ~~R12-4-711.~~ R12-4-707. Grant-in-Aid Participant Agreements ~~Agreement~~
- ~~R12-4-708.~~ HAPM: Grants for Identification, Inventory, Acquisition, Protection, and Management of Sensitive Habitat ~~Repealed~~
- ~~R12-4-712.~~ R12-4-708. Reporting and ~~Record~~ Recordkeeping Requirements
- R12-4-709. Renumbered
- R12-4-710. Renumbered
- R12-4-711. Renumbered
- R12-4-712. Renumbered

**ARTICLE 9. ARIZONA WILDLIFE CONSERVATION FUND GRANTS**

- R12-4-901. Definitions
- R12-4-902. General Provisions
- ~~R12-4-904.~~ R12-4-903. Grant ~~Applications~~ Application
- ~~R12-4-903.~~ R12-4-904. Review of Proposals
- R12-4-905. Grant ~~Agreements~~ Agreement
- R12-4-906. Reporting and Recordkeeping Requirements

**ARTICLE 7. HERITAGE GRANTS**

**R12-4-701. Heritage Grant Definitions**

In addition to the definitions provided ~~in~~ under A.R.S. §§ 17-101 and 17-296, the following definitions apply to this Article:

1. "Administrative subunit" means ~~the a~~ a branch, chapter, department, division, section, school, or other similar divisional entity of an eligible applicant. ~~where a participant contact is directly employed, for~~ For example, an individual:
  - a. ~~school~~ School, but not ~~the an~~ an entire school district; ~~an individual~~
  - b. ~~field~~ Field office or project office, but not ~~the an~~ an entire agency; or ~~an individual~~
  - c. ~~administrative~~ Administrative department, but not ~~the an~~ an entire city government.
2. "Approved application" means a participant's application including any changes, exceptions, deletions, or additions ~~made by the Department before approval.~~
3. "Commission" means ~~the Game and Fish Commission.~~
4. "Department" means ~~the Game and Fish Department.~~
5. "Eligible applicant" means any public agency or non-profit organization ~~exempt from federal income taxation under Section 501(c) of the Internal Revenue Code that has met~~ sponsored by a public agency that meets the applicable requirements of this Article and ~~does not obtained an~~ have a Heritage Fund Grant ~~in extension of the project period as authorized under R12-4-711(4) R12-4-707(B).~~
6. "Extension" means a contract expiration date extended beyond the approved project period.
7. "Facilities" means ~~capital any~~ any structure or site improvements.
8. "Fund" means ~~a granting source from the~~ Arizona Game and Fish Commission Heritage Fund, established under A.R.S. § 17-297.
9. "Grant agreement" means a document that details the terms and conditions of a grant project.
10. "Grant effective date" means the date the Department Director ~~of the Department~~ signs the Grant-in-Aid Participant Grant Agreement.
11. "In-kind" means contributions other than cash, which include individual and material resources that the applicant makes available to the project, e.g. a permanent public employee's' salary, volunteer time, materials, supplies, space, or other donated goods and services.
12. "Grant Prioritization Process" means a document approved by the Commission based upon the Department mission statement, strategic plans, and current guiding statements that defines the Department's priorities. This document is also used for prioritizing grant applications.
13. "Heritage Grant" means ~~a Commission Heritage Fund grant.~~
14. "Participant" means an eligible applicant ~~that who~~ who has been awarded a grant from the ~~fund~~ Heritage Fund.
15. "Participant contact" means ~~an eligible applicant's employee who is responsible for administering a Heritage Grant funded project.~~
16. "Project" means an activity, or series of related activities, or services ~~which~~ is described in the specific project scope of work and ~~which~~ results in specific end products ~~or services.~~
17. "Project period" means the time during which a participant shall complete all approved work and related expenditures associated with an approved project ~~are to be accomplished by the participant.~~
18. "Public agency" means the federal government or any federal department or agency, an Indian tribe, this state, all state departments, agencies, boards, and commissions ~~of this state~~, counties, school districts, public charter schools, cities, towns, all municipal corporations, and any other political subdivision ~~of this state.~~

Notices of Final Rulemaking

“Publicly held lands” means federal, public, and reserved land, State Trust Land, and other lands within Arizona that are owned, controlled, or managed by the federal government, a state agency or political subdivision.

“Sensitive elements” means the specific areas within the geographical area, historically or currently occupied by a species or community of species, which comprise those physical or biological features essential to the establishment or continued existence of the species. These 'sensitive elements' may require special management, conservation or protection considerations.

17. “Specific scope of work” means the units of work to be accomplished by an approved project.

18. “Term of public use” means the time period during which the project or facility is expected to be maintained for public use.

**R12-4-702. General Provisions**

- A. The application deadline is the last working day of November each year and funds become available July 1 of the following year. The Department shall ensure that the exact time and date for the application deadline and the exact application submission location are designated in the Department’s “Grant Application Manual.” The Department shall ensure that the “Heritage Grant Application Manual,” all application forms and instructions, the Grant Prioritization Process, and any annualized information on project emphasis for each fund are available from the Department’s Funds Planning Section within the Phoenix office. An applicant shall submit to the Department a Heritage Fund Grant application according to a schedule of due dates determined by the Director. In compliance with A.R.S. § 41-2702, the Department shall:
  - 1. Provide public notice of the time, location, and due date for application submission; and
  - 2. Furnish materials necessary to complete the application.
- B. An eligible applicant, as defined in R12-4-701, may apply for seeking Heritage Grants Grant funding shall submit a Heritage Grant Application as established under this Article and in compliance with the Heritage Grant application materials. Eligible applicants shall apply for Heritage Grants in accordance with A.R.S. §§ 17-296, 17-297, 17-298, and Commission rules within 12 A.A.C. 4, Article 7, to receive consideration. An eligible applicant who has failed to comply with the rules or conditions of a Grant in Aid Participant Agreement shall not be considered for further Heritage Grants until the eligible applicant’s project is brought into compliance.
- C. An applicant shall demonstrate ownership or control of the project. Ownership or control may be demonstrated through fee title, lease, easement, or agreement. For all other project types related to sites not controlled by an applicant, an applicant shall provide written permission from the property owner authorizing the project activities and access. The applicant’s proof of ownership or control or written permission shall demonstrate:
  - 1. Permission for access is not revocable at will by the property owner, and
  - 2. Public access will be granted to the project site for the life of the project, unless the purpose of the project proposal is to limit access.
- ~~C.D.~~ The Department shall notify eligible applicants an applicant in writing of the results of their applications the applicant’s submission and announce Heritage Grant awards at a regularly scheduled open meeting of the Commission. An unsuccessful eligible applicant may submit an appeal regarding a grant award within 30 calendar days of the Commission meeting in accordance with A.R.S. Title 41, Chapter 6, Article, 10 Uniform Administrative Appeals Procedures.
- ~~D.E.~~ Participants A participant shall not begin projects a project described in an application until after the grant effective date as defined in R12-4-701. A participant shall submit records that substantiate the expenditure of Heritage Grant funds.
- F. A participant shall complete the project as specified under the terms and conditions of the Grant Agreement.
- G. A participant shall deposit transferred Heritage Grant Funds in a dedicated non-interest bearing account carrying the name and number of the project.
- H. A participant shall use awarded Heritage Grant Funds solely for eligible purposes of the funding program as defined by law and as approved by the Department.
- I. A participant shall not use Heritage Grant Funds for the purpose of producing income unless authorized by the Department. A participant shall use income generated to further the purpose of the approved project or surrender the income to the original funding source.
- J. If a balance of awarded Heritage Grant funds remain upon completion of approved project elements, the participant may, with Department approval, use those unexpended funds for an additional project consistent with the original scope of work or surrender those unexpended funds to the Department.
- K. A participant shall use equipment purchased with Heritage Grant funds in a manner consistent with the purposes of the Grant Agreement, and surrender the equipment to the Department upon completion of the project, if the equipment has an acquisition cost of more than \$500.
- L. A participant shall not use Heritage Grant funds to pay the salary of any permanent public employee. A participant may use a permanent employee’s time as in-kind match for the project specified in the Grant Agreement.
- M. A participant shall allow Department employees or agents to conduct inspections and reviews:
  - 1. To ensure compliance with all terms and conditions established under the Grant Agreement.
  - 2. Before release of the final payment.
- N. A participant shall submit records that substantiate the expenditure of Heritage Grant funds.
- O. A participant shall bear full responsibility for performance by subcontractors to ensure compliance with the Grant Agree-

Notices of Final Rulemaking

ment.

- ~~E.P.~~ A participant shall ~~operate and maintain~~ pay all costs associated with the operation and maintenance of properties, facilities, equipment, and services, publications, and other media funded by a Heritage Grant for the benefit of the term of public for the useful life of the project use as specified in the Grant Agreement.
- ~~F.~~ A participant shall control land or waters on which capital improvements are to be made, through fee title, lease, easement, or agreement. To be eligible for a Heritage Grant, the participant's management or control rights to the proposed site shall be proportional to the proposed investment in at least one of the following three respects:
  1. The time remaining on the use agreement is a term sufficient, in the sole discretion of the Department, to ensure a period of public use equal in value to the expenditure of awarded funds.
  2. The use agreement is not revocable at will by the property owner and provides for the option to renew by the managing agency.
  3. The eligible applicant demonstrates that public access exists to the actual site where the project is proposed, unless the purpose of the project proposal is to specifically create access or limit access.
- ~~G.Q.~~ A participant shall give public acknowledgment of Heritage Fund grant assistance for the life term of public use of a project. If a project involves acquisition of property, development of public access, or renovation of a habitat site, the participant shall install a permanent sign describing the funding sources and dollar amounts of all funds. The participant may include the cost of this signage as part of the original project, but is The participant is responsible for maintenance or replacement of the sign as required. For other project types, the participant shall include Heritage Fund grant funding acknowledgment on any publicly available or accessible products resulting from the project.
- ~~H.~~ The Department shall not accept project proposals for less than \$1000.
- ~~I.~~ A participant shall pay operation and maintenance costs for the project, including costs for reprinting of publications or other media.
- ~~J.~~ A participant shall not use Heritage Grant funds to pay compensation in excess of the legally established salary for any permanent public employee. A participant may use a permanent employee's time as in-kind match, but only for the project for which the application was submitted.
- ~~K.~~ If specified in the Grant in Aid Participant Agreement, including the Special Conditions attachment, the participant shall provide evidence of compliance with local, state, and federal law to the Department before the release of the initial Heritage Grant funds and before project implementation.
- ~~L.~~ If a participant contact has a Heritage Grant funded project in extension, the participant contact and the administrative subunit employing the participant contact shall not be considered for further Heritage Grants until the project under extension is completed. This restriction does not apply to the participant contact's public agency as a whole, or to any other participant contact employed by the same public agency in any other administrative subunit, so long as the other participant contact does not have a Heritage Grant funded project in extension. For the purposes of this restriction, the Department shall determine what constitutes an administrative subunit.
- ~~M.~~ Ineligible projects are those projects not in compliance with this Article and those project types listed as examples of ineligible projects in the Heritage Grant Application Manual or other materials available from the Department's Funds Planning Section in the Phoenix Office.
- ~~R.~~ An administrative subunit that failed to comply with the terms and conditions of a Grant Agreement shall not apply for, nor be considered for, further Heritage Grants until the administrative subunit's project is brought into compliance.
- ~~S.~~ An administrative subunit that has a Heritage Grant funded project in extension shall not apply for, nor be considered for, further Heritage Grants until the administrative subunit's project under extension is completed.

**R12-4-703. Heritage Grant Program Funds**

- ~~A.~~ Environmental Education Grant. An eligible applicant shall ensure a proposed project is designed to:
  1. Develop awareness, appreciation, and understanding of Arizona's wildlife and its environment and increase responsible actions toward wildlife;
  2. Use Arizona wildlife as its focus and present wildlife issues in a balanced and fair manner; and
  3. Benefit Arizona public schools, public charter schools, and students.
- ~~B.~~ IIAPM Grant: Identification, Inventory, Acquisition, Protection, and Management of Sensitive Elements. An eligible applicant shall ensure a proposed project is designed to:
  1. Preserve and enhance Arizona's natural biological diversity; and
  2. Incorporate identification, inventory, acquisition, protection, or management of sensitive elements.
- ~~C.~~ Outdoor Education Grant: An eligible applicant shall ensure a proposed project is designed to:
  1. Provide a meaningful outdoor educational experience;
  2. Develop awareness, appreciation, and stewardship of Arizona's wildlife and wildlife habitats; and
  3. Benefit Arizona public schools, public charter schools, and students.
- ~~D.~~ Public Access Grant: An eligible applicant shall ensure a proposed project:
  1. Is designed to increase or maintain public access for recreational use related to wildlife;
  2. Is in cooperation with federal land managers, local and state governments, private landowners, or public users, as applicable; and

Notices of Final Rulemaking

3. Is designed to inform and educate the public about recreational use of publicly held lands and public access to those lands.
- E. Schoolyard Habitat Grant:** An eligible applicant shall ensure a proposed project is designed to:
1. Develop awareness, appreciation, and understanding of Arizona's wildlife and its environment;
  2. Encourage wildlife educational activities on Arizona school sites or adjacent areas;
  3. Encourage native wildlife species, utilize native plant materials, and demonstrate water conservation techniques;
  4. Allow Arizona students to actively participate in the planning, development, and construction process;
  5. Be integrated into the school curriculum; and
  6. Benefit Arizona public schools, public charter schools, and students.
- F. Urban Wildlife and Urban Wildlife Habitat Grant.** An eligible applicant shall ensure a proposed project:
1. Is designed to conserve, enhance, and establish wildlife habitats and populations consistent with urban environments, and increase public awareness and support for urban wildlife resources; and
  2. Meets one of the following criteria:
    - a. Is within the incorporated limits of a city or town;
    - b. Is within five miles, in straight distance, of the boundary of an incorporated area; or
    - c. Is an area that receives significant impact from residential development, as determined by the Department.

**R12-4-704. Urban Wildlife and Urban Wildlife Habitat Grants Repealed**

- A.** "Urban wildlife" means the wildlife that occurs within the limits of an incorporated area or in close proximity to an urban area that receives significant impact from human use. (A.R.S. § 17-296(6)).
- B.** "In addition to complying with the requirements prescribed in R12-4-702, to be considered for an urban wildlife or urban wildlife habitat grant award, an eligible applicant shall ensure that a proposed project location meets one of the following criteria:
1. It is within the corporate limits of an incorporated city or town; or
  2. It is within five miles, in straight distance, of the boundary of an incorporated area.
- C.** "In addition to the requirements prescribed in subsection (B), to be considered for an urban wildlife or urban wildlife habitat grant award, eligible applicants shall also ensure that proposed projects are designed to conserve, enhance, and establish wildlife habitats and populations consistent with urban environments, and increase public awareness of and support for urban wildlife resources.

**R12-4-709, R12-4-704, Grant Applications Application**

- A.** To be considered for a Heritage Grant, an eligible applicant shall submit a grant application ~~in accordance with the schedule and requirements prescribed in R12-4-702 as established under this Article and in compliance with the Heritage Grant Application materials.~~
- B.** The eligible An applicant who is applying for multiple projects, shall submit a separate application for each funding source project.
- C.** The eligible applicant shall submit the original plus two copies of each application on paper sized 8 1/2" x 11" and shall ensure that the original and the copies are legible.
- D.** The Department shall not accept facsimile or "faxed" copies of a grant application.
- E.** The eligible applicant shall ensure that the "Application Checklist" lists all items included within the application. The eligible applicant shall check off an item if it is included within the application, and initial each item that is not applicable.
- F.C.** The eligible An applicant shall provide the following information on the grant Heritage Grant application form:
1. Name The name of the eligible applicant;
  2. Any county and legislative district where the project will be developed or upon which the project will have a direct impact;
  3. The official mailing address of the eligible applicant;
  4. 3. The name, title, mailing address, e-mail address, and telephone number of the individual who will have responsible for the day-to-day responsibility for management of the proposed project;
  5. 4. Identification of the particular grant specific Heritage Grant program fund from which assistance is being requested, under R12-4-704, R12-4-705, R12-4-706, R12-4-707, or R12-4-708;
  6. 5. The proposed A descriptive project title incorporating the name of the site, if any, and the type of work to be accomplished;
  6. The name of the site, primary location, and any other locations of the project;
  7. A clear and concise description Description of the:
    - a. scope Scope of work and the objective of the proposed project, the nature of what is to be accomplished,
    - b. the methods to be used, and the desired result from the project; Methods for achieving the objective, and
    - c. Desired result of the project;
  8. The beginning and ending dates for the project;
  9. The funding amounts that will be resources needed to accomplish the project, including the Heritage Grant funds grant monies requested, and, if applicable, evidence of secured matching funds or contributions; and

Notices of Final Rulemaking

10. If the eligible applicant is a non-profit organization exempt from federal income taxation under Section 501(c) of the Internal Revenue Code, documentation or other evidence of the exemption; and

11. Any additional supporting information required by the Department.

- ~~G-D.~~ Only a person with authority to bind the eligible applicant to the terms of the Grant-in-Aid Participant Agreement shall sign the grant application form. The person signing the grant application form represents that the eligible applicant has shall have the authority to enter into agreements, accept funding, and fulfill the terms of the Grant-in-Aid Participant Grant Agreement on behalf of the applicant.
- ~~H.~~ The eligible applicant shall submit a map clearly identifying project locations or project proposal areas, and, if applicable, a site plan and floor plan.
- ~~I.~~ The eligible applicant shall submit with the grant application the following information to provide evidence of control and tenure at the project site. The Department shall determine the appropriateness of the evidence of control and tenure as a part of the grant application review process:
- ~~1.~~ If the project site is owned by the eligible applicant, a copy of the legal document showing title in the name of the eligible applicant and the legal description of the property;
  - ~~2.~~ If the project site will be managed by the eligible applicant, a copy of the lease, special use permit, intergovernmental agreement, or other official instrument or documentation; or
  - ~~3.~~ For research project proposals relating to sites not controlled by the eligible applicant, a copy of the permit or agreement allowing the research or, at a minimum, evidence of permission from the land manager allowing the research.
- ~~J.~~ The eligible applicant shall submit an estimated project cost sheet form with the following information:
- ~~1.~~ Project title as designated on the application form;
  - ~~2.~~ If applicable, pre-agreement costs requested;
  - ~~3.~~ If applicable, all estimated development costs in order of priority of need, facilities to be constructed, unit measurements, number of items, and total costs;
  - ~~4.~~ All land parcels to be acquired listed in priority order, with acreage involved and anticipated dates of acquisition;
  - ~~5.~~ The cost, title, and name of personnel who would accomplish the project objectives and who would receive benefit from the grant; and
  - ~~6.~~ The total cost for the entire project proposal with each of the following amounts listed separately:
    - ~~a.~~ Heritage Grant funds requested;
    - ~~b.~~ Eligible applicant contribution to the project, if applicable; and
    - ~~c.~~ Any other sources of funding.
- ~~K.~~ The eligible applicant shall answer all questions relevant to the grant applied for and to the Grant Prioritization Process by which the Department evaluates and ranks proposals.

**~~R12-4-705. Public Access Grants Repealed~~**

- ~~A.~~ "Public access" has the meaning prescribed in A.R.S. § 17-296(1).
- ~~B.~~ "Publicly held lands" means federal, public, and reserved lands, State Trust Lands, and other lands within Arizona that are owned, controlled, or managed by the United States, the state of Arizona, agencies, or political subdivisions of the state.
- ~~C.~~ In addition to complying with the requirements prescribed in R12-4-702, an eligible applicant shall ensure that a project is designed to increase or maintain public access for recreational use that is related to wildlife, and is in cooperation with federal land managers, local and state governments, private landowners, and public users. An eligible applicant shall also ensure that a proposed project is consistent with the Department's mission, and is designed to inform and educate the public about recreational use of publicly held lands and public access to those lands. An eligible applicant's potential project shall provide for substantive wildlife-related recreational access opportunities. Examples include providing access into an area where no access currently exists; re-establishing access into an area where access existed historically; maintaining, relocating, or enhancing existing access routes to better serve a specific segment of the population; or to avoid biologically sensitive areas.

**~~R12-4-703-R12-4-705. Review of Proposals~~**

- ~~A.~~ Heritage 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 feasibility, merit, and usefulness as approved by the Commission. The Department shall evaluate and rank all eligible proposals under the criteria established in this Article and the Department's Grant Prioritization Process as approved by the Commission and available from the Department's Funds Planning Section in the Phoenix office.
- ~~B.~~ The Department shall make funding of an awarded project contingent upon revision of may require an applicant to modify the application prior to awarding a Heritage Grant, if the Department determines that substantive changes are the modification is necessary for the successful completion of the project.

**~~R12-4-706. Environmental Education Grants Repealed~~**

- ~~A.~~ "Environmental education" has the meaning prescribed in A.R.S. § 17-296(7).
- ~~B.~~ In addition to complying with the requirements prescribed in R12-4-702, to be considered for an environmental education grant, an eligible applicant shall ensure that a project proposal is for no less than \$1,000 and that a proposed project is

Notices of Final Rulemaking

designed to:

1. Develop awareness, appreciation, and understanding of Arizona's wildlife and its environment and increase responsible actions toward wildlife;
2. Use Arizona wildlife as its focus and present wildlife issues in a balanced and fair manner; and
3. Have an impact on Arizona schools and school children.

**~~R12-4-710, R12-4-706, State Historic Preservation Office Certification Review~~**

~~The When applicable, the Department shall not release Heritage Grant funds Funds until certification is received from after the Department has consulted with the State Historic Preservation Officer in accordance with A.R.S. §§ 41-861 through 41-864, the State Preservation Act, which mandates that all state agencies consider Office regarding the proposed project's potential of activities or projects to impact on significant cultural historic and archaeological properties and resources.~~

**~~R12-4-707, Schoolyard Habitat Grants Repealed~~**

- ~~A. Schoolyard habitat grants are limited to public schools in Arizona. In addition to complying with the requirements prescribed in R12-4-702, to be considered for a schoolyard habitat grant, a public school shall apply through an eligible applicant, such as a school district.~~
- ~~B. To be considered for a schoolyard habitat grant, an eligible applicant shall ensure that proposed projects are designed to:~~
- ~~1. Develop awareness, appreciation, and understanding of the state's wildlife and its environment;~~
  - ~~2. Encourage wildlife education on school sites or adjacent areas that allow wildlife education activities and encourage use by urban wildlife species;~~
  - ~~3. Use Arizona wildlife as its focus;~~
  - ~~4. Encourage native wildlife species, utilize a majority of native plant materials, and demonstrate water conservation techniques;~~
  - ~~5. Actively use school children in the planning, development, and construction process; demonstrate long-term sustainability; and be fully integrated into the school curriculum; and~~
  - ~~6. Have an impact on Arizona schools and school children.~~

**~~R12-4-711, R12-4-707, Grant-in-Aid Participant Agreements Agreement~~**

~~Before any transfer of funds, a participant shall agree to and sign a Grant-in-Aid Participant Agreement that includes the following minimum stipulations:~~

- ~~1. The participant shall use awarded Heritage Grant funds solely for eligible purposes of the funding program as defined by law and as approved by the Department. The participant shall not exceed the Heritage Grant allocation unless the parties amend the Grant-in-Aid Participant Agreement.~~
- ~~2. If both parties agree that all project costs shall be expended within the first quarter of the project period, the Department shall transfer the total amount of awarded grant funds to the participant within the first quarter of the project period. In all other cases, the Department shall transfer awarded grant funds, less 10 percent, to the participant within one year of the grant effective date. The Department shall transfer the final 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 materially breaches the Grant-in-Aid Participant Agreement. The Department shall include provisions in the Grant-in-Aid Participant Agreement that authorize the Department to perform completion inspections and reviews before release of final payment.~~
- ~~3. The participant shall deposit transferred Heritage Grant funds in a separate project account carrying the name and number of the project. The participant shall expend funds from the account only as authorized under the terms of the Grant-in-Aid Participant Agreement.~~
- ~~4. The participant may request changes to the terms, scope, conditions, or provisions of the Grant-in-Aid Participant Agreement by writing to the Department. Requests for extension beyond the approved project period shall be submitted by the participant no later than 30 days before the contract expiration date. The Department shall prepare in writing any approved amendments, which shall be signed by both the participant and the Department to be valid.~~
- ~~5. Notwithstanding subsection (4), the Department shall issue an administrative extension to unilaterally extend the project period by no more than 90 days to perform completion inspections or to complete administrative work if completion inspections or administrative work cannot be completed within the time frame of the existing Grant-in-Aid Participant Agreement.~~
- ~~6. If the participant materially breaches the Grant-in-Aid Participant Agreement, the Department shall seek recovery of all funds granted and classify the participant as ineligible for Heritage Grants for a period not to exceed five years.~~
- ~~7. The participant shall operate and maintain all Heritage Grant funded capital improvements and provide reasonable protection of any project improvements.~~
- ~~8. The participant sponsoring a third party or subcontractor is responsible for compliance with the Grant-in-Aid Participant Agreement provisions if the third party or subcontractor defaults.~~
- ~~9. The participant shall use awarded Heritage Grant funds solely for costs associated with approved project work incurred during the project period.~~
- ~~10. The project period is designated to be three years from the grant effective date unless otherwise agreed upon by the~~



Notices of Final Rulemaking

Department and the participant.

11. If a balance of awarded Heritage Grant funds is available upon completion of approved project elements, the participant may, with Department approval, develop additional scope elements.
12. The participant shall request amendments to accommodate additions or changes to the Grant-in-Aid Participant Agreement in writing, stating the need and rationale for the amendments.
13. The participant shall use equipment purchased with Heritage Grant funds for an approved public purpose for the useful life of the equipment, or surrender the equipment to the Department upon completion of the project, whichever comes first, if the equipment has an acquisition cost of more than \$500. If the equipment is sold, the participant shall pay the Department the amount of any resulting proceeds in the ratio equivalent to the funds provided for the purchase.
14. The participant shall ensure that the value of real property purchased with Heritage Grant funds assistance is appraised by an Arizona certified appraiser within one year before the purchase or lease according to 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 appraised value of real property is not accurate as submitted by the participant. The Department's acceptance of land conveyance documents is contingent upon approval by the Commission and the Governor.
15. The Department shall delay payment of Heritage Grant funds to a participant who fails to submit project status reports as required in R12-4-712 until the participant has submitted all past due project status reports.
16. The Department shall include provisions in the Grant-in-Aid Participant Agreement that authorize the Department to conduct inspections to ensure compliance with all terms of the contract.
17. The participant shall not use Heritage Grant funds for the purpose of producing income. However, the participant may engage in income-producing activities incidental to the accomplishment of approved purposes if the participant uses the activities to further the purposes of the approved project or returns the income to the original funding source designated in the Grant-in-Aid Participant Agreement. The participant shall return funds remaining at the end of the project period to the Department.

- A. Before the Department transfers any grant funds, the applicant shall sign the Grant Agreement.
- B. A participant may request an extension beyond the approved project period by writing to the Department. Requests for an extension shall be submitted by the participant no later than 30 days before the end of the project period. If approved, an extension shall be signed by both the participant and the Department.
- C. Notwithstanding subsection (B), the Department may extend the project period for good cause such as, but not limited to, inclement weather or internal personnel changes.
- D. The Department and the participant may amend the Grant Agreement during the project period. A participant seeking to amend the Grant Agreement shall submit a written request that includes justification to amend the Grant Agreement. The Department shall prepare any approved amendment in writing and both the Department and the participant shall sign the amendment.
- E. If a participant is in default of the Grant Agreement, the Department may:
  1. Terminate the Grant Agreement.
  2. Seek recovery of grant monies awarded, and
  3. Classify the participant as ineligible for Heritage Fund Grants for a period of up to five years.
- F. The Department, at its sole discretion, has the authority to include additional conditions in the Grant Agreement prior to signing the Agreement and through Amendment.

**~~R12-4-708. HAPM: Grants for Identification, Inventory, Acquisition, Protection, and Management of Sensitive Habitat Repealed~~**

- ~~A. "Habitat protection" has the meaning prescribed in A.R.S. § 17-296(9).~~
- ~~B. "Sensitive habitat" has the meaning prescribed in A.R.S. § 17-296(2).~~
- ~~C. In addition to complying with the requirements prescribed in R12-4-702, to be considered for an HAPM grant, an eligible applicant shall ensure that the proposed project is designed to:~~
  - ~~1. Preserve and enhance Arizona's natural biological diversity, and~~
  - ~~2. Incorporate at least one of the following elements:~~
    - ~~a. Identification, inventory, acquisition, protection, or management of sensitive habitat, listed by the Department in accordance with subsection (D); or~~
    - ~~b. Inventory, identification, protection, or management of species, listed by the Department in accordance with subsection (D).~~
- ~~D. In accordance with biological, conservation, and management status changes, the Department shall publish each year a list of sensitive habitat and species for the use of HAPM grant applicants.~~

**~~R12-4-712: R12-4-708.Reporting and Record Recordkeeping Requirements~~**

- ~~A. A participant shall submit project status reports to the Department covering activities for the project period within 30 days following the mid-year reporting period (ending June 30) and the end-of-the-year reporting period (ending December 31);~~

Notices of Final Rulemaking

~~unless otherwise specified in the Grant-in-Aid Participant Agreement, including the Special Conditions attachment. The exact timing of the submission of reports to the Department will be as specified in the Grant-in-Aid Participant Grant Agreement and the Special Conditions attachment. A participant shall include a separate section in each report covering all of The project status report shall include the following subjects information, as applicable:~~

- ~~1. Progress in completing approved work;~~
- ~~2. Itemized, cumulative project expenditures;~~
- ~~3. A financial accounting of:
  - ~~a. Heritage Grant Funds,~~
  - ~~b. Matching funds,~~
  - ~~c. Donations, and~~
  - ~~d. Income derived from project funds;~~~~
- ~~3.4. Anticipated Any delays and or problems preventing that may prevent the on-time completion of the project; and~~
- ~~5. Any other information required by the Department.~~

- ~~B. A participant shall account for income or interest derived from project funds in the participant's report.~~
- ~~C.B. After a project is completed At the end of the project period and for each year until the end of the term of public use, a participant shall:~~
- ~~1. certify Certify compliance with the Grant-in-Aid Participant Grant Agreement, and shall~~
  - ~~2. complete Complete a post-completion report form furnished by the Department.~~
- ~~C. A participant shall submit project status reports, as required in the grant materials. If a participant fails to submit a project status report, the Department may not release any remaining grant monies until the participant has submitted all past due project status reports.~~
- D. Each participant shall retain and shall contractually require each subcontractor to retain all books, accounts, reports, files, and any other records relating to the acquisition and performance of the contract for a period of five years ~~after the completion of the contract from the end date of the project period.~~ The Department may inspect and audit participant and subcontractor records ~~at any time during the contract period or within five years after the completion of the contract upon reasonable notice as prescribed under A.R.S. § 35-214.~~ Upon the Department's request, a participant or subcontractor shall produce a legible copy of these records. ~~The participant shall bear full responsibility for acceptable performance by a subcontractor under each subcontract. The participant may substitute electronic copies in place of the original records after project costs have been verified.~~

- R12-4-709. Renumbered
- R12-4-710. Renumbered
- R12-4-711. Renumbered
- R12-4-712. Renumbered

ARTICLE 9. ARIZONA WILDLIFE CONSERVATION FUND GRANTS

R12-4-901. Definitions

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

- ~~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;~~
  - ~~1. school School, but not an entire school district; an individual~~
  - ~~2. field Field office or project office, but not an entire agency; or an individual~~
  - ~~3. administrative Administrative department, but not an entire city government.~~
- ~~2. "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 applicable requirements of this Article and does not obtained an have an Arizona Wildlife Conservation Fund Grant in extension of the project period as authorized under R12-4-905(6) R12-4-905(B).~~
- ~~7. "Facilities" means capital any structure or site improvements.~~
- ~~8. "Fund" means the Arizona Wildlife Conservation Fund, established by under A.R.S. § 17-299.~~
- ~~9. "Grant Agreement" means the document that memorializes details the terms and conditions of a grant project that are binding on the participant and the Department Commission.~~

Notices of Final Rulemaking

10. "Grant effective date" means the date the Department Director of the ~~Department~~ signs the grant agreement Grant Agreement.
11. "Participant" means an eligible applicant ~~that~~ who has been awarded a grant from the ~~fund~~ Arizona Wildlife Conservation Fund Grant.
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~~ complete 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 sub-unit 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.~~  
"Term of public use" means the time period during which the project or facility is expected to be maintained for public use.

**R12-4-902. General Provisions**

- ~~A.~~ The Department shall receive grant applications An applicant shall submit to the Department an Arizona Wildlife Conservation Fund grant application according to a schedule of due dates determined by the Director. ~~The Director shall ensure that the schedule complies with as prescribed under A.R.S. Title 41, Chapter 24, Article 1. The~~ In compliance with A.R.S. § 41-2702, the Department shall provide:
  1. Provide public notice of the time, location, and due date for application submission. ~~After providing public notice, the Department shall furnish; and~~
  2. 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 An eligible applicant may apply for a grant from the ~~fund in accordance with Arizona Wildlife Conservation Fund as prescribed under 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 agreement.
- ~~D.~~ C. 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 notify an applicant in writing of the results of the applicant's submission and announce Arizona Wildlife Conservation Fund Grant awards at a regularly scheduled open meeting of the Commission.
- ~~D.~~ The Department shall distribute awarded Arizona Wildlife Conservation Fund Grant funds at its sole discretion, dependent on the proposed project scope of work. The Department may perform inspections and reviews before releasing final payment.
- ~~E.~~ A participant shall not begin a project described in an application until after the grant effective date.
- ~~E.~~ A participant shall complete the project as specified under the terms and conditions of the Grant Agreement.
- ~~E.G.~~ 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. An applicant shall demonstrate ownership or control of the project. Ownership or control may be demonstrated through fee title, lease, easement, or agreement. For all other project types related to sites not controlled by an applicant, an applicant shall provide written permission from the property owner authorizing the project activities and access. To be eligible for an Arizona Wildlife Conservation Fund Grant, the applicant's ownership or control or written permission shall demonstrate:
  1. Permission for access is not revocable at will by the property owner, and
  2. Public access will be granted to the project site for the life of the project, unless the purpose of the project proposal is to limit access.
- ~~F.H.~~ In accordance with A.R.S. § 17-299, a A non-profit participant shall provide evidence of reasonable public access to any land that is wholly or partly purchased with grant monies, unless specified otherwise.
- ~~I.~~ A participant shall deposit transferred Arizona Wildlife Conservation Fund Grant funds in a separate non-interest bearing account, carrying the name and number of the project.
- ~~J.~~ A participant shall use awarded Arizona Wildlife Conservation Fund grant monies solely for the purposes defined under A.R.S. § 17-299, as approved by the Department. The participant shall not exceed the grant allocation unless both parties agree to amend the Grant Agreement.
- ~~K.~~ If applicable, a participant shall operate and maintain grant-assisted project facility improvements, provide reasonable protection of any project improvements, and ensure that public access is maintained as specified in the Grant Agreement.
- ~~G.L.~~ A participant shall operate and maintain pay all costs associated with the operation and maintenance of properties, facili-

**Notices of Final Rulemaking**

ties, equipment, and services, publications and other media funded by a grant for the benefit term of the public as required under A.R.S. § 17-299 and the terms and conditions use as specified in of the grant agreement Grant Agreement.

- ~~H.M.~~ A participant shall provide give public acknowledgment of the Arizona Wildlife Conservation Fund grant assistance for the life term of a project public use. 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 describing the funding sources. The participant may include the cost of the sign signage as part of the project, but shall pay The participant is responsible for maintenance or replacement of the sign through non-grant monies, if necessary as required. For other project types, a the participant shall provide a substantially similar form of Fund acknowledgement include Arizona Wildlife Conservation Fund grant funding acknowledgement on any publicly available or accessible products resulting from the project.
- ~~I.N.~~ A participant shall not use grant monies to replace monies already budgeted for the project. ~~The Department shall review each application to ensure that grant monies for proposed projects will not replace existing monies from another source.~~
- ~~O.~~ A participant shall ensure that 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 determines the participant's appraised value of the real property is not accurate.
- ~~P.~~ If a balance of awarded Arizona Wildlife Conservation Grant funds remain upon completion of approved project elements, the participant may, with Department approval, use those unexpended funds for an additional project consistent with the original scope of work, or surrender those unexpended funds to the Department.
- ~~Q.~~ A participant shall use equipment purchased with Arizona Wildlife Conservation Grant funds in a manner consistent with the purposes of the Grant Agreement and surrender the equipment to the Department upon completion of the project if the equipment has an acquisition cost of more than \$500.
- ~~J.R.~~ 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. A participant is responsible for ensuring compliance with all applicable local, state and federal laws before the release of Arizona Wildlife Conservation Grant Funds and during project implementation.
- ~~K.S.~~ In accordance with A.R.S. Title 41, Chapter 24, an unsuccessful applicant may submit an appeal.
- ~~T.~~ A participant shall bear full responsibility for compliance by subcontractors of the terms and conditions of the Grant Agreement.
- ~~U.~~ The Department may inspect or audit participant and subcontractor records. 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.
- ~~L.V.~~ An applicant that does not A participant who fails to comply with the terms or conditions of a grant agreement Grant Agreement is not eligible to apply for other grants until the applicant's project is brought into compliance.
- ~~M.W.~~ 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 grants until the project is completed.
- ~~N.X.~~ If When applicable, an applicant the Department shall comply with A.R.S. Title 41, Chapter 4.2 (~~Historic Preservation~~), and the applicant shall provide evidence to the Department that the applicant has satisfied all the necessary requirements of these statutes established under this rule, including the proposed project's potential impact on historical and archaeological properties and resources.

**~~R12-4-904~~R12-4-903. Grant Applications Application**

- ~~A.~~ To be eligible considered for a an Arizona Wildlife Conservation Fund grant, an eligible applicant shall submit a grant application in accordance with the schedule described in R12-4-902 as established under this Article and in compliance with the Arizona Wildlife Conservation Fund Grant application materials.
- ~~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.B.~~ An applicant shall provide the following information on the Arizona Wildlife Conservation Fund grant application form:
  1. The name of the applicant;
  2. The name, title, mailing address, e-mail address, and telephone number of the applicant's representative or individual responsible for the day-to-day management of the proposed project;
  3. If subsection (D)(2) does not apply, provide the The name, title, address, and telephone number of the applicant's representative individual who will have the day-to-day responsibility for the proposed project;
  - 4-3. Any county and legislative district where the project will be developed or upon which the project will have a direct impact;
  - 5-4. A descriptive project title;
  - 6-5. The name of the site, primary location, and any other locations of the project;
  - 7-6. A clear and concise description Description of the:
    - a. scope Scope of work and the objective of the proposed project; the nature of the project; the
    - b. methods Methods for achieving the objective; and the

Notices of Final Rulemaking

- c. ~~desired~~ 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. ~~8. 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; and~~
- 9. Any additional supporting information that may be required by the Department.
- ~~E.C.~~ If the applicant is a non-profit organization exempt from federal income taxation under Section 501(c) of the Internal Revenue Code, the applicant shall also submit documentation or other evidence of its exemption.
- ~~F.D.~~ Upon request, an applicant or the applicant's representative shall provide documentation to the Department of the representative's authority to sign an application and execute a grant agreement Grant Agreement.
- ~~G.~~ 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.~~
- ~~H.E.~~ An applicant shall submit an estimated cost sheet for the scope of work that contains the following information, if applicable:
  - 1. Project The project title, as designated on the application form;
  - 2. ~~If applicable, pre-agreement costs to be used as a match. These costs are only to be applied as matching dollars and not to be considered for funding under the grant;~~
  - 3. ~~If applicable, all estimated costs for the scope of work, including an itemized list of work projects with a separate description of the costs of work that are necessary to achieve the desired result, the costs of secondary activities, and the total cost.~~
  - 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.
- ~~I.~~ ~~As part of the application process, an applicant shall answer all questions relevant to the grant and to the Arizona Wildlife Conservation Fund prioritization.~~

**R12-4-903. R12-4-904. Review of Proposals**

- A. Grant proposals are competitive and the Department shall recommend 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; as approved by the Commission, and~~ 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~~ may require an applicant to modify the application prior to awarding an Arizona Wildlife Conservation Fund grant, if the Department determines that ~~substantive changes are~~ the modification is necessary for the successful completion of the project. In these cases, the applicant shall provide the information requested within 10 working days from the date on the notification provided by the Department.

**R12-4-905. Grant Agreements Agreement**

~~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 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~~

Notices of Final Rulemaking

~~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 parties agree, the Department and the participant may amend the grant agreement. During the project period, the participant may submit a written request and justification to amend the agreement.~~
- ~~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 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.~~

**A.** Before the Department transfers any funds, the applicant shall sign the Grant Agreement.

**B.** A participant may request an extension beyond the approved project period by writing to the Department. Requests for an extension shall be submitted by the participant no later than 30 days before the end of the project period. If approved, an extension shall be signed by both the participant and the Department.

**C.** Notwithstanding subsection (B), the Department may extend the project period for good cause such as, but not limited to, inclement weather or internal personnel changes.

**D.** The Department and the participant may amend the Grant Agreement during the project period. A participant seeking to amend the Grant Agreement shall submit a written request that includes justification to amend the Grant Agreement. The Department shall prepare any approved amendment in writing and both the Department and the participant shall sign the amendment.

**E.** If a participant is in default of the Grant Agreement, the Department may:

**1.** Terminate the Grant Agreement,

**2.** Seek recovery of grant monies awarded, and

**3.** Classify the participant as ineligible for Arizona Wildlife Conservation Fund Grants for a period of up to five years.

**F.** The Department, at its sole discretion, has the authority to include additional conditions in the Grant Agreement prior to signing the Agreement and through Amendment.

**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 as specified in the grant agreement Grant Agreement. The ~~participant project status report~~ shall include ~~in the biannual report~~ the following, when applicable:

Notices of Final Rulemaking

1. Progress ~~towards~~ in completing approved work;
  2. ~~An itemized~~ Itemized, cumulative project ~~expenditure sheet~~ expenditures;
  3. A financial accounting of:
    - a. Arizona Wildlife Conservation Fund Grants;
    - b. Matching funds;
    - c. Donations; and
    - d. Income derived from project funds;
  - ~~3.4.~~ Any ~~anticipated~~ delays or problems that may prevent the on-time completion of the project; and
  - ~~4.5.~~ Any ~~additional information from the participant that the Department has the authority to request in accordance with the grant agreement~~ other information required by the Department.
- B.** Each participant shall retain and shall 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~~ from the end date of the project period. The Department may inspect and audit participant and subcontractor records as prescribed under A.R.S. § 35-214. Upon the Department's request, a participant or subcontractor shall produce a legible copy of these records.
- C.** At the end of the project period and for each year until the end of the term of public use, a participant shall:
  1. Certify compliance with the Grant Agreement; and
  2. Complete a post-completion report form, furnished by the Department.
- D.** A participant shall submit project status reports, as required under this subsection. If a participant fails to submit a project status report, the Department may not release any remaining grant monies until the participant has submitted all past due project status reports.