ARIZONA GAME AND FISH COMMISSION

2019 FIVE-YEAR REVIEW REPORT

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

Prepared for the
Governor's Regulatory Review Council

12 A.A.C. 4, ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

2017 FIVE-YEAR REVIEW REPORT

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REPORT: ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

Under A.R.S. § 41-1056, every agency shall review its rules at least once every five years to determine whether any rule should be amended or repealed. Each agency shall prepare a report summarizing its findings, its supporting reasons, any proposed course of action, and obtain approval of the report from the Governor's Regulatory Review Council (G.R.R.C.).

G.R.R.C. determines the review schedule. The Arizona Game and Fish Commission's rules listed under Article 1, Definitions and General Provisions, are scheduled to be reviewed by April 2019.

The Arizona Game and Fish Department (Department) tasked a team of employees to review the rules contained within Article 1. The Department prepared a report of its findings based on G.R.R.C. standards. In its report, the review team addressed all internal comments from agency staff as well as comments received from the public. The team took a customer-focused approach, considering each comment from a resource perspective and determining whether the request would cause undue harm to the state's wildlife or negatively affect the Department's wildlife objectives. The review team then determined whether the request was consistent with the Department's overall mission, if it could be effectively implemented given agency resources, and if it was acceptable to the public.

The Department anticipates requesting an exception to the rulemaking moratorium by April 2019 and submitting the Notice of Final Rulemaking for actions proposed in this report to the Council by July 2020, provided the current moratorium is not extended or the Commission is granted permission to pursue rulemaking.

With this report, the Department also certifies its compliance with the requirements of A.R.S. § 41-1091:

1. The Department publishes an annual directory summarizing the subject matter of all currently applicable rules and substantive policy statements;
2. The Department maintains a copy of the directory and all substantive policy statements at the Arizona Game and Fish Department Headquarters, 5000 W. Carefree Highway, Phoenix, AZ 85086;
3. The Department includes the notice specified under A.R.S. § 41-1091(B) on the first page of each substantive policy statement; and
4. The Department provides the directory, rules, substantive policy statements, and any other material incorporated by reference in the directory, rules or substantive policy statements. These documents are open to public inspection at the Department Headquarters, 5000 W. Carefree Highway, Phoenix, AZ 85086.

R12-4-101. DEFINITIONS

1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules.

Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. § 17-231(A)(1)

2. Objective of the rule, including the purpose for the existence of the rule.

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

3. Effectiveness of the rule in achieving its objective, including a summary of any available data supporting the conclusion reached.

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. The Department believes this data indicates the rule is effective.

The Department proposes to amend the rule to define terms used in multiple Game and Fish Commission rules and Commission Orders: "bow," "crossbow," and "handgun." Defining these terms will aid in facilitating a consistent interpretation of Commission Orders and rules.

4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency.

Overall, the rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

Because the terms "cervid," "nonprofit organization," and "person" are used in multiple Game and Fish Commission rules, the Department proposes to amend the rule to define these terms under R12-4-101.

The Department proposes to define "Arizona Hunter Education Certification" and "Hunter Education Certification" to reflect amendments proposed to R12-4-107 (bonus point system) and increase consistency between Commission rules.

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

5. Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement.

The Department enforces this rule through proper administration. The rule is currently being enforced as written. Providing definitions for the unique terms used within Commission rules assists the public, Department personnel, and members of law enforcement in understanding the content and intent of Commission rules.

6. Clarity, conciseness, and understandability of the rule.

The rule is clear, concise, and understandable. The rule is logically organized and generally written in the active voice so it will be understood by the general public.

The terms "import" and "export" typically mean something is being brought into or taken out of the country, respectively. For the purposes of Game and Fish Commission rules, "import" and "export" mean something is being brought into or taken out of the State. The Department proposes to amend the rule to define "export" and "import" to reduce regulatory ambiguity. These changes are proposed as a result of customer comments received by the Department.

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

The Department proposes to amend the rule to replace references to "buffalo" with "bison" to reflect terminology used by the scientific community.

7. Summary of any written criticism of the rule received by the agency within the five years immediately preceding the five-year review report.

The Department received the following written criticism of the rule:

Written Comment: August 11, 2013. Has the Department defined "edible portions of game meat" and

"waste"? I cannot locate a definition for either anywhere in the regulations. Also, if the Department has not already defined these terms, please do so in order to inform hunters, Department officers, and court personnel of what is meant? Wyoming seems to have very useful definitions for these two terms that could be considered for adoption within Arizona.

Agency Response: A.R.S. 17-340(A)(7) defines edible portions of game meat; however, this definition does not address edible portions of mountain lion or bear. The Commission is pursuing rulemaking to amend R12-4-301 to define "edible portions of game meat" as part of the Article 3. Taking and Handling of Wildlife rulemaking: "Edible portions of game meat" means, for: Upland game birds, migratory game birds and wild turkey: breast. Bear, bighorn sheep, bison, deer, elk, javelina, mountain lion, and pronghorn antelope: front quarters, hind quarters, loins (backstraps), neck meat, and tenderloins. Game fish: fillets of the fish. Most dictionaries define “waste” as "to fail or neglect to use." The Department believes the common definition of the term "waste" is sufficient.

8. **A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.**

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on November 3, 2015. The rule was amended to clarify the Commission's interpretation of "day-long;" define "person," "proof of purchase," "adult bull buffalo," "adult cow buffalo, "rooster," and "yearling buffalo;" and remove the text, "excluding male lambs." The Commission anticipated persons regulated by the rule and the Department would benefit from the rulemaking that creates or refines terms referenced throughout Commission rules as they help to clarify the Commission's intent and foster consistent interpretation of Commission rules.

9. **Any analysis submitted to the agency by another person regarding the rule’s impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.**

The Department did not receive any analyses.

10. **If applicable, how the agency completed the course of action indicated in the agency’s previous five-year review report.**

The report was approved by G.R.R.C. at the April 1, 2014 Council Meeting, which stated the Department

anticipated submitting the final rules to the Council by June 2016. The Department completed the course of action indicated in the previous five-year review report as follows:

- Notice of Rulemaking Docket Opening: 21 A.A.R. 1409, July 10, 2015.
- Notice of Proposed Rulemaking: 21 A.A.R. 1001, July 10, 2015.
- Public Comment Period: July 10, 2015 through August 10, 2015.
- G.R.R.C. approved the Notice of Final Rulemaking at the November 3, 2015 Council Meeting.
- Notice of Final Rulemaking: 19 A.A.R. 3025, December 4, 2015.

11. A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.

The public benefits from a rule that defines terms referenced throughout Commission rules as they help to clarify the Commission's intent and foster consistent interpretation of Commission rules. Providing definitions for the unique terms used within Commission rules assists the public, Department personnel, and members of law enforcement in understanding the content and intent of Commission rules. The public and Department benefit from a rule that is understandable. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

12. A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

13. For a rule adopted after July 29, 2010, that requires the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037.

The rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

The Department proposes to amend R12-4-101 as follows:

- Define "Arizona Hunter Education Certification" and "Hunter Education Certification" to reflect amendments proposed to R12-4-107 (bonus point system) and increase consistency between Commission rules.
- Define terms used in multiple Game and Fish Commission rules and Commission Orders: "bow," "cervid," "crossbow," "export," "handgun," "import," "nonprofit organization," and "person" to clarify the Commission's intent and foster consistent interpretation of Commission rules. These changes are proposed as a result of customer comments received by the Department.
- Replace references to "animal" with "wildlife" to make the rule more concise.
- Replace references to "antelope" with "pronghorn antelope" to reflect language used in Commission Order and public outreach materials.
- Replace references to "buffalo" with "bison" to reflect terminology used by the scientific community.

The Department anticipates submitting the Notice of Final Rulemaking to the Council by July 2020, provided the current moratorium is not extended or the Commission is granted permission to pursue rulemaking.

R12-4-102. LICENSE, PERMIT, STAMP, AND TAG FEES

1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules.

Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. §§ A.R.S. §§ 17-102, 17-333, 17-335.01, 17-342, 17-345, and 41-1005

2. Objective of the rule, including the purpose for the existence of the rule.

The objective of the rule is to prescribe fees for licenses, tags, stamps, and permits within statutory confines to meet Department operating expenditures and wildlife conservation. The rule was adopted to provide the persons regulated by the rule with a comprehensive listing of license, permit, stamp, and tag fees and to ensure consistency between the fees collected by the Department and license dealers.

3. Effectiveness of the rule in achieving its objective, including a summary of any available data supporting the conclusion reached.

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. The Department believes this data indicates the rule is effective.

4. **Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency.**

The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

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

5. **Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement.**

The rule is enforced as written and the Department is not aware of any problems with the enforcement of the rule.

6. **Clarity, conciseness, and understandability of the rule.**

The rule is clear, concise, and understandable. The rule is logically organized and generally written in the active voice so it will be understood by the general public.

The Department proposes to amend the rule to replace references to "buffalo" with "bison" to reflect terminology used by the scientific community.

7. **Summary of any written criticism of the rule received by the agency within the five years immediately preceding the five-year review report.**

The Department received the following written criticism(s) of the rule:

Written Comment: June 12, 2013. I would like the Department to institute a pricing plan for seniors. This would include a prorated fee, provided the Department maintains the January through December licenses. For example, it is mid-June and I would like to buy a fishing license, but do not want to pay the full fee for half the benefits. I cannot afford to buy a fishing license and the annual Tonto parking pass in January.

Agency Response: License, permit, stamp, and tag fees are set, through the Commission, utilizing a public process. The current fee structure serves the best interest of the public and the Department for preserving and protecting Arizona's wildlife. In 2014, the rules were amended to offer licenses that are valid for one-year from

the date of purchase. Previously, most licenses were valid for the calendar year (January 1 through December 31), which gave the perception that the license had less value when purchased later in the year. The Department and Commission are currently reviewing requests such as yours and contemplating the best way to offer benefits to seniors and maintain the critical funding necessary to properly manage the state's wildlife. The Commission will again seek public input before making any change to the current license structure or fees. It is important to note, sportsmen are the nation's oldest conservationists and provide more direct support for wildlife than any other group. The purchase of a license is the cornerstone of the user pay public benefit model, not only providing direct revenue for conservation but factoring in to other constructs such as the apportionment of Wildlife and Sportfish Restoration dollars to the states.

Written Comment: October 8, 2014. I previously lived in Oregon where a resident with five or more years of residency and over the age of 70 was eligible to purchase a combination hunting and fishing license for one-half the usual cost. I would like to see the Arizona Game and Fish Department offer a reduced license or complimentary license to eligible persons who meet the criteria I described above.

Agency Response: License, permit, stamp, and tag fees are set, through the Commission, utilizing a public process. The Department offers a variety of inexpensive fishing opportunities: a one-day fishing license, a group license, fishing clinics, and Free Fishing Days. These are all no cost or low cost opportunities for persons to fish in Arizona. When the new license structure was established, the Commission also increased the value of the fishing license. For example, the resident general fishing license includes trout, two-pole, community fishing privileges and Colorado River privileges for a $37 fee. Previously, a resident had to purchase all of these additional privileges separately for a combined total cost of $69.75 (class A fishing license $23.50, Urban fishing license $18.50, trout stamp $15.75, two-pole stamp $6, and Arizona/California and Arizona/Nevada Colorado River stamps $6). The Department and Commission are currently reviewing requests such as yours and contemplating the best way to offer benefits to seniors and maintain the critical funding necessary to properly manage the state's wildlife. The Commission will again seek public input before making any change to the current license structure or fees. It is important to note, sportsmen are the nation's oldest conservationists and provide more direct support for wildlife than any other group. The purchase of a license is the cornerstone of the user pay public benefit model, not only providing direct revenue for conservation but factoring in to other constructs such as the apportionment of Wildlife and Sportfish Restoration dollars to the states.

Written Comment: October 9, 2014. Since crayfish are an invasive species, I suggest the Department remove the fishing license requirement or offer a low cost option for harvesting them. I would love to help out with this but the fishing license is too expensive. Can you help?

Agency Response: License, permit, stamp, and tag fees are set, through the Commission, utilizing a public process. When the new license structure was established, the Commission also increased the value of the fishing

license. For example, the resident general fishing license includes trout, two-pole, community fishing privileges and Colorado River privileges for a $37 fee. Previously, a resident had to purchase all of these additional privileges separately for a combined total cost of $69.75 (class A fishing license $23.50, Urban fishing license $18.50, trout stamp $15.75, two-pole stamp $6, and Arizona/California and Arizona/Nevada Colorado River stamps $6). When you consider crayfish sell for an average of $5 per pound, the ability to catch them year-round for only $37 is a great value. It is important to note, sportsmen are the nation's oldest conservationists and provide more direct support for wildlife than any other group. The purchase of a license is the cornerstone of the user pay public benefit model, not only providing direct revenue for conservation but factoring in to other constructs such as the apportionment of Wildlife and Sportfish Restoration dollars to the states.

Written Comment: January 8, 2015. Tag fees keep increasing each year, while I understand this is needed to keep the Department funded; the increase is starting to price out lower waged workers who do not have the extra funds to afford to hunt. While this does not apply to me, I know people who cannot afford to hunt because of the cost of the tags. Licenses should run calendar year, not from date of purchase year. Increase predator hunting awareness and offer bounties for specific species in areas where predators are a large problem. Increase black powder hunting opportunities, I have watched the numbers of available permits decrease each year for hunting black powder to the point where it’s almost not worth owning a black powder anymore. Even offering a ten % increase in black powder hunts and taking that ten % from the other hunts would greatly increase black powder hunting opportunities. Due to very high demand for Kaibab deer hunts, when someone has a successful draw for Kaibab or the Strip they should be excluded from putting in for five to seven years. I know someone who has put in for the past nine years and been drawn three times, while others have put in for over 20 years and never been drawn. Require Hunter Education for all hunters going into Kaibab. Wolves do not need to be here, none the less managed by the federal government. If they are in Arizona, they need to be managed by the Department not the federal government.

Agency Response: The fee increase in 2014 was the first increase since 2007; and when those fees were established, the Commission made a commitment to sportsmen not to raise fees again for five years. The Commission exceeded that commitment despite having to navigate the challenges posed by the economic downturn and increasing costs. License, permit, stamp, and tag fees are set, through the Commission, utilizing a public process. In 2014, the rules were amended to offer licenses that are valid for one-year from the date of purchase. Previously, most licenses were valid for the calendar year (January 1 through December 31), which gave the perception that the license had less value when purchased later in the year. This change was made as a result of customer comments received by the Department. It is important to note, sportsmen are the nation's oldest conservationists and provide more direct support for wildlife than any other group. The purchase of a license is the cornerstone of the user pay public benefit model, not only providing direct revenue for conservation but factoring in to other constructs such as the apportionment of Wildlife and Sportfish Restoration dollars to the states. The Department conducts public outreach (awareness campaigns) regarding all

game animals that may be lawfully taken on an almost daily basis throughout the entire state. The Commission does not have the authority or desire to offer bounties for any game animal. Department biologists and Regional offices responsible for the management of a specific unit submit data concerning wildlife and wildlife habitat to the Department's Terrestrial Wildlife Program. The Terrestrial Wildlife Program then uses this data to formulate hunting seasons, which are included in the hunt recommendations provided to the Commission. Commission Orders establishing hunt structures are based on hunt recommendations resulting from an extensive public process. Your comment regarding muzzleloading hunts (black powder) was forwarded to the Department's Terrestrial Wildlife Branch for consideration during the next hunt guidelines review process. In 2014, the Department evaluated waiting periods (one, eight, and ten year) and determined that, except for youth hunts, implementing a wait period resulted in a projected increase in draw odds of .26 % (elk) to 6.3 % (late season deer) per applicant. The Commission determined implementing a waiting period would not be beneficial to persons who hunt in Arizona. Arizona has one of the lowest hunting accident rates in the country. The Department proactively encourages hunter education by requiring young hunters to complete a hunter education course and by providing a bonus point for adult hunters who complete the course. The Department believes the current mechanisms in place to encourage the completion of Arizona hunter education courses are sufficient and appropriate to maintain hunting safety in the field. The purpose of the Endangered Species Act (ESA) is to protect and recover imperiled species and the ecosystems upon which they depend. The Mexican Gray wolf is listed as endangered on the ESA Threatened and Endangered Species List; "endangered" means a species is in danger of extinction throughout all or a significant portion of its range. Under 16 U.S.C. § 1531 et seq., the U.S. Fish and Wildlife Service is responsible for administering the ESA as it applies to terrestrial wildlife. The Department is involved in the wolf recovery program to ensure federal agencies coordinate their activities with the Department, which ensures the best management outcome possible for all of Arizona's wildlife.

Written Comment: February 5, 2015. We are headed to Arizona for a few weeks this month and I thought I might fish for a few days. I checked online to purchase a nonresident short-term fishing license. It was too expensive and not competitive with all other western states; $20 per day is too much. Short term licenses in most surrounding states are one half to two thirds the cost for the first day and then a minimal charge for the second and third day. I will not fish in Arizona and Arizona will miss out on my license fee and what I would spent on bait, lures, flies, boat rentals, etc.

Agency Response: License, permit, stamp, and tag fees are set, through the Commission, utilizing a public process. Previously, the Department offered a nonresident one-day fishing license for $17.25, a five-day nonresident fishing license for $32, and a four-month nonresident fishing license for $39.75, all of which included the trout stamp. In 2014, the nonresident short term license structure was simplified to one nonresident combination fishing and hunting license for $20 per day to make the system simpler, easier to understand, and more user friendly. While the cost of the daily license was increased by $2.75, the value of the license was enhanced by including two-pole, community, and Colorado River fishing privileges and small game, fur-

bearing animal, predatory animal, nongame animal, and upland game bird hunting privileges. Previously, a nonresident had to purchase all of these additional privileges separately for a combined total cost of $109 (class D fishing license $17.25, Urban fishing license $18.50, two-pole stamp $6, Arizona/California and Arizona/Nevada Colorado River stamps $6, and nonresident three-day hunting license $61.25). The idea behind offering a single-day combination license is to encourage persons to hunt ***and*** fish in Arizona; with a combination license, a person visiting Arizona for the purpose of participating in the Yuma Dove Hunt may also enjoy spending an afternoon at a local fishing spot. It is important to note, sportsmen are the nation's oldest conservationists and provide more direct support for wildlife than any other group. The purchase of a license is the cornerstone of the user pay public benefit model, not only providing direct revenue for conservation but factoring in to other constructs such as the apportionment of Wildlife and Sportfish Restoration dollars to the states.

Written Comment: January 5, 2016. I am concerned about the increase in the lion population. Over the past three years, I have noted a significant rise in the lion population. While the Department's deer management reports notes deer population levels remain somewhat the same year after year, I cannot help but wonder why a substantial increase in mule deer numbers would have an adverse effect on Arizona's economy, wildlife habitat, or water consumption. An increase in deer numbers would allow more nonresidents an opportunity to hunt, increasing the Arizona's revenue from additional permits sold. Nonresidents pay higher fees for the opportunity to hunt in Arizona. Each year, a few lions are harvested north of the Colorado River and I would suggest they were harvested by bordering nonresidents. Who does the control of predators benefit the most? A resident who has a 90 % chance to draw a deer tag or a nonresident with a 10 % chance? Travel time, economic consideration, and a lack of knowledge may be the reasons residents do not take advantage of the recreational opportunity placed before them, it's only a $15 tag fee to hunt a lion. Arizona needs to encourage more nonresident recreational participation to hopefully keep the lion population from increasing. I suggest the Department reduce the nonresident lion fee to $15 (same amount residents pay). Arizona could also benefit from an increase in the nonresident class G licenses being sold, which would make up for the loss in revenue due to the lack of nonresidents hunting in Arizona. A fee reduction may also result in more nonresident mule deer draw permits, adding an additional $15 for each application requested. Consider how many nonresidents live within twenty miles of the Utah/Arizona border.

Agency Response: License, permit, stamp, and tag fees are set, through the Commission, utilizing a public process. In 2014, the Department reduced the nonresident combination license to $160 (from $225) and the mountain lion tag to $75 (from $225). The Commission believed the fee reductions would encourage nonresidents, especially those closest to the Arizona border, to take advantage of the great recreational opportunities available in Arizona. The Commission also amended the nonresident license structure to only offer a nonresident combination license. For only $160, a nonresident can fish in all water bodies and hunt small game, fur-bearing animals, predatory animals, nongame animals, and upland game birds. For $75 more, the

nonresident can purchase a mountain lion tag and still pay $215 less for that experience than they would have in 2013. Although nonresident fees are higher than resident fees, the Commission holds that it is in its best interest of the State to maintain opportunities for the resident community not only to generate revenue, but to instill a sense of ownership in the local wildlife resource and to maintain consistently available participation in the management of that resource. It is important to note, sportsmen are the nation's oldest conservationists and provide more direct support for wildlife than any other group. The purchase of a license is the cornerstone of the user pay public benefit model, not only providing direct revenue for conservation but factoring in to other constructs such as the apportionment of Wildlife and Sportfish Restoration dollars to the states.

Written Comment: February 15, 2017: I have a 26 year old developmentally delayed daughter that "loves" to fish. Well, once we get to the lake her love of fishing is over in about 30 minutes. It gets very expensive indulging in a license for her "very limited" time of having her pole in the water. Consider a free or reduced rate for these "special" individuals can enjoy this outdoor activity.

Agency Response: License, permit, stamp, and tag fees are set, through the Commission, utilizing a public process. The Department offers a variety of inexpensive fishing opportunities throughout the year: a one-day fishing license, a group license, fishing clinics, and Free Fishing Days. These are all no cost or low cost opportunities for persons to fish in Arizona. Still, a resident fishing license that is valid for one-year and includes trout, simultaneous fishing, community fishing, and Colorado River privileges for a $37 fee is an incredible value when you consider the average cost for one night at the movies for only one person is $18 (ticket $8, drink $4, and popcorn $6). The Department and Commission are currently reviewing requests such as yours and contemplating the best way to offer benefits to persons with disabilities and maintain the critical funding necessary to properly manage the state's wildlife. The Commission will again seek public input before making any change to the current license structure or fees. It is important to note, sportsmen are the nation's oldest conservationists and provide more direct support for wildlife than any other group. The purchase of a license is the cornerstone of the user pay public benefit model, not only providing direct revenue for conservation but factoring in to other constructs such as the apportionment of Wildlife and Sportfish Restoration dollars to the states.

Written Criticism: August 3, 2018. The one negative aspect of the free Pioneer License is that the licensee must have been a resident of Arizona for 25 years. Most states have a provision for a senior license with no prescribed term of residency. In Kentucky, a person who is 65 can get a combination hunting and fishing license for only five dollars. In view of the fact that Arizona is reimbursed by the federal government for each license sold, and considering that many retirees moving to Arizona may want to fish but are unable to pay for the license as currently priced, I suggest Arizona establish a low-cost senior fishing license. I think many more licenses would be sold if seniors found the price more affordable and the community fishing program would be extensively utilized because many retirees have access to the municipal locations of these ponds. Retirees come

from all over the nation and many of them would love to take their grandchildren fishing if they could obtain a low-cost license. I see no good reason a person over 70 years of age, such as myself, having retired in Arizona, being an avid fisherman and supporter of the Department in all its endeavors, should not be able to afford access to our magnificent fishing opportunities because of the cost of a necessary license. Perhaps a fee of five or ten dollars would be sufficient. I am certain many more licenses would be sold, adding to the revenue for the Department. Our seniors deserve a break even if they have not lived in Arizona for 25 years, as other states have recognized.

Agency Response: The requirements for the complimentary pioneer license are prescribed under A.R.S. § 17-333(C)(1) effective August 3, 2018, which states an eligible applicant is a person seventy years of age or older. A legislative amendment is required before the Department may change the age requirement referenced in the rule. The Department and Commission are currently reviewing requests such as yours and contemplating the best way to offer benefits to seniors while maintaining the critical funding necessary to properly manage the state's wildlife. The Commission will again seek public input before making any change to the current license structure or fees. It is important to note, sportsmen are the nation's oldest conservationists and provide more direct support for wildlife than any other group. The purchase of a license is the cornerstone of the user pay public benefit model, not only providing direct revenue for conservation but factoring in to other constructs such as the apportionment of Wildlife and Sportfish Restoration dollars to the states.

The following comments pertain to the Notice of Exempt Final Rulemaking, see 19 A.A.R. 3225, October 18, 2013:

Written Comment: July 7, 2013. The only thing the Department is accomplishing is charging more. I am not impressed with any of the changes.

Written Comment: July 14, 2013. I am an avid outdoorsman and have hunted and fished in Arizona my entire life. I have seven children and all of my kids like to hunt and fish. However, the cost to apply for licenses and tags are going up so much that I do not think I will be able to hunt in this state much longer. Nor will I be able to keep my kids (the future for wildlife) involved in hunting and fishing. Please consider other methods and keep the costs for hunting down. Maybe the Department could not buy and drive brand new vehicles as often as it does? If I can drive a vehicle that is a little older, why can't the Department? There has to be a way the Department can get more money to support wildlife without constantly making hunters pay more.

Written Comment: July 25, 2013. I think the longtime residents who have paid their dues deserve more consideration when it comes to tags and fees over someone who has been here only six months or is a nonresident with a lot of money. Being on disability and with a fixed income I am afraid I will not be able to hunt the "king's deer" any more.

Written Comment: August 1, 2013. I have suffered through an anemic economy for the past six to seven years. I am not pleased to see the potential fee increases considering how my personal livelihood has suffered. Before the Department considers any type of increase, it should do its best to “tighten the belt,” just as I have had to do these past years. As an alternative, I would like to suggest increases to nonresident fees as a way of covering any necessary increases to the Department's budget.

Written Comment: August 1, 2013. As a more than ten year resident of Arizona and an avid outdoorsman, I think the proposed changes are solid. The simplification makes sense, not only from the business perspective, but it makes it much simpler for Wildlife Manager who will no longer have to concern themselves with the multiple, optional fishing stamps and licenses. I am thankful the Department removed the proposed premium fee structure for elk tags from the rulemaking. I also appreciate the Department's efforts to keep me informed in an easily accessible manner and for listening to our thoughts and opinions. I look forward to seeing the final implementation of the proposed changes.

Written Comment: August 1, 2013. I oppose using the application fee as a revenue stream. The Department has other funds that can be used to secure hunter access and habitat enhancement. A $10 application fee is acceptable, provided it costs that much to process an application. Habitat enhancement should be paid for by the permit tag fee for each species and by successful applicants. The deer, elk, and turkey permit increases are too high and I oppose them as proposed. I could support an overall ten % increase for all permits, rounded up to the nearest whole number to make it easy. The short-term combination hunting and fishing license is too high. I have taken visitors to buy a license and they say the fee is too high and they would rather watch than hunt or fish. A short-term license should be like a "trial license," - cheap. Then, if quality hunting and fishing opportunities are available, they will return as paying customers. The resident short-term license should be $5 and the nonresident $10. The White Mountain Apache Tribal reservation one-day license is only $9 and we are all nonresidents to them. Our state should run like a business and be competitive.

Written Comment: August 1, 2013. Why do I have the feeling that I will soon be priced out of my ability to hunt in Arizona? **Follow-up Comment: August 9, 2013.** My income has not gone up in eight years; how about rolling the fees back to the 2006 prices?

Written Comment: August 2, 2013. I can barely afford a combination hunting and fishing license. If the Department keeps raising the costs, hunting in Arizona will be only for those who have money. The Department needs to keep the playing field as even as possible to ensure that all persons will have a chance at fair chase. It is already hard enough to compete with the hunters who have optics worth thousands, ATVs, or side by sides. Give the working man a break so I do not have to save for five years to hunt for one-year. **Follow-up Comment: August 6, 2013.** All of that is well and wonderful, but the bottom line is the across the board fee

increases to tags surpass any potential savings provided by the combination hunting and fishing license. I guess big game animals will only be available to the people with money, leaving the small game to us poor folks. I hoped the Department would move forward in the years to come and make concessions for all. These increases will only promote poaching and other illegal activity in the field, which will only raise fees to support more law enforcement. The new headquarters sure are nice. Once you create the monster you have to feed it until it is no longer sustainable and then it dies. **Follow-up Comment: August 9, 2013.** Can the Department tell me what the revenue from the fee increases will be used for and why are the increases necessary?

Written Comment: August 4, 2013. Arizona is a great state; unfortunately, I work and live in California. I visit friends and family every year to hunt archery deer. I have yet to take a deer, but that is okay as I have a great time. Many of the Department's proposals are hunter friendly, but if nonresident deer tags are raised to $300 I will not buy them. The Department states that due to the economy you need to raise prices, I disagree. The economy is harder on the private citizen than the government. I cannot raise my salary whenever I want to. By raising prices, will more hunters be more likely or less likely to return? Not only will the Department lose revenue, but the state will also lose tax revenue generated by gas stations, restaurants, and motels. This can even hurt guides and sporting goods dealers who rely on income generated from out-of-state hunters such as myself. The proposed tag increase has far reaching unintended consequences. I am sure there are many other states that would appreciate my business. I can go out hunting many more times right here in California for $500 and not have to worry about the cost of fuel lodging etc. Do not raise prices it is not productive.

Written Comment: August 9, 2013. I honestly do not have an issue with the new pricing, except that I believe the Department should make nonresident licenses much more difficult and expensive. The Department should take care of Arizonans. The one-year license being valid from the date purchased is not a bad idea at all. The fishing license changes are ridiculous; essentially an angler who does not use the urban lakes and ponds is paying for an urban license. Common sense approaches, not monetary gains, should be the "norm." Please keep the "common" person in mind. Politicians make a bad habit of being so far out of touch with their constituents that their decisions are just jaw dropping. I would be happy to further extrapolate this for the Department, from a computer instead of my phone, and give the Department some facts.

Written Comment: February 14, 2014. I am angry regarding the increase of the cost of an elk tag ($27), deer tag ($15.75) and all other tag rates that were increased. Please explain to me the justification of these extreme increases. The Department states it wants sportsmen to bring in new hunters, yet places financial barriers in the way. The Department is turning what used to be an American and family tradition into a financial burden, for most Arizonans. If one did not know better, it appears the Department is purposely edging the average hunter out of the picture, thereby opening it up for the more affluent customer who can readily afford the cost. Yes, I am angry and I have a right to be. If the Department cannot figure out how to keep the cost of hunting down for the hunter, then it must be placing profit in front of everything else. Hunting is going back to the way it was in

England, when only the rich could hunt on the King's land. Honestly, after looking at the biographies for the Commission panel, it appears most have good retirements coming in and can afford the cost increase as it is more than likely in their personal budget. The Department may say I have no right to judge the Commission members, and I am not, I am simply stating my first impression of the Commission members. I can guarantee I am not the only one who sees it this way. Just remember, the rest of us are not as fortunate as you. We have not gotten to that point in life. Some of us still work two jobs to give our families a little more financial "breathing room." Try thinking about that the next time the Department feels the need to raise tag fees.

Agency Response: The Department simplified its license structure by reducing more than 40 hunting and fishing licenses to just six. This resulted in a license structure that was simpler, easier to understand, and more user friendly. The Department utilized an extensive public process that included approximately 80 meetings (Commission meetings, sportsman's organization meetings, and regional community meetings. The new license structure took effect on January 1, 2014; at that time, tag prices had not increased since 2007. While most tag fees were increased, the fees were still well below the previous statutory cap and well below the rate of inflation. The increase was not about profit, but rather about ensuring the Department can continue doing business. License and tag fee increases had been put off for a long time, but increasing them was necessary as license and tag revenues are a large element of the Department's budget. It is important to note, the Department does not receive general fund appropriations (Arizona tax dollars) and operates only on those funds that the Department raises or generates. Those funds are used to put game wardens in the field to enforce game laws and protect the public, keep our hatcheries in operation to grow sport fish, support research and conduct active on-the-ground wildlife biology (such as big game surveys and management plans) so that big game animals and non-game wildlife persist in healthy numbers across the state, hunter education, community fishing, information and educational activities and so many more of the Department's programs. The Commission and the Department are committed to managing today for wildlife tomorrow. The Department and Commission are currently reviewing requests such as yours and contemplating the best way to offer benefits to those who served and maintain the critical funding necessary to properly manage the state's wildlife. The Commission will again seek public input before making any change to the current license structure or fees. It is important to note, sportsmen are the nation's oldest conservationists and provide more direct support for wildlife than any other group. The purchase of a license is the cornerstone of the user pay public benefit model, not only providing direct revenue for conservation but factoring in to other constructs such as the apportionment of Wildlife and Sportfish Restoration dollars to the states.

8. A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on November 3, 2015. The rule was amended to remove barriers for recruitment of new hunters and anglers due to the simplified the license structure, bundled privileges, and reduced costs for youth licenses. The following licenses and their fees were repealed: resident and nonresident Class A fishing license, nonresident Class B four-month fishing license, nonresident Class C five-day fishing license, resident and nonresident Class D one-day fishing license, nonresident Class E Colorado River-only fishing license, resident and nonresident Class F Combination hunting and fishing license, resident and nonresident Class G hunting license, nonresident Class H three-day hunting license, Class I, J, and K resident family licenses, resident and nonresident Class L Super Conservation fishing license, resident Class M Super Conservation hunting license, resident Class N Combination Super Conservation hunting and fishing license, and Class U Urban fishing license. The following stamps and their fees were repealed: Sikes Act Habitat Management (Unit 12A) stamp, trout stamp, all Colorado River Special Use permits and stamps, Lake Powell stamp, state waterfowl stamp, two-pole stamp, and resident and nonresident additional fishing day stamp. The privileges associated with these stamps and permits were included in the new license structure, as described above, to enhance the value of those items. The rule is amended to combine the State Waterfowl ($8.75) and Migratory Bird stamp ($4.50) privileges and fees into one State Migratory Bird stamp ($5). The rule was amended to establish fees for the new licenses and a $3 surcharge by rule. The surcharge was not a new fee, it was previously authorized under A.R.S. § 17-245 and was rolled into the license fee. The Department applied a common equation to almost all fees based on factors such as value, principles of the North American Model, customer input, and Commission direction. Fees were also rounded to the nearest dollar value. Special license fees were placed under Article 4 Live Wildlife in a new rule, R12-4-412 (special license fees). The rule was amended to increase the application fee to recover resources expended by the Department for the purpose of funding access, habitat conservation, and hunter/angler recruitment/retention projects. The Commission anticipated the rulemaking would generate revenue sufficient to enable the Department to address rising operational expenses, carry out its duties effectively in managing the state's wildlife resources, and provide quality recreational wildlife opportunities and access for the persons regulated by the rule. Although the rulemaking resulted in a 19.1 % increase in revenue, the Department's operational costs and responsibilities have also increased or expanded and the Department continues to make budget adjustments to address rising costs, such as keeping positions vacant and making cuts to program budgets.

At the time of the rulemaking, the Department focused its efforts on analyzing and evaluating hunting and fishing licenses, stamps, and tags with the intent that other licenses would be reviewed at a later date. The Commission directed the Department to develop fees that recover the costs of providing a service now and into the future.

In 2007, the Department increased the duplicate license and tag fee from $3 to $4. According to the U.S. Bureau of Labor Statistics, inflation is expected to pick up moderately with an annual growth rate of 2.8%. In

establishing this fee, the Department conducted a transaction cost analysis, multiplied the cost for that transaction by 28%, and then rounded the sum to the nearest dollar amount. The Department proposes to amend the rule to increase the duplicate fee from $4 to $8, which is in line with fees charged by other Western states. It is important to note, a person who purchased their license online may obtain a duplicate (re-print) of the license by simply accessing the Department's website.

9. Any analysis submitted to the agency by another person regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.

The Department did not receive any analyses.

10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report.

The report was approved by G.R.R.C. at the April 1, 2014 Council Meeting, which stated the Department anticipated submitting the final rules to the Council by June 2016. The Department completed the course of action indicated in the previous five-year review report as follows:

- Notice of Exempt Rulemaking: 19 A.A.R. 3225, October 18, 2013.

11. A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.

The Department receives no appropriations from the general fund and operates primarily with the revenue it generates from the sale of licenses, permits, stamps, and tags. Purchasing a license, permit, tag, or stamp is voluntary and a person who chooses to purchase a license, permit, stamp, or tag will incur those costs associated with that license, permit, stamp, or tag. The public benefits from a rule that provides a comprehensive listing of license, permit, stamp, and tag fees. The public and Department benefit from a rule that is understandable. The Department's customers are a voluntary constituency who determine if, and at what levels, they choose to participate; they are not required to participate and have the ultimate vote with their hard-earned dollars. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

12. A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

13. For a rule adopted after July 29, 2010, that requires the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037.

The rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

The Department proposes to amend R12-4-102 as follows:

- Replace references to "antelope" with "pronghorn antelope" to reflect language used in Commission Order and public outreach materials.
- Replace references to "buffalo" with "bison" to reflect terminology used by the scientific community.
- Increase the duplicate license and tag fee to $8.

The Department anticipates submitting the Notice of Final Rulemaking to the Council by July 2020, provided the current moratorium is not extended or the Commission is granted permission to pursue rulemaking.

R12-4-103. DUPLICATE TAGS AND LICENSES

1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules.

Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. §§ 17-331(A) and 17-332

2. Objective of the rule, including the purpose for the existence of the rule.

The objective of the rule is to establish requirements for the issuance of a duplicate license or tag when the original license or tag was not used and was lost, destroyed, mutilated or is otherwise unusable or was placed on a harvested animal that was subsequently condemned and surrendered to a Department employee. The rule was adopted to ensure consistency between the Department and license dealers when issuing a duplicate license or tag.

3. **Effectiveness of the rule in achieving its objective, including a summary of any available data supporting the conclusion reached.**

   The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. In addition, the Department has not received any written comments in regards to this rule. The Department believes this data indicates the rule is effective.

4. **Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency.**

   The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

5. **Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement.**

   The rule is enforced as written and the Department is not aware of any problems with the enforcement of the rule. All peace officers of the state (including city and county) are charged with enforcement. Officers can check for rule compliance during routine patrols. Officers my issue a warning order or a citation.

6. **Clarity, conciseness, and understandability of the rule.**

   The rule is clear, concise, and understandable. The rule is logically organized and generally written in the active voice so it will be understood by the general public.

7. **Summary of any written criticism of the rule received by the agency within the five years immediately preceding the five-year review report.**

   No written criticisms were received.

8. **A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.**

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on November 3, 2015. The rule was amended to establish that the license will expire on December 31 of the current year when the license expiration date cannot be verified. The Commission anticipated persons regulated by the rule would benefit from the rulemaking that established an expiration date for duplicate licenses that are not recorded in the Department's database. Persons whose original license expired before December 31 would gain a period of time, while persons who purchased an original license before December 31 would lose a period of time. However, the person could choose to provide proof of when they purchased the original license and they would not lose any time.

9. Any analysis submitted to the agency by another person regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.

The Department did not receive any analyses.

10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report.

The report was approved by G.R.R.C. at the April 1, 2014 Council Meeting, which stated the Department anticipated submitting the final rules to the Council by June 2016. The Department completed the course of action indicated in the previous five-year review report as follows:

- Notice of Rulemaking Docket Opening: 21 A.A.R. 1409, July 10, 2015.
- Notice of Proposed Rulemaking: 21 A.A.R. 1001, July 10, 2015.
- Public Comment Period: July 10, 2015 through August 10, 2015.
- G.R.R.C. approved the Notice of Final Rulemaking at the November 3, 2015 Council Meeting.
- Notice of Final Rulemaking: 19 A.A.R. 3025, December 4, 2015.

11. A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.

The public benefits from a rule that establishes the requirements for the issuance of a duplicate license or tag when the original license or tag was not used and was lost, destroyed, mutilated or is otherwise unusable or was placed on a harvested animal that was subsequently condemned and surrendered to a Department employee. The public and Department benefit from a rule that is understandable. The Department believes the rule imposes the least burden and costs to persons regulated by the rule.

12. A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

13. For a rule adopted after July 29, 2010, that requires the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037.

The rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

No action

R12-4-104. APPLICATION PROCEDURES FOR ISSUANCE OF HUNT PERMIT-TAGS BY COMPUTER DRAW AND PURCHASE OF BONUS POINTS

1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules.

Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. §§ 17-102, 17-231(A)(2), 25-320(P), 25-502(K), and 25-518

2. Objective of the rule, including the purpose for the existence of the rule.

The objective of the rule is to prescribe application requirements for the purchase of a bonus point and the issuance of hunt permit-tags; meaning a permit-tag for which the Commission has assigned a hunt number. The rule was adopted to provide the persons regulated by the rule with the information necessary to successfully submit an application for the computer draw or for the purchase of a bonus point.

3. Effectiveness of the rule in achieving its objective, including a summary of any available data supporting the conclusion reached.

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. The Department believes this data indicates the rule is effective.

4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency.

The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

The Department's Hunter Education Program has implemented two new processes: a person may take the National Rifle Association (NRA) Online Hunter Education course instead of the Arizona Hunter Education Online course; and an NRA Instructor may complete the Arizona Hunter Education Exemption Checklist for students ages 9 through 14 who need to complete the hands-on field-day portion of the course in order to receive their hunter education certification. The Department proposes to amend this rule to reflect changes made to R12-4-107 (bonus point system).

5. Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement.

Overall, the rule is enforced as written and the Department is not aware of any problems with the enforcement of the rule. All peace officers of the state (including city and county) are charged with enforcement. Officers can check for rule compliance during routine patrols. Officers my issue a warning order or a citation.

6. Clarity, conciseness, and understandability of the rule.

The rule is clear, concise, and understandable. The rule is logically organized and generally written in the active voice so it will be understood by the general public.

The Department proposes to amend the rule to remove the Department website Uniform Resource Location (url) and simply reference "Department's website" to ensure the rule remains concise in the event the Department's url should change.

The Department proposes to amend the rule to replace references to "buffalo" with "bison" to reflect terminology used by the scientific community.

7. **Summary of any written criticism of the rule received by the agency within the five years immediately preceding the five-year review report.**

Written Comment: October 7, 2013. The license simplification is not simple for a person who lives in rural Arizona and has no access to a computer or the Internet. What is the problem with providing a license through a license dealer? Without access to a computer or the Internet some persons will have to drive a long distance to Department office to purchase a license just so they can apply for the spring draw. I do not think a lot of thought was put into this new system. Please remember, not everyone in Arizona lives in a major metropolitan area. **Follow-up Comment: October 8, 2013.** The dealer at Wal-Mart in Payson said the Department did not issue them any 2014 license for the early draw and that I would have to purchase them from the Department at an office or online. It was very difficult to get the license because my computer is down and I cannot print a license from my phone.

Agency Response: While there is comfort in doing things "the way we used to," online channels have proven they are the way of the future. For an agency to operate like a business, it must have the ability to keep up with its customer needs in a timely manner. The Commission launched the online license application system in January 2010. Since then, approximately 707,790 licenses have been purchased using the online system. The Commission launched the online draw application system in October 2011. Since then, approximately 95.5 % of draw applicants apply using the online system. The online system increased the Department's efficiency in processing applications and greatly reduced the number of application errors, resulting in fewer rejected applications. In early December 2014, due to inventory issues, the contracted vendor notified the Department that they would not be able to provide the licenses on the due date. The Department was able to find another vendor who had the required materials on hand and could print the license books. The Department either hand-delivered or express mailed those licenses to its license dealers before January 1, 2015 (at that time, all hunting and fishing licenses expired on December 31). The Department is developing an online license dealer portal that will allow a license dealer to log-in and issue hunting and fishing licenses on demand.

Written Comment: March 9, 2014. I am aware that there will be a change made to the nonresident part of the draw going into effect in 2016. That is fantastic news and should really encourage nonresidents to continue to, or start, applying for tags. Each year, I talk with prospective hunters; most are nonresidents with few or no bonus points. They are disappointed when I tell them they have little chance of ever drawing a "premium" archery or early firearms elk tag. From one who truly understands the draw and studies the statistics, this is the unfortunate truth for the elk hunts held in Units 1, 3C, 7W, 8, 9, 10, 23N, 23S, 27, etc. and the deer hunts on the Strip and the Kaibab units. I feel that not only should the tags issued to nonresidents in the 20% bonus point pass of the draw be limited to 50%, but that the remaining 50% should be set aside *only for nonresidents* in the first and second choice pass of the draw. Otherwise, we will get a draw that issues even more tags to the residents, which I do not think is the Department's intention. If the remaining 50% are not designated as

nonresident tags, then residents are going to draw 91%-95% of them due to the fact that there are more residents applying for the hunts. This would further discourage nonresidents from applying. If these tags cannot be reserved for the nonresidents, then I think a better split would be 75% for the bonus point pass, and 25% for the random pass. I feel the current draw system works against nonresidents, especially the younger hunters who are just getting into the sport. If something is not done soon, this problem will only get worse and may result in fewer hunters applying at all. In this Internet age, nonresidents are being educated about this flaw in the draw through chat forums. I do not think we can truly measure the negative impact and lost revenue to the Department if left unchanged. I am confident the Department has the ability to make this adjustment so that it encourages everyone to apply. I know with proper planning, this idea could be implemented into the draw. It would only help the Department to generate more funds due to many more nonresidents applying because they would have a legitimate chance at a great tag without having to wait 20 or more years. If my idea is out of line, I hope that some type of adjustment will be made to the current draw system since it is flawed and will only get worse in its bias against nonresidents as time goes on. By making this adjustment, the Department and nonresident hunters would both benefit. Typically, change is resisted most by the residents, but this idea would have zero impact on the residents and their draw odds.

Agency Response: The first phase of the current draw system issues available tags to those persons with the maximum number of bonus points. The computer draw system monitors the number of nonresidents drawn for tags and once the 10% nonresident cap, required under A.R.S. § 17-332, is reached it will eliminate all other nonresidents from the draw pool. Because nonresidents typically carry higher bonus point totals than residents, the 10% nonresident cap is sometimes reached in the first phase of the computer draw, which means a nonresident with no or few bonus points may never have the opportunity to draw a tag (this is especially true for high demand hunts). Over the years, the Department received numerous comments from the public suggesting the Department modify the draw process to ensure all nonresidents, even those with no or low bonus points, are afforded an opportunity to draw a tag; even for the high demand hunts. As it is now, there are some hunts for which a nonresident applicant with no or low bonus points will never have a chance of drawing a tag due to the number of nonresident applicants with maximum bonus points. The current computer draw system brought the draw process back in line with the original intent and ensured all applicants, regardless of residency and number of bonus points, would have an opportunity to draw a tag in any given hunt. Most state wildlife agencies charge nonresident applicants higher license and tag fees than residents. It is important to note, 17-332(A) states, "The Commission shall limit the number of big game permits issued to nonresidents in a random drawing to 10% or fewer of the total hunt permits." The Department is unable to increase the percentage of tags allocated to nonresidents as the statute governing tag allocation to nonresidents (A.R.S. § 17-332), is very specific and states, "The commission shall limit the number of big game permits issued to nonresidents in a random drawing to ten per cent or fewer of the total hunt permits,…" A legislative amendment is required before the Department may amend the rule as suggested. To control and protect the wildlife populations, state wildlife agencies limit recreational hunting by limiting permits and imposing higher fees on nonresident hunters. This

provides nonresident hunters with the opportunity to contribute to the state wildlife agency funds that are used to protect and manage wildlife. Resident hunters pay local and state taxes to support the wildlife and wildlife habitat in their areas. The higher fees for nonresidents help compensate for the taxes that residents pay.Therefore, nonresident fee and license regulations provide state wildlife agencies with funds to manage the wildlife, which in turn benefits both resident and nonresident hunters. Fee differentials for residents and nonresidents have been upheld in other areas. In Baldwin *vs* Fish and Game Commission of Montana, the U.S. Supreme Court upheld a higher hunting license fee imposed upon nonresidents by the State of Montana. The Court stated that, where the opportunity to enjoy a recreational activity is created or supported by a state, where there is no nexus between the activity and any fundamental right, and where by its very nature the activity can be enjoyed by only a portion of those who would enjoy it, a state may prefer its residents over the residents of other states or condition the enjoyment of the nonresident upon such terms as it sees fit.

Written Comment: May 29, 2014. I was a long-time resident of Arizona and have had to move several times due to my position in the military. I love Arizona and hope to come back, be employed, and possibly retire there. I would like the Commission to consider allowing all military members currently in active status or "honorably" retired (to include Active Duty, Reservists and Army National Guard members) located in any state be considered a "resident applicant" for all species during the draw process. That would be an excellent way to honor our military members for their service to our nation. I am unsure of how this may impact the draw process across the board, but I believe it will be worth the effort to show all of our military members that Arizona appreciates the sacrifice they make to keep our nation safe.

Agency Response: Under A.R.S. § 17-101, "a nonresident, for the purposes of applying for a license, permit, tag or stamp, means a citizen of the United States or an alien who is not a resident; and a resident, for the purposes of applying for a license, permit, tag or stamp, means a person who is: a member of the armed forces of the United States on active duty and who is stationed in: this state for a period of thirty days immediately preceding the date of applying for a license, permit, tag or stamp; another state or country but who lists this state as the person's home of record at the time of applying for a license, permit, tag or stamp; domiciled in this state for six months immediately preceding the date of applying for a license, permit, tag or stamp and who does not claim residency privileges for any purpose in any other state or jurisdiction." The suggestion to allow any military member in any state to be considered a resident for the purpose of the computer draw would be problematic to implement and unenforceable; it would also complicate the definition of what constitutes a resident and provide an unfair advantage to a select group of people.

Written Comment: January 9, 2015. I hunt with a great group of guys; there are usually 8 to 10 of us in camp. Last year, we all put in for the same hunt on two different applications; we were not drawn. Then we applied for the second draw on two different applications with the same hunt numbers. We were drawn for the same hunt,

but unfortunately our normal group of 8 was now split up because one application was drawn for a different unit. We had the same hunt, but in different units. My suggestion is to allow more than four applicants to apply on any one application to ensure bigger hunting parties get to hunt together.

Agency Response: Before each of the three passes in the drawing, each application is processed through a random number generator program which assigns one random number for the group application plus an additional random number for each group bonus point. The lowest random number generated for an application is used in the drawing process. An application receives a new random number for each pass of the computer draw. When an application is read and the hunt choices are checked for available hunt permit-tags, there must be enough hunt permit-tags available in a hunt choice for all applicants on the application; if there are not enough hunt permit-tags, the application is passed and the next one is read. Expanding the number of persons allowed on an application can lower the groups potential for being drawn. In addition, current trends indicate the Department receives fewer applicants per application, not more.

Written Comment: August 8, 2015. I am a Nevada resident and am familiar with the dynamic of resident vs. nonresident tag allocation in a state where tags are precious and highly sought after. Take the tags the Department is proposing to put into the general draw and keep them as nonresident tags to be drawn by nonresidents, only, on a random basis. This will not benefit residents, but will blunt legal challenges and increase the interest of the many younger nonresidents who do not apply because they do not think they will live long enough to draw a tag in Arizona. I hope the Department will reject the proposal in favor of a fairer plan, which can also be a win-win solution.

Agency Response: The first phase of the current draw system issues available tags to those persons with the maximum number of bonus points. The computer draw system monitors the number of nonresidents drawn for tags and once the 10% nonresident cap, required under A.R.S. § 17-332, is reached it eliminates all other nonresidents from the draw pool. Because nonresidents typically carry higher bonus point totals than residents, the 10% nonresident cap is sometimes reached in the first phase of the computer draw, which means a nonresident with no or low bonus points may never have the opportunity to draw a tag (this is especially true for high demand hunts). The bonus point system was established to reward loyal applicants while providing new applicants an opportunity to successfully participate in the computer draw; the intent has always been to allow every applicant a chance of drawing a tag, even when the odds are very low. The bonus point system has been successful in meeting its objective to improve odds for long-term participants, but not successfully enough for everyone. Over the years, the Department received numerous comments from the public suggesting the Department modify the draw process to ensure all nonresidents, even those with no or low bonus points, are afforded an opportunity to draw a tag; even for the high demand hunts. As it is now, there are some hunts for which a nonresident applicant with no or low bonus points will never have a chance of drawing a tag due to the number of nonresident applicants with maximum bonus points. Therefore, the Commission amended the rule to

bring the draw process back in line with the original intent and ensure all applicants, regardless of residency and number of bonus points, will have an opportunity to draw a tag in any given hunt.

Written Comment: February 10, 2016. The rule should be amended to allow parents to determine when a child is mature enough to hunt big game. As a hunter education instructor and Game Ranger, I have observed many children pass through the courses I have taught and spoken with hundreds of hunters in the field. Some children were not ready to hunt until 16 years of age and others were clearly able to hunt big game at much younger ages. The determining factor should the child's ability to pass a hunter education before being allowed to pursue big game. It clearly should be the parent's decision rather than an arbitrary minimum age. There may be those hunters who object to opening up more competition for tags to young hunters, but it is critically important that we have new hunters fill the ranks of those who are reaching an age where they are no longer able. If we are to have wildlife for future generations funded by hunters, we must increase the number of youngsters annually becoming hunters. Making this simple change would help accomplish that objective. I might suggest, if that is not acceptable to the Commission, I suggest it might be possible to allow younger hunters to hunt with their parents or grandparents tag. Currently an animal cannot be tagged by someone who has not harvested the animal. So, a grandparent or parent cannot let a young aspiring hunter shoot an animal the parent or grandparent possesses a tag to hunt. If that change was accomplished, the same objective could be met as changing the minimum age. Another way to make the change more acceptable is to allow younger children to at least hunt turkeys and javelina. Both are excellent animals for young beginner hunters. I would appreciate the Commission consider changing the current rule during the next rules review process to remove another barrier to recruitment.

Agency Response: The Department benchmarked with all other states and learned that there are only two states that allow a person under the age of 10 to hunt big game: Arkansas and Texas. It is true, some children mature faster than others, but for the majority of children, the Department believes the age of ten is an appropriate threshold for permitting children to hunt big game. Although big game hunting is exciting, hunting for small game and game birds, such as squirrel or cottontail rabbits can increase the chance of harvesting an animal and be just as exciting because small game is quicker and involves more movement. In addition, even though a child under the age of ten cannot hunt big game themselves, they can still go on a big game hunt and enjoy the hunting experience.

Written Comment: January 6, 2017. Curtail the system allowing persons to pay for their application using credit cards. Go back to requiring persons to send the tag money at the time of application. Then place the money in a 30-day money market account. Use the interest for hunting and fishing purposes.

Agency Response: The current application/draw time-frames provide the public with greater flexibility in managing their funds and hunt choices. The Commission believes offering both the paper and online application process best serves our constituency.

The following comments express displeasure with the requirement that a person purchase a hunting or combination hunting and fishing license in order to participate in the computer draw:

Written Comment: January 7, 2015. I do not think it is fair that I have to buy a license every year just to apply for a tag. I used to only buy a license when I was drawn. I do not set foot in the state if I do not draw a tag, so having a license is useless to me. Having to pay $160.00 for something you never plan to use is not right. Being a nonresident and having to pay the higher tag fee, I think is more than adequate to sustain the funds to manage wildlife. I think Arizona does an excellent job of managing wildlife. I live in Idaho where you can buy elk tags over the counter. This sounds great until you hit the hills and spend days on end trying to catch a glimpse of one; and finding a mature bull is next to impossible, the competition from too many hunters is frustrating beyond belief. Idaho should take note of Arizona practices to rebuild the herds and do something to sustain the maturity of the bulls.

Written Comment: January 8, 2015. My son and I apply once a year to hunt javelina with a resident friend in Arizona. I must purchase a hunting license at full price for a $160 in order to apply. If not drawn it cost my son and I $320, because we will not be coming down to Arizona with no tag to hunt with. If Arizona were more like Montana, where you purchase a $10 conservation tag and pay a nonrefundable application fee, Arizona is more likely to get nonresidents to apply.

Agency Response: The Commission, through an extensive public process, amended the rule to require both residents and nonresidents to purchase a hunting license in order to be considered during the hunt draw process. This requirement was put in place with the understanding that the ultimate beneficiaries are Arizona's wildlife resources and hunters (both resident and nonresident), since license fees go directly into wildlife conservation, development, and management. The Commission and Department hold that over time, the increased costs will create a benefit to all hunters who enjoy Arizona's wildlife opportunities by providing greater revenue for Department wildlife management objectives. Ultimately, this will enable the Department to maintain the nationally-recognized wildlife populations for which Arizona is known. In addition, several other western states require draw applicants to purchase a hunting license in order to participate in their limited draws: Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming. Furthermore, while unsuccessful applicants may not have the opportunity to hunt the big game animal of their choice in Arizona, the license they purchase will allow them to participate in many other hunting and fishing opportunities within the state including over-the-counter archery deer hunts, population management hunts, and multiple small game and waterfowl hunting opportunities, to include cottontail rabbits, tree squirrels, upland game birds (quails, chukar, grouse, and

pheasants), and migratory game birds (ducks, geese, swan, sandhill, cranes, coot, gallinule, common snipe, mourning and white-winged doves, and band-tailed pigeon).

The following comments express displeasure with the Department's process for handling declined charges for online computer draw applications:

Written Comment: July 19, 2015. Why is the Department calling applicants five days after the draw to get updated information after all of the notices the Department sent asking customers to update their payment information? These tags should be issued to the hunters who complied with the rules.

Written Comment: July 20, 2015. I understand that Department employees are calling applicants back whose cards failed for the fall deer hunt and giving them a chance to correct their payment issue. I hope the Department realizes how much this upsets the people who do apply with valid cards or accounts. It is also a huge waste of time for the Department's employees. This is a waste of state funds and a potential waste of my application fee.

Agency Response: In 2012, when the Department started the online application system again, many people voiced their frustration with the declined credit card rejection process. The majority of those persons stated the charges were declined because their banking institution thought the tag charges were fraudulent. Based on the number of complaints, the Department determined those persons whose charges were declined would be contacted by telephone and given the opportunity to provide updated payment information for those tags. If the person did not answer the call, the Department gave the person three business days to respond to its request for information. As a result, the posting of the computer draw results was delayed by one to two weeks until all persons whose charges had been declined were contacted. As people became more familiar with the online application process, the numbers of declined charges decreased; this was due to persons taking the time to ensure their payment information was up to date. Because the instances of charges being declined had dropped so drastically, the Department determined it was no longer necessary to delay posting the draw results and ended this practice in early 2017.

8. A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on November 3, 2015. The rule was amended to replace references to "Department-approved" with "Department-sanctioned;" prohibit a person, who has reached the bag limit for a

specific genus, from applying for another hunt permit-tag for that genus during the same calendar year; establish the Commission's authority to determine the times, locations, and manner in which an applicant may apply for a hunt permit-tag; require all applicants submitting an application to the Department to certify the information provided on the application is true and correct; clarify the differences in how the Department processes fees submitted manually (paper application) and electronically (online application); establish overpayments of $5 or less will not be refunded and are considered a donation to the Arizona Game and Fish Fund; allow a customer to retain any accrued loyalty and bonus points and be awarded a bonus point for that computer draw when the payment submitted is less than the required fees, but is sufficient to cover the application and license fees; and allow the Department to issue a license and award a bonus point, provided the funds submitted are sufficient to cover the application and license fees. The Commission anticipated persons regulated by the rule and the Department would benefit from the rulemaking, mostly from the amendments implementing customer-service-oriented processes that allowed applicant to retain their bonus points under certain circumstances.

9. Any analysis submitted to the agency by another person regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.

The Department did not receive any analyses.

10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report.

The report was approved by G.R.R.C. at the April 1, 2014 Council Meeting, which stated the Department anticipated submitting the final rules to the Council by June 2016. The Department completed the course of action indicated in the previous five-year review report as follows:

- Notice of Rulemaking Docket Opening: 21 A.A.R. 1409, July 10, 2015.
- Notice of Proposed Rulemaking: 21 A.A.R. 1001, July 10, 2015.
- Public Comment Period: July 10, 2015 through August 10, 2015.
- G.R.R.C. approved the Notice of Final Rulemaking at the November 3, 2015 Council Meeting.
- Notice of Final Rulemaking: 19 A.A.R. 3025, December 4, 2015.

11. A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.

The rule prescribes application requirements for the purchase of a bonus point and the issuance of hunt permit-tags; meaning a permit-tag for which the Commission has assigned a hunt number. The public benefits from a rule that provides the information necessary to successfully submit an application for the computer draw or for the purchase of a bonus point. The Department benefits from a rule that helps reduce the number of returned applications. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

12. A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

13. For a rule adopted after July 29, 2010, that requires the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037.

The rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

The Department proposes to amend R12-4-104 as follows:

- Reflect changes made to R12-4-107 (bonus point system).
- Remove the Department website Uniform Resource Location (url) and simply reference "Department's website" to ensure the rule remains concise in the event the Department's url should change.
- Replace references to "buffalo" with "bison" to reflect terminology used by the scientific community.

The Department anticipates submitting the Notice of Final Rulemaking to the Council by July 2020, provided the current moratorium is not extended or the Commission is granted permission to pursue rulemaking.

R12-4-105. LICENSE DEALER'S LICENSE

1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules.

Authorizing statute: A.R.S. § 17-231(A)(1)

Implementing statute: A.R.S. §§ 17-332, 17-333, 17-334, 17-338, and 17-339

2. Objective of the rule, including the purpose for the existence of the rule.

The objective of the rule is to establish definitions, eligibility criteria, application procedures, license holder requirements, authorized activities, and prohibited activities for a license dealer's license. The rule was adopted in order to provide better customer service to the public, while protecting the Department's license sales revenue, by authorizing businesses to sell hunting and fishing licenses.

The Department issues an approximately:

- Ninety license dealer's licenses on an annual basis.
- One-hundred eighty dealer outlet licenses on an annual basis.

The fee for the:

- License dealer's license is $100.
- License dealer outlet license is $25.

3. Effectiveness of the rule in achieving its objective, including a summary of any available data supporting the conclusion reached.

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. In addition, the Department has not received any written comments in regards to this rule. The Department believes this data indicates the rule is effective.

4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency.

Overall, the rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

However, during the Second Regular Session of the 53rd Arizona State Legislature, the Legislature amended A.R.S. § 17-338 to remove the five % commission license dealers were authorized to retain as compensation for selling Game and Fish licenses to the public and allow license dealers to collect and retain a reasonable fee as determined by the license dealer. The Department proposes to amend the rule remove language referencing the five % commission and allow license dealers to collect and retain a reasonable fee to align the rule with statute.

5. **Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement.**

The rule is enforced as written and the Department is not aware of any problems with the enforcement of the rule. All peace officers of the state (including city and county) are charged with enforcement. Officers can check for rule compliance during routine patrols. Officers my issue a warning order or a citation.

A person may purchase hunting and fishing licenses online, using the Department's online license sales system. This means any person can sell the Department's licenses, which is unlawful under A.R.S. § 17-334. The Department proposes to amend the rule to establish a person who is not authorized to sell licenses on behalf of the Department is prohibited from selling Department-issued hunting and fishing licenses.

6. **Clarity, conciseness, and understandability of the rule.**

The rule is clear, concise, and understandable. The rule is logically organized and generally written in the active voice so it will be understood by the general public.

7. **Summary of any written criticism of the rule received by the agency within the five years immediately preceding the five-year review report.**

No written criticisms were received.

8. **A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.**

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on November 3, 2015. The rule was amended to define "License Dealer Portal;" establish a license dealer may be given authorization to issue online licenses through the License Dealer Portal; specify the deadline in which the license dealer shall transmit license and permit fees to the Department; and add a subsection to address duplicate affidavit requirements. The Commission anticipated the Department, GAO, and the Attorney General's office would benefit from the rulemaking that established a deadline for the transmittal of license and permit fees. The Commission also anticipated the Department would benefit from the rulemaking that clarifies duplicate affidavit requirements through increased efficiency by allowing the Department to better utilize its resources.

9. Any analysis submitted to the agency by another person regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.

The Department did not receive any analyses.

10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report.

The report was approved by G.R.R.C. at the April 1, 2014 Council Meeting, which stated the Department anticipated submitting the final rules to the Council by June 2016. The Department completed the course of action indicated in the previous five-year review report as follows:

- Notice of Rulemaking Docket Opening: 21 A.A.R. 1409, July 10, 2015.
- Notice of Proposed Rulemaking: 21 A.A.R. 1001, July 10, 2015.
- Public Comment Period: July 10, 2015 through August 10, 2015.
- G.R.R.C. approved the Notice of Final Rulemaking at the November 3, 2015 Council Meeting.
- Notice of Final Rulemaking: 19 A.A.R. 3025, December 4, 2015.

11. A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.

The rule establishes eligibility criteria, application procedures, license holder requirements, authorized activities, and prohibited activities for a license dealer's license. The public and the Department benefit from a rule that authorizes businesses to sell hunting and fishing licenses at multiple locations throughout the state. The Department has six offices located in various cities throughout the state that sell hunting and fishing licenses to the public. License dealers sell approximately 194,105 licenses annually. The Department benefits from a rule that enables it to provide better customer service to the public, while protecting the Department's license sales revenue. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

12. A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

13. For a rule adopted after July 29, 2010, that requires the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037.

The rule complies with A.R.S. § 41-1037. The License Dealer's License described in the rule falls within the definition of "general permit" as defined under A.R.S. § 41-1001(11).

14. Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

The Department proposes to amend R12-4-105 as follows:

- Establish a person who is not authorized to sell licenses on behalf of the Department is prohibited from selling Department-issued hunting and fishing licenses.
- Remove language referencing the five % commission to align the rule with statute.
- Allow license dealers to collect and retain a reasonable fee to align the rule with statute.

The Department anticipates submitting the Notice of Final Rulemaking to the Council by July 2020, provided the current moratorium is not extended or the Commission is granted permission to pursue rulemaking.

R12-4-106. SPECIAL LICENSES LICENSING TIME-FRAMES

1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules.

Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. §§ 41-1072 and 41-1073

2. Objective of the rule, including the purpose for the existence of the rule.

The objective of the rule is to establish the time-frame during which the agency will either grant or deny a special license subject to the requirements of A.R.S. § 41-1073. The overall time-frame consists of both the administrative review time-frame and the substantive review time-frame. The rule was adopted to comply with the requirements established under A.R.S. § 41-1073 and to provide the regulated community with a definitive timeline for the review of applications submitted to the Department.

3. Effectiveness of the rule in achieving its objective, including a summary of any available data supporting

the conclusion reached.

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. In addition, the Department has not received any written comments in regards to this rule. The Department believes this data indicates the rule is effective.

4. **Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency.**

The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

In 2015, the Commission amended the Article 4 rules (live wildlife) to replace all references to "permit" with "license" for the aquatic wildlife stocking license. The Department proposes to amend the rule to replace the references to "permit" with "license" for the aquatic wildlife stocking license to increase consistency between Commission rules.

5. **Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement.**

The rule is enforced as written and the Department is not aware of any problems with the enforcement of the rule.

6. **Clarity, conciseness, and understandability of the rule.**

Overall, the rule is clear, concise, and understandable. The rule is logically organized and generally written in the active voice so it will be understood by the general public.
However, the Department proposes to make minor grammatical changes to make the rule more concise.

7. **Summary of any written criticism of the rule received by the agency within the five years immediately preceding the five-year review report.**

No written criticisms were received.

8. **A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if**

no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on November 3, 2015. The rule was amended to clearly indicate the rule applies only to special licenses issued by the Department and does not include hunting or fishing licenses or permit- and nonpermit-tags; to define "license" and "administrative," "overall," and "substantive" review time-frames; describe when a time-frame period begins and ends; and specify how an applicant may withdraw an application; specify possible outcomes that may occur when a person submits an application for a special license; allow the applicant and the Department to extend the over-all time-frame; address scenarios where an applicant either demonstrates they are not eligible for the license prior to the substantive review or fails to respond to Department correspondence; establish time-frames for the Authorization for Use of Drugs on Wildlife; reflect changes made to R12-4-414 (all four game bird license rules were combined into one rule); and remove references to special license-tags. The Commission anticipated persons regulated by the rule and the Department would benefit from a rulemaking designed to clarify the rule and reduce the regulatory burden.

9. **Any analysis submitted to the agency by another person regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.**

The Department did not receive any analyses.

10. **If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report.**

The report was approved by G.R.R.C. at the April 1, 2014 Council Meeting, which stated the Department anticipated submitting the final rules to the Council by June 2016. The Department completed the course of action indicated in the previous five-year review report as follows:

- Notice of Rulemaking Docket Opening: 21 A.A.R. 1409, July 10, 2015.
- Notice of Proposed Rulemaking: 21 A.A.R. 1001, July 10, 2015.
- Public Comment Period: July 10, 2015 through August 10, 2015.
- G.R.R.C. approved the Notice of Final Rulemaking at the November 3, 2015 Council Meeting.
- Notice of Final Rulemaking: 19 A.A.R. 3025, December 4, 2015.

11. **A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the**

rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.

The rule establishes the administrative- and substantive-review time-frame during which the Department will either grant or deny a special license. If an agency fails to comply with the established time-frame for that special license, the agency must refund the special license fee and, provided the applicant meets the required criteria, issue a no-fee special license to the applicant. The public benefits from a rule that establishes the time-frames in which the Department must review and determine whether a special license may be issued. The public and Department benefit from a rule that is understandable. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

12. **A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.**

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

13. **For a rule adopted after July 29, 2010, that requires the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037.**

The rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. **Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.**

The Department proposes to amend R12-4-106 as follows:

- Make minor grammatical changes to make the rule more concise.
- Replace the references to "permit" with "license" for the aquatic wildlife stocking license to increase consistency between Commission rules.

The Department anticipates submitting the Notice of Final Rulemaking to the Council by July 2020, provided the current moratorium is not extended or the Commission is granted permission to pursue rulemaking.

R12-4-107. BONUS POINT SYSTEM

1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules.

Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. §§ 17-102, 17-231(A)(2) and 17-231(A)(8)

2. Objective of the rule, including the purpose for the existence of the rule.

The objective of the rule is to establish requirements for applying for and maintaining bonus points, which may improve an applicant's draw odds for big game computer draws. The rule was adopted in response to customer comments requesting the Department implement a method that would reward loyal applicants and improve the drawing odds for a previously unsuccessful computer draw applicant. The "bonus point" system is used in lieu of other point systems, because it does not preclude a person who has not accrued any bonus points from having a chance at being drawn for an available hunt permit-tag.

In general, there are two types of bonus point systems, the "bonus point" system used by the Department and a "preference point" system. The "bonus point" system increases the number of chances for an application to receive a low random number in the computer draw. Bonus points are accumulated by failing to draw a hunt permit-tag or by buying a bonus point. Applications are assigned a random, computer-generated number. Applications that are assigned the lowest random number draw a tag first. A "preference point" system awards a tag to the person who has the highest number of preference points in the first computer draw and, if any tags are left, a second computer draw is held for those in the next highest point category. Over time, a preference point system guarantees a person a tag, provided they apply for the same species every year. In a preference point system a person with zero or very few points will not have any chance at drawing a tag. In some states, bonus points are squared when an application is submitted. For an application with 5 bonus points, the computer will generate 25 random numbers. It is important to note, having the greatest number of points does not guarantee a person will draw a tag. However, it does provide a better chance of being assigned a low random number in the computer draw.

3. Effectiveness of the rule in achieving its objective, including a summary of any available data supporting the conclusion reached.

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. The Department believes this data indicates the

rule is effective. While the Department has received a number of written criticisms in regards to the current bonus point system, the Commission determined through an extensive public process and a random survey of hunters that a bonus point system was preferred by the regulated public. Implementing a preference point system that awards hunt permit-tags based solely on accumulated points would have a negative impact on the recruitment of new hunters. The bonus point system rewards loyal applicants and provides new applicants an opportunity to successfully participate in the draw.

In 2013, the rule was amended to state it is unlawful for a person to purchase a bonus point by fraud or misrepresentation and any bonus point so obtained shall be removed from the person's Department record. to increase consistency between statute and rule. Under A.R.S. § 17-341, it is unlawful for a person to knowingly purchase, apply for, accept, obtain or use, by fraud or misrepresentation a license, permit, tag or stamp to take wildlife and that a license or permit so obtained is void and of no effect from the date of issuance. The amendment inadvertently failed to address bonus points accrued by fraud or misrepresentation. The Department proposes to amend the rule to specify that any bonus point that is fraudulently obtained, whether purchased or accrued, shall be removed from the person's Department record.

4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency.

The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

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

5. Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement.

The rule is enforced as written and the Department is not aware of any problems with the enforcement of the rule.

6. Clarity, conciseness, and understandability of the rule.

Overall, the rule is clear, concise, and understandable. The rule is logically organized and generally written in the active voice so it will be understood by the general public.

The Department is aware that there is some confusion as to when a child may take the hunter education course. A youth under the age of 10 may take wildlife, except big game species, without a license when accompanied by a person 18 years of age or older holding a valid hunting license during an open season. A license and the appropriate tag are required to take big game. No one under age 10 may hunt big game in Arizona; this is consistent with other states practices (the average age is 14). An applicant who is under the age of 14 and applying for a big game hunt must complete a hunter education course before the beginning date of that hunt. The Department proposes to amend the rule to clarify that a person who is 9 years of age or older may take the Arizona hunter education certification course and, upon successful completion of the course, be awarded one permanent bonus point for each big game species.

The Department's Hunter Education Program has implemented two new processes designed to decrease burdens and costs and increase customer-service: a person may take the National Rifle Association (NRA) Online Hunter Education course instead of the Arizona Hunter Education Online course; and an NRA certified rifle, shotgun, or hunter clinic instructor may complete the Arizona Hunter Education Exemption Checklist for students ages 9 through 14 who need to complete the hands-on field-day portion of the course in order to receive their hunter education certification. The Department proposes to amend the rule to remove references to "Department-sanctioned" to reflect changes made to the Department's Hunter Education Program.

7. Summary of any written criticism of the rule received by the agency within the five years immediately preceding the five-year review report.

Written Comment: September 3, 2014. I was injured on May 27, 2014 and I am unable to walk or bear my own weight without assistance. I finally drew my first elk tag and tried to return it to the Department so I could get my expended bonus points back as well as obtain another point for the current draw year. The current rule allows me to surrender a tag, but I do not qualify. I have to be active within a military branch or a state worker deployed for emergency purposes. The alternative is to sign over my tag to an “eligible child or grandchild of my own.” First, I feel discriminated because this rule places lesser significance on my life as it does not validate any circumstances that have affected my life. Second, the ability to sign over my tag to one of my children or grandchildren also affects me deeply because my wife does not have the ability to bear children. The tag I drew is an archery tag; I am unable to walk, so I am unable to stand or practice shooting consistently or retrieve my arrows. I opted to surrender my tag and was refused. I offered to give my tag to the Department for exchange of my bonus points and was denied. The Department exerted zero energy to aid me in finding a way to resolve my situation and I just want to document confirmation of such actions.

Agency Response: The Department understands your disappointment and frustration with not being able to use your 2014 archery elk tag. The Arizona legislature passes legislation, signed into law by the governor and the Commission establishes rules, respectively. We are bound to abide within the limits of those laws and rules and

apply them consistently and fairly to all our customers. The Department does not currently have a rule that allows surrender of a tag and restoration of bonus points or for the transfer of a tag to anyone except a family member. However, in addition to transferring the tag to a minor child or grandchild, a person who holds a hunt permit-tag may donate it to a nonprofit organization for use by a minor child who has a life threatening medical condition or a veteran of the armed forces of the U.S. who has a service connected disability. The Arizona Hunting Regulations explicitly states, "The issuance of any big game permit has no express or implied guarantee or warranty of hunter success. Any person holding a valid permit assumes the risk that circumstances beyond the control of the Arizona Game and Fish Department may prevent the permit holder from using the permit. In such situations, the Arizona Game and Fish Department disclaims any responsibility to reissue or replace a permit, to reinstate bonus points or to refund any fees, except under specific circumstances, such as activation of military or emergency personnel." The Commission Petition Packet was provided to this commenter. Also, in January 2016, the Commission adopted R12-4-118 (hunt permit-tag surrender), which deals with tag surrenders, transfers, donations, and use of bonus points.

The following comments address ways to increase responses to the Hunter Questionnaire (used by the Department to estimate harvest for each species, along with other vital information that helps lay the groundwork for next year):

Written Comment: October 10, 2013. The Department would get a better response to its surveys if it offered bonus points to fill them out, especially when a hunter comes up empty-handed or upset because of hunt interference.

Written Comment: January 6, 2017. As results are vital to your forecasting and species management, I suggest that any hunter that does not provide harvest information for a drawn hunt, would not be eligible to draw any tags for the following year. We as hunters should be held accountable to help in the management process.

Agency Response: The Department is in the process of developing an online hunter survey; the Department believes a simpler, easier to use survey will result in a larger response. The Commission's draw process is designed to provide equal opportunity to all classes of persons and not to provide an advantage to certain classes. As a result, the Commission does not believe that any class of persons should be awarded bonus points for which others are not eligible.

The following comments address the ability to gift, transfer, or will their bonus points to another person:

Written Comment: February 14, 2015. I would like to propose allowing hunters to pass on bonus points to family members through a will upon death or maybe through gift.

Written Comment: April 13, 2015. I am disgruntled with how the bonus point system works. For three consecutive years, an acquaintance has drawn an elk tag. At this point, I have 16 points for antelope, 15 for bighorn sheep, and 12 for elk. I do not believe I will ever get another tag in my lifetime. Is it possible to give my bonus points away? If not, can legislation be created so that this option can be used in the future?

Written Comment: June 1, 2015. My friend says he has 15 bonus points for pronghorn and 15 for elk, but he is not sure he will be able to hunt either species anymore. He does not want to lose those bonus points and would like to give them to family or friends, or to a conservation organization to raffle off to raise money for conservation. He has a friend in Mississippi who has also been applying for 15 years; he would like to be able to give his points to someone like that who has been contributing for 15 years.

Written Comment: August 25, 2016. With social media, information gets around very quickly. Every year, people post how they got a tag with one or no bonus points and it completely infuriates me. I do not believe I will ever get a tag, other than deer, in my lifetime. I share this information with you because I want the option of giving my bonus points away in-lieu of losing them.

Agency Response: The Commission determined through an extensive public process and a random survey of hunters that a bonus point system was preferred by the regulated public. The computer draw process is designed to provide equal opportunity to all persons and not to provide an advantage to certain persons; a bonus point is awarded to an applicant who submits a valid application and is either unsuccessful in the drawing or the application is for a bonus point only. As a result, the Commission does not believe that persons should be able to give their bonus points to another person.

The following comments were received in response to the Notice of Proposed Rulemaking, see 21 A.A.R. 1001 July 10, 2015:

Written Comment: November 18, 2014. I am writing in regards to information I received stating the Commission is cutting half of the allotted deer tags from maximum bonus point holders to as low as first year applicants. It would not be fair to hunters like me who have been loyal to Arizona and bought tags and applied for 17 or 18 years, drove 15 hours to take the hunter safety class, spending thousands of dollars and not getting a deer tag to be outdrawn by someone who applied one or two times. Please rethink this as maximum bonus point holders should not be treated like this.

Written Comment: December 13, 2014. I have been a loyal customer for many years. My father and I have spent a tremendous amount of money over the years to become a maximum bonus point holders for the deer draw. My father and I bought a license every year so we could build up our points toward what was supposed to

be our dream hunt. We traveled to Arizona and took the hunter safety course to accrue extra points to keep us in the maximum bonus point pool. It is my understanding that the Commission is decreasing the number of tags that go to maximum bonus point holders. I understand why the Commission may want to do this, to keep people buying the licenses who are not in the maximum pool, but this seems unfair to the loyal customers who have paid year in and year out for the opportunity to get into the tag pool. My father and I are not wealthy men. We have dreamed for many years of hunting on the famous "Arizona Strip." We have played by the Commission's rules and now our dream is slipping away from us. My father is now 73 years old and I do not know how many years he has left that he can really enjoy a hunt like this. I beg you to stand with us as we have stood by you. Please consider limiting the tags to the maximum bonus point holders or putting together some program so we can have the same opportunity to hunt that we thought we had when we spent so many years and so much money applying for.

Written Comment: December 23, 2014. I am a nonresident with 20 elk bonus points and maximum deer bonus points for Arizona. I hope Arizona does not change the draw system for nonresidents. All nonresidents have a chance to deer hunt the Strip if they buy raffle tickets for the state-wide mule deer tag. I do not know if a similar tag for elk exists, but they could be created to give all nonresidents a chance at the best elk hunts. I hope the rules are not radically changed for me, after 18 years of applying in Arizona.

Written Comment: December 27, 2014. I am writing to voice my displeasure with the new changes to the big game draw system. I have been applying for a 12AW late tag since 1994. The Kaibab was my first out-of-state hunt as a kid with my dad and grandpa, and my last hunt with my grandpa. I realize I will have only one more chance to hunt it in my lifetime, but because of the changes, it is likely I will never draw a tag. I have applied every year and bought a nonresident license that sits in a drawer, just to be able to someday go back and hunt where I have such fond memories. My dad and brother gave up on the Arizona draw system, but have been rooting for me to draw a tag so that we can all go. I apply for mule deer in most western states and have drawn some great tags, but the one tag that I have dreamt of, the one tag I would choose over any other, has been just beyond my reach. And now, with the changes, drawing that tag is close to impossible. I feel like the Department has pulled the rug out from under me and I am sure I am not alone in that thinking. If anything, I thought the Department would have found a way to increase the chances for those loyal applicants who have applied for so many years, but the Department has done the opposite. I am asking the Department to reconsider the changes. It is not a perfect system and there is no perfect solution, but please do not make it worse.

Written Comment: January 8, 2015. As a nonresident my hunting opportunities in Arizona are reduced when compared to many other western states. The current system employed only allows “up to 10%” of big game tags to the nonresident. There is no set quota of tags for the nonresident hunter. This means that it is possible that zero nonresidents could obtain a tag, it could also be possible that nonresidents could obtain the full 10% of tags allocated for any hunt unit. Arizona allows “at least 5%” of tags be available to the youth hunter. Similarly it

should change its nonresident rules to a set a finite number of tags for nonresidents. I have applied to hunt in Arizona for the past 15 years. At the cost of $151.50 each year to first purchase a hunting license prior to being able to apply for a hunt. That amounts to over $2,272 I have spent in the state of Arizona over that 15 years and yet I am still not in a position to successfully draw a big game tag. It could be argued that Arizona has been successful in generating almost $2,300 from one individual with absolutely no cost to the state. It could also be argued that the state of Arizona is losing out on potentially greater revenues if it issued more nonresident tags that generate more funds than that of the resident hunter. In any event this system is very discouraging to the young hunter or the hunter that cannot play the waiting game both in years or funds. I would like to see a change to the nonresident tag allocation to a set number of "at least 10%" of those tags available be set aside for the nonresident. I realize that I am a tiny percentage of hunters. That is because I have played by the Department's rules for 15 years. I know that others will have no chance of ever drawing a "strip tag." I will never have a chance to draw an antelope, buffalo, bighorn, or elk tag. That is my fault and I live with it. That still does not justify others cutting to the front of the line.

Written Comment: January 11, 2015. As a nonresident big game hunter, I have 18 bonus points in Arizona for deer, elk, bighorn sheep, and pronghorn. Despite my good fortune, I believe all preference point and bonus point systems should be abolished. These systems disadvantage young hunters and individuals without the means to afford nonresident hunting licenses and applications. I have applied for 16 years and have not drawn one permit but continue to religiously pursue the dream at considerable expense. Abolishing the Arizona bonus point system would greatly reduce my opportunity to draw but I would be okay with that. Realizing that abandoning the current system in Arizona is not probable, I accept it for what it is. The Misconceptions: 1) To kill a trophy mule deer in Arizona, one has to hunt the Arizona Strip. More typical mule deer grace the record book from Coconino County than any other county in Arizona. This is the home of the Kaibab where arguably the best genetics in the country for mule deer reside. 2) Only maximum point holders can draw an Arizona Strip tag. This is false. There are archery tags available for hunting units 13A and 13B, and these permits have gone to applicants with less than maximum points. There is also a mule deer raffle that enables a hunter to hunt any unit in the state for 365 days. 3) Changing the point system to a 5% instead of 10% maximum point draw on the first pass will greatly improve the odds for non-maximum point holders. At first blush this change sounds like a great improvement over the current draw process. In reality the chance to draw one of these coveted tags will still be abysmal. If the change is enacted in Unit 13A, there will be potentially three deer permits available for 1,750 applicants in the second pass. That "improves" the odds for any applicant to .0017 percent or one in 583. In Unit 13B the odds are even bleaker with 3,645 applicants "improving" the odds to .0008 or one in 1,215. This is all a best case scenario as there is a high likelihood that some of these tags, if not all, will not get into the hands of nonresidents. With a dearth of resident applicants these tags will likely be issued to residents, effectively not improving the draw odds at all for non-maximum point holders. The resultant change will also penalize maximum point holders who have invested thousands of dollars in hunting license fees and travel expenses to and from Arizona for a hunter education course. This is not the right thing to do. It would be

interesting to know if the vocal few requesting this change are doing it for the greater good or for selfish reasons. Have they already drawn one of these coveted tags and now want to change the system for the benefit of themselves? Do the requestors truly have a worthy mission in making a change to the current system?

Agency Response: The bonus point system was established to reward loyal applicants while providing new applicants an opportunity to successfully participate in the computer draw; the intent has always been to allow every applicant a chance of drawing a tag, even when the odds are very low. The bonus point system has been successful in meeting its objective to improve odds for long-term participants, but not successfully enough for everyone. Over the years, the Department received numerous comments from the public suggesting the Department modify the draw process to ensure all nonresidents, even those with no or low bonus points, are afforded an opportunity to draw a tag - even for the high demand hunts. As it is now, there are some hunts for which a nonresident applicant with no or low bonus points will never have a chance of drawing a tag due to the number of nonresident applicants with maximum bonus points. Therefore, the Commission proposes to amend the rule to bring the draw process back in line with the original intent of ensuring all applicants, regardless of residency and number of bonus points, will have an opportunity to draw a tag in any given hunt. While the Department is sensitive to your frustration and appreciates the time and effort put into building bonus points, the Department believes providing opportunity to all applicants is the right thing to do. The Department appreciates your support for the tag surrender program.

The following comments suggest establishing a special bonus point of some type:

Written Comment: July 1, 2015. I believe in the bonus point system. I have been putting in for desert bighorn sheep for over 40 years and I am in the maximum bonus point pool. The problem is, the mountains are getting taller and I am getting older. There should be some way to give an advantage to people in my situation. I know I am not the only one. I think there are around 120 people left in the maximum bonus point pool; at 20 per year that would make me 71. I cannot even transfer it to my son or grandsons as they are too old. A suggestion would be to give anyone 65 or older another bonus point. Do it only for the once in a lifetime hunts.

Written Comment: January 6, 2017. I am a 73 year old guy with not that many more hunts left to enjoy. I have been a hunter since I was 12 years old. Each year when the hunt draw is completed I wonder if it will be my last hunt. Not getting drawn is a huge disappointment. I have a pioneer hunting license. My proposal would be to give a pioneer license holder an extra bonus point. This would give the person one additional chance to get drawn for their possible final hunt.

Agency Response: In 1990 through an extensive public process and a random survey of hunters, the bonus point system was established to reward loyal applicants while providing new applicants an opportunity to successfully participate in the draw; a bonus point system was preferred by the regulated public. The

Commission's draw process is designed to provide equal opportunity to all classes of individuals and not to provide an advantage to certain classes. As a result, the Department does not believe that any class of individuals should be awarded bonus points for which others are not eligible.

Written Comment: December 20, 2014. I believe the Department should consider making a person's hunter education bonus points effective on a new hunter's first draw application, rather than on his or her tenth birthday. As it stands now, a child is allowed to take the course at nine years old, but they do not get the point until their tenth birthday. Often, children are nine years old when they apply for hunts that will take place after their tenth birthday. These kids are at a disadvantage as compared to other kids who have already completed the course but happen to turn ten before the draw deadline. Given the difficulty in scheduling the hunter education courses, the Department should encourage early completion, before a tag is drawn. One way to do that is to ensure that the youngest hunters get the benefit of the permanent bonus point from the very start of their application history.

Agency Response: A youth under the age of 10 may take wildlife, except big game species, without a license when accompanied by a person 18 years of age or older and who has a valid hunting license during an open season. A license and the appropriate tag are required to take big game. No one under age 10 may hunt big game in Arizona; this is consistent with other states practices (the average age is 12). The Commission, through a public process, determined that bonus points should be awarded to eligible, not future, Arizona hunters. If a youth is nine at the time of application and selects the bonus point-only hunt number, they are electing not to hunt during that season; therefore they are not eligible to apply. In addition, the Department offers a wide variety of youth-only hunting and shooting programs. These programs are designed to get children in the field with a parent, guardian, or mentor who can focus completely on the child and provide the guidance needed to teach the next generation of hunters and stewards how to be responsible and ethical conservationists.

Written Comment: July 8, 2015. Other states only deduct bonus points when first choice big game draw selections are successful; not any other successful choices. Arizona is losing money because people will only hunt if their first choice is successful; not putting in any other hunt choices because they do not want to lose their points. So, they end up not hunting and the state loses money. The state loses licensing and tag fees as well as gas taxes. The people lose revenue generated from needed hunting expenditures. Only reduce bonus points if first choice draw is successful, so people will want to apply and/or add additional hunt choices.

Written Comment: June 7, 2017. Please consider squaring the bonus points instead of adding a bonus point with each unsuccessful draw. I have seen friends year after year, draw the same tags I apply for with less bonus points. A squared bonus point system would eliminate this problem.

Agency Response: Doubling, tripling, or squaring each person's bonus points benefits hunters only when applied at the beginning of a system. With as many hunters with a high number of bonus points as Arizona has, squaring bonus points does not have a significant effect on decreasing the number of hunters with maximum bonus points. It is important to note, having the greatest number of points does not guarantee a tag; however, it does provide a better chance of being assigned a low random number in the computer draw.

Written Comment: October 26, 2017. Department should award a loyalty point to a youth putting in for a certain unit. Then, at age 15, if they have not been drawn, they get a tag for that unit.

Agency Response: In 1990 through an extensive public process and a random survey of hunters, the bonus point system was established to reward loyal applicants while providing new applicants an opportunity to successfully participate in the draw; a bonus point system was preferred by the regulated public. The Commission's draw process is designed to provide equal opportunity to all classes of individuals and not to provide an advantage to certain classes. As a result, the Department does not believe that any class of individuals should be awarded bonus points for which others are not eligible.

Written Comment: February 13, 2018. I was a resident of Arizona until seven years ago and accrued elk bonus points. Now, I am a nonresident and do not want to lose my bonus points, but the computer draw system is a scam. Why am I forced to buy a combination license when I will only visit the state if I am drawn? Why am I forced to buy a combination license when I am only buying a bonus point? I hunt in other states with draw systems that do not require a license and do not charge these insane fees for a point. Arizona is charging ten times as much as other states. Arizona has made itself a state to avoid for big game hunting.

Agency Response: The requirement to purchase a license with a big game draw application was put in place for hunt year 2005. The Commission, through an extensive public process, amended the rule to require both residents and nonresidents to purchase a hunting license in order to be considered during the hunt draw process. This requirement was put in place with the understanding that the ultimate beneficiaries are Arizona's wildlife resources and hunters (both resident and nonresident), since license fees go directly into wildlife conservation, development, and management. The Commission and Department hold that over time, the increased costs will create a benefit to all hunters who enjoy Arizona's wildlife opportunities by providing greater revenue for Department wildlife management objectives. Ultimately, this will enable the Department to maintain the nationally-recognized wildlife populations for which Arizona is known. In addition, several other western states require draw applicants to purchase a hunting license in order to participate in their limited draws: Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming. Furthermore, while unsuccessful applicants may not have the opportunity to hunt the big game animal of their choice in Arizona, the license they purchase will allow them to participate in many other hunting opportunities within the state including over-the-counter archery deer hunts, population management hunts, and multiple small game and waterfowl hunting opportunities, to include

cottontail rabbits, tree squirrels, upland game birds (quails, chukar, grouse, and pheasants), and migratory game birds (ducks, geese, swan, sandhill, cranes, coot, gallinule, common snipe, mourning and white-winged doves, and band-tailed pigeon).

Written Comment: March 5, 2018. The youth hunt bonus point drawing needs to be cleaned up. The 30-day hold on bonus points is <expletive redacted>. My sons successfully completed their hunter education course in January 2017. We applied for the elk hunt in February, but they were not allowed to use their bonus point because it had not been 30 days yet. It is 2017, the Department should be able to input the information for 200 children in three hours. In March, I asked if my sons would get to use their bonus point for the computer draw and was told "the rule is 30 days before the application;" even though it was still two months before the draw. This means children who meet the requirements to put in for the draw, do not get to use their bonus point due to administrative bureaucracy. Let me supervise the "input department" for just one day and I will have all 200 children who passed hunter education course in last 60 days input into the system and award their bonus point for their first hunt. Better yet, give me four hours and access to the Department's system and I will have all the kids in the system.

Agency Response: Upon successful completion of a qualifying hunter education course, the Department awards the person who completed the course one permanent bonus point for each big game species. It is difficult to quantify the value one places on bonus points; however, the Department believes it can be significant. The Hunter Education Course consists of a classroom course and a field day. Both the classroom and field day courses are taught by a team of certified Arizona Game and Fish Department Volunteer Instructors. A volunteer is a person who, of their own free will, provides goods or services (time and experience) without the expectation of financial gain. Once a class is completed, in addition to certifying a specific person has completed the course, volunteer instructors are required to submit information regarding the course they taught: the hunter education course itself (curriculum), the time and resources spent conducting the course, etc. The instructors are required to submit this information within ten days; when reviewing the information errors may be found that need to be corrected before proceeding or one of the volunteer's information may be missing. While these situations do not occur every time, they occur often enough for the Commission to establish the requirement that the class be completed no less than thirty days prior to the computer draw. While your sons were not able to use their permanent hunter education bonus points for the 2017 elk hunt, those points will be available to them for their use for their entire lifetime.

The following comments address loyalty bonus points:

Written Comment: January 7, 2015. About four years ago, I made an error on the paper application and was rejected for the computer draw. I could live with that; I bought a leftover tag. The real problem was that my three buddies and I lost our loyalty point for the next five years. My objection was that it was not a matter of

loyalty, but of perfection. I was loyal, but imperfect. I strongly urge the Commission to make a rule change such that if an applicant is rejected in the draw for a technical reason, they do not lose their loyalty point. In my own case, I am due to receive my loyalty point again in a year or two, but I just believe it is fundamentally fair to all the other applicants to make this change in the rules going forward.

Written Comment: January 7, 2017. A loyalty bonus point is given after 5 years of putting in for a species. Why not give an additional loyalty point at 10 years, 15, and 20? Or just an additional point at 10 years? Reward those who continue to support and put in for the draw especially for bighorn and antelope. Keep it strictly for Arizona residents.

Written Comment: April 16, 2018. I have a question and comment about nonresident loyalty points. Why do nonresidents only get awarded a loyalty point after five years of continuous applications for elk draws or points? Would not 10 years continuous applications be just as, if not more loyal than five? What about fifteen and twenty? Just for your information I have applied for the past twelve years and will continue to apply until I am drawn.

Agency Response: The current draw process is designed to provide equal opportunity to all hunters. Reserving a percentage of tags for loyal applicants will only take opportunity away from others. The Department currently awards a loyalty bonus point to those persons who have submitted an application for a genus at least once annually for five consecutive years. The Department's draw process is designed to provide equal opportunities to all classes of persons and not provide an advantage to certain classes of hunters.

8. A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on November 3, 2015. The rule was amended to specify a person shall expend any accrued bonus points for that genus when purchasing a surrendered hunt permit-tag by any method other than first-come, first-served; establish the Department shall restore expended bonus points when a person donates or surrenders an unused, original hunt permit-tag in compliance with R12-4-118 or R12-4-121; clarify that a hunter education bonus point is awarded to a person who completes the Arizona Hunter Education Course and remove language relative to hunter education instructors; specify which hunter education course qualifies a person for the hunter education bonus points; allow a customer to retain any accrued loyalty bonus points when the payment submitted is less than the required fees, but is sufficient to cover the application and license fees; simplify the process by which a military member may request the reinstatement of a bonus point;

specify that the tag surrender requirements established under the proposed R12-4-118 do not apply to a person who is requesting the reinstatement of expended bonus points due to mobilization, activation or required duty in response to a declared national or state emergency, or required duty in response to an action by the President, Congress, or a governor of the United States or its territories; clarify the Department will not refund any fees paid for a license or hunt permit-tag when the person applies for reinstatement of their bonus points; and specify that any bonus point fraudulently obtained shall be removed from the person's Department record. The Commission anticipated the rulemaking would benefit persons regulated by the rule and the Department due to increased customer-service and from the amendments that allow a person to retain their loyalty point and accrue a bonus point for that draw when the payment submitted by the applicant is less than the total sum of all required fees, but is sufficient to cover the application and license fees.

9. Any analysis submitted to the agency by another person regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.

The Department did not receive any analyses.

10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report.

The report was approved by G.R.R.C. at the April 1, 2014 Council Meeting, which stated the Department anticipated submitting the final rules to the Council by June 2016. The Department completed the course of action indicated in the previous five-year review report as follows:

- Notice of Rulemaking Docket Opening: 21 A.A.R. 1409, July 10, 2015.
- Notice of Proposed Rulemaking: 21 A.A.R. 1001, July 10, 2015.
- Public Comment Period: July 10, 2015 through August 10, 2015.
- G.R.R.C. approved the Notice of Final Rulemaking at the November 3, 2015 Council Meeting.
- Notice of Final Rulemaking: 19 A.A.R. 3025, December 4, 2015.

11. A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.

The rule establishes the requirements for applying for and maintaining bonus points, which may improve an applicant's draw odds for big game computer draws. In 1990 through an extensive public process and a random survey of hunters, the bonus point system was established to reward loyal applicants while providing new

applicants an opportunity to successfully participate in the draw; a bonus point system was preferred by the regulated public. It is difficult to quantify the value one places on bonus points; however, the Department believes it can be significant. The public benefits from a rule that establishes requirements for applying for and maintaining bonus points, which may improve an applicant's draw odds for big game draws. The bonus point system was chosen over other systems because, while it rewards those persons who have supported wildlife management and have submitted applications regularly; it does not deny others the opportunity to be drawn. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

12. A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

13. For a rule adopted after July 29, 2010, that requires the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037.

The rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

The Department proposes to amend R12-4-107 as follows:

- Replace references to "buffalo" with "bison" to reflect terminology used by the scientific community.
- Replace references to "antelope" with "pronghorn antelope" to reflect language used in Commission Order and public outreach materials.
- Clarify that a person who is nine years of age or older may take the hunter education course and, upon successful completion of the course, the person's hunter education completion card and certificate shall become valid on the minor's 10 birthday.
- Remove references to "Department-sanctioned" to reflect changes made to the Department's Hunter Education Program.
- Specify any bonus point fraudulently obtained, whether purchased or accrued, shall be removed from the person's Department record.

The Department anticipates submitting the Notice of Final Rulemaking to the Council by July 2020, provided the current moratorium is not extended or the Commission is granted permission to pursue rulemaking.

R12-4-108. MANAGEMENT UNIT BOUNDARIES

1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules.

Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. §§ 17-102, 17-231(B)(2) 17-234, 17-241, 17-452, 17-453, 17-454, and 17-455

2. Objective of the rule, including the purpose for the existence of the rule.

The objective of the rule is to establish Game Management Unit boundaries for the preservation and management of wildlife. The Commission divides the state into 76 units for the purpose of managing wildlife. These units are known as Game Management Units and are composed of state, federal, military, and private land. These units define legally huntable areas and are essential to the Department's licensing, hunt permit-tag and law enforcement operations. Department biologists and Regional offices responsible for the management of a specific unit submit data concerning wildlife and wildlife habitat to the Department's Terrestrial Wildlife Program. The Terrestrial Wildlife Program then uses this data to formulate hunting seasons. Hunters purchase tags that authorize the person to participate in a specific hunting season in a Game Management Unit, portion of a unit, or group of units that are open to hunting. It is illegal for a person to take wildlife, specified on the tag, in any area other than the unit specified on the tag and hunters rely on the unit boundary descriptions provided in R12-4-108 to ensure that they are in compliance.

3. Effectiveness of the rule in achieving its objective, including a summary of any available data supporting the conclusion reached.

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. The Department believes this data indicates the rule is effective.

4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency.

The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining

5. **Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement.**

The Department enforces this rule through proper administration. The rule is currently being enforced as written and the Department is not aware of any problems with the enforcement of the rule.

However, because landmarks change over time due to environmental factors, as local opinion changes regarding its destination, or the names of places and things change due to political or historical factors, the Department proposes to amend the rule to address boundary description changes and update Game Management Unit boundaries to provide additional clarity and maintain recreational opportunities for the public (both hunters and outdoor recreationists).

6. **Clarity, conciseness, and understandability of the rule.**

The rule is clear, concise, and understandable. The rule is logically organized and generally written in the active voice so it will be understood by the general public.

7. **Summary of any written criticism of the rule received by the agency within the five years immediately preceding the five-year review report.**

Written Comment: February 15, 2015. Make permanent that the yearly designation for Region 3, Unit 20A that "Within the following described area, those portions of Unit 20A within one-fourth mile of an occupied residence or building are closed to archery-hunting of all animals during hunting season: beginning at the eastern junction of Hwy 69 and Central Ave in Mayer; west on Central Ave to Miami St, to Main St, to First St; south to Fair Mist Ave; east to Jefferson St; southwest on Jefferson St which becomes Goodwin Rd (County Rd 177); continue south and west to Senator Hwy (FR52); to Wolf Creek Rd; west on Wolf Creek to Indian Creek Rd; north in Indian Creek to Hwy 89; south on 89 to Copper Basin Rd; West to Iron Springs Rd (County Rd 10); north and east to Miller Valley Rd; south on to Grove Ave; south on Grove; south to Gurley St; east to Hwy 69; east and south to the eastern junction of Hwy 69 and Central Ave in Mayer" as describe in the Arizona Game and Fish Department 2014-15 Arizona Hunting Regulations.

Agency Response: This rule addresses game management unit boundary descriptions; because rules are intended to be subject specific, this rule is not an appropriate place to prohibit the use archery equipment. However, the Commission is currently amending rules within Article 3 to prohibit the discharge of an arrow or bolt while taking wildlife within one-fourth mile of an occupied farmhouse or other residence, cabin, lodge or

building without permission of the owner or resident, to increase consistency between statute and rules. This restriction will apply to the entire state, once it becomes effective.

Written Comment: February 18, 2016. Think about changing the 5A South boarder to Rim rd 300 versus the Mogollon Rim 2 reasons 1-Hunters will know exactly where the boarder is, there are several spots on the Rim that transition into unit 22. 2-The late Archery hunt in unit 22 is very weather dependent and it will give hunters a chance to hunt High elevation or low elevation depending on the weather and make that late hunt more appealing.

Agency Response: The Department develops game management units to properly manage wildlife in specific areas based on biological factors. In this case, the Mogollon Rim marks the boundary line between the elk's summer and winter ranges; elk migrate down from the rim during the winter, from unit 5A into unit 22. The Department manages these two units for different opportunities based on their geographical locations. Amending the rule as suggested would be counterproductive to the Department's efforts.

8. **A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.**

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on November 3, 2015. The rule was amended to update Management Unit boundaries. The Commission anticipated the rulemaking would benefit the Department and persons regulated by the rule.

9. **Any analysis submitted to the agency by another person regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.**

The Department did not receive any analyses.

10. **If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report.**

The report was approved by G.R.R.C. at the April 1, 2014 Council Meeting, which stated the Department anticipated submitting the final rules to the Council by June 2016. The Department completed the course of action indicated in the previous five-year review report as follows:

- Notice of Rulemaking Docket Opening: 21 A.A.R. 1409, July 10, 2015.
- Notice of Proposed Rulemaking: 21 A.A.R. 1001, July 10, 2015.
- Public Comment Period: July 10, 2015 through August 10, 2015.
- G.R.R.C. approved the Notice of Final Rulemaking at the November 3, 2015 Council Meeting.
- Notice of Final Rulemaking: 19 A.A.R. 3025, December 4, 2015.

11. A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.

The rule establishes Game Management Unit boundaries for the preservation and management of wildlife. The Commission divides the state into 76 units for the purpose of managing wildlife. These units are known as Game Management Units and are composed of state, federal, military, and private land. These units define legally huntable areas and are essential to the Department's licensing, hunt permit-tag and law enforcement operations. Hunters purchase tags that authorize the person to participate in a specific hunting season in a Game Management Unit, portion of a unit, or group of units that are open to hunting; hunters rely on the unit boundary descriptions provided in R12-4-108 to ensure that they are in compliance. A person who purchases a tag for a particular game management unit, portion of a unit, or group of units; will benefit from a rule that clearly described unit boundary descriptions. The public and Department benefit from a rule that is understandable. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

12. A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

13. For a rule adopted after July 29, 2010, that requires the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037.

The rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

The Department proposes to amend R12-4-108 to address boundary description changes and update Game Management Unit boundaries to provide additional clarity and maintain recreational opportunities for the public (both hunters and outdoor recreationists).

The Department anticipates submitting the Notice of Final Rulemaking to the Council by July 2020, provided the current moratorium is not extended or the Commission is granted permission to pursue rulemaking.

R12-4-109. APPROVED TRAPPING EDUCATION COURSE

1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules.

Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. § 17-333.02

2. Objective of the rule, including the purpose for the existence of the rule.

The objective of the rule is to establish the maximum fee a person may charge for a trapping education course. The trapping education course fee limitation was previously prescribed under A.R.S. § 17-333.02. The rule was adopted to ensure compliance with statutory amendments resulting from the Fifty-first Legislature, 1st Regular Session, which amended statutes within Title 17 to authorize the Commission to establish license, permit, tag, and stamp fees by rule. The rule was adopted to establish the maximum trapping education course fee in rule.

3. Effectiveness of the rule in achieving its objective, including a summary of any available data supporting the conclusion reached.

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. In addition, the Department has not received any written comments in regards to this rule. The Department believes this data indicates the rule is effective.

4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency.

The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

5. **Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement.**

The rule is enforced as written and the Department is not aware of any problems with the enforcement of the rule.

6. **Clarity, conciseness, and understandability of the rule.**

The rule is clear, concise, and understandable. The rule is logically organized and generally written in the active voice so it will be understood by the general public.

7. **Summary of any written criticism of the rule received by the agency within the five years immediately preceding the five-year review report.**

No written criticisms were received.

8. **A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.**

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the exempt rulemaking filed with the Secretary of State's office and published in the *Arizona Administrative Register* on October 18, 2013. The rule was adopted to establish the maximum trapping education course fee in rule. The trapping education course fee limitation was previously prescribed under A.R.S. § 17-333.02. The Commission anticipated the rulemaking would have no impact on persons regulated by the rule because the rulemaking did not propose a change to the statutory maximum trapping education course fee. Discussions with Trapper Education Instructor's determined there was no need to change the fee because many instructors often offer the course for free to encourage student participation.

9. **Any analysis submitted to the agency by another person regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.**

The Department did not receive any analyses.

10. **If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report.**

Not applicable, the rule was adopted January 1, 2014.

11. **A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.**

The rule establishes the maximum fee a person may charge for a trapping education course. It is important to note, only businesses that provide an approved trapper education course bear any costs or burdens as a result of the rulemaking; these costs are assumed voluntarily by the business because it has determined the benefits of providing the course outweigh any costs. The public and Department benefit from a rule that is understandable. The Department has determined that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule necessary to achieve the underlying regulatory objective. The outcome of discussions with Trapper Education Instructors is that most instructors do not teach the course for the money and often offer the course for free; they do not believe that increasing or reducing the course fee would serve as an incentive for instructors or students.

12. **A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.**

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

13. **For a rule adopted after July 29, 2010, that requires the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037.**

The rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. **Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.**

No action

R12-4-110. POSTING AND ACCESS TO STATE LAND

1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules.

Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. §§ 17-102, 17-231(B)(2) and 17-304

2. Objective of the rule, including the purpose for the existence of the rule.

The objective of the rule is to prescribe the required conduct on State Trust Lands by licensed sportsmen and also ensure access by such sportsmen is not unlawfully blocked. The rule also sets forth the Commission's criteria for allowing the closure of roads that lead to hunting and fishing areas. The rule was adopted to prevent a person from denying access to or use of any existing road located on state lands by persons lawfully scouting for, taking, or retrieving wildlife and to ensure continued use of state lands while protecting public health and property.

3. Effectiveness of the rule in achieving its objective, including a summary of any available data supporting the conclusion reached.

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. Approximately 265,000 licensed hunters go afield each year in Arizona and, annually, approximately 25 persons are cited for hunting or taking wildlife in the wrong Game Management Unit and 5 persons are cited for hunting or taking wildlife in areas that were closed to hunting. The Department believes this data indicates the rule is effective.

4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency.

The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

5. Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement.

Overall, rule is enforced as written and the Department is not aware of any problems with the enforcement of

the rule. All peace officers of the state (including city and county) are charged with enforcement. Officers can check for rule compliance during routine patrols. Officers my issue a warning order or a citation.

The Department is aware of ongoing issues with illegally locked gates in certain areas of the state. The Department works with the State Land Department to correct these situations on a case-by-case basis. The Department proposes to amend the rule to clarify that, although a person may close State Land to hunting, fishing, and trapping; a person may not deny lawful access to State Land.

6. Clarity, conciseness, and understandability of the rule.

The rule is clear, concise, and understandable. The rule is logically organized and generally written in the active voice so it will be understood by the general public.

7. Summary of any written criticism of the rule received by the agency within the five years immediately preceding the five-year review report.

The Department received the following written criticism of the rule:

Written Comment: January 7, 2017. Units with ranch leased government land should not be allowed to post no hunting signs. They do not own the land or it could be mixed with their privately owned land. It is not right that 10,000 acres of mixed (private and government) land can be posted no hunting by the ranch owner.

Agency Response: While the Department cannot dictate what a private landowner does with their own property, the Department proactively seeks ways to increase access to and through private lands. The Department's Landowner Relations Program focuses on partnering with private landowners and agricultural producers to secure public recreational access to private land. In addition, the Department's Landowner-Lessee/Sportsman Relations Committee works to reduce access issues and improve relations between landowners and the public. The committee is made up of livestock growers, private landowners, sportsmen, recreationists, Department employees, and representatives from state and federal land management agencies.

8. A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on November 3, 2015.

The rule was amended to provide additional clarity; clearly indicate that an existing road is a road that has not been closed by the Commission; specify that a person must comply with the requirements of A.R.S. 17-304(C) when the Commission has authorized a closure of access to state lands; clarify the Commission's interpretation of the recreational permit exemption provided by the State Land Department; and establish a license holder shall not operate a motor vehicle off-road or on roads that are closed to the public, except to pick up lawfully taken big game animals. The Commission anticipated persons regulated by the rule and the Department would benefit from the rulemaking that clarified the rule and increased consistency between Commission rules.

9. Any analysis submitted to the agency by another person regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.

The Department did not receive any analyses.

10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report.

The report was approved by G.R.R.C. at the April 1, 2014 Council Meeting, which stated the Department anticipated submitting the final rules to the Council by June 2016. The Department completed the course of action indicated in the previous five-year review report as follows:

- Notice of Rulemaking Docket Opening: 21 A.A.R. 1409, July 10, 2015.
- Notice of Proposed Rulemaking: 21 A.A.R. 1001, July 10, 2015.
- Public Comment Period: July 10, 2015 through August 10, 2015.
- G.R.R.C. approved the Notice of Final Rulemaking at the November 3, 2015 Council Meeting.
- Notice of Final Rulemaking: 19 A.A.R. 3025, December 4, 2015.

11. A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.

The rule prescribes required conduct on State Trust Lands by licensed sportsmen and helps ensure access by such sportsmen is not unlawfully blocked. The rule also sets forth the Commission's criteria for allowing the closure of roads that lead to hunting and fishing areas. The public benefits from a rule that enables them to

access state land for the purpose of hunting and fishing. Landowners benefit from a rule that establishes the required conduct for hunters and anglers who are entering, using, and leaving private land; as well as the ability to close access to their land under certain circumstances with and without the Commission's permission. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

12. A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

13. For a rule adopted after July 29, 2010, that requires the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037.

The rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

The Department proposes to amend R12-4-110 to clarify that a person may not deny lawful access to State Land.

The Department anticipates submitting the Notice of Final Rulemaking to the Council by July 2020, provided the current moratorium is not extended or the Commission is granted permission to pursue rulemaking.

R12-4-111. IDENTIFICATION NUMBER

1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules.

Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. §§ 17-231(A)(2), 25-320(P), 25-502(K), and 25-518

2. Objective of the rule, including the purpose for the existence of the rule.

The objective of the rule is to prescribe the procedures necessary to obtain the number assigned to each applicant or licensee by the Department. The rule was adopted to implement a system that enables the Department to properly identify applicants in the Department's computer draw for hunt permit-tags and various license holders.

3. **Effectiveness of the rule in achieving its objective, including a summary of any available data supporting the conclusion reached.**

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. In addition, the Department has not received any written comments in regards to this rule. The Department believes this data indicates the rule is effective.

4. **Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency.**

The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

5. **Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement.**

The rule is enforced as written and the Department is not aware of any problems with the enforcement of the rule.

6. **Clarity, conciseness, and understandability of the rule.**

The rule is clear, concise, and understandable. The rule is logically organized and generally written in the active voice so it will be understood by the general public.

7. **Summary of any written criticism of the rule received by the agency within the five years immediately preceding the five-year review report.**

No written criticisms were received.

8. **A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if**

no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on November 3, 2015. The rule was amended to remove the option that allowed a person to use their Social Security Number as the Department Identification Number and replace references to "alias" with "any additional names the person has lawfully used in the past or is known by." The Commission anticipated that no longer allowing a person to use their Social Security Number as their Department identifier would reduce the possibility of someone using the person's Department-issued license to commit identity theft.

9. Any analysis submitted to the agency by another person regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.

The Department did not receive any analyses.

10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report.

The report was approved by G.R.R.C. at the April 1, 2014 Council Meeting, which stated the Department anticipated submitting the final rules to the Council by June 2016. The Department completed the course of action indicated in the previous five-year review report as follows:

- Notice of Rulemaking Docket Opening: 21 A.A.R. 1409, July 10, 2015.
- Notice of Proposed Rulemaking: 21 A.A.R. 1001, July 10, 2015.
- Public Comment Period: July 10, 2015 through August 10, 2015.
- G.R.R.C. approved the Notice of Final Rulemaking at the November 3, 2015 Council Meeting.
- Notice of Final Rulemaking: 19 A.A.R. 3025, December 4, 2015.

11. A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.

The rule prescribes the procedures necessary to obtain the number assigned to each applicant or licensee by the Department. The public and Department benefit from a rule that is understandable. The Department believes the rule imposes the least burden and costs to persons regulated by the rule.

12. A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

13. For a rule adopted after July 29, 2010, that requires the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037.

The rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

No action.

R12-4-112. DISEASED, INJURED, OR CHEMICALLY-IMMOBILIZED WILDLIFE

1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules.

Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. §§ 17-102, 17-231(A)(2), 17-231(A)(8), and 17-250(A)(3)

2. Objective of the rule, including the purpose for the existence of the rule.

The objective of the rule is to establish the Director's authority to authorize Department employees to condemn a lawfully taken animal that is unfit for consumption and issue a duplicate tag, thus allowing the hunter the opportunity to take another permitted animal. The rule also clarifies that this condition must not be created by the actions of the person who took the animal, and prescribes the procedure for obtaining a tag for the purpose of maximizing hunt opportunities of the state's wildlife resources.

3. Effectiveness of the rule in achieving its objective, including a summary of any available data supporting the conclusion reached.

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. In addition, the Department has not received any written comments in regards to this rule. The Department believes this data indicates the rule is effective.

4. **Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency.**

The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

5. **Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement.**

The rule is enforced as written and the Department is not aware of any problems with the enforcement of the rule. All peace officers of the state (including city and county) are charged with enforcement. Officers can check for rule compliance during routine patrols. Officers my issue a warning order or a citation.

6. **Clarity, conciseness, and understandability of the rule.**

The rule is clear, concise, and understandable. The rule is logically organized and generally written in the active voice so it will be understood by the general public.

7. **Summary of any written criticism of the rule received by the agency within the five years immediately preceding the five-year review report.**

No written criticisms were received.

8. **A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.**

The rule was amended to Arizona Administrative Procedure Act and the Secretary of State's rulemaking format and style requirements and standards. Because the amendments were nonsubstantive in nature, the Commission anticipated the amendments would have no impact on the Department or regulated community.

9. Any analysis submitted to the agency by another person regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.

The Department did not receive any analyses.

10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report.

The report was approved by G.R.R.C. at the April 1, 2014 Council Meeting, which stated the Department anticipated submitting the final rules to the Council by June 2016. The Department completed the course of action indicated in the previous five-year review report as follows:

- Notice of Rulemaking Docket Opening: 21 A.A.R. 1409, July 10, 2015.
- Notice of Proposed Rulemaking: 21 A.A.R. 1001, July 10, 2015.
- Public Comment Period: July 10, 2015 through August 10, 2015.
- G.R.R.C. approved the Notice of Final Rulemaking at the November 3, 2015 Council Meeting.
- Notice of Final Rulemaking: 19 A.A.R. 3025, December 4, 2015.

11. A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.

The rule establishes the Director's authority to authorize Department employees to condemn a lawfully taken animal that is unfit for consumption and issue a duplicate tag. The public benefits from a rule that prescribes the procedure necessary to obtain a replacement tag for the purpose of maximizing hunt opportunities of the state's wildlife resources. The public and Department benefit from a rule that is understandable. The Department believes the rule imposes the least burden and costs to persons regulated by the rule.

12. A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

13. For a rule adopted after July 29, 2010, that requires the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037.

The rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

No action.

R12-4-113. SMALL GAME DEPREDATION PERMIT

1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules.

Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. §§ 17-102 and 17-239

2. Objective of the rule, including the purpose for the existence of the rule.

The objective of the rule is to establish authorized activities and application requirements for the complimentary small game depredation permit authorized under A.R.S. § 17-239(D). Depredation includes agricultural damage, private property damage, threats to human health and safety, and threats to recovery of protected wildlife. The permit is intended to provide short-term relief for small game damage until long-term, non-lethal measures can be implemented to eliminate or significantly reduce the problem. The rule was adopted to establish the person suffering property damage from small game must exhaust all remedies under statute prior to requesting the depredation permit.

3. Effectiveness of the rule in achieving its objective, including a summary of any available data supporting the conclusion reached.

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. In addition, the Department has not received any written comments in regards to this rule. The Department believes this data indicates the rule is effective.

4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency.

The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

5. Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement.

The rule is enforced as written and the Department is not aware of any problems with the enforcement of the rule. All peace officers of the state (including city and county) are charged with enforcement. Officers can check for rule compliance during routine patrols. Officers my issue a warning order or a citation.

6. Clarity, conciseness, and understandability of the rule.

The rule is clear, concise, and understandable. The rule is logically organized and generally written in the active voice so it will be understood by the general public.

The Department proposes to amend the rule to remove the Department website Uniform Resource Location (url) and simply reference "Department's website" to ensure the rule remains concise in the event the Department's url should change.

7. Summary of any written criticism of the rule received by the agency within the five years immediately preceding the five-year review report.

No written criticisms were received.

8. A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on November 3, 2015. The rule was amended to clarify depredation permit application requirements and establish the Department shall specify the allowable methods of take that may be used by the permit holder. The Commission anticipated the proposed rulemaking would not have a significant impact on the Department or persons regulated by the rule.

9. **Any analysis submitted to the agency by another person regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.**

The Department did not receive any analyses.

10. **If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report.**

The report was approved by G.R.R.C. at the April 1, 2014 Council Meeting, which stated the Department anticipated submitting the final rules to the Council by June 2016. The Department completed the course of action indicated in the previous five-year review report as follows:

- Notice of Rulemaking Docket Opening: 21 A.A.R. 1409, July 10, 2015.
- Notice of Proposed Rulemaking: 21 A.A.R. 1001, July 10, 2015.
- Public Comment Period: July 10, 2015 through August 10, 2015.
- G.R.R.C. approved the Notice of Final Rulemaking at the November 3, 2015 Council Meeting.
- Notice of Final Rulemaking: 19 A.A.R. 3025, December 4, 2015.

11. **A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.**

The rule establishes the authorized activities and application requirements for the complimentary small game depredation permit authorized under A.R.S. § 17-239(D). The permit is intended to provide short-term relief for small game damage until long-term, non-lethal measures can be implemented to eliminate or significantly reduce the problem. The public benefits from a rule that allows a person suffering property damage from small game to obtain a depredation permit for taking that wildlife. The public and Department benefit from a rule that is understandable. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

12. **A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.**

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

13. **For a rule adopted after July 29, 2010, that requires the issuance of a regulatory permit, license, or**

agency authorization, whether the rule complies with A.R.S. § 41-1037.

The rule complies with A.R.S. § 41-1037. The small game depredation permit described in the rule falls within the definition of "general permit" as defined under A.R.S. § 41-1001(11).

14. **Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.**

The Department proposes to amend R12-4-113 to replace references to the Department website url with "Department's website" to ensure the rule remains concise in the event the Department's url should change.

The Department anticipates submitting the Notice of Final Rulemaking to the Council by July 2020, provided the current moratorium is not extended or the Commission is granted permission to pursue rulemaking.

R12-4-114. ISSUANCE OF NONPERMIT-TAGS AND HUNT PERMIT-TAGS

1. **General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules.**

Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. §§ 17-102, 17-231(A)(2), 17-231(A)(3), 17-331(A), 17-332(A), and 17-371

2. **Objective of the rule, including the purpose for the existence of the rule.**

The objective of the rule is to prescribe the hunt permit-tag structure, conditions under which the Commission may issue tags, application procedures, and distribution and use of hunt permit- and nonpermit-tags. The rule was adopted to provide the regulated community with the information necessary to apply for a hunt permit-tag and obtain a nonpermit-tag and describe the computer draw process. Hunt permit-tags are issued by computer draw and nonpermit-tags are available at any Department office or license dealer. Certain percentages are made available to persons with bonus points and nonresidents. Any tags remaining after the computer draw are made available to the public on a first-come, first-served basis. The information provided in rule also makes the computer draw process more transparent to the public.

3. **Effectiveness of the rule in achieving its objective, including a summary of any available data supporting the conclusion reached.**

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. The Department believes this data indicates the rule is effective.

4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency.

The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

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

5. Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement.

The rule is enforced as written and the Department is not aware of any problems with the enforcement of the rule. All peace officers of the state (including city and county) are charged with enforcement. Officers can check for rule compliance during routine patrols. Officers my issue a warning order or a citation.

6. Clarity, conciseness, and understandability of the rule.

The rule is clear, concise, and understandable. The rule is logically organized and generally written in the active voice so it will be understood by the general public.

7. Summary of any written criticism of the rule received by the agency within the five years immediately preceding the five-year review report.

The Department received the following written criticism of the rule:

Written Comment: September 17, 2014. This letter is to notify the Department of my intent to longer hunt or fish in the state of Arizona after 2014. I have contributed countless hard earned money towards the Department and I am at a loss of words due to the lack of effort or intent to help me in any way - other than to tell me I can give my tag away and wait another 10 years for a tag. I cannot walk on my own. I chose not to pursue an animal in my condition because I felt it would be criminal to do so because I cannot pack it out in my condition. I Drew

my 1st elk tag at 35 years old (took 10 years) and I just calculated my odds. I will not draw another tag until I am 50 years old. Meanwhile, I know a gentleman who drew 19 in a row. I also know of another gentleman who the Department did allow to surrender a tag. This process is neither fair nor consistent, I am disgusted. The Department has neglected to show support to its biggest contributors, the Arizona sportsmen and women, by not providing a service to us in the event of a tragedy. This is a disservice to all of the sportsmen in Arizona and it is discrimination to allow one group to surrender a tag, but not another. I realize the rules are set in place by the legislature, but it is discriminatory. I realize my dollars and volunteer time mean nothing to the Department. However, I do teach the youth of Arizona (via Scouts) and I have always incorporated wildlife and hunting when I mentor. Moving forward, I will tell my story to the scouts and advise them not to support a Department that will not support you. This weekend I will be on an outing with 15 of them and they have all been witness to the events that led to my being confined to a wheel chair. I do not find this to be an unreasonable request as I am not asking for a handout or for the Department to bend over backwards for me, instead support my efforts and at least acknowledge or validate all that I have done for Arizona wildlife.

Agency Response: The Department understands your frustration at not being able to use the tag you drew and the loss of your bonus points for that species. However, at that time the Commission hands were tied, there were only two very specific circumstances that allowed a person to surrender an unused hunt permit-tag and restore expended bonus points under: when a Department-error occurs or when a member of the U.S. Armed Forces or a public agency emergency response employee is mobilized, activated, or experienced a change in duty status that precluded the applicant from using the hunt permit-tag. In response to situations like this one, the Commission adopted R12-4-118 (hunt permit-tag surrender) which allows any hunter to surrender their unused, original hunt permit-tag and have their bonus points restored provided the person has a valid and active membership in a Department membership program; "valid and active membership" means a paid and unexpired membership in any level of the Department's membership program.

Written Comment: December 5, 2014. Current Environment: Reduced hunting opportunities and participation continue to reduce revenues and overall participation in hunting sports. Increased revenues could be used to purchase land and land use rights increasing opportunities and quality for all sportsman in Arizona. Solution: Modified Resident Status (MRS) increase revenue through expanding nonresident participation in the Arizona computer draw. This is accomplished by including MRS candidates in the resident draw pool, but subjects them to nonresident fees which results in a modest increase in participation and a significant increase in revenue. MRS Criteria Minimum Land Ownership and Tax Base: Develop a program to establish a minimum value and tax base for the modified resident status, application process, and terms. The criteria would represent participants with a significant vested interest in the state of Arizona and worthy of the modified resident status: land owning, tax paying persons. Example: MRS candidates will submit an application consisting of an application fee and copies of property tax bills. They would pay the nonresident fees. Benefits: Increased participation and collection of nonresident fees through the MRS program will result in a significant increase in

revenue for the Department. Conclusion: Significant additional revenue could be generated through implementation of the MRS program. With only 5% additional participation revenues could increase in excess of one millions dollars annually, based on tag quota. The increased revenue could be used to increase quality and opportunity. Program Overview: 1. Increase the tax revenue potential for state of Arizona; 2. Could increase land ownership and tax base; 3. Increased fees for the Department; 4. Fair for land owning, taxpaying Arizona partners; 5. Could be managed through quotas with a set maximum participation level; and 6. No cost to the Department as it is paid for by the application fee.

Agency Response: The Department appreciates the time and effort put into the commenter's suggestion, but the Department believes every citizen, regardless of economic or social status, has the opportunity to hunt, fish, and trap. The Commission, through a public process, determined the current draw application process best serves our constituency. The Commission's draw process is designed to provide equal opportunity to all classes of persons and not to provide an advantage to certain classes (landowners). In addition, the suggestion to allow a nonresident who owns land in Arizona to be eligible for resident hunt permit-tags would be unenforceable and problematic to implement; it would also complicate the definition of what constitutes a resident and provide an unfair advantage to a select group of people.

Written Comment: January 7, 2015. This is science based. The Department should exempt seniors over the age of 70 from the computer draw. Proven by science, we are not going to live many more years therefor, give us a chance to hunt.

Agency Response: The Commission's draw process is designed to provide equal opportunity to all classes of individuals and not to provide an advantage to certain classes.

Written Comment: January 19, 2015. I am writing to you as a long time applicant to your state with 16 points for four different species and having never drawn a single tag. I see a trend among states to cut nonresident tags in general. I understand the need of hunter recruitment for the future of hunting but, I think the proposal to take the 10% cap, split it and give 5% in the random draw might be okay if the Department was starting out with a new system, but it is not. This is making a major change to the draw system and giving the shaft to the many who signed up on one set of rules, having patiently waited their turn in line, persons who are on the verge of drawing the tag of their dreams. I understand this is proposed because some low point holders are complaining that they cannot seem to draw a tag. I think the real problem is a lack of understanding on their part on how the draw system works. I think the Department could do a few things to help. The Department should be more transparent with the computer draw and show the difference in resident and nonresident drawing odds. The Department should put more effort into educating people how the draw works. The Department should make this change in steps over a period of three to five years and give the people who have been waiting for many

years the option of using their points on something. If the Department is going to follow through with this proposal, look at Nevada's system, which is the fairest I know of.

Agency Response: The first phase of the current draw system issues available tags to those persons with the maximum number of bonus points. The computer draw system monitors the number of nonresidents drawn for tags and once the 10% nonresident cap, required under A.R.S. § 17-332, is reached it will eliminate all other nonresidents from the draw pool. Because nonresidents typically carry higher bonus point totals than residents, the 10% nonresident cap is sometimes reached in the first phase of the computer draw, which means a nonresident with no or few bonus points may never have the opportunity to draw a tag (this is especially true for high demand hunts). The bonus point system was established to reward loyal applicants while providing new applicants an opportunity to successfully participate in the computer draw; the intent has always been to allow every applicant a chance of drawing a tag, even when the odds are very low. The bonus point system has been successful in meeting its objective to improve odds for long-term participants, but not successfully enough for everyone. Over the years, the Department received numerous comments from the public suggesting the Department modify the draw process to ensure all nonresidents, even those with no or low bonus points, are afforded an opportunity to draw a tag; even for the high demand hunts. As it is now, there are some hunts for which a nonresident applicant with no or low bonus points will never have a chance of drawing a tag due to the number of nonresident applicants with maximum bonus points. Therefore, the Commission amended the rule to bring the draw process back in line with the original intent and ensure all applicants, regardless of residency and number of bonus points, will have an opportunity to draw a tag in any given hunt.

Written Comment: January 19, 2015. I have 16 bonus points for deer; I have been applying for late Kaibab rifle hunts. I used to apply for the Strip hunts until I learned I would never draw one of those tags with the current draw system and rules in place. I am sure the Department is aware of Nevada's bonus point system of squaring points. What I like about this system is anyone can draw a tag in any given year; regardless of points; yet those near the maximum point pool have an advantage over those who are just starting out. This is the way it should be. Those with more skin in the game should be favored over those just starting out, while still providing a chance for those with low or no bonus points. This system would give newcomers hope for drawing a tag in the future, thus providing a continual stream of revenue for the Department. The current system leaves does not leave newcomers applying for Arizona tags much hope. Here is an example of how the Nevada system worked for me: I drew a tag the very first time I applied in Nevada for a top mule deer unit. I drew two more tags one 11 years later and the other 2 years later after that. Nevada and my home state are the only states I have drawn more than 1 tag in. Would it be possible for Arizona to scrap the current "bonus pass" altogether and start squaring points? I apply for tags in 7 to 8 different states every year, and have come to the conclusion that Nevada's system is the fairest and most equitable.

Agency Response: In Nevada, bonus points are squared when an application is submitted. For an application with 5 bonus points, the computer will generate 25 random numbers. It is important to note, having the greatest number of points does not guarantee a tag; however, it does provide a better chance of being assigned a low random number in the computer draw. While the Department has received a number of written criticisms in regards to the current bonus point system, the Commission determined through an extensive public process and a random survey of hunters that a bonus point system was preferred by the regulated public. Implementing a squared point system that awards hunt permit-tags based solely on accumulated points would have a negative impact on the recruitment of new hunters. The Department's "bonus point" system is used in lieu of other point systems, because it rewards loyal applicants and provides new applicants an opportunity to successfully participate in the draw.

Written Comment: February 10, 2015. I live in Utah and have been applying for tags in Arizona for 17 years. I would like to propose a few ideas: Keep the full 10% of tags going to nonresidents in the bonus point pass. This will keep those persons who have invested thousands of dollars happy about their investment. Take 5% of the remaining tags and give them to the rest of the nonresident applicants to give them a chance at a premium tag. This should have minimal effect on the resident permits. Implement a muzzleloader hunt on many of your premium units. Utah has a muzzleloader hunt on all most all the premium elk and deer units. This will give more opportunity to hunt Premium units and unclog the system for nonresidents. Plus the success of the muzzleloader hunt is far less than the rifle hunt. So the Department can still maintain a premium hunt for everyone.

Agency Response: The first phase of the current draw system issues available tags to those persons with the maximum number of bonus points. The computer draw system monitors the number of nonresidents drawn for tags and once the 10% nonresident cap, required under A.R.S. § 17-332, is reached it will eliminate all other nonresidents from the draw pool. Because nonresidents typically carry higher bonus point totals than residents, the 10% nonresident cap is sometimes reached in the first phase of the computer draw, which means a nonresident with no or few bonus points may never have the opportunity to draw a tag (this is especially true for high demand hunts). The bonus point system was established to reward loyal applicants while providing new applicants an opportunity to successfully participate in the computer draw; the intent has always been to allow every applicant a chance of drawing a tag, even when the odds are very low. The bonus point system has been successful in meeting its objective to improve odds for long-term participants, but not successfully enough for everyone. Over the years, the Department received numerous comments from the public suggesting the Department modify the draw process to ensure all nonresidents, even those with no or low bonus points, are afforded an opportunity to draw a tag; even for the high demand hunts. As it is now, there are some hunts for which a nonresident applicant with no or low bonus points will never have a chance of drawing a tag due to the number of nonresident applicants with maximum bonus points. Therefore, the Commission amended the rule to bring the draw process back in line with the original intent and ensure all applicants, regardless of residency and

number of bonus points, will have an opportunity to draw a tag in any given hunt. Department biologists and Regional offices responsible for the management of a specific unit submit data concerning wildlife and wildlife habitat to the Department's Terrestrial Wildlife Program. The Terrestrial Wildlife Program then uses this data to formulate hunting seasons, which are included in the hunt recommendations provided to the Commission. Commission Orders establishing hunt structures are based on hunt recommendations resulting from an extensive public process. Your comment regarding muzzleloading hunts (black powder) was forwarded to the Department's Terrestrial Wildlife Branch for consideration during the next hunt guidelines review process.

Written Comment: July 1, 2015. Increase the bonus pass from 20% to 40%.

Agency Response: In 1990 through an extensive public process and a random survey of hunters, the bonus point system was established to reward loyal applicants while providing new applicants an opportunity to successfully participate in the draw; a bonus point system was preferred by the regulated public.

Written Comment: July 7, 2015. The Department's hunt draws are not set up properly. A person with 11 bonus points should be drawn before someone with lesser points. I do not care about luck of the draw.

Agency Response: In 1990 through an extensive public process and a random survey of hunters, the bonus point system was established to reward loyal applicants while providing new applicants an opportunity to successfully participate in the draw; a bonus point system was preferred by the regulated public.

Written Comment: January 13, 2016. I made a mistake and failed to apply before the last day of the application deadline last year. I had 12 bonus points and would have had 13 points right now, but because I missed the deadline I also lost my loyalty bonus point. I have been loyal to the Department for 12 years, paid around $2,000, and have never even hunted in Arizona. I made an honest mistake and let the drawing deadline pass. Is there any way I can pay last year's license fee and get my elk bonus points for this last year? If not, I understand, but why does the Department have a rule that lets the Department take a person's loyalty point away? I earned that loyalty point five years ago. Does anyone in the Department advocate for nonresidents? It does not seem like it. Nonresidents pay a large portion of the Department's salaries. What if someone had been putting in for your elk draw for 20 years? They have never been drawn and they missed the deadline of the draw? Do you take away their four loyalty points? How does that make any sense at all? Loyalty goes both ways. Why did the Department change the rules in the bonus pass draw for nonresidents? It already took more points for nonresidents to get drawn than residents. Many nonresident hunters with 10 to 20 bonus points were getting close to being drawn for their specific hunt choices. Why take away five% of the tags in the bonus pass draw for nonresidents and put them in the random draw for residents and nonresidents to draw? Nonresident hunters, who have waited for years, and paid good money for years, should get drawn before hunters who have only been waiting for a few years, or less. The overwhelming percentage of hunters will understand this. The

hunters who have been waiting the longest should be the hunters who get drawn. If the Department really wants to improve the computer draw, it should copy Colorado. Colorado has a preference point system. They understand hunters who have waited the longest should get drawn earlier. Also, once their drawing closes it does not take three months to get the drawing results. Because Arizona takes so long to do their drawing I cannot put in for a couple other states I may want to.

Agency Response: Bonus points and loyalty bonus points may only be gained or lost through the computerized draw system. The Department understands your frustration; however, if a person fails to apply they cannot be entered into the draw. If an application is not entered into the system, the system cannot award a bonus point. It is the applicant's responsibility to ensure the application is submitted timely. The Department equally considers the desires and needs of both residents and nonresidents. Only one loyalty point is accrued after five consecutive years; the Department does not award additional bonus points every five years. In 2005, Congress enacted Public Law Number 109-13, section 6036, which reaffirmed each state's right to regulate hunting. The purpose of section 6036 was to prohibit courts from declaring nonresident hunting regulations unconstitutional based on the Dormant Commerce Clause. In addition, the statute governing tag allocation to nonresidents (A.R.S. § 17-332), is very specific and states, "The commission shall limit the number of big game permits issued to nonresidents in a random drawing to *ten per cent or fewer* of the total hunt permits,…" The bonus point system was established to reward loyal applicants while providing new applicants an opportunity to successfully participate in the computer draw; the intent has always been to allow every applicant a chance of drawing a tag, even when the odds are very low. The bonus point system has been successful in meeting its objective to improve odds for long-term participants, but not successfully enough for everyone. Over the years, the Department received numerous comments from the public suggesting the Department modify the draw process to ensure all nonresidents, even those with no or low bonus points, are afforded an opportunity to draw a tag - even for the high demand hunts. As it is now, there are some hunts for which a nonresident applicant with no or low bonus points will never have a chance of drawing a tag due to the number of nonresident applicants with maximum bonus points. Therefore, the Commission proposes to amend the rule to bring the draw process back in line with the original intent of ensuring all applicants, regardless of residency and number of bonus points, will have an opportunity to draw a tag in any given hunt. While the Department is sensitive to your frustration and appreciates the time and effort put into building bonus points, the Department believes providing opportunity to all applicants is the right thing to do. The Commission directed the Department to reduce the number of days it takes to run the computer draw and post the results. To date, the Department has shortened the time between the end of the draw and the posting of the results from 64 days (the average at the time) to 25 days. The Department posted the results from the last computer draw in only 34 days. The Department will continue to evaluate the computer draw system in an effort to meet the 25 day goal.

Written Comment: October 11, 2016. I think the leftover process is unfair to everyone in rural Arizona. I have to depend on the post office to get my app there on time and it never does when I send it on the Friday

before the deadline date. But, if I lived in Phoenix, it would go directly to the Department - on time. My mail has to go to three or four post offices before it gets there. There should be an extra computer draw or the Department should take applications for a week and then randomly pick applications for those left over tags. Even better, do not take away bonus points for a person's third, fourth, and fifth hunt choices.

Agency Response: The Department understands your frustration; however, if a person fails to apply they cannot be entered into the draw. If an application is not entered into the system, the system cannot award a bonus point. It is the applicant's responsibility to ensure the application is submitted timely. In 1990 through an extensive public process and a random survey of hunters, the bonus point system was established to reward loyal applicants while providing new applicants an opportunity to successfully participate in the draw; a bonus point system was preferred by the regulated public. When a person is drawn for a hunt permit-tag, the bonus points for that species are lost through the computerized draw system. Running two separate computer draws for the same hunts would be problematic to the Department and confusing to the public.

Written Comment: December 3, 2016. I am watching the live stream broadcast of the Commission meeting. As a 53 year old native born Arizonan, I am happy that the Department did not pass the recommendation as presented. However, I think there is some opportunity for the people that fit into this group. I recommend offering one permanent bonus point to anyone over the age of 69 who holds a pioneer license. The Department should also offer one bonus point for anyone over 69 who holds a pioneer license and was born in the state of Arizona; must prove age with a birth certificate. This would allow each person to enter the draw with up to four points assuming they have their hunter safety permit and loyalty point. I think people who choose this route should not be able to transfer their tag to a minor grandchild or child. If they want the opportunity to transfer tag they can opt out of the recommendations I propose. This could be done at the application process. I believe my recommendations would be much easier to administer and not near as expensive to Department.

Agency Response: In 1990 through an extensive public process and a random survey of hunters, the bonus point system was established to reward loyal applicants while providing new applicants an opportunity to successfully participate in the draw; a bonus point system was preferred by the regulated public. The Commission’s draw process is designed to provide equal opportunity to all classes of individuals and not to provide an advantage to certain classes.

Written Comment: February 9, 2017. I am a nonresident who has accumulated 20 points for elk and mule deer; one of the points involved a trip to Arizona to complete the hunter education course. I have a great deal of time and money invested in your state. The latest rule change reduces the maximum bonus point pool draw from 100% of the available nonresident tags to 50% is a major setback to people like me, who have followed the rules and spent their time and money to draw a coveted Arizona tag. To make matters even worse, I was told by Department staff that there was a mistake made in the rule change that says when only one nonresident tag is

available in a particular unit; it will not go in the bonus point pass. My question is, since this was not the intent of the Department, why has it not been corrected? Reducing the chances of your most loyal participants by 50% is one thing, but to not afford them a stronger chance because of an unintended error is another matter.

Agency Response: The Department believes the commenter was misinformed. In the computer draw, when only one tag available to nonresidents, it is awarded in the bonus point pass of the computer draw. The bonus point system was established to reward loyal applicants while providing new applicants an opportunity to successfully participate in the computer draw; the intent has always been to allow every applicant a chance of drawing a tag, even when the odds are very low. The bonus point system has been successful in meeting its objective to improve odds for long-term participants, but not successfully enough for everyone. Over the years, the Department received numerous comments from the public suggesting the Department modify the draw process to ensure all nonresidents, even those with no or low bonus points, are afforded an opportunity to draw a tag - even for the high demand hunts. As it is now, there are some hunts for which a nonresident applicant with no or low bonus points will never have a chance of drawing a tag due to the number of nonresident applicants with maximum bonus points. Therefore, the Commission proposes to amend the rule to bring the draw process back in line with the original intent of ensuring all applicants, regardless of residency and number of bonus points, will have an opportunity to draw a tag in any given hunt. While the Department is sensitive to your frustration and appreciates the time and effort put into building bonus points, the Department believes providing opportunity to all applicants is the right thing to do.

Written Comment: June 14, 2017. This is the second time I have appealed to the Department requesting a family tag (deer, elk, etc.) be made available to hunters. I never received a response. When asking for input from the public, please include an email address on the announcement where we can respond in the event we are unable to attend the public hearings.

Agency Response: The Commission does not support this suggestion as it eliminated the family license classifications in 2014 because they were underutilized. At that same time, the Commission established an exemption to the hunting and fishing license requirement for youth under the age of 10 and a $5 combination hunting and fishing license for youth ages 10 to 17. This change was made to promote hunting and fishing in families and youth. It is important to note, while the Department does not issue a "family tag," a person may submit one or more group applications and have the opportunity to draw a tag for each person listed on the application(s).

The following comments suggest the Commission establish antler point restrictions.

Written Comment: January 12, 2015. This comment was received during the Department's Hunt Guidelines public comment period. The portions of the comments relating specifically to hunt guidelines are not included

below (signified by ellipses). The number of hunters is increasing along with the amount of tags that are being issued for the decreasing number of animals to be hunted. The Department needs to regulate the deer population more stringently. There should be a point minimum for deer; spikes and young fork horns should not be harvested. Too many young deer are being harvested here and not giving the herds a chance to grow. I hunted in several different states that have a higher population of deer and those states have minimum point requirements for harvesting. … As far as the left over deer tags are concerned, a person who does not get drawn in the regular draw and chooses to purchase a left over tag should not be awarded a bonus point for that year. It is getting harder to be drawn for the prime hunts due to more applicants and the left over tag strategy. …

Written Comment: January 20, 2015. It seems the Department is more worried about making money. I have never seen as many tags sold and areas over hunted. Too many people are shooting the little spikes and small two point bucks. Soon the old ones will begin to die off or be shot or taken by predators and there will not be enough small ones to replace them. I have personally passed up many small bucks because I feel it is the right thing to do. I would like to see a point restriction of maybe three point or better except for the youth hunts.

Agency Response: Antler point restrictions are another approach that is often described by hunters as a good method by which to regulate take. The idea seems straightforward and promising; if we just don't allow hunters to harvest young bucks, they will grow older and bigger and be available for harvest later. Most western states and provinces have, at one point in time, employed some type of antler point restriction attempting to increase the number of "trophy" bucks in their herds. After decades of use and many evaluations reporting disappointing results, most western states and provinces have discontinued statewide antler point restrictions. The two main reasons for abandoning widespread antler point restrictions are: (1) unacceptable accidental-illegal kill, and (2) harvest mortality was increased (focused) on the very age classes they intended to promote. Available data and experience suggest antler point restrictions result in no long-term increase in either the proportion or number of mature bucks, or the total deer population. A few jurisdictions still have limited areas with antler point restrictions, due to hunter preference not a biological need. The use of antler point restrictions in a combined strategy with general open seasons is used in at least one case to maximize hunting opportunity. Most western states and provinces have concluded that sustainable improvements in buck:doe ratios and the number of mature bucks can only be realized by reducing harvest through: 1) a limited quota license system that decreases overall total buck harvest (as we do here), or by 2) setting a very short hunting season in early fall when mature bucks are less vulnerable. While antler point restrictions may increase the proportion of bucks in certain populations with low buck:doe ratios, there is no evidence they substantially increase the total number of adult (mature) bucks. The Department does not recommend any change to guidelines based on this comment.

The following comments suggest variations of a waiting period after being drawn for a hunt.

Written Comment: January 8, 2015. If a person is drawn for elk, that person should not be able to put in for elk the next year. This would give other people the opportunity to hunt instead of the same people being drawn all the time. I like the idea of improving my chances and other hunters and if I were drawn, waiting one year to put in again would not bother me.

Written Comment: March 22, 2015. We all know the specific species in hunting big game that are in high demand, which is why a bonus point system has been put in place. Some may wonder if the draw is fair because some have incredible luck. For big game species like elk, antelope, and bighorn sheep it can be incredibly hard to get drawn. Those that have been putting in for a long time feel cheated when someone with fewer points or no points is drawn. Why not set a limit for species points that are required in order for a person to receive a tag? Perhaps, requiring a person to have one species point at the time of application would prevent people from getting drawn back to back, especially for elk. This would also give those with more points a better chance of being drawn. I am suggesting a method that would help balance the draw system for high demand species and specific hunts. For the person waiting five or more years to get drawn, they may have a better chance due to the number of people who are not eligible. Revenues for the Department would stay the same and more people who have been waiting to get drawn will have a better chance.

Written Comment: September 05, 2015. The Department should develop a draw system where if I am drawn for elk, deer, antelope, etc. this year, I will not be eligible to draw a tag next year unless there were leftover tags. This would be a more fair system than the one currently in place. There are some hunters in this state that never get drawn while others get drawn almost every year. With the computer systems that are available, I feel that this could be easily done.

Written Comment: October 27, 2015. When I lived in Alaska, there was a rule that if you were successful hunter for a brown bear you could not apply for four years and in addition, in certain areas, if you were drawn you could not apply to that same area the following year. These regulations are still intact for Alaska brown bear and grizzly bear hunts today. Perhaps some combination of these ideas may improve the odds for the pronghorn draw.

Written Comment: April 7, 2016. As more people want to hunt the limited resource, it is harder than ever to draw an elk tag, unless you are willing to settle for a poor unit or cow hunt. I am getting old and may never get a bull tag again no matter how many points I have. Has the Department ever considered implementing a waiting period where if a person who is lucky enough to draw a bull tag cannot apply for another one for three years? This would not apply to cow hunts, just the early hunts that are high demand.

Written Comment: July 3, 2017. It is absurd how long it takes for a person to draw an antelope or bull elk tag. One solution to this issue may be only opening those two species to nonresidents every other year. I understand

there may be a loss in revenue; however, Arizona seems to be in great fiscal shape right now and that should be taken into consideration as well.

Agency Response: The Department reviewed a variety of waiting period options in response to customer comment; such as one-, three-, and eight-year waiting periods for general and specific hunts. The analysis indicated that, except for youth hunts, implementing a waiting period would not substantially improve the odds of being drawn for those species that currently have low draw odds. For example, the projected increase in draw odds of .26 % (elk) to 6.3 % (late season deer) per applicant. The Commission determined implementing a waiting period would not be beneficial to persons who hunt in Arizona.

The following comments suggest various changes be made to the computer draw system:

Written Comment: February 10, 2015. I have 10 elk, 8 deer, and over 20 antelope bonus points. My brother-in-law has only been in Arizona 18 years and he was drawn for unit 19B twice? My other brother-in-law was drawn three times in the past 20 years. The Department should ensure all hunters get the opportunity to hunt. I apply in the same areas as my friends and family; and they draw a tag multiple times and even consecutively. When the bonus point system was introduced, we were led to believe that once a person accrued seven bonus points they were guaranteed a tag, but that has proven otherwise. Looking back, the old three year system was much better.

Written Comment: January 6, 2017. I would like the Department to make more tags available via age preference points or special seasons dedicated to those resident hunters age 65 or even 70 years of age and up. More than likely, those hunters have supported Arizona wildlife for many years and the years they have left to hunt are very limited. Having to acquire numerous bonus points to draw a deer or elk tag puts the elderly at a disadvantage of not being physically capable or dying before getting a tag for their last cow elk or deer hunt.

Written Comment: January 6, 2017. I find it frustrating how the preference point system works. I put in for specific species and hunts every year, but fail to draw a tag even with numerous preference points while others with no points draw a tag for the same hunt. There has to be a better system that gives more preference to those with preference points. It just does not seem right that many people fail to draw tags, year after year, while others applying for the same hunt with few or no preference points draw the tags ahead of them. I know many other hunters who feel the same way.

Written Comment: January 7, 2017. Arizona residents of 55 years cannot draw one Desert Bighorn Sheep Tag. I am 57 years old with 23 bonus points and there is a good chance I will not draw one sheep tag in my lifetime. I have a possible fix: Hold 40% of the tags for hunters with 20 or more bonus points. Hold 10% of the tags for hunters with 15 or more bonus points. Hunters age 14 to 21 are not eligible to apply for a tag, but can

purchase bonus points each year. By the time they reach their 21st birthday they could have 7 bonus points to use when they apply for a tag.

Written Comment: May 12, 2017. I am not in favor of the draw changes being brought to vote on by the Commission. I might favor them if at least 10% were be allocated to nonresidents, not up to 10%. I feel that 10% should be the minimum going to nonresidents considering the millions of dollars made each year off of the nonresident application fees.

Written Comment: June 1, 2017. I am 77 years old and was born and raised in Arizona. Other than during my military service, I have lived here most of my life. I have a pioneer license and the only thing it has been good for is fishing, why can't I get drawn for elk? I ask the Department change the draw and place pioneer license holders first to be considered. I don't have many years left for hunting; I would like to kill an elk before I leave this wonderful State.

Written Comment: July 4, 2017. This fall I will turn 75 years old and I do not have another 5 to 20 years to wait for another big game tag. I propose the Commission set aside an allotment of big game tags dedicated for the pioneer residents only; similar to the designated allotment for nonresident tags. This tag would be issued only to a pioneer license holder and would not transferable.

Written Comment: July 18, 2017. As I understand it, 10% of all tags got to nonresident hunters and 20% of those go into the bonus point round. I believe there should be a higher percentage of tags going into the bonus point round. I do like the way the bonus point system is set up because it gives everyone a chance at a tag, whether a person has a bonus points or not. The problem I see is that the bonus point holders are not issued their fair share. There are many hunters that have 15, 20, or more bonus points. They may be holding out for one of those coveted tags they have always wanted but it should never have taken 20 years to get. I believe it is fair to allocate at least 50% of the tags to the bonus point round. This would reduce the amount of bonus points a person has to carry to earn a coveted tag, but still give a fair amount of tags to the general draw. If you wait 15 to 25 years to draw a coveted tag, by the time you get it you may not be able to enjoy it due to age and health issues. I do not believe there should be anyone with more than 10 bonus points for any animal, except for bighorn sheep because there are only a tags allotted each year.

Written Comment: November 28, 2017. I propose the nonresident tag allocation be application specific and match the fraction of resident and nonresident hunters on any given application when the application has resident hunters applying with nonresident hunters who are immediate family members.

Written Comment: November 30, 2017. I understand how the draw works, but realize that many hunters do not. I seek to change the draw limitations for nonresidents who hunt with immediate family members living in

Arizona. Is there a forum or mechanism for proposing my change so that it can be heard and voted on? Do Arizona hunters get to have a say in whether suggestions put forth by other hunters can be given consideration by the Department? (This commenter was provided a Rule Petition Packet)

Agency Response: The Department is unable to increase the percentage of tags allocated to nonresidents as the statute governing tag allocation to nonresidents (A.R.S. § 17-332), is very specific and states, "The commission shall limit the number of big game permits issued to nonresidents in a random drawing to ten per cent or fewer of the total hunt permits,…" A legislative amendment is required before the Department may amend the rule as suggested. In 1990, the public through a public process rejected a waiting period system in favor of the bonus point system the Department currently uses. Few hunters are lucky enough to be drawn more often than others and it is understandable that those who are not drawn want to improve their chances. However, because the draw is based on probabilities, there is no way to eliminate this possibility without undue complication to the draw process. Generally, hunts that take place in high quality Game Management Units or that occur close to the rut have poor draw odds. For example, a summary of 2016 draw odds seems to indicate little advantage to having many bonus points. Further analysis, however, reveals that applicants with the largest number of bonus points are applying for hunts with the poorest draw odds, which obscures the benefits of having multiple bonus points. For example, elk applicants without any bonus points applied for hunts with draw odds that averaged 17.9 percent, while those with 23 bonus points applied for hunts with draw odds averaging less that 0.60 percent. This tendency held true for their second choices as well. If a person only wants one of these hunts, here are a few tips that may help: Never apply for any unwanted hunts; if a person is drawn, they lose their non-permanent bonus points. Realize it may be years before a person is drawn, be patient and persistent. Do not submit an invalid application. One way of minimizing mistakes is to apply online. A hunt with good draw odds often means it is considered by some hunters to be a “less desirable” hunt. On the other hand, many other hunters have the philosophy that any opportunity to hunt, get outdoors, and spend time with friends and family is highly desirable. So, if a person just wants to go hunting and is not as concerned about where or when, here are two tips: Pick a higher-demand hunt for the first choice, but choose a hunt with better draw odds as the second choice. For the best chances of being drawn, pick hunts with good draw odds for both first- and second-choices.

The following comments pertain to the Notice of Proposed Rulemaking, see 21 A.A.R. 1001, July 10, 2015:

Written Comment: January 20, 2015. I am a proponent for an adjustment to the draw system due to the fact that nonresidents without high bonus point totals have no chance to draw a high quality deer or elk tag in Arizona. I understand the 20% bonus point pass that was added to the draw system added an element of fairness and an element of randomness that we have with the first and second choice pass of the draw. But this ended up creating a "preference point" draw system for nonresidents for all of the sought after hunts. I was in favor of a fifty-fifty split with half of the available tags being issued in the bonus point pass with the second half being set

aside for the first and second choice pass of the draw. But now I have changed my opinion: I feel nonresidents who have paid their dues and accumulated bonus points for years, maybe decades, should be treated fairly and the fifty-fifty split would not be fair. A fifty-fifty split may cause a bottleneck of high bonus point holders, resulting in a much longer wait for tags. Nonresidents without lots of bonus points would still be encouraged to apply with a reasonable split of the tags. Maybe something like eighty-twenty would be more equitable when taking into account the dedication and money nonresidents with high point totals have invested in the computer draw.

Written Comment: January 27, 2015. I am writing to voice my support for the proposed change where half of the 10% of tags allocated to nonresidents will go to nonresidents with maximum bonus points and the other half to all nonresidents with low or no bonus points. I have been applying for the draw in Arizona intermittently for the last 7 years; knowing that I have no chance at drawing a tag for some of the more desirable units made it difficult to decide whether to apply or not. As a result, I have not acquired a loyalty point. This rule change will guarantee my application goes in every year, even with the knowledge that it is still a long shot. While I can understand that other nonresidents who are close to reaching the maximum bonus point pool will not be thrilled by this proposal, it seems to me that they are missing the main point, which is they are all one tag away from being a zero bonus point holder. Once that happens, this rule change allows them to jump right back into the game and not feel that they are condemned to applying for another 10, 15, or 20 years before their bell rings again. I do not play Utah, Nevada, or any other elk-state draws with the exception of New Mexico (they have a true lottery system, so I always feel like I have a chance). The Department needs to address the "up to 10%" stipulation in the draw. If the draw is changed, I believe it is important that nonresidents receive that 10% instead of residents. I think the absolute best scenario would be issuing residents 85% of the total tags for any given hunt, with the remainder going to nonresidents. The first 10% would be issued during the 20% bonus point pass phase of the draw and the other 5% would be issued during the first and second choice pass of the draw. I believe this is the best solution because it addresses the problem of point creep for the nonresidents and the draw would truly have the element of fairness and randomness it was intended to have. I believe we are on the verge of having the best draw system out there and with a couple of slight adjustments - it can be accomplished.

Written Comment: February 2, 2015. I will start off by saying I understand the Department's situation and believe changes are necessary. However, the effect of the proposed changes to a long-time applicant, such as myself, are penalizing and certainly not rewarding. I am a nonresident who has been applying for Arizona tags for 25 years. During this time, I drew two elk tags which resulted in two guided hunts - one resulted in the harvest of an elk and both thoroughly enjoyable. I traveled to Arizona to take the Hunter Education Course to increase my chances of being drawn. Even though license fees have gone up, I thought it was still a good investment. I also apply to other states and come from a province where the 'resident vs nonresident' debate is a

very hot debate. If the proposed changes are put in place, I will eventually give up the desert bighorn dream and continue to enjoy the wonderful opportunities I have in British Columbia.

Written Comment: February 2, 2015. The reality that none of the nonresident tags make it out of the bonus point pass in a growing number of units is becoming common knowledge. Where this is a reality, it can be said that Arizona is running a pure preference point system with all of the tags for high demand hunts being issued in the bonus point pass. Calling it a bonus point system implies there is a chance to draw a tag and I think that is misleading to the general public. I agree this issue needs to be corrected. I appreciate the way the Department has treated nonresidents during my 15 years of applying there. During this time, many other states have chosen to dilute nonresident points by diverting tags to outfitters and auction or raffle tags. The Department maintained the “up to 10%” nonresident quota and I think the nature of the Department bringing this proposal to the table speaks volumes of the Commissioner's goodwill and sense of fairness. Although the proposal would hurt me personally (I have 13 elk points), I do not think this is a bad idea. However, I have two major suggestions: I think it is critical to have the change postponed to begin in the 2018-2019 hunting season rather than the 2016-2017 season to allow current high point holders a fair opportunity to spend their points prior to the change taking place. It would also provide some consolation to those people who are vested in the current system and have patiently played the game by existing rules. I do have a problem with the idea of distributing the newly available 5% of the nonresident tags via the totally random draw. This is a disservice to those vested hunters, as it would immensely devalue their hard earned points. These two changes to the original proposal would result in immediate interest from new nonresidents buying into the system, knowing points bought next year would enhance their chances of drawing when the rule kicks in, but it would do so in a more gradual transition. To me, this would be a fair compromise and good long term solution to this tag allocation situation. I hope you will consider my opinion during final decision making process. If these changes to the draw system are made, I strongly suggest scrapping the entire concept of a confusing 20% pass in favor of a very simple 10% nonresident set aside; straight 50% preference and 50% bonus.

Written Comment: February 5, 2015. I support Utah's draws system because it gives everyone a chance to draw, a person does not have to have the maximum bonus points to draw a tag. I do not have maximum bonus points in Arizona, but I want to have the same chance to draw a tag as the people with maximum points. There has to be a way the Department can make the draw system work like Utah does.

Written Comment: February 5, 2015. I would support a system similar to Utah's where half of the nonresident tags are awarded to maximum bonus point holders and the other half is put into a draw where all nonresidents have an opportunity to draw a tag.

Written Comment: February 7, 2015. I am writing about the proposal to split nonresident tags fifty-fifty in the draw. I believe this will reduce nonresident opportunity as many tags will be drawn by residents by simply

removing them from the maximum bonus point draw. A better solution would be to allocate 10% tags to nonresident and draw nonresident separately, allocating tags fifty-fifty. This would guarantee nonresidents a chance in both draws.

Written Comment: February 8, 2015. I am writing to express my opinion on the current status quo that is the nonresident bonus point allocation issue; specifically how nonresident tags might be distributed in and after the bonus pass portion of the computer draw. I am sure the Department will agree that for the sake of Department's budget and continued hunter recruitment efforts, it is critical to maintain the interest of those persons who apply for elk and deer permits but have low or no bonus points. The reality that none of the nonresident permits make it out of the bonus pass in a growing number of units is becoming common knowledge. Where this is a reality, it can be said that Arizona is effectively running a pure preference point system with 100% of the nonresident tag assignment within the bonus pass. Calling it a bonus point system implies that there is a chance to draw when in fact there is no chance. I think this is misleading to the general public. I think the nature of the Department wanting to bring this to the table speaks volumes of the Commissioner's goodwill and sense of fairness. But, with regard to the proposed fifty-fifty split allocation, I disagree with the concept. The same sense of fairness should be maintained when considering the people who are vested in the current system. By mandating a full half of the available permits to the lower draw passes, the Department essentially diluted the value of those persons with higher point totals. This will elongate the draw timetable for those who have patiently played the game under the existing rules. The proposal will reduce the overall number of tags going to nonresident hunters. I ask the Commission to consider keeping the current bonus pass allocation system and allow up to an additional 5 to 10% of remaining tags (or one tag) to go to nonresident hunters. This would keep current nonresident maximum bonus point holders happy and provide hope to nonresidents with low or no bonus points. It would reduce the number of tags available to residents, but because of the “up to” wording, overall resident tag reduction would be less than the additional 5 to 10% granted.

Written Comment: February 23, 2015. I have the maximum bonus points for nonresident deer in Arizona. I disagree with the proposed bonus point draw change. For all practical purposes, this change reduces the nonresident tag allotment by half. Please consider the following: I have followed the Department's regulations since 1998. I have driven to Phoenix to attend the hunter education course for that bonus point. I have purchased a nonresident hunting license and paid the application fee every year. The cost for those licenses to date is $2,470. Any proposal to reduce my opportunity by half and allow three individuals with no history of commitment or loyalty to cut to the front of the line would be unethical and immoral. However, changing the regulations because of sound game management or a biological reason is acceptable to me.

Written Comment: December 24, 2015. I want to believe that average Joe nonresidents were the engine behind changing the first pass of the draw, but I continue to read that politics were involved. Did the review occur because of one or a few noteworthy nonresident persons who wanted it changed? The Department stated

the change had to happen because bonus point holders in the top pools were the only ones reaping the benefits in the Units 13A and 13B. Then why was the change instituted for elk? In the 2015 draw, the maximum point holders had 25 points. If there was a bias, why would applicants with 20 points draw tags for the early muzzy hunt in Unit 9 and the early rifle hunt in Unit 10? These have been and still are regarded as two of the most highly coveted elk hunts in the U.S. There is no bias toward maximum bonus point holders in the elk draw like what we see in the Strip deer hunts. Why would the Department reduce the opportunity for the nonresident elk upper point holders? To me this is unconscionable when you consider that these are the same persons that have provided loyalty and support to the Department for twenty years.

Agency Response: The first phase of the current draw system issues available tags to those persons with the maximum number of bonus points. The computer draw system monitors the number of nonresidents drawn for tags and once the 10% nonresident cap, required under A.R.S. § 17-332, is reached it will eliminate all other nonresidents from the draw pool. Because nonresidents typically carry higher bonus point totals than residents, the 10% nonresident cap is sometimes reached in the first phase of the computer draw, which means a nonresident with no or few bonus points may never have the opportunity to draw a tag (this is especially true for high demand hunts). The bonus point system was established to reward loyal applicants while providing new applicants an opportunity to successfully participate in the computer draw; the intent has always been to allow every applicant a chance of drawing a tag, even when the odds are very low. The bonus point system has been successful in meeting its objective to improve odds for long-term participants, but not successfully enough for everyone. Over the years, the Department received numerous comments from the public suggesting the Department modify the draw process to ensure all nonresidents, even those with no or low bonus points, are afforded an opportunity to draw a tag; even for the high demand hunts. As it is now, there are some hunts for which a nonresident applicant with no or low bonus points will never have a chance of drawing a tag due to the number of nonresident applicants with maximum bonus points. Therefore, the Commission amended the rule to bring the draw process back in line with the original intent and ensure all applicants, regardless of residency and number of bonus points, will have an opportunity to draw a tag in any given hunt.

Written Comment: January 18, 2015. I am a nonresident who supports the proposal of only issuing half of the nonresident tags in the maximum point holders. I believe this is a better way to provide all nonresidents who apply the opportunity to draw while still giving those that have been in the system some advantage. I know several younger individuals who feel they have no hope of ever drawing a premium tag in Arizona simply because they were not old enough or did not have the opportunity to apply at the beginning of the point system. The proposal seems to address both as well as allowing those who are yet to be old enough to participate in the draw process the opportunity to draw a premium tag sometime in their future.

Written Comment: February 4, 2015. I support changing the draw system to allow half the tags to max point holders and half to applicants that do not have maximum points.

Written Comment: February 4, 2015. As a nonresident I support the proposed changes to the nonresident pool. Most nonresidents I know have quit applying for anything in Arizona because of the current system. All of them would begin applying again if there was a chance, even though slim, they would draw a tag. As a side note, the only other idea would be to consider a square root system like the state of Nevada does.

Written Comment: February 5, 2015. I support the change for the nonresident tag allocation system to better the chances of ever drawing a strip tag.

Agency Response: The Department appreciates your support.

8. **A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.**

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on November 3, 2015. The rule is amended to remove descriptive language relating to tag features; increase consistency between Commission rules by updating application requirements; remove javelina from the list of game subject to the 10% nonresident cap; establish the Department shall make available one hunt permit-tag when a hunt number has less than five, but more than one available hunt permit-tag; describe all phases of the computer draw process to provide a more complete description of the computer draw system; clarify that a person may possess the same number of hunt permit-tags equal to the applicable bag limit; prohibit a person who has reached the bag limit for a specific genus from applying for another hunt permit-tag for that genus during the same calendar year; establish in rule that the Commission may, at a public meeting, increase the number of hunt permit-tags issued to nonresidents in a computer draw when necessary to meet management objectives; and establish the Department shall not issue more than 50% of the hunt permit-tags available to nonresidents with the highest number of bonus points through the initial bonus point pass of the computer draw. The Commission anticipated the regulated community and the Department would benefit from a rule that establishes hunt permit- and nonpermit-tag requirements; prospective vendors would benefit by being able to submit a proposal and possibly be awarded a bid; the regulated community and the Department would benefit from the amendment that allows a person to possess the same number of permit- and nonpermit-tags as allowed for the bag limit of that genus; and the Department will benefit from increased tag sales.

9. Any analysis submitted to the agency by another person regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.

The Department did not receive any analyses.

10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report.

The report was approved by G.R.R.C. at the April 1, 2014 Council Meeting, which stated the Department anticipated submitting the final rules to the Council by June 2016. The Department completed the course of action indicated in the previous five-year review report as follows:

- Notice of Rulemaking Docket Opening: 21 A.A.R. 1409, July 10, 2015.
- Notice of Proposed Rulemaking: 21 A.A.R. 1001, July 10, 2015.
- Public Comment Period: July 10, 2015 through August 10, 2015.
- G.R.R.C. approved the Notice of Final Rulemaking at the November 3, 2015 Council Meeting.
- Notice of Final Rulemaking: 19 A.A.R. 3025, December 4, 2015.

11. A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.

The typical response is, "The Department has determined that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule necessary to achieve the underlying regulatory objective." State how the rule benefits the public, persons regulated by the rule, Department, and other agencies (as applicable). If the rule imposes unnecessary burdens, state how the rule will be amended to make it less burdensome and finish with, "The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule." IF the rule is amended to place additional burdens on the public, persons regulated by the rule, Department, and other agencies, explain the reason and anticipated benefits resulting from the proposed amendments.

12. A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

13. For a rule adopted after July 29, 2010, that requires the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037.

The rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

The Department proposes to amend R12-4-114 to replace references to "antelope" with "pronghorn antelope" to reflect language used in Commission Order and public outreach materials.

The Department anticipates submitting the Notice of Final Rulemaking to the Council by July 2020, provided the current moratorium is not extended or the Commission is granted permission to pursue rulemaking.

R12-4-115. RESTRICTED NONPERMIT-TAGS; SUPPLEMENTAL HUNTS AND HUNTER POOL

1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules.

Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. §§ 17-102, 17-231(A)(2), 17-231(A)(3), 17-239, 17-331(A), and 17-332(A)

2. Objective of the rule, including the purpose for the existence of the rule.

The objective of the rule is to establish the Commission's authority to implement a supplemental hunt when necessary to achieve management objectives when those objectives are not being reached through the regular season structures, take depredating wildlife, or address an immediate threat to the health, safety, or management of wildlife or its habitat, or to public health or safety. The rule also establishes the requirements for the supplemental hunter pool, comprised of persons who may be called upon to receive restricted nonpermit-tags when a supplemental hunt is authorized by the Commission. Under A.R.S. 17-239(D), the Commission may establish special seasons, special bag limits, and reduce or waive license and tag fees to crop that wildlife. The rule was adopted to establish an application process and hunter pool to enable the Department conduct those authorized activities.

3. **Effectiveness of the rule in achieving its objective, including a summary of any available data supporting the conclusion reached.**

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. In addition, the Department has not received any written comments in regards to this rule. The Department believes this data indicates the rule is effective.

4. **Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency.**

The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

5. **Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement.**

The rule is enforced as written and the Department is not aware of any problems with the enforcement of the rule. All peace officers of the state (including city and county) are charged with enforcement. Officers can check for rule compliance during routine patrols. Officers my issue a warning order or a citation.

6. **Clarity, conciseness, and understandability of the rule.**

The rule is clear, concise, and understandable. The rule is logically organized and generally written in the active voice so it will be understood by the general public.

The Department proposes to amend the rule to remove the Department website Uniform Resource Location (url) and simply reference "Department's website" to ensure the rule remains concise in the event the Department's url should change.

7. **Summary of any written criticism of the rule received by the agency within the five years immediately preceding the five-year review report.**

No written criticisms were received.

8. **A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if**

no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on November 3, 2015. The rule was amended to define "companion tag" and "emergency season;" replace the term "supplemental hunt" with "restricted non-permit tag;" enable the Commission to approve a supplemental hunt by Commission Order; separate the processes and requirements specific to restricted nonpermit-tags and companion tags; update application requirements; clarify who is eligible to receive companion tag; and clarify that a person purchasing a restricted nonpermit-tag must either possess or purchase a license that is valid at the time of the supplemental hunt. The Commission anticipated the rulemaking would benefit persons regulated by the rule by creating more opportunities for the use of wildlife resources, with few costs, and maintaining hunting opportunity.

9. Any analysis submitted to the agency by another person regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.

The Department did not receive any analyses.

10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report.

The report was approved by G.R.R.C. at the April 1, 2014 Council Meeting, which stated the Department anticipated submitting the final rules to the Council by June 2016. The Department completed the course of action indicated in the previous five-year review report as follows:

- Notice of Rulemaking Docket Opening: 21 A.A.R. 1409, July 10, 2015.
- Notice of Proposed Rulemaking: 21 A.A.R. 1001, July 10, 2015.
- Public Comment Period: July 10, 2015 through August 10, 2015.
- G.R.R.C. approved the Notice of Final Rulemaking at the November 3, 2015 Council Meeting.
- Notice of Final Rulemaking: 19 A.A.R. 3025, December 4, 2015.

11. A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.

The establishes the Commission's authority to implement a supplemental hunt when necessary to achieve management objectives when those objectives are not being reached through the regular season structures as well as the requirements for the supplemental hunter pool, comprised of persons who may be called upon to receive restricted nonpermit-tags when a supplemental hunt is authorized by the Commission. Under A.R.S. 17-239(D), the Commission may establish special seasons, special bag limits, and reduce or waive license and tag fees to crop that wildlife. The public benefits from a rule that provides additional opportunity to hunters outside of the established seasonal structure. The Department benefits from a rule that establishes a fair process to offer additional permit-tags when the Commission determines a supplemental hunt is necessary. The public and Department benefit from a rule that is understandable. The Department believes the rule imposes the least burden and costs to persons regulated by the rule.

12. A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

13. For a rule adopted after July 29, 2010, that requires the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037.

The rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

The Department proposes to amend R12-4-115 to replace references to the Department website url with "Department's website" to ensure the rule remains concise in the event the Department's url should change.

The Department anticipates submitting the Notice of Final Rulemaking to the Council by July 2020, provided the current moratorium is not extended or the Commission is granted permission to pursue rulemaking.

R12-4-116. REWARD PAYMENTS

1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules.

Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. §§ 17-231(A)(7) and 17-315(B)(1)

2. Objective of the rule, including the purpose for the existence of the rule.

The objective of the rule is to establish the requirements necessary for reward payments to include the schedule of reward payments. The reward program is established to motivate persons to report violations and provide information that will result in the arrest of a perpetrator when a case cannot otherwise be resolved. The rule was adopted to protect future populations and keep the state's wildlife resources available and abundant for the long-term. Reward payments have successfully been distributed on wildlife law enforcement cases that meet certain criteria since the inception of the OGT in 1979. Through OGT, a person can receive a reward when a tip they provided results in an arrest. The illegal take of game or fish is known as poaching; poaching reduces opportunities to hunt and fish in Arizona. Game laws are in place to restrict hunting limits and protect the numbers of animals available year after year. When poachers take wildlife out of season or kill more than state bag limits, they can jeopardize the health and longevity of the herd and interrupt breeding seasons. If the information provided is enough to warrant a citation or physical arrest, reward payments are paid immediately. Reward payments of $50 to $1,000 are offered in certain cases for information leading to the arrest of wildlife violators. Many states require a conviction before a reward payment may be offered. However, in Arizona, if the information provided is enough to warrant a citation or physical arrest, reward payments are made immediately. If desired, the reward is offered confidentially. Funding for reward payments comes from fines and civil penalties assessed to the poachers.

The Department typically offers cash reward payments between $6,000 and $20,000 (or more) annually to individuals who report wild life crimes. Under Arizona law, a caller can remain anonymous and their confidentiality is protected. Operation Game Thief reward payments are funded by fines collected for criminal and civil violations of Title 17. Because the program is funded in this manner, there is no specific annual amount of funding made available by the Department to the program.

3. Effectiveness of the rule in achieving its objective, including a summary of any available data supporting the conclusion reached.

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. The Department believes this data indicates the rule is effective.

4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of

the statutes or rules used in determining the consistency.

The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

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

Under A.R.S. § 17-315(B)(1), reward payments may also be to persons who report attendant acts of vandalism. The Department proposes to amend the rule to establish the reward payments to be paid for information received regarding attendant acts of vandalism.

5. **Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement.**

The rule is enforced as written and the Department is not aware of any problems with the enforcement of the rule.

6. **Clarity, conciseness, and understandability of the rule.**

The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

7. **Summary of any written criticism of the rule received by the agency within the five years immediately preceding the five-year review report.**

No written criticisms were received.

8. **A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.**

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on November 3, 2015. The rule was amended to increase the reward value to $500 for big game, eagles, and threatened and endangered species. The Commission anticipated the

rulemaking would benefit the regulated community by creating more opportunities for the use of wildlife resources, with few costs, and maintaining resident hunting opportunity.

9. Any analysis submitted to the agency by another person regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.

The Department did not receive any analyses.

10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report.

The report was approved by G.R.R.C. at the April 1, 2014 Council Meeting, which stated the Department anticipated submitting the final rules to the Council by June 2016. The Department completed the course of action indicated in the previous five-year review report as follows:

- Notice of Rulemaking Docket Opening: 21 A.A.R. 1409, July 10, 2015.
- Notice of Proposed Rulemaking: 21 A.A.R. 1001, July 10, 2015.
- Public Comment Period: July 10, 2015 through August 10, 2015.
- G.R.R.C. approved the Notice of Final Rulemaking at the November 3, 2015 Council Meeting.
- Notice of Final Rulemaking: 19 A.A.R. 3025, December 4, 2015.

11. A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.

The rule establishes the requirements necessary for reward payments to include the schedule of reward payments, which is intended to motivate persons to report violations and provide information leading to the arrest of a perpetrator. The illegal take of game or fish is known as poaching; poaching reduces opportunities to hunt and fish in Arizona. Game laws are in place to restrict hunting limits and protect the numbers of animals available year after year. When poachers take wildlife out of season or kill more than state bag limits, they can jeopardize the health and longevity of the herd and interrupt breeding seasons. If the information provided is enough to warrant a citation or physical arrest, reward payments are paid immediately. If desired, the reward is offered confidentially. Funding for reward payments comes from fines and civil penalties assessed to poachers. The public benefits from a rule that future populations and keep the state's wildlife resources available and abundant for the long-term. The Department benefits from a rule that encourages the public to report information regarding wildlife violations. The public and Department benefit from a rule that is understandable.

The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

12. A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

13. For a rule adopted after July 29, 2010, that requires the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037.

The rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

The Department proposes to amend R12-4-116 as follows:

- Replace references to "antelope" with "pronghorn antelope" to reflect language used in Commission Order and public outreach materials.
- Establish the reward payments to be paid for information received regarding attendant acts of vandalism.

The Department anticipates submitting the Notice of Final Rulemaking to the Council by July 2020, provided the current moratorium is not extended or the Commission is granted permission to pursue rulemaking.

R12-4-117. INDIAN RESERVATIONS

1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules.

Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. §§ 17-211(E)(4) and 17-309(A)(19)

2. Objective of the rule, including the purpose for the existence of the rule.

The objective of the rule is to specify that a state license, permit, or tag is not required to hunt or fish on any

Indian reservation, that any lawfully taken game or fish may be transported and/or processed anywhere in the state if it can be identified as to species and legality pursuant to statute, and that all wildlife transported in this state is subject to inspection. Under A.R.S. § 17-102, wildlife found in this state are property of the state. Under A.R.S. § 17-211(E), a Game Ranger or Wildlife Manager may inspect all wildlife taken or transported in this state. Wildlife pose a unique "property" issue as it does not recognize land boundaries and frequently moves onto and off of state and tribal lands. When found on an Indian reservation, the wildlife are property of that reservation. When found on state land (includes private land), the wildlife are property of the state. The Department recognizes wildlife found on an Indian reservation belong to the tribal government and are under tribal jurisdiction. While the tribal government may require a tribal license, permit, or tag for the take of wildlife; the state may not impose any requirements on a hunter or angler who is taking wildlife on an Indian reservation. The rule was adopted to provide notice to members of the public that, even though wildlife may have been lawfully taken on an Indian reservation, all wildlife transported anywhere in this state is subject to inspection.

3. Effectiveness of the rule in achieving its objective, including a summary of any available data supporting the conclusion reached.

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. In addition, the Department has not received any written comments in regards to this rule. The Department believes this data indicates the rule is effective.

4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency.

The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

5. Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement.

The rule is enforced as written and the Department is not aware of any problems with the enforcement of the rule. All peace officers of the state (including city and county) are charged with enforcement. Officers can check for rule compliance during routine patrols. Officers my issue a warning order or a citation.

6. Clarity, conciseness, and understandability of the rule.

The rule is clear, concise, and understandable. The rule is logically organized and generally written in the active voice so it will be understood by the general public.

7. Summary of any written criticism of the rule received by the agency within the five years immediately preceding the five-year review report.

No written criticisms were received.

8. A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on November 3, 2015. The rule was amended to correct a statutory reference and clarify that an inspection may be required when a person transports wildlife taken on an Indian reservation anywhere in this State. The Commission anticipated the rulemaking would benefit the regulated community by creating more opportunities for the use of wildlife resources, with few costs, and maintaining resident hunting opportunity.

9. Any analysis submitted to the agency by another person regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.

The Department did not receive any analyses.

10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report.

The report was approved by G.R.R.C. at the April 1, 2014 Council Meeting, which stated the Department anticipated submitting the final rules to the Council by June 2016. The Department completed the course of action indicated in the previous five-year review report as follows:

- Notice of Rulemaking Docket Opening: 21 A.A.R. 1409, July 10, 2015.
- Notice of Proposed Rulemaking: 21 A.A.R. 1001, July 10, 2015.
- Public Comment Period: July 10, 2015 through August 10, 2015.
- G.R.R.C. approved the Notice of Final Rulemaking at the November 3, 2015 Council Meeting.
- Notice of Final Rulemaking: 19 A.A.R. 3025, December 4, 2015.

11. **A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.**

The rule establishes a state license, permit, or tag is not required to hunt or fish on any Indian reservation, that any lawfully taken game or fish may be transported and/or processed anywhere in the state if it can be identified as to species and legality pursuant to statute, and that all wildlife transported in this state is subject to inspection. The Department recognizes wildlife found on an Indian reservation belong to the tribal government and are under tribal jurisdiction. While the tribal government may require a tribal license, permit, or tag for the take of wildlife; the state may not impose any requirements on a hunter or angler who is taking wildlife on an Indian reservation. The public benefits from a rule that provides notice to members of the public that all wildlife transported anywhere in this state is subject to inspection. The public and Department benefit from a rule that is understandable. The Department believes the rule imposes the least burden and costs to persons regulated by the rule.

12. **A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.**

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

13. **For a rule adopted after July 29, 2010, that requires the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037.**

The rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. **Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.**

No action.

R12-4-118. HUNT PERMIT-TAG SURRENDER

1. **General and specific statutes authorizing the rule, including any statute that authorizes the agency to**

make rules.

Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. §§ 17-102, 17-231(A)(2), 17-231(A)(8), and 41-2752

2. Objective of the rule, including the purpose for the existence of the rule.

The objective of the rule is to enable the Department to implement a tag surrender program, to include the establishment of a membership program and the requirements and limitations for the surrender of an unused hunt permit-tag. The rule was adopted in response to Commission direction to as a means to encourage participation in recreational activities and generate additional revenue for the Game and Fish Fund as well as provide the public with a way to stay up-to-date on the latest hunting, angling, volunteer, and Department activities. In addition, the Commission also directed the Department to establish a satisfactory remedy to address the scenario where a person who applied for the wrong hunt (e.g., hunter meant to apply for a bull elk hunt, but entered a cow elk hunt number on the application) or is unable to use the hunt permit-tag due to unforeseen circumstances and is requesting the restoration of those bonus points expended for the hunt permit-tag. At that time, the current statutes and administrative rules did not provide a remedy when a person is unable to use the hunt permit-tag for any reason.

Since the membership program was implemented in January 2016, approximately:

- 57,470 memberships were purchased.
- 445 hunt permit-tags were surrendered to the Department in compliance with the rule.
- 90 hunt permit-tags were donated to nonprofit organizations in compliance with the rule.

3. Effectiveness of the rule in achieving its objective, including a summary of any available data supporting the conclusion reached.

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. The Department believes this data indicates the rule is effective.

4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency.

The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

5. **Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement.**

The rule is enforced as written and the Department is not aware of any problems with the enforcement of the rule. All peace officers of the state (including city and county) are charged with enforcement. Officers can check for rule compliance during routine patrols. Officers my issue a warning order or a citation.

6. **Clarity, conciseness, and understandability of the rule.**

The rule is clear, concise, and understandable. The rule is logically organized and generally written in the active voice so it will be understood by the general public.

The Department proposes to amend the rule to remove the Department website Uniform Resource Location (url) and simply reference "Department's website" to ensure the rule remains concise in the event the Department's url should change.

7. **Summary of any written criticism of the rule received by the agency within the five years immediately preceding the five-year review report.**

The Department received the following written criticism of the rule:

Written Comment: July 7, 2014. Could the program that allows a person to surrender their unused hunt permit-tag be changed to also allow a person who participates in a work project directed toward wildlife enhancement surrender their hunt permit-tag? Projects like maintaining fences for the recently captured and transplanted Bison when they are turned loose onto the House Rock Buffalo Ranch. This could help to fill the volunteer "gap" in projects that need to be completed but the Department does not have the workforce to complete them.

Agency Response: The tag surrender program is specific to hunt permit-tags issued through the computer draw. The Commission's draw process is designed to provide equal opportunity to all classes of individuals and not to provide an advantage to certain classes; this intent is also applied to the membership program's tag surrender benefit. As a result, the Department does not believe that any class of individuals (including volunteers) should be able to surrender an unused hunt permit-tag without having purchased a membership.

Written Comment: April 7, 2015. I have thought a lot about the rule not allowing the return of a drawn tag. How do you feel when you try to return something you have bought and the return is accepted? How about if

you are turned down? Even if the item is in perfect condition and easily sold to someone else. It is the American way; good will toward all. I do not understand why I cannot donate my tag to a disabled veteran, forfeit my money, and get my points back. **Follow-up comment: April 8, 2015.** I support the a new rule that allows a tag holder to surrender their tag and have their points reinstated. I think that if someone would like to donate a tag they have drawn to a disabled veteran or handicapped youth they should be able to get their points back. This creates a win/win situation. Everyone is happy and the system works for the people it is set up for, hunters. Everyone has tried to return something they have purchased for some reason. How do you feel when you are allowed to return? How do you feel when you are turned down, even if the returned item is easily sold to someone else? It is a matter of courtesy and contributes to the American way; goodwill towards all.

Agency Response: The Department appreciates your support.

Written Comment: June 27, 2016. Here are my concerns: Was the Department aware that someone offered their bonus points for sale on E-bay? The idea being the seller had the maximum bonus points and would apply for a hunt with the highest bidder to increase their bonus point average. This has created a lucrative "points market." I have found nothing in the literature that says selling points is unlawful. Although I do not agree with it, a person would be stupid not to sell their points once before they draw. Some of the guides have indicated they have maximum point holders who plan to draw a hunt permit-tag, wait to see what caliber bucks the guides find; and then, if they do not find a large enough buck, they would simply surrender their hunt permit-tag. This is unfair to the average hunter who cannot afford the additional funds needed to pay for someone else's bonus points. People with money can simply pay to apply with maximum bonus point holders and hunt their favorite units every year. Is this fair? This will also create noticeable point creep. I know a person can only surrender a hunt permit-tag once, but I cannot believe this is what the program was intended for. The fact that a person can turn a hunt permit-tag back in for any reason combined with the fact that the person will also get an additional bonus point as if they were unsuccessful. The last part is what I believe is most disturbing and just makes this new program ripe for abuse. I recommend the Commission take another look at this and at least stop adding that additional point. In essence, the Department is letting people change their application after the draw. When a person in a group application wants to return their tag and removing that person from the group lowers the groups bonus point average, everyone in the group should have to surrender their tag. What will the Department do about this abuse? If the Department does nothing, it will be clear this program is based on revenue alone. This would be very easy to fix, let folks retain their bonus points, but do not give them that additional point. The group averaging is easy to fix as well.

Agency Response: The Department is not aware of any situation where bonus points being auctioned to the highest bidder. Under the proposed rule, a person is limited to a single surrender with a reinstatement of bonus points. Once the person surrenders their tag and their bonus points are restored, they must expend those bonus points before surrendering another hunt permit-tag. The Department believes this sufficient to prevent abuse of

the tag surrender program. While a fee is associated with the membership program, membership in the program is voluntary and enrollment will have no impact on the persons odds in any computer draw held by the Department. The tag surrender program has been in effect for two full cycles of the computer draw and there is little evidence that abuse is occurring. Since the tag surrender program was implemented in January 2016, the participation rate in the membership program has averaged 3% across all species, with the highest level of participation occurring for the elk, deer, sheep, and pronghorn computer draws and lowest level of participation occurring for the fall seasons. Participation in the program is increasing each year with the expectation that participation will increase as more persons learn about the tag surrender program. Of the four maximum bonus point holders who purchased a membership and subsequently surrendered their unused hunt permit-tag, none of them applied for their hunt with another person. Applying for a hunt with someone who has fewer bonus points lowers the maximum bonus point holder's odds of being drawn, especially in hunts with low permit numbers. In addition, because the Department uses a bonus point system instead of a preference point system, the intent has always been to allow every applicant a chance of drawing a hunt permit-tag, regardless of residency and number of bonus points.

Written Comment: June 28, 2016. When the Department solicited comments on the amendments that would include options for tag surrender, there was discussion about potentially allowing for the surrender of a tag in order to allow for the transfer of another tag for the same genus in the same year. The example proposed was when a child draws a tag, but a parent or grandparent draws a premium tag that they would like child to have the opportunity to use. I believe there was discussion about allowing a child in that situation to surrender her tag (either before or after their own hunt) in order to allow for such transfers to take place. Did that proposal ever get any traction?

Agency Response: Once you surrender a tag, you receive your bonus points back and your record is changed to a not drawn status. A youth hunter can surrender their tag and be eligible to have a parent or grandparent transfer a tag to them, but only if they surrender the youth’s before the first day of their hunt. The concept the commenter described was discussed with the Commission, but the Commission chose to keep the rule as simple as possible, implement the rule, and then re-evaluate at a later date. At this time, the Department does not recommend making any changes to the program.

Written Comment: June 7, 2017. Do not allow a group application to use of the tag surrender program. This will prevent abuse such as using other person's bonus points to get tags and then allowing the person to turn their tag back in and keep their bonus points. Only single person applications can use the tag surrender program. I would like to see any person to be able to turn in a tag they cannot use every year, not once per lifetime per species.

Agency Response: Under the proposed rule, a person is limited to a single surrender with a reinstatement of bonus points. Once the person surrenders their tag and their bonus points are restored, they must expend those bonus points before surrendering another hunt permit-tag. The Department believes this sufficient to prevent abuse of the tag surrender program. The tag surrender program has been in effect for two full cycles of the computer draw and there is little evidence that abuse is occurring. Since the tag surrender program was implemented in January 2016, the participation rate in the membership program has averaged 3% across all species, with the highest level of participation occurring for the elk, deer, sheep, and pronghorn computer draws and lowest level of participation occurring for the fall seasons. Of the four maximum bonus point holders who purchased a membership and subsequently surrendered their unused hunt permit-tag, none of them applied for their hunt with another person. Under the rule, a person is not limited to only using the tag surrender program once per lifetime per species. A person must expend any bonus points that have been restored before they may surrender another hunt permit-tag for that specific species, but once expended a person may begin accruing bonus points for that species and use the hunt permit-tag surrender program again.

8. **A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.**

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on November 3, 2015. The rule was adopted to establish a membership program and the requirements and limitations for the surrender of an unused, original hunt permit-tag as well as the criteria for the re-issuance of a surrendered hunt permit-tag. Basically, the tag surrender program provides hunters with peace of mind in knowing they can surrender their tag for any reason without losing their bonus points. The Commission anticipated the rulemaking would benefit persons regulated by the rule and the Department by establishing a membership program, to include the limitations and requirements for surrendering a tag and restoring the bonus points expended for the surrendered tag. It is difficult to quantify the value a person places on their bonus points; however, it can be significant. The Commission did not anticipate the membership fee would significantly affect a person's ability to participate in an activity or have a significant impact on a person's income, revenue, or employment in this State related to that activity. While a fee is associated with the membership program, membership is voluntary and enrollment would have no impact on a person's odds in any computer draw held by the Department.

9. **Any analysis submitted to the agency by another person regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.**

The Department did not receive any analyses.

10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report.

Not applicable; the rule was adopted on January 2, 2016.

11. A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.

The rule establishes the Department's tag surrender program, to include the establishment of a membership program and the requirements and limitations for the surrender of an unused hunt permit-tag. The public benefits from a rule that encourages participation in recreational activities and establishes a satisfactory remedy that addresses scenarios where a person is able to surrender an unused hunt permit-tag and request the restoration of those bonus points expended for the hunt permit-tag. While it is difficult to quantify the value a person places on their bonus points, it can be significant. Becoming a member of the Department membership program is voluntary and only those persons who choose to participate in the program will pay a membership fee. The Department benefits from a rule that encourages participation in recreational activities and generates additional revenue for the Game and Fish Fund and engages the public in volunteer, and Department activities. The Department believes the rule imposes the least burden and costs to persons regulated by the rule.

12. A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

13. For a rule adopted after July 29, 2010, that requires the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037.

The rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

The Department proposes to amend R12-4-118 to replace references to the Department website url with "Department's website" to ensure the rule remains concise in the event the Department's url should change.

The Department anticipates submitting the Notice of Final Rulemaking to the Council by July 2020, provided the current moratorium is not extended or the Commission is granted permission to pursue rulemaking.

R12-4-119. ARIZONA GAME AND FISH DEPARTMENT RESERVE

1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules.

Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. §§ 17-231(A)(1) and 17-214

2. Objective of the rule, including the purpose for the existence of the rule.

The objective of the rule is to prescribe requirements and duties for commissioned reserve officers and noncommissioned reserve volunteers for the purposes stated under A.R.S. § 17-214(B). The rule was adopted to further the Department's resources by allowing qualified individual's to assist in conducting Department enforcement and non-enforcement activities, as applicable.

3. Effectiveness of the rule in achieving its objective, including a summary of any available data supporting the conclusion reached.

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. In addition, the Department has not received any written comments in regards to this rule. The Department believes this data indicates the rule is effective.

4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency.

The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

5. Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether

there are any problems with enforcement.

The rule is enforced as written and the Department is not aware of any problems with the enforcement of the rule. All peace officers of the state (including city and county) are charged with enforcement. Officers can check for rule compliance during routine patrols. Officers my issue a warning order or a citation.

6. **Clarity, conciseness, and understandability of the rule.**

The rule is clear, concise, and understandable. The rule is logically organized and generally written in the active voice so it will be understood by the general public.

7. **Summary of any written criticism of the rule received by the agency within the five years immediately preceding the five-year review report.**

No written criticisms were received.

8. **A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.**

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on November 3, 2015. The rule was amended to Arizona Administrative Procedure Act and the Secretary of State's rulemaking format and style requirements and standards. Because the amendments were nonsubstantive in nature, the Commission anticipated the amendments would have no impact on the Department or regulated community.

9. **Any analysis submitted to the agency by another person regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.**

The Department did not receive any analyses.

10. **If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report.**

The report was approved by G.R.R.C. at the April 1, 2014 Council Meeting, which stated the Department

anticipated submitting the final rules to the Council by June 2016. The Department completed the course of action indicated in the previous five-year review report as follows:

- Notice of Rulemaking Docket Opening: 21 A.A.R. 1409, July 10, 2015.
- Notice of Proposed Rulemaking: 21 A.A.R. 1001, July 10, 2015.
- Public Comment Period: July 10, 2015 through August 10, 2015.
- G.R.R.C. approved the Notice of Final Rulemaking at the November 3, 2015 Council Meeting.
- Notice of Final Rulemaking: 19 A.A.R. 3025, December 4, 2015.

11. A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.

The rule establishes the requirements and duties for commissioned reserve officers and noncommissioned reserve volunteers for the purposes stated under A.R.S. § 17-214(B). The public and the Department benefit from a rule that furthers the Department's resources by allowing qualified individual's to assist in conducting Department enforcement and non-enforcement activities. The public and Department benefit from a rule that is understandable. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

12. A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

13. For a rule adopted after July 29, 2010, that requires the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037.

The rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

No action.

R12-4-120. ISSUANCE, SALE, AND TRANSFER OF SPECIAL BIG GAME LICENSE-TAGS

1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules.

Authorizing statute: A.R.S. § 17-231(A)(1)

Implementing statute: A.R.S. §§ 17-102, 17-231(A)(2), 17-231(A)(3), 17-231(A)(8), 17-331(A), 17-332(A), and 17-346

2. Objective of the rule, including the purpose for the existence of the rule.

The objective of the rule is to establish procedures for the application and issuance of special big game license-tags, including the selection criteria for choosing applicants who are awarded such tags as authorized under A.R.S. § 17-346. The rule was adopted to ensure compliance with the requirements of A.R.S. § 17-346.

The Commission is authorized to issue three special big game license-tags each year for each species of big game to 501(c)(3) organizations. The Commission reviews applications submitted by eligible wildlife conservation organizations and, through a public process, awards those tags to selected organizations to raise funds for wildlife. Tags are awarded to eligible wildlife conservation organizations in June and are valid from August 15 of the year in which they were purchased until August 14 the following year; a separate hunting license is not required.

The year round season allows a special big game license-tags winner the time to pursue a big game animal, many of which can only be found in the southwest and some only in Arizona: Gould's wild turkey, desert and Rocky Mountain bighorn sheep, Coues white-tailed deer, and Kaibab mule deer.

The selected organizations market and sell the special big game license-tags. These tags are typically made available to the public through auctions or raffles. Every dollar raised from each species tag goes directly to the management of that species through wildlife and habitat management in coordination with the Arizona Habitat Partnership Committee. Projects range from water improvements, wildlife friendly fencing, wildlife studies, game surveys, translocations, habitat restorations, land acquisitions and more. Many of these projects are matched and further leveraged with other funding sources, labor, or supplied materials, stretching every dollar spent even further. Administrative and marketing costs are covered by the wildlife conservation organization.

3. Effectiveness of the rule in achieving its objective, including a summary of any available data supporting the conclusion reached.

Overall, the rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. In addition, the Department has not received any written comments in regards to this rule. The Department believes this data indicates the rule is effective.

However, there are concerns over the length of time it takes for the auctioning organization to provide the winning bidders license information. This causes problems because the licenses are valid from August 15 of the year the special big game license-tags was won until August 14 the following year. When the organization waits to provide the required information to the Department, the winning bidder loses hunting days. The Department proposes to amend the rule to specify the organization shall submit the winning bidder's license information to the Department within 90 days of the close of the raffle or auction.

In addition, there are concerns over events that take place after the raffle or auction is completed: when the winning bidder decides not to purchase the special big game license-tags; when the winning bidder wants to re-sell the tag to another person; and when the winning bidder is a guide who is unsuccessful in obtaining a client and wants to continue to be able to offer the tag and guided hunt for sale. In an effort to maintain the integrity of the auction and raffle and make the auction and raffle process more transparent the Department proposes to amend the rule to establish measures designed to prevent the abuse of tags sales and transfers. The Department intends to coordinate with wildlife conservation organizations who have received tags in the past in determining appropriate measures, which may include but is not limited to allowing the winning bidder to transfer the tag to a member of their family (i.e., spouse, natural child, adopted child, foster child, stepchild, natural parent, stepparent, adoptive parent, grandparent, grandchild, brother, sister, aunt, uncle, nephew or niece); prohibiting a guide or outfitter from buying a tag in the name of their business; requiring a commercial entity bidding on behalf of a private person to designate that person in advance of the auction.

4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency.

The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

The Department proposes to amend the rule to reference the hunt permit-tag transfer established under R12-4-121.

5. Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement.

The rule is enforced as written and the Department is not aware of any problems with the enforcement of the rule. All peace officers of the state (including city and county) are charged with enforcement. Officers can check for rule compliance during routine patrols. Officers my issue a warning order or a citation.

6. Clarity, conciseness, and understandability of the rule.

The rule is clear, concise, and understandable. The rule is logically organized and generally written in the active voice so it will be understood by the general public.

7. Summary of any written criticism of the rule received by the agency within the five years immediately preceding the five-year review report.

No written criticisms were received.

8. A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on November 3, 2015. The rule was amended to establish that an organization cannot resubmit a corrected proposal but may submit a proposal again the following year because proposals are reviewed after the May 31 proposal deadline. The Commission anticipated the rulemaking would not have a significant impact on persons regulated by the rule.

9. Any analysis submitted to the agency by another person regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.

The Department did not receive any analyses.

10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report.

The report was approved by G.R.R.C. at the April 1, 2014 Council Meeting, which stated the Department anticipated submitting the final rules to the Council by June 2016. The Department completed the course of

action indicated in the previous five-year review report as follows:

- Notice of Rulemaking Docket Opening: 21 A.A.R. 1409, July 10, 2015.
- Notice of Proposed Rulemaking: 21 A.A.R. 1001, July 10, 2015.
- Public Comment Period: July 10, 2015 through August 10, 2015.
- G.R.R.C. approved the Notice of Final Rulemaking at the November 3, 2015 Council Meeting.
- Notice of Final Rulemaking: 19 A.A.R. 3025, December 4, 2015.

11. A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.

The rule establishes the procedures for the application and issuance of special big game license-tags, including the selection criteria for choosing applicants who are awarded such tags as authorized under A.R.S. § 17-346. The public benefits from a rule that Arizona's wildlife; dollars raised through the public auction or raffle of tags goes directly to the management of that species through wildlife and habitat management in coordination with the Arizona Habitat Partnership Committee. Projects range from water improvements, wildlife friendly fencing, wildlife studies, game surveys, translocations, habitat restorations, land acquisitions and more. The Department benefits from a rule that enables the Department to further leverage other funding sources to benefit wildlife and wildlife habitat. The public and Department benefit from a rule that is understandable. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

12. A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

13. For a rule adopted after July 29, 2010, that requires the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037.

The rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

The Department proposes to amend R12-4-120 as follows:

- Specify the organization shall submit the winning bidder's license information to the Department within 90 days of the close of the raffle or auction.
- Reference the hunt permit-tag transfer established under R12-4-121.
- Establish measures designed to prevent the abuse of special license tags sales and transfers that occur after the auction or raffle ends, which may include but is not limited to:
- Allowing the winning bidder to transfer the tag to a member of their family (i.e., spouse, natural child, adopted child, foster child, stepchild, natural parent, stepparent, adoptive parent, grandparent, grandchild, brother, sister, aunt, uncle, nephew or niece).
- Prohibiting a guide or outfitter from buying a tag in the name of their business.

The Department anticipates submitting the Notice of Final Rulemaking to the Council by July 2020, provided the current moratorium is not extended or the Commission is granted permission to pursue rulemaking.

R12-4-121. BIG GAME TAG TRANSFER

1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules.

Authorizing statute:	A.R.S. § 17-231(A)(1)
Implementing statute:	A.R.S. §§ 17-102, 17-231(A)(2), 17-231(A)(3), 17-231(A)(8), 17-331(A), 17-332(A), and 17-346(D)

2. Objective of the rule, including the purpose for the existence of the rule.

The objective of the rule is to establish the requirements for an unused big game tag transfer as authorized under A.R.S. § 17-332, which allows a parent, guardian, or grandparent to transfer their unused big game tag to a minor child or grandchild; or a person to transfer their unused big game tag to a 501(c)(3) organization that provides hunting opportunities and experiences to a minor child with life-threatening medical conditions or physical disabilities or a veteran of the U.S. Armed Forces who has a service-connected disability. The rule was adopted to ensure compliance with A.R.S. § 17-332.

The Department processes approximately 700 transfers on an annual basis, this figure includes transfers to a minor child or grandchild and transfers to a 501(c)(3) organization.

3. Effectiveness of the rule in achieving its objective, including a summary of any available data supporting

the conclusion reached.

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. The Department believes this data indicates the rule is effective.

4. **Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency.**

The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

5. **Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement.**

The rule is enforced as written and the Department is not aware of any problems with the enforcement of the rule. All peace officers of the state (including city and county) are charged with enforcement. Officers can check for rule compliance during routine patrols. Officers my issue a warning order or a citation.

6. **Clarity, conciseness, and understandability of the rule.**

The rule is clear, concise, and understandable. The rule is logically organized and generally written in the active voice so it will be understood by the general public.

7. **Summary of any written criticism of the rule received by the agency within the five years immediately preceding the five-year review report.**

Written Comment: April 4 and August 1, 2013. There is a growing segment of people that do not have children who live in Arizona, children under the age of 18, or grandchildren old enough to hunt. I suggest the Department allow a person to transfer a tag to family member; verified through birth records and/or a signed statement. In the past, I offered a HAM season tag to a charity but was turned down due to short notice. I would enjoy taking my adult children, nieces, and nephews hunting. I really do not need to kill an animal, just getting out is reward enough. Seeing my son, daughter, nephew, or niece get buck fever would be a memory that would last two lifetimes (the rest of mine and the rest of theirs). This would expand hunting experience and opportunities and help to pass on the hunting tradition to family and friends. It would also increase revenue due to the additional license sales (for the one getting the tag). This would allow a grandfather to use his Pioneer

license to make applications and hunt with his family so he can still enjoy the thrill of the hunt. Rather than waste a tag, one could transfer it to a family member who either did not get drawn or could not afford the tag at the time of application.

Written Comment: July 30, 2014. My son, brother-in-law, and I were all drawn for an elk hunt. My brother-in-law was unable to go on the hunt because he has to undergo dialysis. My other son wanted to go on the hunt in his place, but we were told that he could not transfer the tag to another adult family member. If my son buys a license, why can't he have the tag transferred to him? My brother-in-law already paid for it. This should be allowed as long as all other legal requirements are met. **Follow-up Comment: August 13, 2014.** The tag we want to transfer would be given to my son, who has a 10% disability due to hearing loss resulting from two tours in Iraq. I would hope the Commission would be more open minded. If my other son has a hunting license, he should be allowed to hunt using the tag my brother-in-law cannot. What should matter is there is 100% legality. This is an example of why citizens get disgusted with government overregulation, instead of understanding legal people? How can this narrow-minded over regulated matter be changed?

Agency Response: The requirements for tag transfers are prescribed under A.R.S. § 17-332(D)(2), which states, “A parent, grandparent, or legal guardian may allow the parent’s, grandparent’s or guardian’s minor child or minor grandchild to use the parent’s, grandparent’s or guardian’s big game permit or tag to take big game pursuant to the following requirements...”. . A legislative amendment is required before the Department may amend the rule to allow a person to transfer their tag to an adult child or other family member.

Written Comment: August 10, 2015. The Department should allow a tag holder to surrender a tag during or after a hunt, but in those instances, bonus points should not be restored. This would allow a person to transfer their tag to a minor during the same calendar year if the minor failed to harvest an animal with their own tag. The Department should allow an unsuccessful archery javelina hunter to obtain a remaining leftover draw permit tag. The Department should allow a youth hunter who obtained a youth deer tag, but was unable to fill it, to receive a deer tag for a later hunt and give the youth hunter another opportunity in the same calendar year.

Agency Response: Under A.R.S. § 17-332(D), "No license or permit is transferable, nor shall such license or permit be used by anyone except the person to whom such license or permit was issued, except that . . . " allow a person to transfer the person's big game permit or tag to a qualified organization for use by . . ." A legislative amendment is required before the Department may amend the rule to allow a person to transfer their tag to an adult child or other family member. In 2013, R12-4-114, was amended to allow a person to purchase hunt tags equal to the bag limit; the current bag limit for javelina is two. The Department believes providing youth with hunting opportunities is a valuable tool to recruit new hunters; however, the Department believes the youth hunters should be subject to the same regulations that are applicable to all hunters.

Written Comment: October 14, 2015. It is a very nice thing for the Department to help youth get involved in hunting, fishing, and the outdoors. One area of concern is the process of allowing parents and grandparents to pass their permits on to youth for highly sought after permits. There are people who have no intention of hunting, but have family members place them in the computer draw just to pass on their permit. With the high volume of hunt applications, this rule should be changed because it is the "right thing to do," not for additional monies due to added applications. I have witnessed many young children obtain sheep permits and other highly valued permits through this process.

Agency Response: The requirements for tag transfers are prescribed under A.R.S. § 17-332(D)(2), which states, "A parent, grandparent, or legal guardian may allow the parent's, grandparent's or guardian's minor child or minor grandchild to use the parent's, grandparent's or guardian's big game permit or tag to take big game". . . Because the statute does not limit which tags may be transferred, a legislative amendment is required before the Department may amend the rule to prohibit the transfer of transfer highly sought after permits to a minor child or minor grandchild.

8. A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on November 3, 2015. The rule was amended to to allow a person to donate a tag to a veteran of the U.S. Armed Forces with a service connected disability; establish an application process for a qualified nonprofit organization; define "authorized nonprofit organization;" replace "Department-approved" with "Department-sanctioned;" clarify a tag may not be transferred to a person who has reached the applicable annual or lifetime bag limit for that genus; allow a person to request the reinstatement of bonus points after donating an unused, original tag to a qualified 501(c)(3) organization; and establish application requirements for a nonprofit organization. The Commission anticipated a nonprofit organization that provides outdoor experiences to children with life-threatening medical conditions or with permanent physical disabilities or to veterans with service-connected disabilities and a person who donates an unused big game tag will benefit from a fair and equitable application process that authorizes a nonprofit organization to accept donated tags. The Commission anticipated persons who donate their tag to a nonprofit organization and claim their donation as a deduction for tax purposes will benefit from the rulemaking. The Department would benefit from a rulemaking that aligned the rule with recent legislative changes. The Commission anticipated persons who donate an unused big game tag to a 501(c)(3) organization that provides hunting opportunities and experiences to minors with life-threatening medical conditions or permanent physical disabilities or a veteran of the U.S. Armed Forces with a service connected disability would benefit from the amendment that allows a person who

donates a tag to be able to have the bonus points expended for that tag restored. The Commission anticipated persons regulated by the rule would benefit from the amendment that establishes an application process for a qualified nonprofit organization.

9. Any analysis submitted to the agency by another person regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.

The Department did not receive any analyses.

10. If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report.

The report was approved by G.R.R.C. at the April 1, 2014 Council Meeting, which stated the Department anticipated submitting the final rules to the Council by June 2016. The Department completed the course of action indicated in the previous five-year review report as follows:

- Notice of Rulemaking Docket Opening: 21 A.A.R. 1409, July 10, 2015.
- Notice of Proposed Rulemaking: 21 A.A.R. 1001, July 10, 2015.
- Public Comment Period: July 10, 2015 through August 10, 2015.
- G.R.R.C. approved the Notice of Final Rulemaking at the November 3, 2015 Council Meeting.
- Notice of Final Rulemaking: 19 A.A.R. 3025, December 4, 2015.

11. A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.

The rule establishes the requirements for an unused big game tag transfer as authorized under A.R.S. § 17-332, which allows a parent, guardian, or grandparent to transfer their unused hunt permit-tag to a minor child or grandchild; or a person to transfer their unused big game tag to a 501(c)(3) organization that provides hunting opportunities and experiences to a minor child with life-threatening medical conditions or physical disabilities or a veteran of the U.S. Armed Forces who has a service-connected disability. Eligible nonprofit organizations benefit from a fair and equitable application process. Persons who donate their tag to an eligible nonprofit organization benefit from the rulemaking by being able to claim their donation as a tax deduction and the ability to have the bonus points expended for that tag restored. A person who chooses to transfer their tag to their minor child or grandchild benefit from the ability to transfer a tag they cannot or do not want to use to their family member. A person who receives a tag through the tag transfer program benefits from the additional

opportunity to hunt. The Department and public benefit from a rule that is understandable. In the last rulemaking for this rule, the Department established an application process to implement recent legislative amendments resulting from Laws 2014, 2nd Regular Session, Ch. 55, Section 1; which allowed the Commission to establish an application process for a qualified nonprofit organization. The rule was amended to establish an annual application process. The Department has determined an annual process to ensure a nonprofit organization meets the qualifications prescribed under A.R.S. § 17-332(D)(1)(b)(ii) is unnecessary because a review of applications indicate the information provided on consecutive applications and the documentation presented with the applications has not changed from year to year. The Department proposes to amend the rule to establish that once it is determined the nonprofit meets the statutory qualifications, the authorization to receive donated unused tags will remain in effect until revoked by the Department. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

12. A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

13. For a rule adopted after July 29, 2010, that requires the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037.

The rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

The Department proposes to amend R12-4-121 to establish that once it is determined the nonprofit meets the statutory qualifications, the authorization to receive donated unused tags will remain in effect until revoked by the Department.

The Department anticipates submitting the Notice of Final Rulemaking to the Council by July 2020, provided the current moratorium is not extended or the Commission is granted permission to pursue rulemaking.

R12-4-122. HANDLING, TRANSPORTING, PROCESSING AND STORING OF GAME MEAT GIVEN TO PUBLIC INSTITUTIONS AND CHARITABLE ORGANIZATIONS

1. **General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules.**

Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. §§ 17-102, 17-211(E)(4), 17-233, 17-239(D), and 17-240(A)

2. **Objective of the rule, including the purpose for the existence of the rule.**

The objective of the rule is to establish requirements for game meat that can or cannot be donated to a public institution or charitable organization, to include who is authorized to determine when game meat is safe and appropriate for donation. The rule was adopted to provide a mechanism that prevents game meat from going to waste by allowing the Department to donate game meat to public institutions and charitable organizations, which includes but is not limited to soup kitchens and prisons.

Instead of discarding or wasting game meat harvested, the Department donation program was developed with the purpose of distributing surplus meat to put healthy meals onto the tables of those in need, which help to maintain the historical role of hunters as food providers and ensure game meat is not wasted.

3. **Effectiveness of the rule in achieving its objective, including a summary of any available data supporting the conclusion reached.**

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. In addition, the Department has not received any written comments in regards to this rule. The Department believes this data indicates the rule is effective.

The Department proposes to amend the rule to allow the donation of bear and mountain lion meat to public institutions and charitable organizations in compliance with A.R.S. § 17-240 and to ensure edible game meat is not wasted.

4. **Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency.**

The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

5. **Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement.**

   The rule is enforced as written and the Department is not aware of any problems with the enforcement of the rule. All peace officers of the state (including city and county) are charged with enforcement. Officers can check for rule compliance during routine patrols. Officers my issue a warning order or a citation.

6. **Clarity, conciseness, and understandability of the rule.**

   The rule is clear, concise, and understandable. The rule is logically organized and generally written in the active voice so it will be understood by the general public.

7. **Summary of any written criticism of the rule received by the agency within the five years immediately preceding the five-year review report.**

   No written criticisms were received.

8. **A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.**

   Not applicable, the rule was last amended in March 2006 and has undergone the review required under A.R.S. § 41-1056 since then.

9. **Any analysis submitted to the agency by another person regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.**

   The Department did not receive any analyses.

10. **If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report.**

    Not applicable, no action was proposed for this rule in the previous five-year review report.

11. **A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.**

The rule establishes the requirements for game meat that can or cannot be donated to a public institution or charitable organization, to include who is authorized to determine when game meat is safe and appropriate for donation. The public benefits from a rule that provides a mechanism that allows the donation of game meat to public institutions and charitable organizations. The Department and public benefit from a rule that prevents the wasting of game meat harvested through depredation permits and surplus harvests. The Department and public benefit from a rule that enables the distribution of surplus game meat to put healthy meals onto the tables of those in need. Hunters benefit from a rule that help to maintain the historical role of hunters as food providers and ensure game meat is not wasted. The public and Department benefit from a rule that is understandable. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

12. **A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.**

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

13. **For a rule adopted after July 29, 2010, that requires the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037.**

The rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. **Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.**

The Department proposes to amend R12-4-122 to allow the donation of bear and mountain lion meat to public institutions and charitable organizations in compliance with A.R.S. § 17-240 and to ensure edible game meat is not wasted.

R12-4-123. EXPENDITURE OF FUNDS

1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules.

Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. §§ 17-231(A)(6) and 17-231(A)(8)

2. Objective of the rule, including the purpose for the existence of the rule.

The objective of the rule is to establish the Director's authority to expend funds from specific sources within prescribed guidelines, and to require that the Director ensure that Department infrastructure complies with those guidelines. The rule was adopted to formalize the processes used by the Commission for the expenditure of funds arising from appropriations, licenses, gifts, and other sources in a manner that is consistent with the goals and objectives of the Commission.

3. Effectiveness of the rule in achieving its objective, including a summary of any available data supporting the conclusion reached.

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. In addition, the Department has not received any written comments in regards to this rule. The Department believes this data indicates the rule is effective.

4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency.

The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

5. Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement.

The rule is enforced as written and the Department is not aware of any problems with the enforcement of the rule. All peace officers of the state (including city and county) are charged with enforcement. Officers can check for rule compliance during routine patrols. Officers my issue a warning order or a citation.

6. **Clarity, conciseness, and understandability of the rule.**

The rule is clear, concise, and understandable. The rule is logically organized and generally written in the active voice so it will be understood by the general public.

7. **Summary of any written criticism of the rule received by the agency within the five years immediately preceding the five-year review report.**

No written criticisms were received.

8. **A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.**

Not applicable, the rule was last amended in March 2006 and has undergone the review required under A.R.S. § 41-1056 since then.

9. **Any analysis submitted to the agency by another person regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.**

The Department did not receive any analyses.

10. **If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report.**

Not applicable, no action was proposed for this rule in the previous five-year review report.

11. **A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.**

The objective of the rule is to establish the Director's authority to expend funds from specific sources within prescribed guidelines, and to require that the Director ensure that Department infrastructure complies with those guidelines. The Department and the public benefit from a rule that formalizes the processes used by the

Commission for the expenditure of funds arising from appropriations, licenses, gifts, and other sources in a manner that is consistent with the goals and objectives of the Commission. The public and Department benefit from a rule that is understandable. The Department believes the rule imposes the least burden and costs to persons regulated by the rule.

12. A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

13. For a rule adopted after July 29, 2010, that requires the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037.

The rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

No action.

R12-4-124. Proof of Domicile

1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules.

Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. § 17-101

2. Objective of the rule, including the purpose for the existence of the rule.

The objective of the rule is to establish the documents a person may be used to provide acceptable "proof of domicile." In law, "domicile" is the status or attribution of being a lawful permanent resident in a particular jurisdiction. In creating this list, the Department reviewed lists of documents considered to prove residency for the purposes of registering a motor vehicle, attending state college, and applying for a hunting or fishing license in other states. The rule was adopted to comply with statute.

According to the Department's records, since 1999 - 335 citations were issued for license fraud, which resulted in a minimum of $36,000 in lost revenue for license purchases. This amount does not include the amount of revenue lost for the big game tags that were purchased fraudulently. The dollar amount for the lost revenue pales in comparison to the amount of resources spent investigating these violations due to the labor-intensive process needed to follow the paper trail.

3. Effectiveness of the rule in achieving its objective, including a summary of any available data supporting the conclusion reached.

Overall, the rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. In addition, the Department has not received any written comments in regards to this rule. The Department believes this data indicates the rule is effective.

The Department is aware of instances where a person has attempted to use outdated documents to prove residency. For example, because the rule does not specify the document needs to be current and contain a valid address, an expired driver license with an old address may be used as proof of domicile. This makes residency requirements more difficult to enforce. The Department proposes to amend the rule to require a person to present a valid document that contains a current address.

In addition, there are times where more than one document is needed to fully establish a person's domicile. The Department proposes to amend the rule to clarify that more than one document may be required to fully establish the persons domicile.

4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency.

The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

5. Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement.

Overall, the rule is enforced as written and the Department is not aware of any problems with the enforcement of the rule. All peace officers of the state (including city and county) are charged with enforcement. Officers can check for rule compliance during routine patrols. Officers my issue a warning order or a citation.

When a person is cited by a member of law enforcement, the officer writes down the address given by the person. There is no follow-up action taken to ensure the address is valid and this address may continue to be used throughout the court process. For this reason, the Department proposes to remove a certified copy of a court order from the list of acceptable proof of domicile.

6. Clarity, conciseness, and understandability of the rule.

Overall, the rule is clear, concise, and understandable. The rule is logically organized and generally written in the active voice so it will be understood by the general public.

While there are persons who seek to take advantage of the system by claiming residency in Arizona in order to purchase a resident license instead of the nonresident license (offered at a higher cost), there are more persons who are simply confused as to what constitutes residency. For purposes of jurisdiction, “domicile” means a legal residence which is the place where a person has fixed dwelling with an intention of making it their permanent home. As the term domicile includes residence, the scope and significance of the term domicile is larger than the term residence. Generally residence is referred to as a place where a person lives; it is also a building that is used as home. Residence is of a more temporary nature compared to domicile; a person’s present physical location of stay. It can even be one among several places where a person may be present (such as a person who owns a home in two states). A person may have several residences, but only one domicile.

There is also some confusion between a military service member's "home of record" and "state of legal residence." The military considers the military service member's home of residence to be the place from which they entered the military; it is not necessarily their domicile. For example, a person was born in Maryland and lived there until then went to college in Florida; then they entered the military in Florida. Florida is that person's home of record. Military spouses do not have a home of record. The military considers the person's state of legal residence to be the place where the service member thinks of as home; the state where military service member's intends to make their permanent home after leaving the military.

For these reasons, the Department proposes to amend the rule to define "current address" and clarify rule language to make the rule more concise.

7. Summary of any written criticism of the rule received by the agency within the five years immediately preceding the five-year review report.

No written criticisms were received.

8. **A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.**

   The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the rulemaking filed with the Secretary of State's office and published in the *Arizona Administrative Register* on December 4, 2015. The rule was adopted to establish acceptable proof of residency. The Commission anticipated the rulemaking would benefit persons who are unsure of their domicile.

9. **Any analysis submitted to the agency by another person regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.**

   The Department did not receive any analyses.

10. **If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report.**

    Not applicable, the rule was adopted January 2, 2016.

11. **A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.**

    The rule establishes the documents a person may use to provide acceptable "proof of domicile." In creating this list, the Department reviewed lists of documents considered to prove residency for the purposes of registering a motor vehicle, attending state college, and applying for a hunting or fishing license in other states.
    The public benefits from a rule that helps increase understanding as to how the Department determines a person's true domicile for the purposes of establishing residency. The Department benefits from a rule that clearly indicates acceptable proof of domicile. The public and Department benefit from a rule that is understandable. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

12. **A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.**

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

13. For a rule adopted after July 29, 2010, that requires the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037.

The rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

The Department proposes to amend R12-4-124 as follows:

- Define current address to make the rule more concise.
- Clarify rule language to make the rule more concise.
- Require a person to present a valid document that contains a current address.
- Remove a certified copy of a court order from the list of acceptable proof of domicile. Clarify that more than one document may be required to fully establish the persons domicile.

The Department anticipates submitting the Notice of Final Rulemaking to the Council by July 2020, provided the current moratorium is not extended or the Commission is granted permission to pursue rulemaking.

R12-4-125. PUBLIC SOLICITATION OR EVENT ON DEPARTMENT PROPERTY

1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules.

Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. §§ 17-231(A)(1), 17-231(B)(13), 17-231(B)(14), and 41-2752

2. Objective of the rule, including the purpose for the existence of the rule.

The objective of the rule is to establish the requirements and procedures the public shall use to request permission to conduct a solicitation or event on Department property, and to provide guidance to the Department for the review and management of public solicitations and events on Department property. The Department has received requests from organized groups for the use of Department facilities for the benefit of

private interests or for solicitation purposes. The rule was adopted to ensure all solicitations and events are subject to the same regulatory measures that are intended to protect Commission-owned and/or -managed property.

3. **Effectiveness of the rule in achieving its objective, including a summary of any available data supporting the conclusion reached.**

   The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. No external public comments or complaints regarding the rule have been received. The Department believes this data indicates the rule is effective.

4. **Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency.**

   The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

5. **Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement.**

   The rule is enforced as written and the Department is not aware of any problems with the enforcement of the rule. All peace officers of the state (including city and county) are charged with enforcement. Officers can check for rule compliance during routine patrols. Officers my issue a warning order or a citation.

6. **Clarity, conciseness, and understandability of the rule.**

   The rule is clear, concise, and understandable. The rule is logically organized and generally written in the active voice so it will be understood by the general public.

7. **Summary of any written criticism of the rule received by the agency within the five years immediately preceding the five-year review report.**

   No written criticisms were received.

8. **A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if**

no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on November 3, 2015. The rule was amended to renumber R12-4-804 to R12-4-125; allow mid-level managers to approve minor, incidental solicitations on Department properties; replaces the term "applicant" with "sponsor;" allow the consumption of alcohol at a solicitation or event and require a person who intends to serve alcohol to provide the Department with a copy of a current and valid license issued by the Arizona Department of Liquor Licenses and Control to the sponsor and vendor, as applicable, and a liquor liability rider, included with the insurance certificate; require an applicant to provide proof of insurance no less than ten business days before the solicitation or event; remove the ability for the Department to waive a requirement due to an applicant's inability to pay a deposit, an insurance premium, or a service provider; establish the Department shall deny an application when the sponsor is unable to demonstrate adequate compliance with local, state, or federal ordinances, codes, or regulations; remove "rights of appeal" language; require a vendor who is working under a sponsor to provide certificates of insurance to the Department, when applicable; and establish a sponsor shall not allow the unlawful possession or use of drugs at the solicitation or event site. The Commission anticipated the rulemaking would benefit persons regulated by the rule and the Department would benefit from the rulemaking because it allowed mid-level managers to approve minor, incidental solicitations on Department properties result in a more efficient approval process. Most of the amendments made in the last rulemaking were intended to better protect the Commission's, Department's, and states assets. The Commission anticipated the rulemaking could impact small businesses looking to conduct a solicitation or special event on state property in cases where a special event had to be cancelled due to small business's inability to pay costs for deposits, insurance coverage, medical support, security, and sanitary services. However, the Commission anticipated these requirements would not result in an increased burden on the small businesses because the amendments implemented standard requirements applicable to most facility rentals.

9. **Any analysis submitted to the agency by another person regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.**

The Department did not receive any analyses.

10. **If applicable, how the agency completed the course of action indicated in the agency's previous five-year review report.**

The Article 8 report was approved by G.R.R.C. at the May 5, 2015 Council Meeting, which stated the

Department anticipated submitting the final rules to the Council by April 2016. The Department completed the course of action indicated in the previous five-year review report as follows:

- Notice of Rulemaking Docket Opening: 21 A.A.R. 1409, July 10, 2015.
- Notice of Proposed Rulemaking: 21 A.A.R. 1001, July 10, 2015.
- Public Comment Period: July 10, 2015 through August 10, 2015.
- G.R.R.C. approved the Notice of Final Rulemaking at the November 3, 2015 Council Meeting.
- Notice of Final Rulemaking: 19 A.A.R. 3025, December 4, 2015.

11. A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective.

The rule establishes the requirements and procedures the public must follow in order to request permission to conduct a solicitation or event on Department property, and to provide guidance to the Department for the review and management of public solicitations and events on Department property. The Department has received requests from organized groups for the use of Department facilities for the benefit of private interests or for solicitation purposes. All Department property is designated as non-public and is closed to solicitations and events unless opened by the Director. However, the Department recognizes Department properties provide a benefit to the general public by providing quality space for solicitation and event purposes, which can draw visitors into local communities and businesses. The rule provides balance to protect and ensure public access to and use of these properties, while also affording protection to the properties, the public, and the Department. The public benefits from a rule that affords them the opportunity to hold a solicitation or event on Commission-owned and/or -managed property. The public benefits from a rule that protects and ensures public access to and use of Commission-owned and/or -managed property. The Department benefits from a rule that ensures all solicitations and events are subject to the same regulatory measures intended to protect Commission-owned and/or -managed property. The public and Department benefit from a rule that is understandable. The Department believes the rule imposes the least burden and costs to persons regulated by the rule.

12. A determination that the rule is not more stringent than corresponding federal law unless there is statutory authority to exceed the requirements of that federal law.

Federal law is not directly applicable to the subject of the rule. The rule is based on state law.

13. For a rule adopted after July 29, 2010, that requires the issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037.

The rule does not require the issuance of a regulatory permit, license, or agency authorization.

14. Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.

No action.