

**ARIZONA GAME AND FISH
COMMISSION**

2023 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

Arizona Game and Fish Commission
Article 1. Definitions and General Provisions
Five-year Review Report

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

For all rules within Article 1, the authorizing statute is A.R.S. § 17-231(A)(1).		
For each rule within Article 1, the implementing statutes are as follows:		
R12-4-101.	Definitions	• A.R.S. § 17-231(A)(1)
R12-4-102.	License, Permit, Stamp, and Tag Fees	• A.R.S. §§ 17-102, 17-333, 17-335.01, 17-342, 17-345, and 41-1005
R12-4-103.	Duplicate Tags and Licenses	• A.R.S. §§ 17-331(A) and 17-332
R12-4-104.	Application Procedures for Issuance of Hunt Permit-tags by Drawing and Purchase of Bonus Points	• A.R.S. §§ 17-102, 17-231(A)(2), 17-231(A)(8), 25-320(P), 25-502(K), and 25-518
R12-4-105.	License Dealer's License	• A.R.S. §§ 17-332, 17-333, 17-334, 17-338, and 17-339
R12-4-106.	Special Licenses Licensing Time-frames	• A.R.S. §§ 41-1072 and 41-1073
R12-4-107.	Bonus Point System	• A.R.S. §§ 17-102, 17-231(A)(2) and 17-231(A)(8)
R12-4-108.	Management Unit Boundaries	• A.R.S. §§ 17-102, 17-231(B)(2) 17-234, 17-241, 17-452, 17-453, 17-454, and 17-455
R12-4-109.	Approved Trapping Education Course Fee	• A.R.S. § 17-333.02
R12-4-110.	Posting and Access to State Land	• A.R.S. §§ 17-102, 17-231(B)(2) and 17-304
R12-4-111.	Repealed	
R12-4-112.	Diseased, Injured, or Chemically-Immobilized Wildlife	• A.R.S. §§ 17-102, 17-231(A)(2), 17-231(A)(8), and 17-250(A)(3)
R12-4-113.	Small Game Depredation Permit	• A.R.S. §§ 17-102 and 17-239
R12-4-114.	Issuance of Nonpermit-tags and Hunt Permit-tags	• A.R.S. §§ 17-102, 17-231(A)(2), 17-231(A)(3), 17-331(A), 17-332(A), and 17-371
R12-4-115.	Supplemental Hunts and Hunter Pool	• A.R.S. §§ 17-102, 17-231(A)(2), 17-231(A)(3), 17-239, 17-331(A), and 17-332(A)
R12-4-116.	Issuance of Limited-entry Tags	• A.R.S. §§ 17-102, 17-231(A)(2), 17-231(A)(3), 17-331(A), 17-332(A), and 17-371
R12-4-117.	Indian Reservations	• A.R.S. §§ 17-211(E)(4) and 17-309(A)(19)
R12-4-118.	Hunt Permit-tag Surrender	• A.R.S. §§ 17-102, 17-231(A)(2), 17-231(A)(3), 17-231(A)(8), 17-331(A), 17-332(A), and 17-371

R12-4-119.	Arizona Game and Fish Department Reserve	• A.R.S. §§ 17-231(A)(1) and 17-214
R12-4-120.	Issuance, Sale, and Transfer of Special Big Game License Tags	• 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
R12-4-121.	Tag Transfer	• 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)
R12-4-122.	Handling, Transporting, Processing and Storing of Game Meat Given to Public Institutions and Charitable Organizations	• A.R.S. §§ 17-102, 17-211(E)(4), 17-233, 17-239(D), and 17-240(A)
R12-4-123.	Expenditure of Funds	• A.R.S. §§ 17-231(A)(7) and 17-231(A)(8)
R12-4-124.	Proof of Domicile	• A.R.S. § 17-231(A)(1)
R12-4-125.	Public Solicitation or Event on Department Property	• A.R.S. §§ 17-231(A)(1), 17-231(B)(13), 17-231(B)(14), and 41-2752
R12-4-126.	Reward Payments	• A.R.S. §§ 17-231(A)(7) and 17-315(B)(1)
R12-4-127.	Civil Liability for Loss of Wildlife	• A.R.S. §§ 17-231(A)(1), 17-231(B)(13), 17-231(B)(14), and 17-314

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

R12-4-101. Definitions: The objective of the rule is to establish definitions that assist 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 persons regulated by the rule from misinterpreting the intent of Commission rules.

R12-4-102. License, Permit, Stamp, and Tag Fees: 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 Department receives no appropriations from the general fund and operates primarily with the revenue it generates from the sale of licenses, permits, stamps, tags, and matching funds from federal excise taxes hunters and anglers pay on guns, ammunition, fishing tackle, motorboat fuels, and related equipment. The rule was adopted to provide 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.

R12-4-103. Duplicate Tags and Licenses: 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.

R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Computer Draw and Purchase of

Bonus Points: 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 persons regulated by the rule with the information necessary to successfully apply for a computer draw or the purchase of a bonus point.

R12-4-105. License Dealer's License: 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:

- Sixty-five license dealer's licenses on an annual basis.
- One-hundred seventy-five dealer outlet licenses on an annual basis.

The fee for the:

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

R12-4-106. Special Licenses Licensing Time-frames (Table 1. Time-Frames): 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 persons regulated by the rule with a definitive timeline for the review of license applications submitted to the Department.

R12-4-107. Bonus Point System: 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 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. 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.

R12-4-108. Management Unit Boundaries: 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 any wildlife in any area, other than the unit and wildlife specified on the tag, and hunters rely on the unit boundary descriptions provided in R12-4-108 to ensure that they are complying.

R12-4-109. Approved Trapping Education Course Fee: The objective of the rule is to establish the maximum fee a person may charge for a trapping education course. The rule was adopted to ensure compliance with A.R.S. § 17-333.02.

R12-4-110. Posting and Access to State Land: 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. A memorandum of understanding outlines coordination between the Arizona Game and Fish Department and the Arizona State Land Department to ensure that sportsmens access and the integrity of the State Land Trust are protected. The Game and Fish Commission process has been used by several state land operators to limit conflicts in sensitive areas while preserving general area access for recreation by means of alternate route access.

R12-4-112. Diseased, Injured, or Chemically-immobilized Wildlife: 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 preserving hunting opportunities for the state's hunters.

R12-4-113. Small Game Depredation Permit: 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 that the person suffering property damage from small game must exhaust all

remedies under statute prior to requesting the depredation permit. The Department issued approximately three permits in 2021 and 2022 to an airport for public safety purposes and a public venue suffering property damage from wildlife.

R12-4-114. Issuance of Nonpermit-tags and Hunt Permit-tags: 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 persons regulated by the rule 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.

R12-4-115. Restricted Nonpermit-Tags; Supplemental Hunts and Hunter Pool: 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 manage wildlife. The rule was adopted to establish an application process and hunter pool to enable the Department conduct those authorized activities.

R12-4-116. Issuance of Limited-Entry Permit-tag: The limited-entry event permit is established to provide the Commission greater flexibility in the hunting and angling opportunities offered to the public. These opportunities are offered on a limited basis and are based on biological recommendations made for each species in a process similar to the hunt guidelines recommendation process. These opportunities are offered in the same manner as the hunter pool, meaning a person need only apply and pay an application fee in order to participate. The rule is adopted to prescribe the limited-entry permit-tag structure, conditions under which the Commission may issue tags, application procedures, distribution process, and use of limited-entry permit-tags.

Since the rule was adopted on July 1, 2021, the Department:

- Offered approximately 18 limited-entry permit-tags.
- Received approximately 89,373 applications for limited-entry permit-tags.
- Generated approximately \$1.2 million in revenue from the sale of limited-entry permit-tags.

R12-4-117. Indian Reservations: 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. Tribal governments may require a tribal license, permit, or tag for the take of wildlife, however, the state may not impose any requirements on a hunter or angler who is taking wildlife on an Indian reservation. 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, wildlife is property of that reservation. When found on state land (includes private land), the wildlife is property of the state. The Department recognizes wildlife found on an Indian reservation belong to the tribal government and are under tribal jurisdiction. 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.

R12-4-118. Hunt Permit-tag Surrender: 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 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 was unable to use the hunt permit-tag for any reason.

Since the membership program was implemented in January 2016:

- 416,172 memberships were purchased (January 2016 through June 30, 2022).
- 3,821 hunt permit-tags were surrendered (January 2016 through September 30, 2022).
- 1,046 hunt permit-tags were donated to nonprofit organizations (January 2016 through September 30, 2022).

R12-4-119. Arizona Game and Fish Department Reserve: 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 individuals to assist in conducting Department enforcement and non-enforcement activities, as applicable.

R12-4-120. Issuance, Sale, and Transfer of Special Big Game License-tags: The objective of the rule is to establish procedures for the application and issuance of special big game 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 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 15th of the year in which they were purchased until August 14th the following year; a separate hunting license is required.

The year-round season allows a special big game tag 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 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. Since the implementation of this program, the Department has generated approximately \$44.5 million from the sale of special big game tags. 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.

R12-4-121. Tag Transfer: The objective of the rule is to establish the requirements for the transfer of an unused big game tag 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 persons eligible under A.R.S. § 17-332(D). 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. Each transfer represents an opportunity that would likely have gone unrealized. Persons who are eligible to receive a donated, unused big game tag include:

- Children with life-threatening medical conditions or physical disabilities;
- Children whose parent was killed in action while serving in the U.S. Armed Forces, in the course and scope of employment as a peace officer; or in the course and scope of employment as a professional firefighter who is a member of a state, federal, tribal, city, town, county, district or private fire department; and
- Veterans with service-connected disabilities.

R12-4-122. Handling, Transporting, Processing, and Storing of Game Meat Given to Public Institutions and Charitable Organizations: 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; and to include who is authorized to determine when game meat is safe and appropriate for donation. Department staff who have been trained in protecting recipients of donated meat from diseased or unwholesome products are the primary means of enforcement and serve to expeditiously get donated meat to appropriate organizations or arrange for disposal if it is determined the

game meat is unsuitable for safe human consumption. 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 harvested game meat, the Department's donation program was developed with the purpose of distributing surplus meat to put healthy meals onto the tables of those in need which helps to maintain the historical role of hunters as food providers and ensure game meat is not wasted.

R12-4-123. Expenditure of Funds: The objective of the rule is to establish the Director's authority to expend funds from specific sources within prescribed guidelines, and to require the Director to ensure the Department's 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.

R12-4-124. Proof of Domicile: The objective of the rule is to establish the documents a person may use 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. It is important to determine residency in order to assess license and tag fees. Typically, nonresident fees are higher and some persons will commit fraud in order to pay a lower fee. Since 1999, 1,161 citations were issued for license fraud, which resulted in a minimum of \$125,000 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 necessary to follow the paper trail. 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.

R12-4-125. Public Solicitation or Event on Department Property: 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.

R12-4-126. Reward Payments: 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 Operation Game Thief (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. 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 has paid out a total of \$52,000 over the past five fiscal years.

R12-4-127. Civil Liability for Loss of Wildlife: The rule was adopted to prescribe the civil liability values for the loss of wildlife when a person convicted of unlawfully taking, wounding, or killing wildlife or unlawfully in possession of unlawfully taken wildlife. This information is used by the Commission as a tool to establish the reasonable 'market' value when the Commission is determining the civil assessment to recover lost revenue to the state for the unlawful take of wildlife. The formula remains consistent while figures are researched and presented to the Commission each January for approval. The rule was adopted to allow the Commission to recover lost revenue when the value of the wildlife taken exceeds the minimal values prescribed under A.R.S. § 17-314. Prior to the adoption of this rule, the Commission used the statutory minimum values for reimbursement to the state as prescribed under A.R.S. § 17-314. These values were derived from baseline figures taken from other western states and initially adopted and approved as reasonable average values. The statutory values have remained the same since adoption in law and left no process for future modification based on market fluctuations. Many factors were explored in the process of determining an updated version of value associated with wildlife for the state. Research of processes and methods of valuation from other states was conducted to determine best practices. It was decided that using market values associated with wildlife and parts of wildlife would be the most

defensible and repeatable year after year.

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

At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes. In addition, comments received since the last rule review was conducted are reviewed and considered. Comments indicate the rules are understandable and applicable. The Department believes this data indicates the rules are effective. The Department believes the following rules are effective in achieving the objectives identified above:

- R12-4-102. License, Permit, Stamp, and Tag Fees
- R12-4-103. Duplicate Tags and Licenses
- R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Computer Draw and Purchase of Bonus Points
- R12-4-105. License Dealer's License
- R12-4-106. Special Licenses Licensing Time-frames
Table 1. Time-Frames
- R12-4-107. Bonus Point System
- R12-4-108. Management Unit Boundaries
- R12-4-109. Approved Trapping Education Course Fee
- R12-4-110. Posting and Access to State Land
- R12-4-112. Diseased, Injured, or Chemically-immobilized Wildlife
- R12-4-113. Small Game Depredation Permit
- R12-4-114. Issuance of Nonpermit-tags and Hunt Permit-tags
- R12-4-116. Issuance of Limited-Entry Permit-tag
- R12-4-117. Indian Reservations
- R12-4-118. Hunt Permit-tag Surrender
- R12-4-119. Arizona Game and Fish Department Reserve
- R12-4-120. Issuance, Sale, and Transfer of Special Big Game License-tags
- R12-4-121. Tag Transfer
- R12-4-122. Handling, Transporting, Processing, and Storing of Game Meat Given to Public Institutions and Charitable Organizations
- R12-4-123. Expenditure of Funds
- R12-4-124. Proof of Domicile
- R12-4-126. Reward Payments

The Department proposes to increase the effectiveness of the following rules as described below:

- **R12-4-101. Definitions:** Over time, the Department has diligently worked towards moving its processes to

the Department's online platform. Many of the applications, forms, reports, etc. require the person submitting them to sign and date the application, form, report, etc. The Department recommends amending the rule to define "electronic signature" to further enhance and support the use of online Department forms, applications, reports, etc. that require the submitter to provide a signature and date. This may also be used to indicate the person's intent to agree to payment, conditions, terms, etc. as applicable to the online application, form, report, etc.

- **R12-4-115. Restricted Nonpermit-Tags; Supplemental Hunts and Hunter Pool:** The current process for accepting Hunter Pool applications requires customers to submit a paper application to the Department's Draw Unit staff who then manually enter the customer's application into the Department's Customer Database. This process is time consuming and cumbersome. The Department is developing an online solution that will allow customers to apply online, eliminating the many hours needed for manual entry and freeing up Draw Unit staff to focus on other duties. The Department anticipates the online application will contain expanded criteria that the customer may select to further reduce the burden on the Department when making phone calls to potential tag recipients (i.e.; a customer applying for an elk hunt may select whether they are interested in an 'any elk,' 'cow elk,' or 'bull elk' hunt). The Department recommends amending the rule to allow the Department to specify the manner and method by which a person may submit an application for a supplemental hunt or hunter pool, such as online or by paper application to reduce administrative burden.
- **R12-4-125. Public Solicitation or Event on Department Property:** The rule requires all solicitations to undergo review by the branch chief or regional supervisor who then determines whether a solicitation is required. The rule identifies that the solicitation cannot conflict with the Department's mission nor constitute partisan political activity, but otherwise leaves the responsibility for determining whether the solicitation process should apply to an event and, if it does, whether an event may be held is left to the branch chief or regional supervisor. Applying the rule to all Department facilities and areas pose concerns about applicability, inconsistent application, and the potential of creating extra work for both the public and Department staff. In addition, the rule does not address leased or licensed property. The rule covers both solicitations and events; however, the term "events" is not defined. This leads to a potentially burdensome approach to this rule. The Department recommends amending the rule to define "events," specify that solicitation requests are only required when the request made to use the property is contrary to its established primary function, and establish the branch chief or regional supervisor and property stewards should determine acceptable uses for the facilities they are responsible for.
- **R12-4-127. Civil Liability for Loss of Wildlife:** The Department operates six fish hatcheries. Five of these fish hatcheries are used for cold water production and play a major role in providing trout fishing opportunities in Arizona. The sixth hatchery is dedicated to warm water fish production. Hatchery fish are raised from eggs which are purchased and imported from other federal, state, or private hatcheries in the nation. Almost all of the trout harvested in Arizona are stocked from Commission-owned hatcheries. Every year, Department fish hatcheries contribute to Arizona's economy by producing on average 385,000 pounds of fish. This equates to over 3 million fish that are stocked into 118 locations throughout Arizona. The rule allows the Commission to establish civil penalties intended to recover the cost of wildlife unlawfully taken,

lost, or injured. Internal discussions indicate the rule does not adequately address the loss of aquatic wildlife. The Department recommends amending the rule to establish values intended to recover hatchery expenses per fish, which includes the costs to purchase, raise, feed, transport, and release aquatic wildlife.

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 Department believes the following rules are consistent with statutes and rules; statutes and rules used to determine consistency include A.R.S. § Title 17 and 12 A.A.C. Chapter 4:

- R12-4-101. Definitions
- R12-4-105. License Dealer's License
- R12-4-106. Special Licenses Licensing Time-frames
Table 1. Time-Frames
- R12-4-108. Management Unit Boundaries
- R12-4-109. Approved Trapping Education Course Fee
- R12-4-110. Posting and Access to State Land
- R12-4-112. Diseased, Injured, or Chemically-immobilized Wildlife
- R12-4-113. Small Game Depredation Permit
- R12-4-114. Issuance of Nonpermit-tags and Hunt Permit-tags
- R12-4-115. Restricted Nonpermit-Tags; Supplemental Hunts and Hunter Pool
- R12-4-116. Issuance of Limited-Entry Permit-tag
- R12-4-117. Indian Reservations
- R12-4-119. Arizona Game and Fish Department Reserve
- R12-4-120. Issuance, Sale, and Transfer of Special Big Game License-tags
- R12-4-121. Tag Transfer
- R12-4-122. Handling, Transporting, Processing, and Storing of Game Meat Given to Public Institutions and Charitable Organizations
- R12-4-123. Expenditure of Funds
- R12-4-124. Proof of Domicile
- R12-4-125. Public Solicitation or Event on Department Property
- R12-4-126. Reward Payments
- R12-4-127. Civil Liability for Loss of Wildlife

The following rules are not consistent with or are in conflict with statutes and rules; the Department proposes to increase their consistency with statutes and rules as described below:

- **R12-4-102. License, Permit, Stamp, and Tag Fees:** The rule establishes the fees for licenses and permits offered by the Department. The rule references R12-4-209. Community Fishing License, which was repealed January 1, 2022. The Department recommends removing the reference to the repealed rule to increase

consistency between Commission rules.

- **R12-4-103. Duplicate Tags and Licenses:** Since the rule was last amended, the Department implemented a paperless tag process which allows a customer to purchase a license and permit-tag, view their license, bonus point, and tag information and electronically "tag" an animal using an App on their own electronic device. The Department recommends amending the rule to clarify that a person who validates their tag electronically for a harvested animal that was subsequently condemned and surrendered to a Department employee may apply for a duplicate tag upon submitting the condemned meat duplicate tag authorization form issued by the Department.
- **R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Computer Draw and Purchase of Bonus Points:** The current language requires a person to provide their license number when applying for a hunt permit-tag issued by computer draw. A person 10 years of age and under is not required to possess a hunting license unless they are applying for a big game hunt permit-tag. The Department recently began issuing Sandhill Crane tags by computer draw; under A.R.S. § 17-101, Sandhill Crane are not considered big game. The Department recommends amending the rule to establish an exemption to allow minors applying for draw hunts other than big game to do so without having to purchase a license. This recommendation will also require amending R12-4-107 (bonus points) to ensure consistency between Commission Rules.
- **R12-4-107. Bonus Point System:** Under R12-4-104, the Department shall award one bonus point to an applicant who submits a valid Hunt Permit-tag Application and the application is unsuccessful in the computer draw. R12-4-104 also prohibits a person under the age of 10 from applying for the purchase of a bonus point. This was largely due to the fact that persons under the age of 10 are not eligible to hunt big game and, until just recently, the Department's computer draws were specific to big game animals only. Over the years, the interest in Sandhill Crane tags increased to the point where the interest in Sandhill Crane tags outnumbered the number of tags issued. A determination was made to issue Sandhill Cranes permit-tags by computer draw and add them to the list of game for which a bonus point may be awarded or purchased. This is problematic because a person 10 years of age and under is not eligible to purchase or accrue a bonus point. To address this conflict, the Department recommends amending the rule to award a Sandhill Crane bonus point to an applicant who is under the age of 10 and whose application was unsuccessful in the computer draw. These applicants would not be eligible to purchase a bonus point to avoid an over-accumulation of bonus points that would grant them an unfair advantage over other applicants.

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

The following rules are currently being enforced. Department employees can inspect documentation for rule compliance. Officers can check for rule compliance when routinely patrolling the lands and waterways of Arizona, and issue warning orders or citations. To the extent that the Department is aware, the Department believes there are no problems with the enforcement of the following rules:

- R12-4-101. Definitions

- R12-4-102. License, Permit, Stamp, and Tag Fees
- R12-4-103. Duplicate Tags and Licenses
- R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Computer Draw and Purchase of Bonus Points
- R12-4-105. License Dealer's License
- R12-4-106. Special Licenses Licensing Time-frames
Table 1. Time-Frames
- R12-4-107. Bonus Point System
- R12-4-108. Management Unit Boundaries
- R12-4-109. Approved Trapping Education Course Fee
- R12-4-110. Posting and Access to State Land
- R12-4-112. Diseased, Injured, or Chemically-immobilized Wildlife
- R12-4-113. Small Game Depredation Permit
- R12-4-114. Issuance of Nonpermit-tags and Hunt Permit-tags
- R12-4-115. Restricted Nonpermit-Tags; Supplemental Hunts and Hunter Pool
- R12-4-116. Issuance of Limited-Entry Permit-tag
- R12-4-117. Indian Reservations
- R12-4-118. Hunt Permit-tag Surrender
- R12-4-119. Arizona Game and Fish Department Reserve
- R12-4-120. Issuance, Sale, and Transfer of Special Big Game License-tags
- R12-4-121. Tag Transfer
- R12-4-122. Handling, Transporting, Processing, and Storing of Game Meat Given to Public Institutions and Charitable Organizations
- R12-4-123. Expenditure of Funds
- R12-4-124. Proof of Domicile
- R12-4-125. Public Solicitation or Event on Department Property
- R12-4-126. Reward Payments
- R12-4-127. Civil Liability for Loss of Wildlife

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

The Department believes the following rules are clear, concise, understandable, are logically organized, and generally written in the active voice:

- R12-4-101. Definitions
- R12-4-102. License, Permit, Stamp, and Tag Fees
- R12-4-103. Duplicate Tags and Licenses
- R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Computer Draw and Purchase of Bonus Points

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- R12-4-105. License Dealer's License
- R12-4-106. Special Licenses Licensing Time-frames
Table 1. Time-Frames
- R12-4-107. Bonus Point System
- R12-4-109. Approved Trapping Education Course Fee
- R12-4-110. Posting and Access to State Land
- R12-4-112. Diseased, Injured, or Chemically-immobilized Wildlife
- R12-4-113. Small Game Depredation Permit
- R12-4-114. Issuance of Nonpermit-tags and Hunt Permit-tags
- R12-4-115. Restricted Nonpermit-Tags; Supplemental Hunts and Hunter Pool
- R12-4-116. Issuance of Limited-Entry Permit-tag
- R12-4-117. Indian Reservations
- R12-4-118. Hunt Permit-tag Surrender
- R12-4-119. Arizona Game and Fish Department Reserve
- R12-4-122. Handling, Transporting, Processing, and Storing of Game Meat Given to Public Institutions and Charitable Organizations
- R12-4-123. Expenditure of Funds
- R12-4-124. Proof of Domicile
- R12-4-125. Public Solicitation or Event on Department Property
- R12-4-126. Reward Payments
- R12-4-127. Civil Liability for Loss of Wildlife

Overall, the following rules are clear, concise, understandable, are logically organized, and generally written in the active voice, however, the Department proposes to further clarify the following rules as indicated:

- **R12-4-108. Management Unit Boundaries:** 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 recommends amending the rule to update boundary revisions as necessary to clearly define roads and intersections with sufficient detail to reflect on the ground signage and current maps. The update serves to provide additional clarity and maintain recreational opportunities for the public (both hunters and outdoor recreationists).
- **R12-4-120. Issuance, Sale, and Transfer of Special Big Game License-tags:** With the last rulemaking the Commission amended the rule to require the winning bidder to possess a hunting or combination hunting and fishing license to validate the special license tag. The Department recommends amending the rule to replace references to "license-tags" with "tags" to make the rule more concise.

7. **Summary of the written criticisms of the rule received by the agency within the five years immediately preceding the Five-year Review Report, including letters, memoranda, reports, written analyses submitted to the agency questioning whether the rules is based on scientific or reliable principles, or methods, and**

written allegations made in litigation and administrative proceedings in which the agency was a party that the rule is discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the conclusion of the litigation and administrative proceedings.

The Department did not receive any written comments for the following rules.

- R12-4-101. Definitions
- R12-4-103. Duplicate Tags and Licenses
- R12-4-105. License Dealer's License
- R12-4-106. Special Licenses Licensing Time-frames
Table 1. Time-Frames
- R12-4-109. Approved Trapping Education Course Fee
- R12-4-112. Diseased, Injured, or Chemically-immobilized Wildlife
- R12-4-113. Small Game Depredation Permit
- R12-4-115. Restricted Nonpermit-Tags; Supplemental Hunts and Hunter Pool
- R12-4-116. Issuance of Limited-Entry Permit-tag
- R12-4-117. Indian Reservations
- R12-4-119. Arizona Game and Fish Department Reserve
- R12-4-122. Handling, Transporting, Processing, and Storing of Game Meat Given to Public Institutions and Charitable Organizations
- R12-4-123. Expenditure of Funds
- R12-4-125. Public Solicitation or Event on Department Property
- R12-4-126. Reward Payments
- R12-4-127. Civil Liability for Loss of Wildlife

The Department received the following comments relating to rules within Article 1. Definitions and General Provisions:

R12-4-102. License, Permit, Stamp, and Tag Fees:

Comments suggest the Commission should lower the cost of the nonresident combination hunting and fishing licenses (both short-term and one-year licenses).

Agency Response: The Department's principle operational revenue comes from the sale of hunting and fishing licenses, hunt permit-tags, stamps and matching funds from federal excise taxes hunters and anglers pay on guns, ammunition, fishing tackle, motorboat fuels, and related equipment. 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

fees paid for hunting and fishing licenses, both resident and nonresident, 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). If you look at most any state's hunting and fishing license fees, most state wildlife agencies charge nonresident applicants higher license and tag fees than residents. This provides nonresident hunters with the opportunity to contribute to the state wildlife agency funds that are used to protect and manage wildlife. In 1978, 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. 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.

Comments suggest the Commission should provide nonresident members of the military the same discounts as resident members of the military.

Agency Response: Currently, the Department offers a complimentary license to a veteran who receives compensation from the U.S. government for a permanent service-connected disability rated as 100% disabling; a 50% reduced-fee license to bona fide recipient of a Purple Heart Medal; and a 25% reduced-fee license to a veteran who has a service-connected disability. In addition, under A.R.S. § 17-332(D), any veteran with a service-connected disability is eligible to receive a donated unused big game permit-tag, this includes both residents and nonresidents. To learn more about this program, visit <https://www.azgfd.com/Hunting/TagTransfer/>. It is true, the honored military licenses require the veteran be a resident of Arizona for one-year immediately preceding application for the license. The one-year residency requirement is mandated by statute and a legislative amendment is required before the Commission may implement this suggestion. While wildlife is considered a national resource, A.R.S. § 17-102 clarifies that wildlife, both resident and migratory, native or introduced, found in this state, except

fish and bullfrogs impounded in private ponds or tanks or wildlife and birds reared or held in captivity under permit or license from the Commission, are property of the state and may be taken at such times, in such places, in such manner and with such devices as provided by law or rule of the Commission. In 1978, the U.S. Supreme 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. 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.

Comments suggest the Commission should regulate the use of trail cameras by selling permits, regardless of whether the trail camera is used for the purpose of hunting, security, or wildlife viewing.

Agency Response: The Commission prohibited the use of trail cameras for the purpose of hunting January 1, 2022. The prohibition was intended to address the divisive and social aspects of trail cameras used for the purpose of hunting. Implementing a registration process would not address the concerns surrounding the use of trail cameras for the purpose of hunting and would also result in the Department expending additional resources to establish and maintain a registration or permitting system, as well as any associated administration costs. For these reasons, it is not reasonable to establish a registration or permitting system that allows paying hunters to use a trail camera for the purpose of hunting.

Comments suggest the Commission should issue "outfitter tags" that are only offered to licensed guides at premium prices; and the Commission should issue a mentor tag that allows a hunter and a youth to apply for a tag issued by computer draw only the application would be given two opportunities in the computer draw (one for each person identified on the application).

Agency Response: The Commission's tag processes are designed to provide equal opportunity to all classes of individuals and not to provide an advantage to certain groups. As a result, the Department does not believe that any group of individuals should be offered tags for which others are not eligible.

Comments suggest the Commission should establish hunting categories such as general, high demand, and trophy hunts (seasons) and then charge different fees for the different hunts.

Agency Response: In 2012, the Commission directed the Department to conduct a review of its license structure and fees in an effort to simplify and streamline the license structure, and to add value to the licenses the Department offered. To solicit feedback and support, the Department deployed an extensive outreach campaign from October 2012 through June 2013 to collect feedback about a conceptual license and fee structure. The campaign included public meetings in Ajo, Eagar, Flagstaff, Globe, Havasu, Kingman, Mesa, Page, Payson, Phoenix, Pinetop, Prescott, Safford, Sierra Vista, Tucson, Wickenburg,

and Yuma (the Phoenix meeting was also webcast through the Department website). In addition, the Department created a dedicated web page (www.azgfd.gov/LicenseSimplification) with a dedicated e-mail address through which the public could submit comments and suggestions. Press releases were issued to announce public meeting dates and direct people to the web page. The Department also held meetings with a number of conservation groups to discuss the conceptual license structure and fees. The Department received more than 1,400 comments during this same time-frame. The Department also conducted a science-based mail survey of hunters and anglers and received more than 1,480 responses. One of the most discussed concepts was that of a “premium” hunt structure for certain deer and elk hunts (predominantly against the premium concept). Based on the public comment, the Department does not recommend establishing a premium hunt structure.

Comments suggest the Commission should establish higher fees for nonresident licenses and tags and that the number of nonresident tags should be reduced.

Agency Response: In 2014, the Department simplified its license structure by reducing more than forty hunting and fishing licenses to just six. At that time, the Commission directed the Department to create additional ways to generate revenue without increasing the costs of licenses and tags. The Department limits the number of nonresident permits under A.R.S. § 17-332, the Commission is authorized to limit the number of big game permits issued to nonresidents in a random drawing to ten percent or fewer; and recently, to limit the number of nonpermit-tags that are issued to nonresident hunters. The Department is following the statute.

Comments suggest the Commission should repeal the current youth license and tag fees and charge the same fees as those charged to persons 18 years of age and older.

Agency Response: Most, if not all, wildlife agencies offer programs geared towards encouraging youth to hunt (such as reduced fees, mentored hunting clinics, and youth only hunts). Encouraging youth to participate in hunting and shooting activities is critical to conservation. Having programs dedicated for youth to experience a hunt for the first time, getting some extra practice or hunting an animal that is new to them are important to keep our youth excited and engaged within the hunting community. In addition, having a separate tags and seasons demonstrates the importance of conservation and wildlife management. If our children are not educated on the benefits that hunting offers to conservation and wildlife management, in future years our ecosystem could be out of balance.

Comments suggest the Commission should make it harder for first time applicants to draw a “dream tag,” such as bighorn sheep and bison, because those tags should be going to longtime hunters, perhaps for hunters who have applied for these hunts for five or more years.

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 of the Department’s draw process and bonus point system have 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 and those with no or low bonus points, even for the high demand hunts. The Commission believes every applicant, regardless of residency and number of bonus points, should have an opportunity to draw a tag in any given hunt.

Comments suggest the Commission should require all applicants for a big game tag to submit all required fees at the time of application.

Agency Response: Requiring applicants to pay application, license (when required), and tag fees up front would result in a loss of revenue to the Department and an unnecessary administrative burden to the State agencies involved. If a person is unsuccessful in the computer draw, the Department processes a refund for the tag fee, only. The refund process involves multiple state agencies: the Department initiates the refund action; the General Accounting Office (GAO) processes the request and issues the warrants (refunds); the Department receives the warrants, verifies the payee and warrant amount, mails valid warrants, removes warrants payable to persons who subsequently submitted an insufficient funds payment, and initiates warrant corrections when necessary; GAO processes and issues the corrected warrants; and the Arizona Department of Revenue (ADOR) manages the unclaimed property process for any unclaimed refunds. Each refund costs the Department approximately \$3 to \$8 to process (Department materials and equipment as well as GAO and ADOR costs are not included in this estimate).

Comments suggest the Department refund the fees paid for an unused big game tag when the person is unable to use their hunt permit-tag due to a documented proof of illness or family tragedy.

Agency Response: The Department is unable to refund any license or application fees, except as authorized under A.R.S. § 17-332(E).

Comments suggest the Commission should establish a residency category for persons who own land in more than one state.

Agency Response: The Department recognizes that the two categories of Resident or Nonresident exist and, based on your suggestion, a third classification is not feasible. The current classification of resident vs nonresident takes into consideration what legally makes a person either a resident by establishing a permanent home or domicile, pay Arizona state income taxes, receive Arizona benefits and not be able to gain any benefit from any other state. The term “Domicile” is defined as a person’s true, fixed and permanent home and principal residence. Criteria considered for Residency status are the following:

- Does not claim residency for any purpose in any other state or jurisdiction.
- Has been issued an Arizona driver’s license or an Arizona commercial driver’s license. The possession of an Arizona ID card is not considered evidence of residency.
- Is employed full-time in Arizona.
- Files federal and/or state income taxes as an Arizona resident.
- Is registered to vote in Arizona.

- Is enrolled in, or has minor children enrolled in an Arizona public school without payment of non-resident tuition.

R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Computer Draw and Purchase of Bonus Points:

Comments suggest the Department should give resident hunters preference over nonresident hunters when conducting the computer draw.

Agency Response: The first phase of the current draw system issues 20% of the available tags to those persons with the maximum number of bonus points. The second phase then issues the remaining 80% of the tags randomly, also giving preference to those with the greatest number of bonus points, while still providing opportunity for all applicants to draw a tag (for every bonus point, applicants have one additional 'chance' in the draw). 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.

Comments suggest the Department should give allocate more big game tags to nonresident hunters because they pay higher license and tag fees.

Agency Response: The Department is unable to increase the percentage of tags allocated to nonresidents. Under A.R.S. § 17-332, 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; and a recent legislative amendment allows the Commission to limit the number or use of licenses and tags issued, that are not issued by a computer draw, to nonresidents. A legislative amendment is required before the Commission 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.

Comments suggest the Commission repeal the requirement that a person possess, or purchase at the time of the hunt, a valid hunting or combination hunting and fishing license that is valid when applying for a hunt permit-tag issued by computer draw.

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).

Comments suggest the Commission should issue tags to residents only.

Agency Response: Wildlife freely travel between contiguous state boundaries and as such are considered to be a national resource. In order to prohibit the issuance of tags to nonresident hunters the Department would have the burden of proving a jurisdictional need to discriminate against nonresident hunters exists when challenged in court. Litigation over discriminatory nonresident hunting regulations hurts hunters for three reasons: (1) it pits hunters against hunters; (2) it limits a state's ability to protect wildlife; and (3) it provides incentives for states to retaliate.

R12-4-107. Bonus Point System:

Comments suggest the Commission should allow persons the ability to gift, transfer, or will their bonus points to another person:

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.

Comments suggest the Commission should award special bonus points to specific categories, such as native Arizonans, lifetime license holders, disabled veterans, etc.

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.

Comments suggest the Commission should award conservation (volunteer) bonus points; i.e. a permanent bonus point for each genus.

Agency Response: Rulemaking to award bonus points to persons who participate in conservation projects intended to benefit wildlife and wildlife habitat has been attempted before and was not completed due to the inability to apply the rule to all persons who are eligible for bonus points. For example, a person who is retired has more time to devote to participating in conservation projects than a person who works 40 hours a week; a person over 16 years of age may more easily travel to a place where a conservation project will take place than a person under 16 years of age; a resident more easily travels to a place where a conservation project will take place than a nonresident, etc. It would also impose an administrative burden on the Department and partnering conservation organizations. For example, ensuring enough conservation projects are available to all persons who wish to obtain the permanent bonus points; tracking the time a person spends participating on a conservation project; ensuring participants are actively participating in the project in a helpful manner, etc. The Department recommends tasking a team to explore options related to this suggestion and present those options to the Commission for their consideration.

Comments suggest the Commission should add Sandhill Crane to the list of game for which a bonus point may be awarded.

Agency Response: Effective July 1, 2021, the Commission added Sandhill Crane to the list of wildlife for which a bonus point may be awarded or purchased.

Comments suggest the Commission should award permanent hunter education bonus points only when the person completed the “in person” hunter education course.

Agency Response: Due to the popularity of the Arizona Education Bonus Point, the demand for seats in the classroom course often outweighs their availability. It is not uncommon to see courses booked out for an entire year. This posed a problem, as the limited classroom capacities were preventing hunters from earning their Arizona Education Bonus Point, and thus not affording them equal opportunity in the computer draw. A new online-only course, Ethically Hunting Arizona, was developed primarily for those hunters who are looking to acquire their permanent Arizona Education Bonus Point without having to compete for limited seating in the classroom-style structure of the traditional Arizona Hunter Education course. This new online course should help to free up seating for youths 9 to 13 who must complete a hunter education course in person to hunt big game.

Comments suggest the rule does allow bonus points to remain on a person’s customer record valid indefinitely.

Agency Response: The existing rule states that if a person fails to submit a Hunt Permit-tag Application for any genus for five consecutive years, they will lose their existing bonus points. This rule is intended to encourage continuous participation in the Department’s computer draw and reward loyal applicants. Bonus points and loyalty bonus points may only be gained or lost through the computerized draw system. If a person fails to apply for the computer draw they cannot be entered into the draw. If an application is not entered into the system, the system cannot award a bonus point. The Department believes it is the applicant's responsibility to ensure the application is submitted timely. While the Department has received complaints in regards to the current bonus point system, the Commission determined through an extensive public process and a random survey of hunters that the current bonus point system was preferred by the regulated public.

Comments suggest the Commission should award a permanent bonus point for each species to Arizona guide license holders at the time a guide license is issued.

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. As a result, the Department does not believe that any class of individuals should be awarded bonus points for which others are not eligible and/or are obtained outside the predetermined process. The intent of the Arizona Education Bonus Point is to reward those who successfully complete an approved Arizona Hunter Education course. As mentioned in your comment, there is an expectation that those in possession of an Arizona Hunting Guide license are responsible for “knowing and exercising all that is encompassed in hunter education.” The Department believes that this is a fair statement, and to exercise that knowledge

appropriately, would strongly encourage all who possess an Arizona Hunting Guide license to take a current Arizona Hunter Education course so that they are fully aware of the relevant concepts shared within. The Arizona Hunter Education and new Ethically Hunting Arizona courses encompass far more than firearms safety and hunting rules/regulations; they were designed specifically for Arizona sportsmen and cover: The North American Model of Conservation, relevant wildlife diseases, encouraged use of non-lead ammunition, habitat management, modern ethics, survival skills, wildlife identification, up to date rules and regulations, and our responsibility as modern sportsmen.

Comments suggest the Commission should do away with or restructure the bonus point system.

Agency Response: The Department understands the disappointment and frustration with the amount of time it takes to draw tags for certain 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, however, some hunts continue to see a rise in the number of applicants in the max bonus point pool due to demand outweighing the number of permits available. When a customer is drawn for any of their chosen hunts, all the accumulated points for that species are expended. The demand for many hunts often outweighs the number of tags available. By removing those who are successfully drawn from the bonus point pool, we are providing unsuccessful applicants a better opportunity to draw a tag while also preventing over-accumulation of bonus points for high demand hunts. While the Department is sensitive to your frustration and appreciates the time and effort put into building bonus points, the Department believes the current system provides the best opportunity to all applicants.

Comments suggest the Department separate bighorn sheep maximum bonus point holders into two categories when processing the bonus point phase of the computer draw.

Agency Response: In the existing bonus point system, the species bonus point for bighorn sheep covers both Rocky Mountain and Desert bighorn species. This ‘combination’ of a species point is also true for turkey (Merriam’s and Gould’s turkey) and deer (Mule and White-tailed deer). The allocation of these permits in the computer draw is dependent on the rules that govern each species. If the Department were to regulate the allocation of these permits down to each of the covered species, we would need to create separate species bonus points for each.

R12-4-108. Management Unit Boundaries:

Comments suggest the Commission combine portions of units 20A, 19A, 19B, and 17B into metropolitan hunt unit, similar to the one in Phoenix.

Agency Response: Under A.R.S. § 17-309(A)(4), it is unlawful for a person to discharge a firearm within one-fourth mile of an occupied farmhouse or other residence, cabin, lodge or building without

permission of the owner or resident. In 2019, R12-4-303 was amended to prohibit the discharge of an arrow or bolt, pneumatic weapon .35 caliber or larger, or hybrid device while taking wildlife within one-fourth mile (440 yards) of an occupied farmhouse or other residence, cabin, lodge or building without permission of the owner or resident. Between the cited statute and rule, hunting is essentially eliminated in these areas which makes creating a metropolitan unit in the Prescott area redundant.

R12-4-110. Posting and Access to State Land:

Comments suggest the Commission prohibit property owners from closing access to their property to prevent persons from hunting.

Under A.R.S. § 17-304(B), “State or federal lands, including those under lease, may not be posted except by consent of the Commission.” While the cited statute protects access to public land, it also precludes the Commission making rules that mandate access to privately owned land. For this reason, the Department proactively seeks ways to increase voluntary access to and through private lands. In particular, the Department's Landowner Relations Program focuses on partnering with private landowners and agricultural producers to secure public recreational access to private land. This is achieved through a variety of programs, such as the Habitat Enhancement Program which helps bolster populations of game and non-game species at landscape-scale, leveraging diverse partnerships and funding sources; the Landowner Relations Program which focuses on partnering with the State's private landowners and agricultural producers to implement mutually beneficial habitat projects and secure public recreational access; the Adopt-A-Ranch Program which offer volunteer labor to perform ranch maintenance with support from the Department (volunteer groups typically visit their “adopted” ranches once or twice a year to complete mutually beneficial projects); and the Landowner Respect Program which provides signs to landowners to inform the public of laws and etiquette for using ranch lands and, in some cases, gates, fence ladders, sign-in boxes, and kiosks to improve issues related to public access.

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

Comments suggest the Commission should establish a waiting period of some form or another for hunt-permit tags issued by a computer draw.

Agency Response: The foundation for all hunt recommendations is science and managing wildlife for sustainable populations. Hunt opportunities are reduced when populations are in decline to ensure sustainable management of our wildlife populations. The Department understands that not being drawn for a big game hunt can be discouraging. The Department recently evaluated waiting periods of one, eight, and ten years at least two times over the last five years. The most recent analysis in 2021 determined that, except for youth hunts, implementing a waiting period would result in a projected increase in draw odds 1.1% (pronghorn) to 4.0% (late season deer) per applicant. The Commission determined implementing a waiting period would not be beneficial to persons who hunt in Arizona.

Comments suggest the Commission implement an antler restriction in place to increase the number of mature animals.

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 to 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 to doe ratios, there is no evidence they substantially increase the total number of adult (mature) bucks.

Comments suggest the Commission issue archery deer tags by way of computer draw instead of offering them for purchase over-the-counter.

Agency Response: Referred to as over-the-counter tags, these nonpermit-tags are available for purchase from Department offices and, in many cases, licensed license dealers. Species and hunts available include archery-only deer (some unit restrictions), limited opportunity elk, mountain lion, bear; archery-only javelina, and juniors-only turkey (shotgun only). The benefits of offering these tags over-the-counter include allowing a person to hunt a particular species without their having to expend any accrued bonus points for that species and an application fee is not required.

Comments suggest the Commission amend the rule to make at least two bighorn sheep permits available in any bighorn sheep hunt before allowing a permit to go to the maximum bonus point pool; and if more than two permits are available in a hunt then no more than 50% of the permits should go to the maximum bonus point pool.

Agency Response: The Department disagrees. The current maximum point holders have accumulated 34 points after applying for over 30 years. The Department offers a limited number of sheep permits (~140) and over half of those hunts (39 of 59 hunts) offer two or less permits. Implementing this

suggestion would ultimately restrict the number permits made available to our maximum bonus point holders in the pass of the computer draw that is meant to prioritize them. This would result in the exclusion of hunters with the maximum bonus points from 24% of the available hunts. While some high demand hunts almost exclusively go to maximum bonus point holders in the bonus point pass of the computer draw, their exclusion would be to the contrary of the purpose of providing loyalty points to the long-invested hunters of Arizona.

R12-4-118. Hunt Permit-tag Surrender:

Comments suggest the Commission amend the rule to prohibit a person who was successful in the computer draw as part of a group application from being able to return their unused big game tag and have the points expended for that tag restored.

Agency Response: The Department believes the majority of hunters do not participate in this behavior due to the possibility of a genuine need to surrender a tag through the membership program (PointGuard) in the future. The potential loss of the ability to surrender a tag and have any expended bonus points restored during a true emergency is not worth the risk. The following requirements are intended to prevent the abuse of the membership program: A person may only surrender an original, unused hunt permit-tag obtained through a computer draw; a person may surrender an unused hunt permit-tag for a specific species only once before any bonus points accrued for that species must be expended.

R12-4-120. Issuance, Sale, and Transfer of Special Big Game License-tags

Comments suggest special big game license tags be awarded only to persons who have a physical or mental condition requiring the aid of another person to assist with the harvest and/or retrieval of the big game animal.

Agency Response: The intent of R12-4-120 is to generate revenue for the purpose of habitat enhancement projects that benefit Arizona's wildlife. Placing restrictions on who may be awarded a special big game tag would reduce the revenue generated and undermine the intent of the rule. However, under the Challenged Hunter Access/Mobility Permit (CHAMP) Program (R12-4-217), the Department issue tags to hunters with severe permanent disabilities and allows the use of an assistant to track and dispatch a wounded animal, and to retrieve the animal.

R12-4-121. Tag Transfer

Comments suggest the Commission should amend the rule to provide more oversight and prevent abuse of the tag transfer program.

Agency Response: The Arizona Game and Fish Commission verifies the eligibility of organizations to receive and place donated tags, provides guidance to eligible organizations, and issues directions to the Department that are implemented by staff. Department staff and law enforcement utilize a variety of methods to ensure compliance with the rule and to clearly communicate eligibility requirements. Comments received reflect a significant level of concern regarding potential abuse of this program, and

some allege specific instances of wrongdoing directly or indirectly related to transfers including the possibility of individuals or organizations obtaining such tags by fraud or misrepresentation. Such actions are a violation of this rule as written, as well as A.R.S. Title 17, and the Department can pursue them through its law enforcement capabilities. Therefore, the Department makes no recommendations at this time.

Comments suggest the Commission amend the rule to allow a person, or a deceased person's family representative, to donate their unused tag to an immediate family member.

Agency Response A.R.S. § 17-332 prohibits the transfer of permits with specified exceptions, including the transfer of a successfully drawn big game permit or tag to a minor child but not the reverse. No such exception currently exists in statute for family members other than minor children. A legislative amendment is required in order to implement this suggestion.

Comments suggest the Commission should amend the rule to allow a person who either obtained a hunt permit-tag by computer draw or over-the-counter tag to be eligible to receive a donated tag or tags unless the person has already met the annual or lifetime bag limit for that species.

Agency Response Since the receipt of this comment, updated guidance has been issued to the Department's Customer Service Representatives regarding situations of this nature. Under that guidance a qualifying individual who has previously received a tag for the same genus as a tag that would be donated to them may still receive the donated tag provided that they have not reached their annual or lifetime bag limit for that genus and use of the tags would not create a situation where that limit would be exceeded. The Department recommends amending the rule to further clarify this scenario in rule.

Comments suggest the Commission should remove organizations that do not provide a quality hunting experience.

Agency Response: Under A.R.S. § 17-332(D), the Commission may prescribe the application process for a nonprofit organization that wants to allow a nonprofit organization to transfer tags. The Commission is not authorized to establish a criterion for the opportunities and experiences the nonprofit organization must provide. The Department posts the names and contact details of organizations qualified to receive and place donated tags on its website but does not offer reviews nor endorsements of the services offered. If it is determined that the guide or organization behaved criminally the guide license can be revoked and/or the organizations eligibility to continue receiving donated tags can be revoked once the judicial process is completed.

R12-4-124. Proof of Domicile:

Comments suggest the Commission amend the rule to establish a category of residency for persons who reside out-of-state but own property in Arizona.

Agency Response: Creating a separate or third category, nonresident with ties to the community, would be difficult to determine considering the current definitions for “resident” and “nonresident” established under statute, see A.R.S. § 17-101(14) and (17).

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.**

R12-4-123. Expenditure of Funds: The last rulemaking resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by Governor’s Regulatory Review Council (G.R.R.C.) on January 3, 2006. The Commission anticipated the rulemaking would have no impact on persons regulated by the rule because the rule was amended only to comply with Administrative Procedure Act (APA) guidelines for rulemaking language, grammar, and style.

R12-4-109. Approved Trapping Education Course Fee: The last rulemaking resulted in the estimated economic, small business, and consumer impacts as stated in the final exempt rulemaking package approved by the Commission on August 2, 2013. 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 exempt rulemaking made no changes to the maximum trapping education course fee already established in statute.

For the following rules, the last rulemaking 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:

- **R12-4-112. Diseased, Injured, or Chemically-immobilized Wildlife:** The Commission anticipated the rulemaking would have no impact on persons regulated by the rule because the rule was amended only to comply with APA guidelines for rulemaking language, grammar, and style.
- **R12-4-117. Indian Reservations:** The Commission anticipated the rulemaking would either be less burdensome or have no significant impact on persons regulated by the rule because the rule was only amended to reflect statutory labeling changes and clarify that A.R.S. § 17-211(E) authorizes a Game Ranger or Wildlife Manager to inspect all wildlife taken or transported anywhere in this State.
- **R12-4-119. Arizona Game and Fish Department Reserve:** The Commission anticipated the rulemaking would have no impact on persons regulated by the rule because the rule was amended only to comply with APA guidelines for rulemaking language, grammar, and style.
- **R12-4-125. Public Solicitation or Event on Department Property:** The Commission anticipated the rulemaking would benefit persons regulated by the rule and the Department by allowing mid-level managers to approve minor, incidental solicitations on Department properties as the sponsor could receive the approval or denial of a request more quickly and the Department’s administrative burden could be reduced. The

Commission anticipated amendments that required a vendor working under a sponsor to provide certificates of insurance to the Department; removed 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; and prohibited the possession and use of unlawful drugs could impact public and private individuals or small businesses; however, the Department has a duty to protect state assets. The Commission anticipated the rules could impact small businesses looking to conduct a solicitation or special event on state property in cases where a special event is cancelled (due to costs for deposits, insurance coverage, medical support, security, and sanitary services), however, these are standard requirements that are applicable to most facility rentals. The Commission believed the rulemaking could have a favorable impact on small businesses, such as insurance agents who provide coverage, medical support, security, and sanitary services.

For the following rules, the last rulemaking resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on February 2, 2021:

- **R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Computer Draw and Purchase of Bonus Points:** The Commission anticipated the rulemaking would have no impact on persons regulated by the rule because the rulemaking only replaced the Department website Uniform Resource Location (url) with "Department's website."
- **R12-4-105. License Dealer's License:** The Commission anticipated the rulemaking could impact businesses, both large and small; however, the Commission determined the impact would not affect business revenues or payroll expenditures because the rulemaking only implemented recent changes made to A.R.S. § 17-338, which removed the five % commission license dealers were authorized to retain as compensation for selling Game and Fish licenses to the public and allow those license dealers to collect and retain a reasonable fee as determined by the license dealer. The rulemaking also prohibited a person who is not authorized to sell licenses on behalf of the Department from selling Department-issued hunting and fishing licenses.
- **R12-4-106. Special Licenses Licensing Time-frames (Table 1. Time-Frames):** The Commission anticipated the rulemaking would have no impact on persons regulated by the rule because the rulemaking only replaced references to "aquatic wildlife stocking permit" with "aquatic wildlife stocking license" and "scientific collecting permit" with "scientific activity license."
- **R12-4-107. Bonus Point System:** The Commission anticipated the rulemaking would benefit person regulated by the rule because the rulemaking added Sandhill Crane to the list of wildlife for which a bonus point may be purchased or accrued and clarified that a person who is 9 years of age or older may take the Arizona Hunter Education course and shall be awarded one permanent bonus point for each big game species upon the successful completion of the course. The Commission anticipated the rulemaking would benefit persons regulated by the rule and the Department by establishing an Arizona Conservation Education course that satisfies the education requirement for obtaining a permanent education bonus point for persons age of 18 and older. This change was made to increase the percentage of seat availability in Arizona Hunter Education courses for those who are required to attend and have equal or greater participation by persons

who are attending solely for the bonus point. The Commission anticipated the rulemaking would benefit persons regulated by the rule and the Department by establishing an extended bonus point period to allow a person who was unable to apply for a hunt permit-tag before the computer draw deadline to apply for a bonus point only during a bonus-point only application timeline. The Commission anticipated the rulemaking would benefit persons regulated by the rule and the Department by clarifying that any bonus point fraudulently obtained, whether purchased or *accrued*, shall be removed from the person's Department record.

- **R12-4-108. Management Unit Boundaries:** The Commission anticipated the rulemaking would benefit persons regulated by the rule and the Department by updating Management Unit boundaries to conform to the Arizona Department of Transportation's Highway System and providing additional clarity.
- **R12-4-110. Posting and Access to State Land:** The Commission anticipated the rulemaking would benefit persons regulated by the rule and the Department by clarifying that, although a person may close land to hunting, fishing, and trapping; a person may not deny lawful access to State land.
- **R12-4-113. Small Game Depredation Permit:** The Commission anticipated the rulemaking would benefit persons regulated by the rule and the Department by requiring a person who was issued a small game depredation permit to report what species and how many individuals were removed from a location to allow the Department to gather information about any significant numbers of individuals removed that might be used as a source for translocations, a place to direct hunters, or other management actions, when desired.
- **R12-4-115. Restricted Nonpermit-Tags; Supplemental Hunts and Hunter Pool:** The Commission anticipated the rulemaking would benefit persons regulated by the rule and the Department by removing language requiring the Department to contacting an applicant by telephone thus allowing the Department to use other methods, such as email, to contact a supplemental hunter pool applicant. The Commission anticipated the rulemaking would benefit the Department by requiring a separate application and fee for each species the applicant applies for; similar to the process used by other western states. The Commission anticipated the rulemaking would benefit persons regulated by the rule and the Department through compliance with A.R.S. §§ 25-320(P) and 25-502(K) by requiring a person applying for a hunt permit-tag issued through an automated drawing system to provide their Social Security number at the time of application.
- **R12-4-116. Issuance of Limited-Entry Permit-tag:** The Commission anticipated the rulemaking would benefit persons regulated by the rule and the Department by establishing limited-entry angling and hunting events. These events offer additional opportunities to resident and nonresident recreationist and provide additional revenue to the Department.
- **R12-4-118. Hunt Permit-tag Surrender:** The Commission anticipated the rulemaking would benefit persons regulated by the rule and the Department by establishing a membership program through which a person could surrender an unused hunt permit-tag and have any bonus points expended for that tag restored and an additional bonus point awarded as if the person was unsuccessful in the computer draw. The rulemaking also allowed a nonprofit organization to return a donated original, unused hunt permit-tag to the Department when the nonprofit organization cannot find a recipient for the donated hunt permit-tag. This would provide the Department with the opportunity to reissue the tag.

- **R12-4-120. Issuance, Sale, and Transfer of Special Big Game License-tags:** The Commission anticipated the rulemaking would benefit the Department by requiring an organization to submit the winning bidder's license information to the Department within 60 days of the close of the raffle or auction. The rulemaking also prohibited the winning bidder from reselling the special big game license tag to another person and required the person named on the special big game license tag to possess a valid hunting license.
- **R12-4-121. Tag Transfer:** The Commission anticipated the rulemaking would benefit persons regulated by the rule and the Department by allowing a person to surrender or donate a limited-entry permit-tag and by establishing that once it is determined a nonprofit meets the statutory qualifications, the authorization to receive donated unused tags will remain in effect until revoked by the Department.
- **R12-4-122. Handling, Transporting, Processing, and Storing of Game Meat Given to Public Institutions and Charitable Organizations:** The Commission anticipated the rulemaking would benefit the Department by allowing the donation of bear and mountain lion meat in compliance with A.R.S. § 17-240 and to ensure edible game meat does not go to waste.
- **R12-4-124. Proof of Domicile:** The Commission anticipated the rulemaking would benefit the Department by establishing defining "current address," requiring a person to present a valid document that contains a current address, and clarifying rule language to make the rule more concise. The rulemaking also removed certified copies of a court order from the list of acceptable proof of domicile.
- **R12-4-126. Reward Payments:** The Commission anticipated the rulemaking would benefit the Department through compliance with A.R.S. § 17-315(B)(1), which authorizes reward payments to persons who report attendant acts of vandalism when they occurred in conjunction with a "take" violation.
- **R12-4-127. Civil Liability for Loss of Wildlife:** The Commission anticipated the rulemaking would benefit the Department by establishing a method through which damages are determined fairly and consistently.

R12-4-103. Duplicate Tags and Licenses: The last rulemaking resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on August 3, 2021. The Commission anticipated the rulemaking would result in an overall benefit to persons regulated by the rule because the rulemaking only clarified that a person who validated their tag electronically for a harvested animal that was subsequently condemned and surrendered to a Department employee could apply for a duplicate tag upon submitting the condemned meat duplicate tag authorization form issued by the Department.

The following rules were recently amended which does not provide the Department with sufficient time to assess the actual economic, small business, and consumer impacts resulting from the rulemakings:

- **R12-4-102. License, Permit, Stamp, and Tag Fees:** The last rulemaking amended the rule to establish the fee for the 50% reduced-fee license to a person who has been a resident of this State for one year or more immediately before applying for the reduced-fee license and who is a bona fide Purple Heart Medal recipient. The rulemaking became effective September 26, 2022.
- **R12-4-114. Issuance of Nonpermit-tags and Hunt Permit-tags:** The last rulemaking amended the rule to establish the percentage of archery deer nonpermit-tags available to nonresidents, how that percentage is

determined, and provide persons regulated by the rule with the information necessary to obtain an archery deer nonpermit-tag. The percentage shall be 10% of the total number of both resident and nonresident archery deer nonpermit-tags sold, averaged over the most recent five-year period and rounded down to the nearest increment of five. The rulemaking became effective November 26, 2022.

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 for Article 1 rules.

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

The Department completed the course of action indicated in the previous five-year review report for Article 1 rules as follows, except as identified below:

- Permission to pursue rulemaking granted: September 23, 2019
- Notice of Rulemaking Docket Opening: 26 A.A.R. 1765, August 28, 2020
- Notice of Proposed Rulemaking: 26 A.A.R. 299, August 28, 2020
- Public Comment Period: August 28, 2020 through September 28, 2020
- G.R.R.C. approved the Notice of Final Rulemaking at the February 2, 2021 Council Meeting
- Notice of Final Rulemaking: 26 A.A.R. 283, February 26, 2021

The Department did not indicate a course of action in the previous five-year review report for the following rules:

R12-4-103. Duplicate Tags and Licenses

R12-4-109. Approved Trapping Education Course Fee

R12-4-111. Identification Number

R12-4-112. Diseased, Injured, or Chemically-immobilized Wildlife

R12-4-117. Indian Reservations

R12-4-119. Arizona Game and Fish Department Reserve

R12-4-123. Expenditure of Funds

R12-4-125. Public Solicitation or Event on Department Property

The following rules were adopted after the previous five-year review report was approved by the Governor's Regulatory Review Council on June 4, 2019:

R12-4-116. Issuance of Limited-Entry Permit-tag

R12-4-127. Civil Liability for Loss of Wildlife

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 purpose of the Arizona Game and Fish Commission (Commission), the Arizona Game and Fish Department (Department), and the Director of the Department is “to manage wildlife and wildlife habitat in this state as provided by law.” Laws 2012, Ch. 283 § 3. “Control of the department is vested in the game and fish commission.” A.R.S. § 17-201(A). The commission appoints the Director who is “the chief administrative officer of the game and fish department.” A.R.S. § 17-211(A).

With regard to general rulemaking authority, the Commission is required to “[a]dopt rules and establish services it deems necessary to carry out the provisions and purposes of [A.R.S. Title 17, Game and Fish].”

Arizona's great abundance and diversity of native wildlife can be attributed to careful management and the important role of the conservation programs developed by the Arizona Game and Fish Department. The Department's management of both game and nongame species as a public resource depends on sound science and active management. As trustee, the state has no power to delegate its trust duties and no freedom to transfer trust ownership or management of assets to private establishments. Without strict agency oversight and management, the fate of many of our native species would be in jeopardy. Wildlife can be owned by no person and is held by the state in trust for all the people.

A.A.C. Title 12, Chapter 4, Article 1 contains twenty-six rules denominated as definitions and general provisions. The intent of the Article 1 rules is to provide greater clarity to the rules governing many aspects of hunting, access to state land, and public use of Department property for events in Arizona for residents and non-residents.

Since 2009, the Commission actively seeks to reduce regulatory burdens wherever and whenever possible. Most rules impose no costs on persons regulated by the rule and benefit persons regulated by the rule by adding additional clarity to Commission rules. For example, R12-4-102 establishes the fees for hunt permit-tags issued by computer draw; R12-4-104 establishes the process for applying for a hunt permit-tag through a computer draw; and R12-4-108 clearly describes boundaries for each Management Unit. These rules benefit hunters interested in hunting in Arizona.

The Department actively seeks to ensure its processes and programs align with current technology and circumstances, such as the removing descriptive language related to tag features to provide the Department with greater flexibility in procuring tags, implementing new tag features, and/or offering a ‘paperless’ tag. The ability to reprint a no-fee duplicate of a license that was purchased online without having to interact with a Department office or license dealer. Rules are also designed to update best business practices, such as removing the option to use a Social Security Number as the license identification number to better protecting privacy and remove the

liability associated with having confidential information on the Department's Sportsman Database.

The Department also seeks to align the Department's programs with current circumstances, specifically the decline in those participating in hunting and fishing in the United States. As a means to encourage participation in recreational activities and generate additional revenue, the Commission established a membership program based on the bundling of services, which will keep those who enjoy hunting and fishing up-to-date on the latest hunting, angling, volunteer, and Department activities. The ability to surrender a tag and have bonus points restored is a factor important to persons regulated by the rule. The program's ability to generate the additional revenue required is dependent on the value added by the program, which is anticipated to grow beyond a tag surrender program.

The rules allow for the adoption of updated business practices and represent the most cost-effective and efficient method of fulfilling the Commission's and Department's responsibilities and impose only those requirements that are necessary to meet the Commission's objectives.

When amending Commission rules, the Department tasks a team of subject matter experts to review and make recommendations for rules. In its review, the team considers all comments from the public and agency staff that administer and enforce the rules, historical data, current processes and environment, and the Department's overall mission. The team takes a customer-focused approach, considers each recommendation from a resource perspective and determines whether the recommendation would cause undue harm to the Department's goals and objectives. The team then determines whether the request is in keeping with overarching guidance provided by the Governor, authorized by statute, in keeping with overarching guidance provided by the Commission, consistent with the Department's overall mission, is least burdensome to persons regulated by the rule, if it could be effectively implemented given agency resources, and if it is acceptable to the public.

The public, persons regulated by the rule, and the Department benefit from rules that are understandable.

The Department believes the rules impose the least burden and costs to persons regulated by the rules.

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

The following rules are based on state law and federal law is not directly applicable to the rule:

- R12-4-101. Definitions
- R12-4-102. License, Permit, Stamp, and Tag Fees
- R12-4-103. Duplicate Tags and Licenses
- R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Computer Draw and Purchase of Bonus Points

- R12-4-105. License Dealer's License
- R12-4-106. Special Licenses Licensing Time-frames
Table 1. Time-Frames
- R12-4-107. Bonus Point System
- R12-4-108. Management Unit Boundaries
- R12-4-109. Approved Trapping Education Course Fee
- R12-4-110. Posting and Access to State Land
- R12-4-112. Diseased, Injured, or Chemically-immobilized Wildlife
- R12-4-114. Issuance of Nonpermit-tags and Hunt Permit-tags
- R12-4-115. Restricted Nonpermit-Tags; Supplemental Hunts and Hunter Pool
- R12-4-116. Issuance of Limited-Entry Permit-tag
- R12-4-117. Indian Reservations
- R12-4-118. Hunt Permit-tag Surrender
- R12-4-119. Arizona Game and Fish Department Reserve
- R12-4-120. Issuance, Sale, and Transfer of Special Big Game License-tags
- R12-4-121. Tag Transfer
- R12-4-122. Handling, Transporting, Processing, and Storing of Game Meat Given to Public Institutions and Charitable Organizations
- R12-4-123. Expenditure of Funds
- R12-4-124. Proof of Domicile
- R12-4-125. Public Solicitation or Event on Department Property
- R12-4-126. Reward Payments
- R12-4-127. Civil Liability for Loss of Wildlife

The Department has determined the following rule is not more stringent than its corresponding federal laws:

R12-4-113. Small Game Depredation Permit, federal regulations 50 C.F.R. 21.41 and 50 C.F.R. 21.43 are applicable to the subject of the rule. 50 C.F.R. 21.41 establishes depredation permit requirements as they apply to the take, possession, and transport of migratory birds; 50 C.F.R. 21.43 establishes depredation permit requirements specific to blackbirds, cowbirds, crows, grackles, and magpies.

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

The following rules require the issuance of a "general permit" as defined under A.R.S. § 41-1001(11):

- R12-4-105. License Dealer's License. The License Dealer's License described in the rule falls within the definition of "general permit" and is in compliance with A.R.S. § 41-1037.
- R12-4-113. Small Game Depredation Permit. The small game depredation permit described in the rule falls within the definition of "general permit" and is in compliance with A.R.S. § 41-1037.

The following rules do not require the issuance of a regulatory permit, license, or agency authorization:

- R12-4-101. Definitions
- R12-4-102. License, Permit, Stamp, and Tag Fees
- R12-4-103. Duplicate Tags and Licenses
- R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Computer Draw and Purchase of Bonus Points
- R12-4-106. Special Licenses Licensing Time-frames
Table 1. Time-Frames
- R12-4-107. Bonus Point System
- R12-4-108. Management Unit Boundaries
- R12-4-109. Approved Trapping Education Course Fee
- R12-4-110. Posting and Access to State Land
- R12-4-112. Diseased, Injured, or Chemically-immobilized Wildlife
- R12-4-114. Issuance of Nonpermit-tags and Hunt Permit-tags
- R12-4-115. Restricted Nonpermit-Tags; Supplemental Hunts and Hunter Pool
- R12-4-116. Issuance of Limited-Entry Permit-tag
- R12-4-117. Indian Reservations
- R12-4-118. Hunt Permit-tag Surrender
- R12-4-119. Arizona Game and Fish Department Reserve
- R12-4-120. Issuance, Sale, and Transfer of Special Big Game License-tags
- R12-4-121. Tag Transfer
- R12-4-122. Handling, Transporting, Processing, and Storing of Game Meat Given to Public Institutions and Charitable Organizations
- R12-4-123. Expenditure of Funds
- R12-4-124. Proof of Domicile
- R12-4-125. Public Solicitation or Event on Department Property
- R12-4-126. Reward Payments
- R12-4-127. Civil Liability for Loss of Wildlife

- 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 the following rules as indicated in this report:

- R12-4-102. License, Permit, Stamp, and Tag Fees
- R12-4-103. Duplicate Tags and Licenses

- R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Computer Draw and Purchase of Bonus Points
- R12-4-107. Bonus Point System
- R12-4-108. Management Unit Boundaries
- R12-4-114. Issuance of Nonpermit-tags and Hunt Permit-tags
- R12-4-115. Restricted Nonpermit-Tags; Supplemental Hunts and Hunter Pool
- R12-4-120. Issuance, Sale, and Transfer of Special Big Game License-tags
- R12-4-121. Tag Transfer
- R12-4-125. Public Solicitation or Event on Department Property
- R12-4-127. Civil Liability for Loss of Wildlife

The Department anticipates requesting an exception to the rulemaking moratorium prescribed under A.R.S. 41-1039(A) by December 2023 and submitting the Notice of Final Rulemaking for actions proposed in this report to the Council by March 2025, provided the Commission is granted permission to pursue rulemaking.

The Department proposed no action for the following rules:

- R12-4-101. Definitions
- R12-4-105. License Dealer's License
- R12-4-106. Special Licenses Licensing Time-frames
Table 1. Time-Frames
- R12-4-109. Approved Trapping Education Course Fee
- R12-4-110. Posting and Access to State Land
- R12-4-112. Diseased, Injured, or Chemically-immobilized Wildlife
- R12-4-113. Small Game Depredation Permit
- R12-4-116. Issuance of Limited-Entry Permit-tag
- R12-4-117. Indian Reservations
- R12-4-118. Hunt Permit-tag Surrender
- R12-4-119. Arizona Game and Fish Department Reserve
- R12-4-122. Handling, Transporting, Processing, and Storing of Game Meat Given to Public Institutions and Charitable Organizations
- R12-4-123. Expenditure of Funds
- R12-4-124. Proof of Domicile
- R12-4-126. Reward Payments