

**ARTICLE 10 OFF HIGHWAY VEHICLES
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 10, the authorizing statute is A.R.S. § 17-231(A)(1).

For each rule within Article 10, the implementing statutes are as follows:

R12-4-1001. Minimum Standards for an Approved Off-highway Vehicle Educational Course	A.R.S. § 28-1175
R12-4-1002. Course-approval Procedure	A.R.S. § 28-1175
R12-4-1003. Fee for an Approved Course	A.R.S. § 28-1175
R12-4-1004. Off-highway Vehicle Sound-level Requirements	A.R.S. § 28-1175
R12-4-1005. Nonresident Off-highway Vehicle User Indicia	A.R.S. §§ 28-1175, 28-1177, and 28-1179

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

R12-4-1001 Minimum Standards for an Approved Off-Highway Vehicle Educational Course

The objective of the rule is to outline what a standard Off Highway Vehicle educational course should contain. The rule also requires anyone providing a course to issue a written examination and requires the participant to demonstrate proficiency by passing the exam with a score of 80% or above. The rule was created to provide a mechanism to implement the requirements of A.R.S. 28-1175 and should be maintained. No change to this rule is required at this time.

R12-4-1002 Course-approval Procedure

The objective of this rule is to outline the application requirements to gain course approval by submitting the application to the OHV Law Enforcement Program Manager. The rule provides the required information for the application, the course curriculum and written exam. The rule also requires the Department to approve or deny the request within 60 days of receiving the application and allows the provider to appeal any denial to the Commission. The rule was created to provide a mechanism to implement the requirements of A.R.S. § 28-1175 and should be maintained. No change to this rule is required at this time.

R12-4-1003 Fee for an Approved Course

The objective of this rule is to allow a course provider to charge a fee for their course. The intent of the rule is to ensure the fee is reasonable and does not exceed \$300. This rule was created to describe what the maximum reasonable fee for an OHV safety course would be and the rule should be maintained. A.R.S. § 28-1175 states that an agency, corporation or an individual may collect a fee and that the fee should be reasonable. No change to this rule is required at this time.

R12-4-1004 Off Highway Vehicle Sound-level Requirements

The objective of this rule is to give law enforcement officers the authority to require an individual to submit their OHV for sound testing if the officer believes the OHV is producing sound in excess of legal levels, defined

in statute as 96 decibels. The rule describes the scientific procedures for measuring the sound level in accordance with A.R.S. § 28-1179 A. 3. This rule is required by statute and should be maintained. No change to this rule is required at this time.

R12-4-1005 Nonresident Off-highway Vehicle User Indicia

The objective of this rule is to spell out how the Department administers the non-resident indicia program and authorizes the Department to collect a fee for administering the program. The rule also specifies where the non-resident decals shall be placed on specific vehicle types and allows a printed receipt or an electronic copy of a receipt to serve as a valid non-resident decal for 30 days from the date of purchase. The rule also mirrors A.R.S. § 28-1178 and specifies when an OHV decal is not required for non-residents. The rule was created because A.R.S. § 28-1177(E). states, the Arizona Game and Fish Department may provide for a non-resident decal and may impose a service fee described in the rule. The rule should be maintained and no changes are required at this time.

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. No comments or recommendations were given. In addition, internal and external comments received since the rules were adopted 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:

- R12-4-1001 Minimum Standards for an Approved Off-highway Vehicle Educational Course
- R12-4-1002 Course-approval Procedure
- R12-4-1003 Fee for an Approved Course
- R12-4-1004 Off-highway Vehicle Sound Level Requirements
- R12-4-1005 Nonresident Off-highway Vehicle User Indicia

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.

Except as noted below, the Department believes the following rule is consistent with statutes and rules; statutes and rules used to determine consistency include A.R.S. §§ Titles 17 and 28.

- R12-4-1003 Fee for an Approved Course

With the passage of Laws, 2024, Chapter 240, Section 6, the Department has determined rule amendments are necessary to implement the legislative intent. The following changes are needed to ensure compliance:

R12-4-1001. Minimum Standards for an Approved Off-highway Vehicle Educational Course. The Department proposes to require an educational course provider to issue proof of certification to the Department of Transportation (ADOT) and the Department, as appropriate.

R12-4-1002. Course-approval Procedure. The Department proposes to amend the rule to:

- Transfer the responsibility for reviewing course provider applications to the Department's Education Program (from our Law Enforcement Program), as that program is more appropriate.
- Require an applicant to specify whether the educational course will be an in-person or online course.
- Remove references to a "written" examination as it implies the educational course must be in-person.
- Establish an educational course provider is prohibited from making any changes to an approved educational course without prior approval from the Department to ensure the educational course continues to meet the minimum standards. If a course provider would like to make any changes to the approved course, they will be required to submit a new application.

R12-4-1004. Off-highway Vehicle Sound-level Requirements. The Department proposes to amend the rule to incorporate by reference the most recent version of the International Organization for Standardization's Acoustics-Measurements of Sound Pressure Level Emitted by Stationary Road Vehicles, ISO 5130:2019.

R12-4-1005. Nonresident Off-highway Vehicle User Indicia. The Department proposes to amend the rule to:

- Reflect the most recent definition of an ATV/OHV established under A.R.S. § 28-1171.
- Require an applicant for a nonresident OHV User Indicia to provide proof of certification (satisfactory completion) for the educational course in order to purchase a non-resident OHV decal in compliance with Laws, 2024, Chapter 240, Section 6(A).
- Require the owner/operator of the ATV/OHV to place the indicia in a visible place on the ATV, OHV, or dirt bike, as applicable.
- Reflect the most recent exemptions to the indicia requirement. This is necessary to ensure compliance with the educational requirements established under Laws, 2024, Chapter 240, Section 6(A) and A.R.S. § 28-1178.

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

The rules are currently being enforced; however, no one has submitted an application for approval for an OHV education course to date, thus the first three rules in Article 10 have not been employed.

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:

- R12-4-1001 Minimum Standards for an Approved Off-highway Vehicle Educational Course
- R12-4-1002 Course-approval Procedure

- R12-4-1003 Fee for an Approved Course
- R12-4-1004 Off-highway Vehicle Sound Level Requirements
- R12-4-1005 Nonresident Off-highway Vehicle User Indicia

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 rule 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.

No written criticisms were received from the public or stakeholders during the five-year period before the Department initiated the review process. In an effort to garner public and stakeholder comment, the Department issued a press release notifying the public of the intent to review the Article and stating the Department would accept comments regarding the off-highway vehicle rules for a period of thirty days. As a result of that outreach effort, the Department received the following written criticisms:

R12-4-1004. Off-highway Vehicle Sound-level Requirements

Comments suggest the Commission amend the rule(s) to establish stricter sound muffling equipment requirements.

Agency Response: Thank you for taking the time to comment. A.R.S. § 28-1179(A)(3) states, “Except when operating on a closed course, either a muffler or other noise dissipative device that prevents sound above ninety-six decibels. The director shall adopt the current sound measurement standard of the society of automotive engineers for all-terrain vehicles and motorcycles and the current sound measurement standard of the international organization for standardization for all other off-highway vehicles.” The industry standard for maximum sound level, including street motorcycles, is 96 decibels. The Commission’s rule complies with A.R.S. § 28-1179, which establishes sound level restrictions; and the Commission does not have the authority to establish such a requirement.

R12-4-1005. Nonresident Off-highway Vehicle User Indicia

Comments suggest the Commission amend the rule to increase the fee for the Off-highway Vehicle (OHV) User Indicia.

Agency Response: Thank you for taking the time to comment. The Department maintains a neutral position in regards to increasing the cost of the OHV indicia. However, the Legislature established an Arizona Off-highway Vehicle Study Committee composed of members of the Senate and House Committees, farmers, ranchers, concerned citizens, members of Tread Lightly, as well as OHV owners, OHV rental company owners, and OHV dealers. The committee is tasked with developing legislation to address statewide concerns regarding OHV use and several members of the committee have brought this

idea forward. In addition, the Department has shared all of the comments received to date with the committee.

Comments suggest the Commission amend the rule(s) to increase the fee for the Off-highway Vehicle (OHV) User Indicia with the added cost being allocated to the National Forest Service for use in maintaining roads and trails for OHV use.

Agency Response: Thank you for taking the time to comment. This suggestion would require a change to state law. Current statutes specify any revenue collected shall be spent as follows: The Game and Fish Department shall spend 35% on informational and educational programs related to safety, the environment and responsible use with respect to off-highway vehicle recreation, law enforcement activities relating to OHV use and equipment, and administering the indicia program (includes seven full-time employees); State Land Department shall spend 5% to mitigate damage to the land (within its jurisdiction), for necessary environmental, historical and cultural clearance or compliance activities, and to fund enforcement of off-highway vehicle laws. The Arizona State Parks Board shall spend 60% to fund staff support to plan and administer the off-highway vehicle recreation fund (limited to 12%); establish an off-highway vehicle program based on the priorities established in the off-highway vehicle recreational plan; to designate, construct, maintain, renovate, repair or connect off-highway vehicle routes and trails and to designate, manage and acquire land for access roads, off-highway vehicle recreation facilities and off-highway vehicle use areas; and no more than 35% of those funds for construction of new off-highway vehicle trails. Until these statutes are amended, this suggestion cannot be implemented.

Comments suggest the Commission amend the rule(s) to no longer require an OHV user fee.

Agency Response. Thank you for taking the time to comment. The Department disagrees. The \$25 fee is divided between three agencies for the purpose of developing OHV specific law enforcement and education activities, signage, damage mitigation, and cultural clearances for trails. These funds are critical for maintaining the resources, mitigating damage, and creating opportunities for OHV users to enjoy.

Comments suggest the user fee is negatively impacting OHV use resulting in lost revenue (taxes, tourism, retail, etc.).

Agency Response: Thank you for taking the time to comment. The Department disagrees. Empirical data indicates OHV use continues to increase year after year, so it is not likely that other areas have lost revenue. The fee is necessary and is used for OHV specific law enforcement and education activities, OHV signage, to mitigate damage to the environment such as but not limited to soil erosion and compaction, impaired water quality due to sediment from erosion, reducing native plant and wildlife diversity by introducing and spreading of non-native invasive plants. These funds are critical for maintaining the resources and opportunities that OHV users enjoy.

The following comments are outside of the scope of the Article 10 laws and rules:

Comments suggest the Commission establish more single-track trails for OHV use near them.

Agency Response: Thank you for taking the time to comment. This is outside of the Commission's authority. The best way to increase the number of OHV trails in your area is to work with a local club with the same goals. Land management agencies often work with OHV clubs to obtain the required environmental clearances. There are a number of grants made available through Arizona State Parks and Trails that can help pay for the creation of trails.

Comments suggest more rigorous enforcement be applied to OHV users who are violating the law(s).

Agency Response: Thank you for taking the time to comment. The Department understands your frustration at the behavior and the perceived lack of enforcement as well as the impact OHVs are having on cultural resources, habitat, and wildlife. The Department has one OHV officer who is responsible for all of Region 3. The boundaries of Region 3 are roughly from Cordes to Sedona, to the Grand Canyon, and then west to the Colorado river. The Department has approximately 96 field officer positions (when fully staffed), and they are responsible for covering the entire state (with the exception of the reservations). Cross country travel and habitat damage are at the top of the list of things that our officers eagerly write tickets for. Please note, there may only be one Wildlife Manager per hunt unit, which makes it difficult to be at the right place at the right time, especially for OHV violations. Every agency is feeling the burden of complaints from people misusing OHVs, both in- and out-of-town and the Department works hard to educate other law enforcement agencies around the state on OHV laws and enforcement practices. As more agencies are trained on OHV enforcement, we can expect an increase in enforcement throughout the state. In addition, we have found that education is extremely effective in changing the behavior of OHV users. Many riders simply don't know the rules or best practices. The Department continually strives to find ways to provide education to the OHV community in an effort to better protect State resources and improve public safety.

Comments suggest establishing stricter OHV laws and rules to better protect Arizona's outdoor resources.

Agency Response: Thank you for taking the time to comment. While habitat damage from OHV use is of great concern, the Department maintains a neutral position in regards to establishing stricter OHV laws and rules. However, the Legislature established an Arizona Off-highway Vehicle Study Committee composed of members of the Senate and House Committees, farmers, ranchers, concerned citizens, members of Tread Lightly, as well as OHV owners, OHV rental company owners, and OHV dealers. The committee is tasked with developing legislation to address statewide concerns regarding OHV use and several members of the committee have brought this idea forward. In addition, the Department has shared all of the comments received to date with the committee. The Department also works hard to provide training to other law enforcement agencies around the State, including county sheriff's and municipal agencies, on OHV laws and enforcement practices. The goal is to greatly expand the law enforcement footprint as it relates to OHV

enforcement.

Comments suggest establishing stricter OHV laws and rules that also address hunting from a vehicle/roadway.

Agency Response: Thank you for taking the time to comment. It is already illegal to hunt from a vehicle or shoot across a roadway, however a Challenged Hunter Access/Mobility Permit (CHAMP) holder can legally hunt from a vehicle with some restrictions. The Department maintains a neutral position in regards to establishing stricter OHV laws and rules. However, the Legislature established an Arizona Off-highway Vehicle Study Committee composed of members of the Senate and House Committees, farmers, ranchers, concerned citizens, members of Tread Lightly, as well as OHV owners, OHV rental company owners, and OHV dealers. The committee is tasked with developing legislation to address statewide concerns regarding OHV use and several members of the committee have brought this idea forward. In addition, the Department has shared all of the comments received to date with the committee. In addition, the Department works hard to provide training to other law enforcement agencies around the State, including county sheriff's and municipal agencies, on OHV laws and enforcement practices. The goal is to greatly expand the law enforcement footprint as it relates to OHV enforcement.

Comments suggest the Commission amend the rule to require OHV rental companies and OHV dealers to provide educational videos in an effort to better protect the environment.

Agency Response: Thank you for taking the time to comment. The Department recognized a need to provide OHV renters with educational materials several years ago. The Department's OHV program created an educational video and then distributed it to over 90 rental companies in an effort to get them to voluntarily require their clients to watch the video prior to riding. In less than two years, the result of this effort is that the majority of the rental companies are utilizing this video and have had great success. The rental companies that show the video as a pre-ride requirement are enjoying a 50 to 75% reduction in the number of accidents. Please use the following link to watch the Department's "OHV Safety, Laws, and Ethics" video, <https://www.youtube.com/watch?v=Ikg0Z0mYiVk>

Comments suggest the Commission amend the rule to require mandatory OHV user education.

Agency Response: Thank you for taking the time to comment. While the Department agrees that OHV education is extremely important in addressing the OHV issues, this suggestion is outside of the Commission's rulemaking authority. Through Department outreach activities, the Department has learned that education on safe riding practices, ethics, and protecting the environment makes a big difference in the behavior of the OHV users. Members of the Legislature attempted to adopt an OHV education bill last year, but it did not pass. However, there is another bill currently working its way through the Legislature now.

Comments suggest the Commission amend the rule(s) to address noise caused by OHV riding, uncapped racing equipment, and speed and age restrictions.

Agency Response: Thank you for taking the time to comment. The Department understands your frustration at the behavior and the perceived lack of enforcement. With regard to OHV noise, A.R.S. § 28-1179 states an OHV cannot exceed 96 decibels; this is an industry standard and applies to street motorcycles as well. As far as speed enforcement, our OHV officers enforce reasonable and prudent speed. However, it is much more difficult to enforce for OHVs because there are typically no posted speeds and one must determine a reasonable and prudent speed for the activity, location, weather, etc. As far as an age restriction, A.R.S. § 28-3151 states, "... a person shall not drive a motor vehicle or vehicle combination on a highway without a valid driver license and proper endorsement ..." and A.R.S. § 28-1171 defines "highway" as the entire width between the boundary lines of every way publicly maintained by the federal government, the department, a city, a town or a county if any part of the way is generally open to the use of the public for purposes of conventional two-wheel drive vehicular travel. Highway does not include routes designated for off-highway vehicle use." As far as an age restriction for operating an OHV, the driver's license statute requires a driver's license to operate a motor vehicle on a "highway," which is generally defined as any public road. So, a 10-year-old should not have been operating. With regards to signage, it is an unfortunate reality that signs are frequently torn down and all land management agencies struggle to maintain signage; particularly those that indicate road closures. The Department also works hard to provide training to other law enforcement agencies around the State, including county sheriff's and municipal agencies, on OHV laws and enforcement practices. The goal is to greatly expand the law enforcement footprint as it relates to OHV enforcement.

Comments suggest the Commission amend the rule to prohibit a person from operating an OHV on a paved roadway.

Agency Response: Thank you for taking the time to comment. The current OHV laws allow, and depending on the size of the OHV, may require OHV owners to register their OHVs provided they are "street legal" (meet the minimum structural and equipment requirements for "on road" operation). A legislative amendment is required before the Commission could implement such a restriction.

Comments suggest the Commission amend the rule to prohibit the use of OHVs weighing more than 1,800 lbs.

Agency Response: Thank you for taking the time to comment. While the definition of off-highway vehicle does not establish a minimum/maximum OHV weight, see A.R.S. § 17-1171; A.R.S. § 17-1177 establishes an OHV weighing 2,500 lbs. or less must display an OHV User Indicia. This requirement does not apply to OHVs that are used off-highway exclusively for agricultural, ranching, construction, mining, mining exploration, or building trade purposes. A legislative amendment is required before the Commission could implement such a restriction.

Comments suggest the Commission amend the rule to prohibit the use of OHVs in specific areas of the State in an effort to mitigate damage, ensure public safety, and/or prevent noise disturbances.

Agency Response: Thank you for taking the time to comment. It is unlawful for anyone to operate an OHV off an existing road, trail, or route in a manner that causes damage to wildlife habitat, riparian areas, cultural or natural resources or property or improvements. It is also unlawful to cause damage to the environment while operating an OHV. The Department works hard to educate other law enforcement agencies around the state on OHV laws and enforcement practices. Each agency is aware of complaints about people misusing OHVs, both in- and out-of-town. As more agencies are trained on OHV enforcement, we can expect an increase in enforcement throughout the state.

Comments indicate the Commission should amend the rule or pursue legislation to implement a user indicia reciprocity program with bordering states.

Agency Response: Thank you for taking the time to comment. The Department disagrees. Bordering states ended reciprocity at the request of the OHV community. The OHV community wanted to ensure that the revenue provides funding that maintains and protects the resources in their own state. In addition, the \$25 OHV user indicia fee is divided between three land management agencies, State Parks and Trails, State Land Department, and Game and Fish Department. The Game and Fish Department is allotted 35% to use on informational and educational programs related to safety, the environment and responsible use with respect to off-highway vehicle recreation, law enforcement activities relating to OHV use and equipment, and administering the indicia program; State Land Department is allotted 5% to use to mitigate damage to the land, environmental, historical and cultural clearance or compliance activities, and to fund enforcement of off-highway vehicle laws; Arizona State Parks Board is allotted 60% to fund staff support to plan and administer the off-highway vehicle recreation fund; establish an off-highway vehicle program based on the priorities established in the off-highway vehicle recreational plan.

Comments suggest restricting OHV operators to designated areas, tracks, trails, etc.

Agency Response: Thank you for taking the time to comment. The Department understands your frustration and concern. The Department agrees that OHV recreation needs to be safe, responsible, and ethical. Laws and rules prohibiting cross country travel and habitat damage are strictly enforced. As far as speed enforcement, our OHV officers enforce reasonable and prudent speed. However, it is much more difficult to enforce for OHVs because there are typically no posted speeds and one must determine a reasonable and prudent speed for the activity, location, weather, etc. A person must operate their OHV at a speed that is reasonable and prudent even though there are no posted speed limits. This requires a person to operate their OHV at a speed that would allow them to safely avoid an obstacle when they encounter it without skidding, sliding, or losing control in any way.

The Department considers the following comments to be statements that do not require a response:

Unconstitutional, double taxation.

We don't need any more rules.

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

The rules appear to have resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on July 2, 2019. The rules were adopted to implement the off-highway course approval requirements and user indicia established during the Second Regular Session of the 48th Arizona State Legislature; and the nonresident off-highway user indicia established during the Second Regular Session of the 53rd Arizona State Legislature.

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

The Department did not receive any analyses.

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

Not applicable; the rules were adopted on August 31, 2019; this is the first time they are undergoing a review under A.R.S. § 41-1056.

- 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]."

OHV recreation is one of the most popular recreational activities taking place on public and state lands in

Arizona. The Arizona Off-Highway Vehicle Program was created by the Legislature in 1991 to manage off-highway vehicle (OHV) use in Arizona. The legislation defined the parameters for off-highway vehicle use in Arizona and created an OHV Recreation Fund to be used to meet the needs of OHV recreation. The use of OHVs has increased 347% since 1998; and has outpaced the existing funding to manage that growth, protect wildlife habitat, and help maintain recreational access.

During the Second Regular Session of the 48th Legislature, the Legislature amended A.R.S. § Title 28 to regulate the use of off-highway vehicles more closely and authorized the Arizona Department of Transportation in coordination with the Game and Fish Department to administer an OHV user indicia program.

A.A.C. Title 12, Chapter 10, Article 10 contains five rules that specify the minimum standards for an educational course of instruction in off-highway safety and environmental ethics to be approved; set the maximum fee that can be charged by providers of an approved educational course; adopt the current sound measurement standard of the Society of Automotive Engineers for all-terrain vehicles and motorcycles and the current sound measurement standard for the International Organization for Standardization for all other OHVs; and establish the application procedure, indicia placement, and user fee associated with the nonresident OHV user indicia prescribed under A.R.S. § 28-1177.

The Commission intent in adopting the off-highway vehicle rules was to provide better OHV management and protection of natural resources while maintaining access. Funds generated from this program are used to help ensure sustainable opportunities to recreate by bolstering grant programs that pay for maintenance, signage, habitat mitigation, education, and enforcement.

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.

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.

Key stakeholders are the Commission, the Department, OHV users, educational course providers, and the

general public. The economic impact for these stakeholders is minimal.

OHV users may incur minimal additional administrative expenses; however, OHV educational courses are required by statute, not rule. The Department offers a low-cost online course for OHV users.

The costs on the regulated public are minimal, and the benefits of protecting the environment from untrained OHV operators are significant. OHV recreation can damage numerous aspects of the wildlife habitat including soil, vegetation, and streambeds, establishing minimum requirements for OHV training in order to mitigate the environmental damage that untrained OHV users can cause is beneficial to Arizona to the public and land management agencies.

The Department notes that OHV recreation is a voluntary activity, so only those choosing to participate in the activity will incur any burdens and costs.

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 rules are based on state law and federal law is not directly applicable to the rules.

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) and are in compliance with A.R.S. § 41-1037:

- R12-4-1002 Course-approval Procedure
- R12-4-1005 Nonresident Off-highway Vehicle User Indicia

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

- R12-4-1001 Minimum Standards for an Approved Off-highway Vehicle Educational Course
- R12-4-1003 Fee for an Approved Course
- R12-4-1004 Off-highway Vehicle Sound Level Requirements

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 no action for the following rules:

R12-4-1003. Fee for an Approved Course

The Department proposes to amend the following rules as indicated in this report:

- R12-4-1001. Minimum Standards for an Approved Off-highway Vehicle Educational Course
- R12-4-1002. Course-approval Procedure
- R12-4-1004. Off-highway Vehicle Sound-level Requirements
- R12-4-1005. Nonresident Off-highway Vehicle User Indicia

The Department anticipates requesting an exception to the rulemaking moratorium by December 2024 and submitting the Notice of Final Rulemaking for actions proposed in this report to the Council by September 2025, provided the Commission is granted permission to pursue rulemaking.