

**Arizona Game and Fish Commission  
2014 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**  
 12 A.A.C. 4, ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS  
 2013 FIVE-YEAR REVIEW REPORT

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## **REPORT - ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS**

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every agency shall review its rules at least once every five years to determine whether any rule should be amended or repealed.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

G.R.R.C. determines the review schedule. The Arizona Game and Fish Commission's rules listed under Article 1, Definitions and General Provisions, are scheduled to be reviewed by January 2014.

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

In addition, during the First Regular Session of the 51st Arizona State Legislature, the Legislature amended A.R.S. Titles 5 and 17 to allow the Arizona Game and Fish Commission to establish license classifications and fees (Senate Bill 1223). The team evaluated rules within Article 1 while the Department was in the midst of pursuing exempt rulemaking to implement legislative amendments resulting from Laws 2013, 1st Regular Session, Ch. 197, Section 24. The amendments made by the exempt rulemaking became effective January 1, 2014 and are also included in this report.

In addition to the actions proposed in this report, the Department also proposes to amend selected rules to ensure conformity with the Arizona Administrative Procedures Act and the Secretary of State's rulemaking format and style requirements.

The Department anticipates submitting the Notice of Final Rulemaking for actions proposed in this report to the Council by June 2015.

## **R12-4-101. Definitions**

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

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. § 17-231(A)(1)

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

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

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

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

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

The rule is consistent with and is not in conflict with statutes and rules, with the exception of R12-4-307 which was amended to replace the term "bobcat permit" with "bobcat seal." The Department proposes to amend the rule to define "bobcat seal" to provide clarity and increase consistency between Commission rules. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

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

The Department enforces this rule through proper administration. The rule is currently being enforced as written. However, in order to allow a person to hunt in an area where a hunt number has not been

assigned in a Commission Order (private inholding), the Department proposes to amend the rule to remove "by a particular hunt number" from the definition of "hunt area." This change is made in response to customer comments received by the Department at meetings held to discuss the hunt guidelines. The Department proposes to amend the rule to remove "excluding male lambs" from the definition of "ram." In the past, hunters have taken a ram only to find upon closer inspection that it was actually a male lamb. This change is made to prevent persons from unintentionally violating the requirements established under statute and Commission Orders and rules.

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

The rule is concise and understandable. However, the Department proposes to amend the rule to provide further clarity by defining additional terms referenced within Commission Orders and rules. The Department proposes to amend the rule to define "buffalo bull," "buffalo cow," buffalo yearling," and "rooster." The Department anticipates these changes will result in a rule that is more understandable.

**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 agency received the following written criticisms of the rule:

**Written Criticism: June 17, 2011.** The definition for the muzzle loading handgun and rifle are too restrictive as it includes: "single" barrel and "single" chamber. Civil war era revolvers had revolving chambers with multiple loads and, on occasion, even revolving barrels. However, they are still loaded through the muzzle and should be allowed for use in a muzzleloader season. There are also civil war era double barreled rifles, these should also be allowed for use in a muzzleloader season.

**Agency Response:** During the Article 3 rulemaking process, the Department transferred the definitions "muzzleloading rifle" and "muzzleloading handgun" to R12-4-301. At that time, the definition of "muzzleloading handgun" was amended to remove "single chamber." Because the rule that contains the definition of "muzzleloading rifle" is in another Article, your suggestion will be

placed in the Article 3 rulemaking record for consideration by the Article 3 rule review or rulemaking team, whichever occurs first.

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

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on April 2, 2013. The rule was amended to transfer all definitions applicable to only Article 3 rules to R12-4-301 and to transfer rules applicable to more than one Article to R12-4-101 and to define "firearm" to foster consistent interpretation of Commission Orders and rules. In addition, the rule was amended to remove requirements for the placement of a Department-issued stamp from the definition of "stamp" as that language was more regulatory than descriptive.

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

The Department did not receive any analyses.

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

The Department did not complete the course of action indicated in the five-year review process report as anticipated. G.R.R.C. approved the report at the December 2, 2008 Council Meeting, which stated the Department anticipated submitting the final rules to the Council by April 2011. The Department was unable to complete the indicated course of action by April 2011 due to the rulemaking moratorium in effect at that time.

While exceptions were granted during the moratorium, the exception criteria were very specific. The Department reviewed the recommended actions for this rule and determined that none of the recommendations included in the previous five-year review report met the exception criteria authorized under Laws 2010, Second Regular Session, Chapter 287, Section 28.

In 2011, the rulemaking moratorium was extended by way of Executive Order 2011-05. Item #4 of the Executive Order exempted any state agency whose agency head is not appointed by the Governor. The Department considered Commission priorities and five-year review report due dates when determining which rulemakings to pursue.

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

The public benefits from a rule that defines terms referenced throughout Commission rules as they help to clarify the Commission's intent and foster consistent interpretation of Commission rules. The public and Department benefit from a rule that is understandable. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

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

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

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

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

The Department proposes to amend R12-4-101 as indicated in this report and anticipates submitting the Notice of Final Rulemaking to the Council by June 2015.

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

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

**agency to make rules.**

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-102, 17-333, 17-335.01, 17-342, and 17-345

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

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

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

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

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

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

Laws 2013, First Regular Session, Chapter 197, Section 12 amended A.R.S. § 17-333 to authorize the Commission to establish license classifications and their associated fees in rule. The Commission amended the rule to establish fees for the new simpler license structure. The amended rule became effective January 1, 2014.

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

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

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

The rule is clear, concise, and understandable.

**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.**

Multiple comments were received during the Department's Hunt Guidelines public comment period. Portions of comments relating specifically to hunt guidelines, and that do not apply to this rule, are not included below (signified by ellipses). The agency received the following written criticisms of the rule:

*The following comments address license and tag fees:*

**Written Criticism: April 30, 2009.** I come from a long line of avid hunters and anglers. My great grandfather hunted until the age of 89 and, if his health had not declined, he would still be out in our forests and lakes doing what he loved. I moved from Nebraska to Arizona in 1990. The first thing that shocked me was the price the Commission sets to allow hunters and anglers to do what they love. I understand the Department needs money to allow for better management and upgrades, but in today's world it has turned to high prices and development. I have a friend who works for the Department who tells me that the Department generates more revenue through the sale of licenses and tags than what is needed, including the upgrades. Bottom line; if the Department wants more people to enjoy the great outdoors they should make it affordable. An average one week elk hunt runs about \$1000 and, add in the youth hunts, the bill keeps going up. I pay for what I love to do, but hunting is becoming a rich man's sport and a revenue builder for someone's high paying position. It does not take a lot to keep the management under control, just the respect for the outdoors and the things that lie in it. "Lower the price and they will come."

**Written Criticism: May 7, 2009.** The Commission is pricing the little man out of hunting. There may come a day when some of us middle class folks will not be able to hunt because of fees the Department charges. Is that what the Commission wants? Does the Commission want hunting to become a rich man's sport? These are very hard economic times. The Department wants more sportsmen in Arizona, but keeps making it more and more difficult. Do not use the excuse of rising costs to the Department.

All of us have to learn to live within our means; the government is not well known for that same discipline. The Department is here to serve the public. We pay your paycheck. Please act as public servants and make this work for all of us.

**Written Criticism: January 24, 2012.** As I understand it, several management units down south fall far short of selling the allotted number of javelina tags annually; and no wonder. A nonresident javelina tag costs the same as a deer tag, but the effective archery javelina season is only about two weeks. I believe that if the Commission lowered the nonresident tag cost and extended the season (I would suggest the entire month of January), the Department would sell all javelina tags annually and increase net nonresident javelina tag income. Where I hunt, javelina populations are booming but the opportunity vs. cost formula is prohibitive.

**Written Criticism: June 16, 2012.** I would like the Commission to offer a special license fee for persons with disabilities who are low-income. I believe more disabled persons would purchase fishing and hunting licenses if the fees were more in-line with the lower income disabled. I have talked with many disabled persons who said they would buy a fishing license every year and apply for big game hunting tags more often if the fees for licenses and tags were more affordable. A lot of disabled people would like to fish, but cannot afford the fees set for the average person, especially when it comes to both licenses. Also, some disabled persons who want to hunt need more help in the field than others. New Mexico has a discounted license for disabled hunters. I hope the Commission will look into this matter and find a way to set special fees for the low income and disabled in Arizona.

**Agency Response:** Wildlife conservation and management of game animals by the Department is made possible by funding generated from the sale of hunting and fishing licenses, hunt permit-tags and stamps; and matching funds from federal excise taxes paid by hunters and anglers who purchased guns, ammunition, fishing tackle, motorboat fuels, and related equipment. Hunters and anglers are the foundation of the state's conservation community, caring for the state's habitats, forestland, and waterways. With the passage of Senate Bill 1223, the Commission was also granted the authority to establish license classifications and fees. Under this new authority, the Commission amended rules to establish a new license structure. The new structure increased the value of most licenses offered by the Department. These changes were made to make it easier for people to purchase licenses, attract newcomers to hunt and fish in Arizona, and to ensure the programs the hunting and fishing communities enjoy continue to be funded. The amended rule became effective January 1, 2014.

The Commission intends to explore fee discounts/reductions, such as the suggestion made above, after analyzing the fiscal impacts of the recent license structure and fee changes.

*The following comments address the period of time for which a license is valid:*

**Written Criticism: October 19, 2010.** Shouldn't licenses be good for a year starting the day it is purchased? The license should be lowered to half price after June, not November - when there are only two months left in the year.

**Written Comment November 19, 2010.** Instead of offering 1/2 price fees for the last two months of the year, the Department could charge the full price for the license, but sell a license that is good for 14 months. By making next year's license valid for the last two months of the year, the Department would encourage more people to hunt the late dove season and fish first trout stockings. I have a hard time justifying buying a license that will not be worth anything in two months at any price, but would consider buying one to hunt late dove and trout if it was good for 14 months.

**Written Criticism: April 12, 2012.** I am an occasional fisherman and love to fish, but do not have enough time and money right now. I got the Department's angler postcard and it makes me want to go fishing, but I need a new license. I will not buy one because I will probably only go fishing once this year. However, if my license was valid for a year from date of purchase (not by calendar year) I would certainly buy one. I do not fish in urban waters, only in the mountains. I do not know how other people feel, but it seems it would be just as easy to go from date of purchase.

**Agency Response:** With the passage of Senate Bill 1223, the Commission was given the authority to establish license classifications and requirements by rule. Under this new authority, the Commission established a one-year license program where most licenses offered by the Department are valid for one-year as follows: when the hunting or fishing license is purchased from a license dealer, the license is valid for one-year from the date of purchase; when the applicant submits the Hunt Permit-tag Application Form in person or by mail and is also purchasing a hunting license at the same time, the hunting license is valid for one-year from the application deadline date; when the applicant purchases the license online or at a Department office, the applicant may choose their start date, provided that date is in the future and is no more than 60 calendar days from the date of purchase.

*The following comments address a variety of topics:*

**Written Criticism: April 30, 2009.** I have two sons serving in the military on active duty. Both sons are stationed in bordering states and would like to hunt with me in their home state, Arizona. However, they never know when they can schedule a hunt as military life does not afford regularly scheduled vacations. To make matters worse, my oldest son is deploying for the next thirteen months; the youngest is deploying in August for who knows how long. Both sons have hunted with me since they were very young; believe me when I say I miss them dearly. I also have a son-in-law who was beginning to show an interest in hunting when he was transferred to California. He would also like to

hunt with me, but is unable to afford the “nonresident” license and tag fees. A person might say that I could pay the fees and I would except for the fact that my own fees have gone through the roof. I have hunted for 50 years, but I too am feeling the pinch. I hunt for meat and always will. That said, it costs me more to hunt deer or elk than to go buy a side or two of beef. My point is actually two-fold; first, has the Commission considered allowing past 25-year residents be spared the nonresident fees for a five-year period while residing in another state not by their own choice? For example, when my son-in-law was transferred to California by his employer, his main concern was his nonresident status. He wanted to retain his Arizona residency status, but because of California law, he was required to obtain a California driver license. Is it possible that an applicant, such as my son-in-law, could be eligible for resident fees for a specified period of time after leaving the state? Second, any active duty military resident personnel, who may be assigned in various states, should be allowed to skip the process of applying through normal channels and shorten the application process by providing them with a resident license fee and reserving a number of tags and allowing last minute over-the-counter purchases. I completely understand the rising cost of wildlife management. However, if we expect to retain or increase the number of hunters in this country, we need to think outside the box. Our passion will never survive if the numbers continue to decrease and the costs to the fewer increase. Our children’s children will never pay twice the cost of purchasing a side of beef. Our numbers have been declining for quite a few years. I believe we may be ahead of the game if we also consider making it easier for what I consider resident hunters by increasing our numbers especially in this economy. If our numbers increase we may hold rising costs to a minimum. Anyway, here are two suggestions that I believe could possibly, in time, benefit both resident hunters and our conservation expectations.

**Agency Response:** Under A.R.S. § 17-101, "a nonresident, for the purposes of applying for a license, permit, tag or stamp, means a citizen of the United States or an alien who is not a resident; and a resident, for the purposes of applying for a license, permit, tag or stamp, means a person who is: a member of the armed forces of the United States on active duty and who is stationed in: this state for a period of thirty days immediately preceding the date of applying for a license, permit, tag or stamp; another state or country but who lists this state as the person's home of record at the time of applying for a license, permit, tag or stamp; domiciled in this state for six months immediately preceding the date of applying for a license, permit, tag or stamp and who does not claim residency privileges for any purpose in any other state or jurisdiction." Under A.R.S. § 17-101, your sons may qualify for resident fees provided Arizona is listed as their home of record. The Commission, through a public process, determined the current draw application process best serves our constituency. The Commission’s draw process is designed to provide equal opportunity to all classes of persons and not to provide an advantage to certain classes. The suggestion to allow a person who is transferred to another state to continue to be eligible for resident fees for a set period of time would be problematic to implement and

unenforceable; it would also complicate the definition of what constitutes a resident and provide an unfair advantage to a select group of people.

**Written Criticism: May 1, 2009.** I have been a licensed hunter in Arizona for the last 23 years ... The Department's mission statement: "To conserve, enhance, and restore Arizona's diverse wildlife resources and habitats through aggressive protection and management programs, etc." There is nothing in the mission about increasing revenue or meeting budgets. Every change and decision relating to the regulations and hunt guidelines should be viewed through this statement. Anything that does not conserve, enhance, or restore wildlife resources needs to go. The Department has a history of increasing elk permits regardless of biological circumstances: When winter conditions have been adverse and calf recruitment low, the answer has been to increase permits to decrease the herds to the level sustainable by the decreased habitat. When winter conditions have been good and calf recruitment high, the answer has been the same – increase permits to reduce the burgeoning elk population. I submit that the elk population in Arizona has been neither conserved nor enhanced over the past 20 years. One could conclude that proposed permit numbers have more to do with revenue than the condition of the elk herd. Does the Commission really want to increase the number of hunters both engaged and in the field and not just increase revenue? Stop the absurd cost increases for tags and licenses. I support moderate fee increases commensurate with cost increases (cost of living has risen ~3-4% annually). Unfortunately, in my case the 2006 fee changes (general license, elk, deer, turkey, javelina, lion, and bear) amounted to a 44% increase. That is neither moderate nor commensurate with cost increases. While I may be able to afford these prices, they are rapidly becoming out of reach for most blue-collar workers who make up the bulk of the Department's customers.

**Agency Response:** Elk permits are adjusted annually according to Commission approved objectives established primarily through the hunt guidelines, but also including direction on population trajectory. The hunt guidelines direct the wildlife manager to recommend increases in bull permits when bull to cow ratios or calf to cow ratios, as indicated by the September surveys, are above biologically and socially acceptable minimums, or if bull hunt success is above objectives. Bull to cow ratios tells the wildlife manager about the relative availability of bulls, whereas calf to cow ratios can tell the wildlife manager about the expected recruitment in the bull population in subsequent years. Hunt success is a measure of catch per unit effort and is an index to population trend. So if the population is increasing, then more bulls will be available next year and more permits may be recommended. For antlerless permits, increases in calf to cow ratios or a desire to reduce the abundance of elk in a unit, often due to social or biological considerations, result in increases in permit numbers. Conversely, if these barometers drop below other established guidelines, then permit numbers decrease for bull or antlerless permits accordingly. Your perception that the Commission has continued to increase permits is inaccurate, as permits in both 2011 and for 2012 were decreased. The decrease in antlerless permits

allows for population growth. The Department operates primarily on the funding generated from the sale of hunting and fishing licenses, hunt permit-tags, stamps, and matching funds generated from federal excise taxes paid by hunters and anglers who purchase guns, ammunition, fishing tackle, motorboat fuels, and related equipment. Over the past several years, sales of licenses, permits, stamps, and tags have trended downward while operational costs and Department responsibilities have increased or expanded. The Commission and the Department have made numerous budget adjustments to address rising costs and flat revenue. Some of these budget adjustments included keeping positions vacant and making cuts to program budgets to address rising costs. When the cost of living generally increases ~3-4% annually, an increase of 44% over a twelve year period is not so absurd. It is important to note: when fees were increased in 2006, it had been twelve years since a general fee increase was implemented. When fees were established in 2007, the Commission made a commitment to sportsmen not to raise fees again for five years. The Commission has exceeded that commitment despite having to navigate the challenges posed by the economic downturn of the past few years as well as the cumulative effect of inflation and increasing costs. With the passage of Senate Bill 1223, the Commission was granted the authority to establish license classifications and fees. Under this new authority, the Commission amended rules to establish a new license structure. The new structure increased the value of most licenses offered by the Department. These changes were made to make it easier for people to purchase licenses, attract newcomers to hunt and fish in Arizona, and to ensure the programs the hunting and fishing communities enjoy continue to be funded. The amended rule became effective January 1, 2014.

**Written Criticism: May 8, 2009.** I have been a taxidermist for a few years now and stopped getting my license from the Department because of the outrageous licensing fees. No other state charges what we taxidermist have been charged with the increase in fees. Why is it that we have to pay higher fees in Arizona? What do these fees get us? We no longer get a listing with the Department; we get no support from the Department in any way. I am proud to be a member of the board of the Arizona Taxidermy Artist Association and would love to be able to do taxidermy full time, but I only do it commercially on occasion because I cannot afford the annual fees. I am one voice, but I speak for an organization that is growing in numbers. Why do Arizona taxidermists pay such a high license fee? Why is it we no longer get listed with the Department? What has caused these things to change?

**Agency Response:** In many states, the game and fish department does not regulate or monitor taxidermist, thus they cannot charge a fee. A taxidermist can make anywhere from \$14,000 to \$60,000 each year, depending on the location and whether they are a part- or full-time taxidermist. The fee for the taxidermist license was previously prescribed under A.R.S. § 17-333 and was established by the Arizona State Legislature. With the passage of Senate Bill 1223, the Commission was given the authority to establish license classifications and fees. However, while working through the legislative

process, the Commission affirmed that other special licenses offered by the Department would be addressed at a later date, so the previous statutory fee was carried forward in rule. The Department does not provide a listing of taxidermists. However, any person may request a list of taxidermists who are licensed by the Department. The amended rule became effective January 1, 2014.

**Written Criticism: March 22, 2012.** I am a lifetime license holder. I have five children, one does not hunt. It is getting more difficult to buy for licenses and apply for big game hunts for all of them. I do not qualify for the family hunting licenses because I have a lifetime license. Exceptions should be made to account for the lifetime license holder; this license should qualify as the primary license, thus allowing me to purchase the reduced cost licenses for my children. Recruitment is the key to future successes for the Department and the children of current sportsman are more likely to purchase licenses in the future. By reducing the costs of taking children hunting, the Department would greatly increase recruitment. It is much too costly to keep taking the kids hunting. For me, the cost breaks down as follows: 4 x \$26 for licenses, 4 x \$7.50 for deer tag applications, 4 x \$7.50 for elk tag applications, 4 x \$7.50 for turkey tag applications, and 4 x \$7.50 for antelope tag applications; this equals \$224 per year with no guarantee that we'll be able to hunt any of the big game we have applied for. In addition to the hunting licenses, the expenses involved with taking youth on hunting trips adds to the cost (e.g., special guns, one-time use clothing, game processing, ammunition, etc.) The Department could dismiss this by saying that having several children is my problem, but there are many families in my situation. Perhaps the Department could: charge a \$15 application fee for youth-only hunts - up to four family members; reduce the cost of a hunting license by 50% for youth within the same family (e.g., for my family I would pay \$52 instead of \$104). It costs tons to take youth hunting; help us help the industry and tradition by finding a way for those of us who would like to pass on this tradition to do so without going broke.

**Agency Response:** Previously, under A.R.S. § 17-335, youth under 14 were exempt from most licensing requirements. With the passage of Senate Bill 1223, the Commission was given the authority to establish license classifications and requirements by rule. Under this authority, the Commission established a hunting and fishing license exemption for youth under the age of 10 and a reduced-fee combination hunting and fishing license for youth ages 10 to 17. This change was made to promote hunting and fishing in families and youth. Through the exempt rulemaking, the Commission also eliminated the family license classifications as they are underutilized. The amended rule became effective January 1, 2014.

**Written Criticism: October 19, 2012.** I was born and raised in Arizona. My dad always took us hunting and fishing around the state and I bought a combination license every year, except for the military interruption in the 1960's. Because of my job, my family and I moved to Missouri in 1991 and

I got a lifetime license there. Later, I retired and moved back to Arizona, but since I have hunting rights in another state, I do not qualify for a resident license in Arizona. So, rather than move to Arizona as a nonresident, I just do all my hunting in Missouri and spend the winter here in Sun City. There are just too many hurdles in Arizona for me to hunt here, when Colorado and Idaho have better rates and probably better hunting. I am disappointed, but cannot afford to hunt in Arizona anymore.

**Agency Response:** Under A.R.S. § 17-101, a resident is a person who is domiciled in this state for six months immediately preceding the date of applying for a license, permit, tag, or stamp and who does not claim residency privileges for any purpose in any other state or jurisdiction. If you meet the criteria above, you are eligible for a resident license in Arizona, regardless of the fact that you possess a lifetime license issued by the Missouri Department of Conservation.

**Written Criticism: September 17, 2013.** I realize the complexity of the issues the Department is trying to deal with and overall it is to be commended for the recommendations it is considering. One thing bothers me and I feel compelled to comment. The new Application fee will become a big source of revenue for the Department. I do not feel this is appropriate as it becomes another monetary burden on the applicant. Since the new fee is far higher than the actual cost of processing an application, either paper or online, the Commission is creating a new revenue source for the Department. Once again hunters will be the only ones to pay. When a person applies for a tag, if successful, they will receive a product. A person makes a choice to apply or not, and knows what the cost of that product will be if successful in the draw. The choice is theirs. The new higher application fee will not be an option. Nobody will complain if the application fee covers the actual cost of producing the tag; but many will feel the higher fee just adds to the already high cost of hunting. A person must buy a license, apply for the permit, and pay for a permit, just for the opportunity to hunt. Next the person must pay for all of the things necessary to hunt. Is it any wonder that some say the cost for all of this is getting too high and they choose to do other things instead of hunt? One tenant of the North American Model is keeping hunting available to all of the people. I do not know when the breaking point will come and people will choose not to participate; I do know for some that has already happened. I would hope we would not raise the burden any higher than necessary.

**Agency Response:** The Department charges an application fee to cover some of the costs involved in processing the application, which includes application review, system maintenance and development, temporary draw personnel, and basic administrative costs. In addition, the Commission intends to use \$3 of each resident application fee and \$5 of each nonresident application to fund access, habitat conservation, and hunter/angler recruitment/retention projects. Typically, the numbers of permits that are available are far below demand. For example, an early bull elk hunt in Game Management Unit 1 will attract over 8,000 first- and second-choice applicants for approximately 40 permits and a late

antlered deer hunt in Game Management Unit 12A West will attract over 5,000 first- and second-choice applicants for approximately 175 permits. Using this example, the Department would process over 13,000 applications to issue 215 permits. It is not operationally sound to charge an application fee only to persons who are successful in the draw. In addition, even though a person may be unsuccessful in the computer draw, the Department still expends resources processing that application.

- 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 Department is unable to determine whether the rule has resulted in the estimated economic, small business, and consumer impacts as the most last making of the rule became effective January 1, 2014. The rule was last amended to simplify the license structure and remove barriers for recruitment of new hunters and anglers. The Commission anticipates the new, simplified license structure will benefit constituents and the Department. The exempt rulemaking established new license classifications and prescribed fees for those licenses, permits, stamps, and tags, as authorized under A.R.S. § 17-333. In establishing the new license structure, the Commission also increased the value of hunting and fishing licenses offered by the Department. For example, the resident general fishing license will include trout, simultaneous fishing (means taking fish using two lines), community (urban) fishing privileges and Colorado River privileges for a \$37 fee. Previously, a resident had to purchase all of these additional privileges separately for a combined total cost of \$69.75 (class A fishing license \$23.50, Urban fishing license \$18.50, trout stamp \$15.75, two-pole stamp \$6, and Arizona/California and Arizona/Nevada Colorado River stamps \$6). The Commission believes the new structure will be easier to understand and provide more value to recruit and retain customers. The Commission anticipates the rulemaking will generate revenue sufficient to enable the Department to address rising operational expenses, carry out its duties effectively in managing the state's wildlife resources, and provide quality recreational wildlife opportunities and access for the regulated community.

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

The Department did not receive any analyses.

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

The Department either completed or chose not to complete the courses of action indicated in the five-year review process report approved by G.R.R.C. approved the report at the December 2, 2008 Council Meeting. The Department was unable to complete the indicated course of action by July 2009 due to the rulemaking moratorium in effect at that time. The courses of action indicated in the five-year review process report were as follows:

1. *Remove outdated language and fees that were effective prior to 2007.* The Department amended the rule to remove outdated fees and reformat the fee table. The rulemaking action was completed as follows:
  - Notice of Rulemaking Docket Opening: 16 A.A.R. 2519, December 31, 2010
  - Notice of Proposed Rulemaking: 16 A.A.R. 2476, December 31, 2010
  - Notice of Final Rulemaking: 17 A.A.R. 1472, August 5, 2011
2. *Amend the rule to include the "Youth group 2-day fishing license" after Class D. This mirrors the order in which A.R.S. § 17-333(A)(6) describes the licenses.* This recommendation is no longer applicable as the Department's license structure was greatly simplified as a result of the License Simplification rulemaking which became effective on January 1, 2014. For R12-4-102, the rule is amended to repeal the following license fees: resident and nonresident Class A fishing license, nonresident Class B four-month fishing license, nonresident Class C five-day fishing license, resident and nonresident Class D one-day fishing license, nonresident Class E Colorado River-only fishing license, resident and nonresident Class F Combination hunting and fishing license (adult, youth, and child), resident and nonresident Class G hunting license (adult and child), nonresident Class H three-day hunting license, Class I, J, and K resident family licenses (primary adult, additional adult, and child), resident and nonresident Class L Super Conservation fishing license, resident Class M Super Conservation hunting license, resident Class N Combination Super Conservation hunting and fishing license, and Class U Urban fishing license. In addition, the rule is also amended to repeal the following fees: trout stamp, state waterfowl stamp, two-pole stamp, and resident and nonresident additional fishing day stamp. The privileges associated with these stamps and permits have been included in the new proposed license structure to enhance the value of those items. The rulemaking action was completed as follows:
  - Notice of Exempt Rulemaking: 19 A.A.R. 3225, October 18, 2013
3. *Amend the rule to include the "Apprentice Hunting License" in the list of Class H, Three-Day Hunting Licenses. This is in accordance with Laws 2008, Chapter 37, which becomes effective January 1, 2009.* This recommendation is no longer applicable as A.R.S. § 17-333 was amended by Laws 2013, 1st Regular Session, Ch. 197. When A.R.S. § 17-333 was amended, all licenses and their descriptions were removed. As a result of the statutory amendments, the Commission

adopted an Apprentice License rule, R12-4-214. The rule simply carried forward the privileges and mentor requirements that were previously prescribed under A.R.S. § 17-333. The rulemaking action was completed as follows:

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

4. *Amend the Resident and Nonresident Youth license, listed under the Class F Combination Hunting and Fishing License, to state that the fee applies up to and through the calendar year of an applicant's 17<sup>th</sup> birthday. This change makes the license consistent with Juniors-Only hunts, in which youth ages 10-17 can participate. Currently, applicants may purchase a Youth Combo license through age 20, but cannot participate in Juniors-Only hunts if they are older than 17 years of age. The Commission amended the rule to implement a Youth Combination Hunting and Fishing License, which is available to person's age 10 through 17. The rulemaking action was completed as follows:*

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

5. *Amend Class I Resident Family Fish License, Class J Resident Family Fish License, and Class K Combination Family Hunting and Fishing License to remove the statutory reference in response to legislative changes to A.R.S. §17-333. This recommendation is no longer applicable as the Department's license structure was greatly simplified as a result of the License Simplification rulemaking which became effective on January 1, 2014.*
6. *Amend "Bobcat permit tag" to "Bobcat export tag" because this is not an actual permit tag required for the taking of bobcat. It is a federal requirement to export bobcat pelts across state lines. This language mirrors proposed changes to R12-4-307. The change to the bobcat export tag is due to the Article 3 rulemaking package. Because the change to R12-4-102 must occur simultaneously with the Article 3 package, rulemaking will occur out of cycle for this rule. The rule was amended to replace the term "bobcat permit tag" with "bobcat seal" to incorporate amendments made to rules within Article 3. The rulemaking action was completed as follows:*

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

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

The Department receives no appropriations from the general fund and operates primarily with the revenue it generates from the sale of licenses, permits, stamps, and tags. Purchasing a license, permit, tag, or stamp is voluntary and a person who chooses to purchase a license, permit, stamp, or tag will incur those costs associated with that license, permit, stamp, or tag. The public benefits from a rule that provides a comprehensive listing of license, permit, stamp, and tag fees. The public and Department

benefit from a rule that is understandable. The Department believes the rule imposes the least burden and costs to persons regulated by the rule.

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

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

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

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

No action

The Commission amended R12-4-102 to implement recent legislative amendments resulting from Laws 2013, 1st Regular Session, Ch. 197 (Senate Bill 1223).

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

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

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-331(A) and 17-332

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

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

employee. The rule was adopted to ensure consistency between the Department and license dealers when issuing a duplicate license or tag.

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

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

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

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

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

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

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

Overall, the rule is clear, concise, and understandable. However, the Department proposes to amend the rule to ensure conformity with the Arizona Administrative Procedures Act and the Secretary of State's rulemaking format and style requirements. The Department anticipates these changes will result in a rule that is more understandable.

**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.**

The Department has not received any written criticisms of the rule.

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

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on March 7, 2006; which stated the rulemaking would directly benefit a person who needs a duplicate tag after taking wildlife subsequently condemned under R12-4-112. Annually, the Department issues approximately one or two duplicate tags for condemned big game animals. The Department and license dealer's issue an average of 9,600 duplicate licenses and tags annually.

- 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 Department did not indicate a course of action for this rule in the previous five-year review report.

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

The public benefits from a rule that establishes the process for obtaining a duplicate license or tag. The public and Department benefit from a rule that is understandable. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

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

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

- 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.**

Not applicable, the rule was adopted before July 29, 2010.

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

The Department proposes to amend R12-4-103 as indicated in this report and anticipates submitting the Notice of Final Rulemaking to the Council by June 2015.

**R12-4-104. Application Procedures for Issuance of Hunt Permit-tags by Drawing  
and Purchase of Bonus Points**

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

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-102, 17-231(A)(2), and 17-231(A)(7)

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

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

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

The rule appears to be effective in achieving the objective stated above because of public and internal comments. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. The Department believes this data indicates the rule is effective. Most comments received indicate the public understands how to complete the application, but express dissatisfaction with not being drawn. Selecting an appropriate hunt choice and the order in which to list hunt choices appears to be the most difficult aspect of applying for a hunt permit-tag. While this information is not provided in rule, information on how to improve odds for being drawn is available online at [www.azgfd.gov](http://www.azgfd.gov).

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

The rule is consistent with and is not in conflict with statutes and rules. However, under A.R.S. § 17-332(C) it is unlawful for a person to apply for or obtain in any one license year more than one original license permitting the taking of big game. The Department proposes to amend the rule to prohibit a person, who has reached the bag limit for a specific genus, from applying for another hunt permit-tag or purchasing a nonpermit-tag for that genus during the same calendar year. Because this is not addressed in rule, a person may apply for or obtain more than one permit-tag knowing they have already reached the annual bag limit for that genus. In addition, the Department intends to require all applicants submitting an application to the Department to provide a signed written acknowledgment confirming the information provided on the application is true and correct. The Department proposes to amend the rule to include this requirement. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

Laws 2013, First Regular Session, Chapter 197, Section 12 amended A.R.S. § 17-333 to authorize the Commission to establish license classifications and their associated fees in rule. The Commission approved the exempt rulemaking implementing recent legislative changes and establishing a simpler license structure and associated fees. The amended rule became effective January 1, 2014.

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

The Department enforces this rule through proper administration. Overall, the rule is currently being enforced as written and the Department is not aware of any problems with the enforcement of the rule. The Department processes approximately 220 overpayments of less than \$1 annually. Because the processing costs for refunding these overpayments is much greater than the nominal amount of the

refund being returned, the Department proposes to amend the rule to state overpayments of less than \$1 will not be refunded and are considered a donation to the Arizona Game and Fish Fund.

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

Overall, the rule is clear, concise, and understandable. However, the Department implemented an online application system and believes the rule could be improved by clarifying the type of funds to be used when submitting fees manually (paper application) or electronically (online application). The Department anticipates these changes will result in a rule that is more understandable.

**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.**

Multiple comments were received during the Department's Hunt Guidelines public comment period. Portions of comments relating specifically to hunt guidelines, and that do not apply to this rule, are not included below (signified by ellipses). The agency received the following written criticisms of the rule:

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

**Written Criticism: April 30, 2009.** .... I like the idea that if a hunter gets drawn for a quality hunt such as Kaibab deer or an early or regular bull elk hunt, they could not put in for one or two years for those types of hunts. That would help to reduce the amount of applications for certain hunts and would give others the chance to be drawn for those hunts. A person could still put in for a bonus point or apply for a cow elk or deer hunt in other Game Management Units during the years they could not apply for the quality hunt. Just a thought, as I know Utah does this and it makes sense in high demand hunt units. Since the Department has a computer database of the each hunter's information, this could work even with the paper application process. I still like the paper application process as it tends to weed out the true hunters who are serious about being drawn in Arizona and makes them include their fees up front, and this includes the out-of-state hunters as well.

**Written Criticism: April 30, 2009.** I do not think the Department needs to encourage more hunters; there are not enough tags for big game hunters now. The Department should change the lottery (draw)

to recognize a hunter who has been chosen year after year and rotate that file with a hunter who has not been chosen. Cut back on out-of-state tags. There are not enough for resident hunters. It is very discouraging.

**Written Criticism: April 30, 2009.** ... Increase the percentage (50-75%) of tags awarded to the number of people with maximum bonus points. They have paid their dues. It is frustrating to see that the number of people with maximum bonus points does not seem to go down. The Department should benchmark with the Western state's draw systems, determine what works best in each of those states, and adopt those practices. If a person is successful in drawing a certain species, perhaps there should be a one or two-year waiting period before that person to be eligible to submit for that species again.

**Written Criticism: April 30, 2009.** My suggestion is regarding elk; if a person drawn for elk, the person cannot apply for the next two years. Use the person's Department ID or Social Security Number, they are easy to track.

**Written Criticism: April 30, 2009.** I was born and raised in Vermont, where I bought my hunting license and tags at the same time and hunted anywhere in the state. Consequently, I have never been enthused over the lottery system for tags, in any state. When I moved to Arizona, I applied for a number of years without ever being drawn and finally gave up hunting altogether. I would like to see the Department designate a certain number of tags (for deer, etc.) for a particular Game Management Unit and then let it be first-come, first-served until they are gone. Anyone who has a kill on a given year is ineligible for the next year, at least for that unit. To me, that is a lot fairer than the lottery system. I guess I am a little jealous and more than a little disappointed because I know of quite a few people who are drawn for both deer and elk every year and I have never been drawn. I am 74 and I would like to take at least one mule deer before I hang up my rifle for good.

**Written Criticism: May 1, 2009.** I find it interesting that while the Department tries to keep hunters interested, it does not seem to want/care to find workable solutions for those who never seem to be drawn. It seems to me that there should be a way to let everybody in the game. I continuously hear the comment, "I have quit trying, I put in for 6, 8, or 12 years and was never drawn, while my neighbor brags about being drawn every year." Maybe, if a person is drawn this year, they would not be eligible to apply for the next one or two years. If there are any leftover tags, then everybody who was not drawn, is eligible for those tags. Yes, I know some die-hards will be upset if they are not eligible every year, but let me be angry while others are given the opportunity. Arizona found a way to help the youngsters. In addition; whatever is done needs to be well publicized. There must be a way and dialog should be started. In addition, thanks for making it possible for me to hunt in Arizona. I have been well rewarded with both elk and deer. I just want an antelope, now.

**Written Criticism: May 9, 2009.** I propose that the Department follow a draw process similar to that used in New Mexico for their elk hunts. If a person draws a high demand tag one year, the person is not eligible the next year for a high demand hunt but, may put in for a bonus point for that same hunt. If the person chooses not to put in for that same high demand hunt, the person can still be drawn and go elk hunting two years in a row. It gives everyone a chance to be drawn.

**Written Criticism: May 11, 2009.** I would like the Department to create a new draw structure for the antelope and elk seasons, where many of the hunts are in high demand. The new draw structure would eliminate a person from applying or being drawn if they were drawn the previous year. It always seems that some lucky person gets back-to-back tags. Putting a waiting period in place would give a better chance for others to draw one of these tags. Not all hunts would be in this high demand range, which would allow people who were drawn the year before to apply for them, or they could just apply for a bonus point to help their odds on the next years draw. If the draw odds are less than 10%, it should be considered in the quality/high demand category.

**Written Criticism: May 23, 2009.** Being a fourth generation native Arizona hunter, landowner, and rancher; I have never been as frustrated with the draw system as I am now. The draw system does not work. The Commission and Department talk about hunter opportunity all the time, but yet there is a trend where the same applicants are hunting the same big game species year after year. I am not talking about an undesirable hunt. For example, the same hunters and groups continue to draw Game Management Unit 4A, late rifle, elk bull tags for three years in a row or a 12A deer tag for three years in a row. I am sure that if I have heard these complaints, the Department has too. So what is the fix? I would like to see the following changes to the current big game draw system: If an applicant draws a tag for mule deer for example in 2009, this hunter cannot apply again for two years or until 2011. This hunter can buy a bonus point in the off year (2010), therefore keeping the much needed revenue flowing into the Department. This would apply to antelope, deer, and elk. Leftover tags would be handled the same way as before. This will give more opportunity to a larger hunter base and appease disappointed hunters and sportsmen who have gone years without a single big game tag. I feel this is worth trying and should not cost the Department any money. Revising the current draw system to every other year and allowing a hunter to buy bonus points in the off-year will increase hunter opportunity; that is what the draw system is all about.

**Written Criticism: June 17, 2009.** Being a native Arizonan in my fifties, I find it hard to believe how impossible it is to draw a tag in my home state. My bonus point totals look like football scores. My suggestion is in regards to antelope, buffalo, deer, elk, and sheep draw tags; after a person draws a tag in a calendar year, that person can only submit bonus point applications. This will spread the hunt

opportunity around for all hunters to participate in at least one fall event, will increase dollars to the hunting retailers, and could help support our shrinking base.

**Written Criticism: June 24, 2009.** To allow more hunters the opportunity to hunt antelope, deer, and elk; the Department should consider instituting a two-year waiting period after a successful draw. This would take the person who successfully drew a tag out of the lottery system for two years and allow others the opportunity to be drawn. I suggest this apply to each individual species the person draws; i.e., if a person draws an elk tag, that person waits two years before putting in for another elk tag; if a person draws a deer tag, that person waits two years before putting in for another deer tag, etc.

**Written Criticism: June 28, 2009.** Can the Department tell me why the Commission has not gone back to the three-year rule? Meaning, if a person is drawn for antelope, deer, or elk; the person would have to wait three years before applying for another draw. This would make for better rotation of hunters and increase the amount of new hunters putting in. I am at the point of saying, "what good is it to put in for a tag when the same guys keep being drawn?" I know one person who has had an archery bull tag in Game Management Unit 10 three out of four years. Is the Department afraid of losing the processing fee?

**Written Criticism: November 9, 2009.** For the purpose of this inquiry, I am not referring to antelope, buffalo, sheep, or limited opportunity hunts or those areas with virtually no public access. It appears that there is no limit to how many bonus points a person can earn and that each bonus point is just another chance to be drawn. It appears that it is possible for a person to apply every year for a deer or elk tag and never be drawn, while an acquaintance, neighbor, or relative could apply for the same hunt and is drawn every year. How is this considered fair? Bob has ten points and Mark has zero, both put in for the same hunt and Mark gets drawn. Please explain how this is fair. How many bonus points will Bob need to be drawn and how many years in a row can Mark be drawn? I was speaking with a personal friend who is a former Game and Fish public information officer who said the Department is having problems with hunter retention and the recruitment of new hunters. If this is true, I can see why; drawing a deer or elk tag in Arizona is nothing more than a big maybe. I have spoken with a significant number of fellow hunters who have given up on hunting in Arizona. Many of them now hunt out-of-state. They all basically say the same thing, "It costs more, but at least I get to hunt every two to three years as opposed to maybe three to four times in my adult life. Personally, I cannot help but feel that this is tragic. The Department has lost, and will likely continue to lose, customers to other states and lose the support and trust of the hunters and sportsmen of Arizona. For future planning; should I continue to apply in Arizona for deer and elk or save my money and budget for Colorado, Wyoming, Montana, or New Mexico? I appreciate your time in addressing my concerns and assisting me in deciding where to spend my future license fee, gas, food, and lodging dollars. It would not be fair for

me to complain without offering an idea for a solution. This may not be perfect, but I feel the level of fairness to all hunters is far greater than the existing bonus point policy. Only those applicants holding a minimum of four bonus points may be eligible to draw on first and second choices. In the event the number of available tags is greater than the number of applicants, then applicants with zero to three points may be awarded a tag. This will help those with points to have a better chance of being drawn. If someone hunted last year, what is wrong with sitting out for one or two years to give someone else the opportunity to hunt? Entering the draw every year is greedy and unsportsmanlike. This would also encourage more participation in the hunter safety program. This will account for one of the required minimum points and the loyalty bonus point could account for another. I have spent over 22 years working in the area of customer service, loyalty, and retention. One major underlying principal is that it is far more costly in terms of time, money, and man-hours to find new customers than to treat existing customers fairly and retain their patronage.

**Written Criticism: November 10, 2009.** I enjoy hunting bull elk with a bow and arrow; Game Management Units 1 and 27 are my favorite areas to hunt. I put in every year with two of my friends. I have numerous bonus points and a loyalty bonus point. I was last drawn for a hunt in 2002, but I did not take an elk. I am now 50 and, if I am drawn in 2010, I will be 51. I am sure anyone can do the math, I am getting older and older and less able to hunt these huge animals. So, if I am drawn and take a mature bull, in order to give those who have not been drawn a better chance, I will not hunt them any longer. Why not make anyone who is successful in drawing a tag wait one-year before they can apply for another hunt. I know we have all heard the stories about those hunters who are drawn year after year. I am sure there is some exaggeration, but to some extent the stories are true.

**Written Criticism: April 27, 2011.** My suggestion for the game management guidelines would apply to premium big game tags. It is very frustrating to wait over 15 years to draw an antelope tag when others draw a tag and then receive another tag within one or two years of being drawn. The same for early bull archery hunts, early bull rifle hunts, early bull muzzleloader hunts, Rim deer hunts, December whitetail tags, and December muzzleloader tags. I would like to see a waiting period of five years for a person who draws one of these coveted tags before the person can apply for a premium tag again. If a person draws an early bull tag or north rim deer tag, that person would not be eligible to apply for that species for five years, but could still apply for other hunts and leftover tags during the five-year waiting period. This would give other hunters a chance to draw a premium tag without having to wait 15 to 20 years. It would make it fair to all hunters applying for these limited trophy tags and eliminate the complaints and frustrations when hearing about someone who's drawn an elk tag for 22 consecutive years or an antelope tag twice in five years. It would also help the maximum bonus point recipients receive their tags quickly and the number of maximum bonus point recipients would

be lower due to a greater likelihood of those applying for non-premium tags while waiting five years to apply for a trophy tag.

**Written Criticism: April 27, 2011.** I am a native Arizonan, 54 years of age. I have hunted in Arizona for many years. Since the extra seasons were added to Arizona's hunts, I have seen a continual decline in the quality and number of huntable big game wildlife. I would like the Department to initiate a three-year waiting period after successfully drawing an elk or antelope tag. ...

**Written Criticism: April 27, 2011.** The draw for elk is not fair. I have waited five years to be drawn. I have friends who have drawn elk tags for five years straight. The Commission needs to ensure that if a person is drawn one-year, they cannot apply for the next year or two. Take care of this so more people are drawn; not the same people every year.

**Written Criticism: April 28, 2011.** I believe the Department would provide opportunity to more hunters if a person could only be drawn for big game once, per species, every three years. This would slow down those who are drawn almost every year and accelerate those who are almost never drawn.

**Written Criticism: May 12, 2011.** ... Implement a three-year waiting period for anyone who draws a "quality" permit. Basically, for three years after drawing the permit, a person may not apply for another "quality" permit drawing. This gives those of us who are waiting better odds; not substantially better, but better nonetheless. Allow those hunters who drew a "quality" permit the option to apply for "lesser quality" hunts or purchase a bonus point. Will this turn some people off from applying for the draw in Arizona? Possibly. There is no way to know unless the Department tries it. Arizona provides the best genetics for trophy class animals which could result in people not caring about a two-year waiting period. The Department's revenue from permit sales would remain the same. More than likely, the revenue from application fees will remain the same because people will still apply for "lesser quality" hunts or a bonus point. It is a "fair" process. One might say that the bonus point pass is a way to address this. Not for many of the "quality" hunts, because many of us are only chasing points. Even then, it is still random. This will eliminate those hunters who take advantage of the bonus point system and search out "bonus point buddies." Basically, they find persons with maximum points and apply with them for a small fee or a promise to help them during their hunt. I honestly have not met someone who is against this idea and I speak to many different styles of hunters on a daily basis. Implementing a more fair process would show that the Department truly cares about quality hunt opportunity, not just more opportunity that only seems to generate revenue. Attached is sort of a breakdown of what I am suggesting. {Attached spreadsheet information: Quality: Early archery, early muzzleloader or early rifle bull, December Whitetail permits, December muzzleloader (desert) Mule deer permits, Late Kaibab or Strip Mule deer permits, Buffalo, Sheep, Antelope, Gould's turkey. Lesser Quality: Cow,

late rifle bull or late archery bull, Any other Whitetail permit, Any other (desert) Mule deer permit, and Any other Kaibab Mule deer permit. }

**Written Criticism: May 15, 2011.** I believe all hunters will benefit from my suggestion; I will use elk for an example. There are 10,000 elk tags offered each year with 50,000 hunters putting in for those elk tags. The first year, 10,000 lucky hunters draw an elk tag. After the draw, those 10,000 hunters would be not allowed to apply for the elk draw for five years. The second year, there will be 10,000 elk tags with only 40, 000 hunters applying for the draw, and so on and so on. In the end, every elk hunter would draw an elk tag every five years or so. It is hard to hear about people getting elk tags all the time, while others have to wait eight or more years to be drawn. I believe the Commission would have a very receptive crowd when told they can expect the elk tag of their dreams every five years. This would allow people to plan ahead for their hunts and allow people to see the light at the end of the tunnel. This should be applied to all hard to draw hunts, such as bull elk, bighorn sheep, and trophy deer.

**Written Criticism: December 5, 2011.** Elk waiting period after a successful draw: Benefits are social as it provides equal opportunity for all applicants and impacts hunter recruitment and retention in a positive way. A person may purchase bonus points during the waiting period. Waiting periods would be: bull elk - three to five years; antlerless - one to three years; youth - one year. Antelope waiting period after successful draw: Benefits are social as it provides equal opportunity for all applicants and impacts hunter recruitment and retention in a positive way. With a diminishing antelope population, this recommendation enhances the draw odds for many who are beginning to view an Arizona antelope tag as once in a lifetime experience. A person may purchase bonus points during the waiting period. Limit hunts to one pronghorn tag per weapon type, per hunter's lifetime (rifle, archery, and muzzleloader) and a five-year waiting period between draws. I presented this suggestion to the Commission August 27, 2011; although rule revisions were not yet open for consideration.

**Written Criticism: April 13, 2012.** I would like the Commission to reevaluate the Bonus Point System. What good are bonus points? Please do not reply, "It is what it is." What it "is" is unfair. I have not been drawn for three years in a row and I know hunters who have not been drawn for more than five years. Conversely, I have a friend who was drawn at least three years in a row and another who was drawn nine years in a row. I recently put in a hunt application with two other hunters; together, we had a total of nine bonus points. According to the current system, the total points are divided by how many hunters are listed on the application; still we were not drawn. "Elk camp" with a few friends is what the hunt is really about and bagging game is an extra. If we all have to put in separately to improve our odds, then we stand the risk of everyone being drawn for different areas and dates. None of us want to sit on the sidelines for years; we want to hunt together. To give other hunters

a better chance, I suggest that once a person or group is drawn, they are not eligible to apply the next year. There must be a better, more fair, way to do this. Please do not let this letter fall on deaf ears because there are many hunters who feel the same way.

**Agency Response:** The Department reviewed a variety of waiting period options in response to customer comment; such as one-year and three-year waiting periods for general and specific hunts. The analysis indicated a waiting period would not substantially improve the odds of being drawn for those species that currently have low draw odds. For example, the percentage of early firearms bull elk applicants receiving tags would change from 2.79% to 2.87%, if a one-year waiting period were adopted. For pronghorn, the draw success would change from 4.2% to 4.3% if a one-year waiting period were adopted. However, current Commission direction asks the Department to provide further analysis regarding a one-year waiting period for Youth-only elk hunts.

In the early 1990s, the public through a public process rejected a waiting period system in favor of the bonus point system the Department currently uses.

Forcing successful hunters to defer from applying after they have drawn tags offers little or no benefit for hunters to remain in the draw. Few hunters are lucky enough to be drawn more often than others and it is understandable that those who are not drawn want to improve their chances. However, because the draw is based on probabilities, there is no way to eliminate this possibility without undue complication to the draw process.

Generally, hunts that take place in high quality Game Management Units or that occur close to the rut have poor draw odds. For example, for the 2005 early bull elk hunt in Game Management Unit 1, there were 8,103 first- and second-choice applicants and only 40 permits issued. The odds of being drawn for that hunt were less than 1%. Similarly, for the late antlered deer hunt in Game Management Unit 12A West, there were 5,837 first- and second-choice applicants vying for 175 permits. The odds of being drawn for that hunt were only 4.4%. If a person only wants one of these hunts, here are a few tips that may help: Never apply for any unwanted hunts; if a person is drawn, they lose their non-permanent bonus points. Realize it may be years before a person is drawn, be patient and persistent. Do not submit an invalid application. One way of minimizing mistakes is to apply online.

A hunt with good draw odds often means it is considered by some hunters to be a “less desirable” hunt. On the other hand, many other hunters have the philosophy that any opportunity to hunt, get outdoors, and spend time with friends and family is highly desirable. So, if a person just wants to go hunting and is not as concerned about where or when, here are two tips: Pick a higher-demand hunt for the first

choice, but choose a hunt with better draw odds as the second choice. For the best chances of being drawn, pick hunts with good draw odds for both first- and second-choices.

*The following comments address a variety of topics:*

**Written Criticism: February 13, 2008.** Change the bag limit for elk and deer hunts to one elk or deer every three years. I.e., a hunter who kills a bull elk in 2008 cannot hunt bull elk again until 2011, but can enter in 2009 draw for cow hunts or bonus points. **Follow-up Criticism: February 19, 2008.** What does the Department mean by "reviewed and considered by the rule team?" I thought the Commissioners review the ideas, obtain the Department's opinion, have meetings, gather public input, and then go to rulemaking. As a former lobbyist myself, I know it is a long process, but what exactly is the Department's process when it comes to rules?

**Agency Response:** Please see the Agency Response on page 31 as it relates to waiting periods. When the Commission or Department receives a comment, suggesting the Commission adopt or amend a rule, the comment is placed in the rulemaking record for the next rule review or rulemaking team, whichever occurs first. The team considers all comments/suggestions submitted; suggestions are analyzed to determine whether the Commission has the statutory authority to make the amendment; does the proposed amendment conflict with any applicable regulation, law, or rule; does the proposed amendment place an undue burden on the Department or regulated public; do the benefits outweigh the costs; what are the consequences of the proposed amendment; is the proposed amendment necessary or appropriate, etc. The draft rulemaking is also reviewed and approved by members of executive staff and legal counsel, before it is presented to the Commission for their review and approval.

**Written Criticism: May 6, 2009.** I have a suggestion; prosecute those who call in false reports on others? If a person follows the rule of no false reporting, callers might think twice about making one. How about if a person who draws an elk tag one year cannot put in for an elk the next year? ...

**Agency Response:** Prosecuting a person who makes a report that results in a finding that no violation occurred would be counter-productive to the intent of the Operation Game Thief program. There are limited commissioned officers in the Arizona Game and Fish Department and many of these officers work enforcement part-time. The Department relies on the citizens of Arizona to assist in the reduction of wildlife violations, and rewards are available to those citizens that report information that leads to an arrest. Please see the Agency Response on page 31 as it relates to waiting periods.

**Written Criticism: April 30, 2009.** How many times have we heard about someone drawing two to three premium tags a year? The Department can limit people to one premium tag per year: antelope,

buffalo, deer, elk, and sheep. Anyone who draws one of these tags should not be able to draw a second premium tag during the same calendar year. This would spread out tags and give more hunter opportunity in the field. They can still apply for bonus points during their waiting period, as long as they purchase the point. The Department should also give a permanent bonus point to lifetime license holders.

**Agency Response:** Please see the Agency Response on page 31 as it relates to waiting periods. The Commission's draw process is designed to provide equal opportunity to all classes of persons and not to provide an advantage to certain classes. As a result, the Commission does not believe that any class of persons should be awarded bonus points for which others are not eligible.

**Written Criticism: May 17, 2010.** ... Is it time to stop awarding tags to the same hunters every year? If someone gets an elk tag, they should not be able to apply the next year. There has to be a solution. I am 60 years of age and it is getting harder for me to hunt. My time is limited and yet the Department keeps giving the tags to the young hunters. The seniors of Arizona should have a chance to hunt before they die. The Department is coming up with all these youth hunts to bring in revenue. Do not get me wrong, I think our children should learn about hunting, but I also think that the older people who have supported the Department their whole lives should have a chance at an antelope or elk. The Department says depredation hunts are to bring families together, but I do not think that is true. The only reason for these hunts is to bring in the revenue. Same with fishing, we buy a license, spend a fortune for fishing gear, and now they want \$12 a day to put our boats in the water; boats that we register with the Department. If that is not enough, now we have to pay to ride our all-terrain vehicles on a hunt. Where will it stop? Next, they will just send out a notice asking all the hunters and anglers to send in their money and stay at home. I have thousands invested in hunting and fishing equipment, but it sets in my safe. Frustrated? Yes. Disappointed? You bet; in the Department.

**Agency Response:** Please see the Agency Response on page 31 as it relates to waiting periods. The Commission's draw process is designed to provide equal opportunity to all classes of persons and not to provide an advantage to certain classes. As a result, the Commission does not believe that any class of persons should be awarded tags for which others are not eligible. The water-use and land-use fees referenced in the comment are collected by other state and federal agencies and are outside of the Commission's scope of authority; thus, the Commission cannot address that portion of the comment. In response to a greater than 300% increase in the use of off-highway vehicles over the last ten years and an associated increase in damage to lands and the environment, the 48th Legislature amended statutes to more closely regulate the use of off-highway vehicles. Included in the legislation was a requirement that certain off-highway vehicle operators purchase an Off-Highway Vehicle User Indicia for operation on public lands. The indicia is issued by the Arizona Department of Transportation and 35% of the

monies collected are placed in a fund to be used by the Department for informational and educational programs relating to safety, the environment, and responsible off-highway vehicle recreation, and enforcement of OHV laws and rules. The indicia requirements do not apply to vehicles that are used off-highway exclusively for agricultural, ranching, construction, mining, or building trade purposes.

**Written Criticism: April 14, 2011.** I mailed a check for over \$750 to the Department for my license and elk draw application. My check was received after the January 20th correction date and was .20 cents short. Instead of returning my check, the state deposited it, still has my money, is making interest on this money, did not put me in for the draw, did not give me a license, and did not give me a bonus point. For being .20 cents short, I basically lost a year, a point, and my hard earned money for several months. Please put yourself in my shoes. Would anyone feel good about how Arizona has treated them? Is this fair and just? Nonresident hunters pump a ton of revenue into Arizona each year and I feel this particular policy is a slap in the face of those who are supporting the Department and Arizona's economy. Before deleting this email and forgetting about me, please take a minute to walk in my shoes and forward my concerns to those who are control of making changes to your policies. In the future, I am hopeful the Department and Arizona may adopt policies that make sense and do no harm to those who feed them.

**Agency Response:** In compliance with Section II-Q-V.B of the State of Arizona Accounting Manual - Mail Receipts, "immediately upon receipt, all checks, warrants, drafts, and money orders must be restrictively endorsed "For Deposit Only" to the credit of the State agency." This means all checks received by the Department must be deposited immediately, regardless of amount. In addition, under R12-4-104(O), the Department shall reject an application when it is not properly completed or submitted. However, the Commission has directed the Department analyze ways to allow an applicant to retain any accrued loyalty point and bonus points when the payment submitted for the application is less than the total sum of all applicable fees.

**Written Criticism: April 21, 2011.** I am one of the thousands, if not tens of thousands, of Arizonan's who believe the Elk draw system is broken and needs serious reform. One that seems reasonable; if a person is drawn in 2011, the person is automatically excluded for the 2012 and 2013 draw. Arizona senior veterans with a lifetime hunting license are exempt and carry (into each draw) 15 permanent points on their application. Those persons who file an application with the veteran who has a lifetime hunting license are subject to the exclusion rule once drawn, two years out. Justification for my proposal: Arizona does darn little for Arizona veterans and not all of us hunt or fish, though many of us do. Also, requiring a person to be 70 years of age before getting a pioneer license, really? Our hunting days are diminishing rapidly with each hunt season and it seems even longer if we are not drawn year after year. I am requesting under the Freedom of Information Act for the number of persons who have

been drawn more than twice, in the past six years, including 2011. How many have been drawn five or more times within the past 12 years. Please provide a list of names and city or county for recipients drawn five or more times in the past 12 years.

**Agency Response:** The Commission's draw process is designed to provide equal opportunity to all classes of persons and not to provide an advantage to certain classes. As a result, the Commission does not believe that any class of persons should be awarded bonus points for which others are not eligible. The requirements for the complimentary Pioneer license are prescribed under A.R.S. § 17-336(A)(1), which states an eligible applicant is a person who is seventy years of age or older. A legislative amendment is required before the Commission may change the age requirement referenced in the rule. Please see the Agency Response on page 31 as it relates to waiting periods. The Department fulfilled the commenter's public record request.

**Written Criticism: May 9, 2011.** After accumulating 20 bonus points and still not being able to draw an antelope tag, I think the Department should allow only one person per application instead of multiple persons per application, so more people could draw a tag. If a person draws a tag, the person should have to skip a-year so that other people can draw a tag too. Too many people draw a bull tag year after year; so much for "the luck of the draw."

**Agency Response:** Requiring persons to submit separate applications would prevent families and friends from hunting together as applying separately would likely result in family members and friends being drawn for different areas and dates. The Commission believes this would also be an impediment to hunter recruitment and retention as many hunters are introduced to the sport of hunting by relatives and friends. Please see the Agency Response on page 31 as it relates to waiting periods.

**Written Criticism: May 24, 2011.** The Commission should create an odd/even year draw system that allows a hunter to apply for elk hunts only on odd or even years, depending on the applicant's birth year. This system will increase the odds for persons to be drawn at least every other year. Theoretically, draw odds will increase approximately 100%. As we know, Arizona elk tags are becoming harder to draw each year, a new split draw system needs to be created to give more hunters the opportunity to hunt elk more often in their lifetime while physically able and not have to wait ten or more years. I believe once the math is done, hunters will notice that applying for an Arizona elk tag every other year will increase their draw odds. This system will allow more hunters the chance to enjoy Arizona elk hunting. I believe no hunter should be allowed to draw an Arizona elk tag two consecutive years, for the sake of creating as much hunting opportunities as possible. Have separate regulation booklets for resident and nonresident hunters, detailing all big game seasons and allotted tags for each. If this information is separated, it will provide the hunter with more accurate information on which to

base hunt application decisions. Require resident and nonresident hunters to apply individually on hunt applications. This will allow each hunter a chance based on their own bonus points or random chance. The current system allows a hunter with fewer bonus points, who applied on a group application, to be picked over a hunter with more bonus points and who is applying alone. This is not fair to the hunter who has earned more bonus points. ...

**Agency Response:** Please see the Agency Response on page 31 as it relates to waiting periods. Printing separate regulations for residents and nonresidents would consume Department resources that are better spent elsewhere as the only difference between the two regulation booklets would be the fees. Requiring persons to submit separate applications would prevent families and friends from hunting together as applying separately would likely result in family members and friends being drawn for different areas and dates. The Commission believes this would also be an impediment to hunter recruitment and retention as many hunters were introduced to the sport of hunting by relatives and friends.

**Written Criticism: April 11, August 11, August 19, August 22, August 24 (2), and September 9, 2011 (2 from same person, all four used a form letter).** The Commission should award veterans, and persons who file an application with a veteran, 15 permanent bonus points. The Commission should require a successful draw applicant to wait two years before applying for another tag. This waiting period would not apply to veterans and persons who file an application with a veteran.

**Agency Response:** The Commission's draw process is designed to provide equal opportunity to all classes of persons and not to provide an advantage to certain classes. As a result, the Commission does not believe that any class of persons should be awarded bonus points for which others are not eligible. Please see the Agency Response on page 31 as it relates to waiting periods.

**Written Criticism: May 28, 2009.** ... Not sure if this is the right place to offer this suggestion, but I would like to see the Commission implement what I call, "one and done" when it comes to youth hunts. I feel that a youth should have just one opportunity to participate in a youth-only hunt for every species. After all, they can hunt turkeys, javelina, elk, and deer from the ages of 10 through 17. That is enough opportunity for them to decide if they want to continue hunting. With my proposal, I think that once a youth draws a youth-only tag for a particular species, they are out of that pool. This way, each year there will be different youth in the field. If there are leftover tags, the Commission could make a provision that those who have previously participated are eligible, but the most important thing is to have new participants each year for the various big game hunts.

**Agency Response:** Current Commission direction asks the Department to provide further analysis regarding a one-year waiting period for Youth-only elk hunts.

**Written Criticism: July 7, 2009.** I think it is a bit harsh to lose accrued loyalty and bonus points if a person makes a mistake on the application and it is rejected. I think that a person who makes an honest attempt to apply, but gets rejected for some reason other than lack of funds, should keep their loyalty and bonus points. A few years ago, my daughter and I applied together, our application was rejected for some reason, and we both lost our loyalty bonus points. This seems unfair. I made an honest attempt to apply and, not only was I not drawn, I also lost my points. ... Everyone knows Arizona is the place to hunt elk, especially Arizonans. It is very frustrating to be a resident and have to wait literally years to be drawn. We know the bonus point system does not really work. The same people are drawn every year or every other year, while other people who have anywhere from 6 to 10 bonus points, sometimes more, are never drawn. I would like to suggest a waiting period for every person who is drawn. For example, if a person is drawn this year, they would have to "sit out" for two years. The person would not be able to apply again until the third season. To keep the revenue up for the Department, the person would still have to buy a license those two years and also apply for the elk hunt each year, knowing they will not be drawn. Correct me if I am wrong, but I believe there are close to 24,000 tags issued each year for elk. I think about 12,000 of those are bull elk tags. Again I am not sure of the exact numbers, the Department would know better than I. But by doing so, it would reduce the number of applicants by approximately 48,000. Now, to me that is a significant number and the odds of being drawn are greatly enhanced. I have not talked to one person yet who said he would not mind setting out for a couple years if they knew their chances of being drawn were greatly improved. I really think this system would work and it would give more people the opportunity to get out and hunt, instead of just building up points that do not guarantee anything. ...

**Agency Response:** A loyalty bonus point is maintained when an applicant has submitted five consecutive, valid applications for the computer draw. A loyalty bonus point may only be gained or lost through the computerized draw system. Only valid applications are entered into the system. If an application is not entered into the system, the system cannot award a bonus point. All points, except the Hunter Education bonus point, are forfeited after five-years of inactivity. The Department provides an online application process which greatly reduces the opportunity for errors. The Commission's draw process is designed to provide equal opportunity to all classes of persons and not to provide an advantage to certain classes. As a result, the Commission does not believe that any class of persons should be awarded bonus points for which others are not eligible. The application period for applying for bonus points only is approved by the Commission annually, as part of the draw cycle. The Department is evaluating the feasibility of a year round or extended application period for bonus points only. Please see the Agency Response on page 31 as it relates to waiting periods.

**Written Criticism: June 4, 2011:** We recognize that we have a shortage of youth growing up in the hunting heritage. This is complicated by the cratered economy and the length of time it takes our graduates to find gainful employment and establish themselves economically. Perhaps it is time to consider adjusting the "youth hunter" age boundary upwards by a few years, in order to give younger hunters the opportunity to be able to take advantage of the "head start" youth programs were designed to give them.

**Agency Response:** The Commission believes providing youth with hunting opportunities is not only designed to recruit new hunters, but also to retain them. Currently, youth are eligible to participate and benefit from youth opportunities up to their 18th birthday, provided youth between the ages of 10 and 13 satisfactorily complete a Hunter Education Course prior to applying for a hunt. A youth hunter, whose 18th birthday occurs during a youth-only designated hunt for which the hunter has a valid permit or tag, may continue to participate for the duration of the youth-only designated hunt. This became effective for youth-only hunts with the Spring 2013 hunts. With the passage of Senate Bill 1223, the Commission was given the authority to establish license classifications and requirements by rule. Under this authority, the Commission established a hunting and fishing license exemption for youth under age 10 and a reduced-fee combination hunting and fishing license for youth ages 10 to 17 to promote hunting and fishing in families and youth. Previously under A.R.S. § 17-335, youth under 14 were exempt from most licensing requirements.

*The following comments address the requirement that a person must purchase a hunting license in order to apply for the draw.*

**Written Criticism: May 4, 2009.** I am a nonresident hunter and I have enjoyed two of the best bow-hunts of my life in Arizona. After applying for an archery elk tag for four years, I was finally drawn in 2008 and took a Pope & Young animal in September. This is significant because in spite of the great success I enjoyed there, if the regulations are not changed, I will not apply for another tag in Arizona. The Commission's process of charging nonresidents a license fee for simply entering the draw is no longer cost effective. I am in the middle to upper income bracket and I am fairly certain that if I have made this decision, others are likely to feel the same way. There are too many other states that return most of the draw fee if the candidate is not successful in the draw and if something does not change I will apply for my next elk tag in one of those states. I encourage the Commission to reconsider the regulations so that I can continue to enjoy hunting in Arizona and help stimulate its economy.

**Written Criticism: June 17, 2009.** As a long time Arizona hunter, my feeling about the big game draw is it is great for the Department and very disappointing and costly to the applicant. When my wife and I apply for all hunts, it costs us approximately \$3,563.50. If we are not drawn, we wait months

before our money is returned with \$135 deducted for application fees. This is what most hunters feel is unfair. If the Department must collect this money, collect it from the hunters who are successful in the draw. I am sure that this would be acceptable to all. I feel it is okay to "pay to play," but to pay and not play is not right. I have spoken with many hunters and, generally, they feel the same way. I will not apply again. As we all know the economic situation is tough, the costs associated with hunting have doubled. So, it looks like our hunting adventures will be watched on the wide screen.

**Written Criticism: August 6, 2009.** A person has to purchase a hunting license and pay for the tag when they submit a draw application. If the person is not drawn, they receive a refund of the tag money, but not the hunting license money. This is my dilemma; I only go hunting for deer when I am lucky enough to be drawn. I do not hunt any other time during the year. So, if I do not draw a deer tag, I am buying a hunting license for nothing. Is there anything that can be done so I only need to purchase a license when I am drawn for deer?

**Written Criticism: June 29, 2011.** When applying for a hunt permit-tag, I have to submit \$32.25 for a hunting license, even when I am not drawn. My license fee is not refunded if I do not draw a tag. What will I do with a hunting license if I do not have a tag? I do not have to buy a license for a vehicle before I purchase it, why a hunting license? The Department requires a submission of \$32.25 with every tag application, with a promise they will not issue more than one hunting license. However, several years ago, I ended up with two licenses. Please change this policy.

**Written Criticism: December 28, 2012.** I live in Wisconsin, but I have two brothers and a sister who live in Arizona. I applied for and drew a bow permit for elk and had the opportunity to hunt in Arizona. I was unsuccessful in harvesting an elk, but I still look back and remember how much I enjoyed that hunt. Soon after that hunt, the Commission changed its rules to require a person to purchase a nonrefundable, nonresident license just to enter the elk permit drawing. If I am unsuccessful in the draw, I must absorb the \$400 license fee. This is wrong. Is the Department that greedy that it needs to rob out-of-state sportsmen of a license fee just to enter the elk draw? What happened to the common sense from years back, where one posted the appropriate fees and if not drawn the Department refunded the license and tag fees minus a small processing fee. This was fair. I am trying to get the Wisconsin Department of Natural Resources to pass legislation to require Arizona residents to pay an additional \$400 for the right to apply for an out-of-state hunting license. On top of that fee, they would be required to pay a regular out-of-state harvest tag fee, as they must to today. This would be fair. If I must pay \$400 for the opportunity to enter Arizona's elk tag drawing and (if unsuccessful) I do not get any money back, I feel Wisconsin should do the same to Arizonan's who wish to hunt in Wisconsin. Additionally, I am petitioning service groups like Rocky Mountain Elk Foundation and the Theodore Roosevelt Conservation Partnership to withhold any donations to the Department due to discrimination

against out-of-state hunters. I would appreciate being contacted by anyone from the Department who was in the decision making stream to hear the logic of why this discriminatory practice was put into place. Please examine your conscience and not your wallet, when looking at fair hunting practices.

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

***The following comments address the loss of a bonus point and eligibility for the loyalty bonus point when a hunt application is rejected:***

**Written Criticism: May 1, 2009.** I was dropped from consideration for the elk tag drawing this year due to an illegible or missing birth date on the application form; a first for me in 51 years. It occurred to me that, after having put in for a big game since the draw process was put in place, the Department should have all of my personal information on file; it is tied to my hunter identification number. I suggest the Department improve its efficiency by providing a check-box on the license application form that would allow an applicant to indicate that no changes were made to their personal information and by programming the database to fill in my personal information. This could reduce the incidence of non-readable or non-entry data, having Department employees call for unreadable or missing information, etc. In my case, this would have resulted in the Department issuing my son's and my combination license right away, instead of sending us a refund check; thus saving the Department the

cost of issuing a refund and allowing the hunting license funds to stay with the Department. Please give this some serious consideration; it cannot cost much, but could save the Department a great deal.

**Oral Comment: October 21, 2010.** I made a mistake on my application, it was rejected, and I lost my loyalty bonus point and the opportunity for a bonus point. I think the Department should allow a person to apply for a bonus point after the draw is completed.

**Written Criticism: November 30, 2010.** I am an Arizona native and have hunted and fished here my entire life. I have had a number of opportunities to interact with Department personnel and I respect and appreciate what the Department is trying to do. I submitted an application for a deer bonus point only. I failed to sign my application and it was rejected. Because of this, I also lost my loyalty bonus point. I would like to suggest the Department allow a person to buy bonus points year round. This way, a person who missed the regular draw, or whose application was rejected, could still purchase a bonus point and, if the system were set up for it, keep their loyalty bonus point. The Commission should implement an online draw application system; that way an application would not be rejected for lack of a signature.

**Written Criticism: November 30, 2010.** The Commission should allow a person to purchase a bonus point throughout the year, not just during the regular draw. Then a person who missed the draw or made a mistake on their license application could still obtain a bonus point and keep their loyalty bonus point. The Commission should implement an online draw process and make it easier on the applicant instead of more difficult. Educate your employees on the draw process and bonus and loyalty bonus point system, there is no reason to have uninformed personnel serving the public.

**Agency Response:** Bonus points and loyalty bonus points may only be gained or lost through the computerized draw system. Only valid applications are entered into the system. If an application is not entered into the system, the system cannot award a bonus point. A loyalty bonus point is maintained when an applicant has submitted five consecutive, valid applications for the computer draw. The Department provides an online application process which greatly reduces the opportunity for errors. The application period for applying for bonus points only is approved by the Commission annually, as part of the draw cycle. The Department is evaluating the feasibility of a year round or extended application period for bonus points only. The suggestion regarding providing a check-box on the license application form that would allow an applicant to indicate no changes were made to their personal information and programming the database to fill in a person's personal information has been forwarded to the Department's Information Technology Department for consideration.

*The following comments address the rejection of an application due to a declined credit or debit card payment:*

**Written Criticism: April 8, 2013.** I am writing on behalf of several sportsmen and our concern regarding the Department's stance on a "dishonored or rejected" credit or debit card and the lack of bonus point(s) accrued. To the best of my knowledge, this is essentially what takes place with the online process: An applicant may apply online with a debit or credit card. At the end of the application process, a total of \$7.50 is charged as an "application fee" from your card of choice. A few weeks after the application deadline is met, a reminder is sent to those who used electronic payment cards to make sure their payment information is up to date. After this reminder of the payment information "deadline," cards are charged for those who happened to be successful. Finally, a couple of weeks later, the results come out. Unfortunately, some people are having issues with specific card services and are being rejected when the Department tries to charge the card. I am sure the Department has heard these examples. For reasons beyond the Department's control, these unfortunate applicants are rejected. Unless there is a specific way the charge is being coded, I see no reason how the Department can be responsible for this. I do find that the Department choosing to withhold bonus and loyalty bonus points quite disturbing. Not only is it unreasonable, I would like to know the justification for this? It seems quite simple, in my opinion. Let me break this down: Applicant A chooses to "purchase a bonus point," fills the application out correctly, and remits the appropriate fee (of which \$7.50 is accepted). The application is accepted. Draw results come out and a bonus point is rewarded. Applicant B chooses to apply for a tag, fills the application out correctly, and remits the appropriate fee (of which \$7.50 is accepted). Application is accepted. Draw results come out and the card is rejected or dishonored. It seems to me that there has not been the forethought that all rejections are not "the same." There are many factors to consider. The bottom line is this, if the Department must take the bonus point away because technically the applicant was "successful" in the draw (even though a permit is not issued), I guess that is the Department's stance. But to take a loyalty bonus point away, when considering the true definition of a loyalty bonus point, is completely ludicrous. I hope that there's some reconsideration on this matter.

**Written Criticism: May 28, 2013.** My concern is not so much about the price of tags as much as it is about the burden that the draw process places on applicant funding of (potential) tags. Due to the extended time period from when applications are due to the time when an actual draw is completed, there are millions of dollars in "limbo." These are either committed funds in checks (essentially an applicant's cash asset) being held for months by the Department or they are credit holds that will come due unexpectedly over this time period. An applicant's life can change significantly over a multi-month period. I think it would be a welcome accomplishment by the Department to either speed the draw process up so the vast majority of applicants funds are returned sooner and/or take an extra step for those applicants who are drawn but their credit card does not have enough available credit in that "one moment of time" when the Department attempts to charge the credit card. It would be worth a little research for the Department to learn how little available credit the average Arizonan has "perpetually"

available (not the same as "average" availability of credit). I believe the Department would agree that people (who are drawn only to find out that their credit card only had \$900 of available credit at that exact instance when the Department ran the charge and the buffalo tag they were drawn for is \$1,050) should get another chance to assure payment is available. My requested policy changes on funds: For credit card applicants whose cards are declined due to insufficient funds, the Department should make one additional attempt to debit the applicant's credit card. For hunts where more than \$250 is required for the tag, the Department should conduct the draw in 30 days or less and refund the fees paid to applicants who are not drawn.

**Agency Response:** The Department is evaluating a change to the draw correction period to address credit card rejections. The current application/draw time-frames provide the public with greater flexibility in managing their funds and hunt choices. It is possible that, by eliminating the paper application process and requiring applicants to submit hunt applications online only, the draw/application period may be shortened. However, at this time, the Commission believes offering both the paper and online application process best serves our constituency. However, through this rule review, the Commission has directed the Department analyze ways to allow an applicant to retain any accrued loyalty point and bonus points when the payment submitted for the application is less than the total sum of all applicable fees.

*The following comments advocate allowing a person who drew a tag, but was unsuccessful in taking that animal (species), to purchase another hunt permit-tag for the same species through the first-come, first-served process:*

**Written Criticism: February 23, 2011:** The Commission should allow a person to purchase a tag for the next javelina hunt when the person did not kill a javelina. For example, a person who was unsuccessful during the javelina archery hunt should be able to purchase a handgun, archery, muzzleloader (HAM) tag, and so on.

**Written Criticism: February 7, 2012.** I would like the opportunity to hunt in the HAM and/or rifle season. Unfortunately, if a hunter is unsuccessful in taking a javelina during the archery season, they are prohibited from participating in a later HAM or rifle season. I am sure this is based on the fact that a person cannot draw a tag in multiple seasons for the same species. Here is my suggestion; if an archery or HAM hunter is unsuccessful, they should be allowed to turn in their unused tag and purchase one of the remaining over-the-counter tags. The bow hunter is not competing in the HAM or rifle season draw and leftover tags do not go to waste. There are probably some javelina tags and white tail tags that remain unsold every year; this translates into a shortfall in revenue for the Department.

This amendment would allow avid hunters the opportunity to spend additional days in the field without negatively impacting any hunting group. Seems like a win/win for all.

**Written Criticism: March 5, 2012.** The Department should allow a hunter to purchase a tag for another hunt area if they did not reach their bag limit. It seems that selling the leftover tags would bring in additional revenue, hunters could remain engaged during the hunting season, and more money would trickle into the local economies. It just makes sense. I know that the powers that be would not approve of this in all likelihood or it would already be the 'norm. Too bad, because I would have purchased another tag for a different area and perhaps put some food on the table.

**Agency Response:** Beginning in 2013, the bag limit for javelina was increased to two per year which allows a hunter to possess two hunt permit-tags (certain restrictions apply and are identified under the bag limit description in Commission Order). In addition, the Commission is considering tag surrender options which would allow a hunter to surrender their unused, original hunt permit-tag and purchase another hunt permit-tag through the first-come, first-served process for a future hunt.

*The following comments address bonus point application age requirements:*

**Written Criticism: January 29, 2009.** I am writing in reference to a rule change that prevents children under 10 years of age from applying for bonus points. I am unfamiliar with the justification to change this rule, so I am unprepared to debate its merits. However, this rule clearly discriminates against children under 10 years of age, who prior to the rule change, were able to legally purchased licenses and bonus points. My child, with the approval of the Commission, purchased bonus points that will expire after five years of no activity. Since the Commission sanctioned, accepted payment, and issued bonus points to children under 10 years of age, it seems extremely unreasonable and unfair that the Commission now precludes those children from applying, and thereby causing these applicants to lose bonus points. I therefore ask the Commission to act in good faith for those children who legally applied for bonus points and accommodate them. I suggest three possible solutions for this problem: Refund all license and bonus permit fees that were paid in good faith (this alternative clearly would be costly to the Department). "Grandfather" the children under 10 who legally obtained bonus points, so the five-year expiration period does not begin until the child reaches 10 years of age. Change the rule back to the way it was so children under 10 years of age can apply for bonus points. Clearly, the third alternative would be beneficial to the Department in that it would generate revenue. Also, it is my understanding that the number of children who applied for bonus points prior to the rule change was not significant, so these bonus points will have virtually no impact on the overall points system. To me, the third alternative is the preferred alternative, and I enthusiastically ask the Commission to consider it.

**Written Criticism: June 6, 2012.** I attempted to apply for a bonus point via the online application for my daughter, who will be 10 years of age on June 14, 2012. The online application indicated the applicant must be 10 years of age prior to the opening of the earliest hunt, and she will be, but the system would not allow me to continue due to her birth date; even though she met the age requirement. The online application did not explain why I could not continue at that point, it just would not let me continue the process. I called the Department and learned that an applicant under 10 years of age cannot apply for a bonus point, but can apply for and enter the draw for a hunt. The Department should allow children under 10 years of age to apply for bonus points. The Department should allow parents to purchase a hunting license and bonus points for their children for the first 10 years of their lives. This is something that many parents would do and it could generate significant revenue for the Department. Please share this with those involved in the process as there is an opportunity to simplify the draw process in regards to youth applicants who are transitioning from 9 to 10 years of age and a significant opportunity to increase license revenues by allowing the purchase of a license and bonus points prior to 10 years of age.

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

**Written Criticism: April 28, 2011.** Perhaps it is not feasible, but I think the Department should create a “Four Corners Coop” with Colorado, New Mexico, and Utah where hunters from all four states would be considered “residents” for the purpose of applying for hunts. Each state would still be in charge of setting bag limits, management, regulations, enforcement, etc., with the application process being the only shared component. To appease those who will not like the idea of “sharing” territory, the Department could issue a bonus point to resident applicants so that a resident's chances of being drawn are higher than those from the other states. For example: A Utah hunter who has hunted elk in Utah for the past 27 years has always wanted to go on a famed Arizona hunt, but the nonresident fees are too high. As part of the coop, the hunter could apply for a first choice bull elk hunt in Arizona, a

second choice bull elk hunt in Colorado, third choice bull elk hunt in New Mexico, fourth choice bull elk hunt in Utah (where he has a “local” bonus point), etc. Another example: An Arizona hunter is tired of not being drawn and forced to miss hunting season year after year. His opportunity to be drawn “somewhere” is dramatically increased with the larger pool to submit to. Yet another example: A man and his son live in Colorado. His father is retired in Arizona. They now have the option of putting together a third generation hunting trip as residents, without the out-of-state expense, even though they live in different states. The extra revenue generated from out-of-state hunters and larger numbers of people being able to be drawn would more than offset the loss of nonresident fees from the other three states. Nonresident fees would still apply to residents of any other state.

**Agency Response:** The Commission believes implementing this suggestion would be extremely problematic due to multiple factors that would influence implementation of such a system; such as the creation of new legislation in each state to allow such an activity, existing state laws, law enforcement issues, and species population management. This would also complicate the definition of what constitutes a resident and would provide an unfair advantage to a select group of nonresidents.

**Written Criticism: April 12, 2012.** I understand hunting is a rich man's game. I cannot afford to put in for my extended family, friends, and dog just to build up bonus points; I cannot shoot game for them; and I cannot transfer my tag to a child or grandchild. I know people who put in for 15 other people (non-hunters) just to increase their odds. Every person I talk to, who make good money, does this and I think it is wrong. Putting the draw online multiplied the problem tremendously. My idea, charge persons to see their draw results online. Take the draw application off the Internet to cut down on the applications for people who are not serious about applying. The online application kills the odds for good, ethical hunters who love and respect the outdoors.

**Agency Response:** The Commission disagrees. Charging an additional fee for a person to see draw results online would be unfair to customers who choose to use that method. The suggestion would also result in greater telephone and office 'traffic' due to customers seeking no-cost draw results information. The Commission believes there is a benefit in allowing progress and growth through online technology and elected to move to an online hunt application system. Public comments were solicited prior to moving in this direction. The Commission launched the online license application system in January 2010. Since then, approximately 266,000 licenses have been purchased using the online system. The Commission launched the online draw application system in October 2011. Since then, approximately 75% of draw applicants apply using the online system. The online system has increased the Department's efficiency in processing applications and greatly reduced the number of application errors, resulting in fewer rejected applications.

**Written Criticism: April 26, 2010.** Allow a person to drop off an application for a leftover permit.

**Agency Response:** The Commission-approved schedule allows for first-come, first-served applications by mail-only for the first week in order to ensure the application process is equal for residents and nonresidents.

**Written Criticism: May 16, 2010.** The Department has turned hunting and fishing into a money making racket by using our youth to make bundles of money and dropping the amount of hunting days so that the working man has only two days to hunt. We used to have three weekends to hunt; now we have split hunts which are ridiculous. The price keeps going up. The Department says the hunt draw is on the up and up, yet I see the same hunters are drawn every year. One young man told me that his grandmother works for the Department and he gets an elk tag every year. The December archery hunts were starting to improve in Game Management Unit 42 and then the Department changed that hunt to January, which allowed the deer to go where the hunters could not get to them. The Department has managed to screw up every hunt that we used to enjoy; all for a dollar. For the last 19 years I have put in for antelope and not one tag yet. I know two guys who have been drawn for my area two out of three years. If the hunters do not step up soon, hunting will only be for the rich. I have lived and hunted in Arizona for 55 years and it has become a joke. No wonder we have more poachers. I used to be against poaching, but am beginning to understand why people do it. We need to get rid of the Department and start over.

**Agency Response:** Commission Orders establishing hunt structures are based on hunt recommendations resulting from an extensive public process. The statement, "The price keeps going up" is confusing as the Commission has not increased license or tag fees since January 1, 2007. The Department's draw system awards hunt permit-tags to eligible applicants in the order of the computer generated random numbers; a bonus point gives an applicant an additional opportunity for a low random number. In many units, the number of first choice applicants far exceeds the number of permits available; for antelope, the ratio of first-choice applicants to available tags is 45/1. Poaching is the illegal take of game or fish, trespassing, littering, theft, or destroying property. When poachers kill out of season, or kill more than the state bag limit, they jeopardize the health and longevity of wildlife populations and interrupt breeding seasons. Rules and restrictions are in place to protect future populations and keep our natural resources available and abundant long-term.

- 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 Department is unable to determine whether the rule has resulted in the estimated economic, small business, and consumer impacts as the most last making of the rule became effective January 1, 2014. The rule was last amended to remove references to "calendar year, " require a person to possess an appropriate hunting license that is valid on the day of the application deadline or on the day of the extension deadline, and replace the term "juvenile" with "youth" to maintain consistency between Commission rules. The Commission's objectives for the exempt rulemaking are to simplify the license structure and remove barriers for recruitment of new hunters and anglers. The Commission anticipates the new, simplified license structure will benefit constituents and the Department.

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

The Department did not receive any analyses.

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

The Department did not complete the course of action indicated in the five-year review process report as anticipated. G.R.R.C. approved the report at the December 2, 2008 Council Meeting, which stated the Department anticipated submitting the final rules to the Council by April 2011. The Department was unable to complete the indicated course of action by April 2011 due to the rulemaking moratorium in effect at that time.

While exceptions were granted during the moratorium, the exception criteria were very specific. The Department reviewed the recommended actions for this rule and determined that none of the recommendations included in the previous five-year review report met the exception criteria authorized under Laws 2010, Second Regular Session, Chapter 287, Section 28.

In 2011, the rulemaking moratorium was extended by way of Executive Order 2011-05. Item #4 of the Executive Order exempted any state agency whose agency head is not appointed by the Governor. The Department considered Commission priorities and five-year review report due dates when determining which rulemakings to pursue.

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

The public benefits from a rule that establishes application requirements. An application that does not meet the requirements established under the rule is considered invalid and is rejected. The Department receives approximately 231,000 applications each year; approximately 10,500 are rejected because the application failed to meet the requirements under the rule. While the rule appears to be clear, concise, and understandable, most rejections are a result of human error (incomplete or illegible application), applicants being ineligible to apply, or insufficient funds. The public benefits from a rule that provides application requirements for the issuance of hunt permit-tags and purchase of bonus points. The public and Department benefit from a rule that is understandable. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

The Commission launched the online license and draw application systems. Due to built-in system edits, the system cannot accept an application that contains errors. The online systems have increased the Department's efficiency in processing applications and greatly reduced the number of rejected applications.

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

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

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

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

The Department proposes to amend R12-4-104 as indicated in this report and anticipates submitting

the Notice of Final Rulemaking to the Council by June 2015.

#### **R12-4-105. License Dealer's License**

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

General: A.R.S. § 17-231(A)(1)

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

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

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

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

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. In addition, there are over 300 authorized license dealers and none have submitted written criticisms in regards to the rule. The Department believes this data indicates the rule is effective.

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

The rule is consistent with and not in conflict with statutes and rules, with the exception of A.R.S. § 17-338. Laws 2013, 1st Reg. Sess., Ch. 197 amended the statute to authorize the Commission to establish deadlines for the transmission of license fees and the submission of the license dealer monthly activity report. The Department proposes to amend the rule to establish these deadlines. In addition, the Department proposes to amend the rule to remove the definition of "license dealer" because the definition already exists under R12-4-101. Statutes and rules used in determining consistency include A.R.S. Titles 17 and 12 A.A.C. Chapter 4.

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

The Department enforces this rule through proper administration. The rule is currently being enforced as written. However, the Department is aware of a problem with the submittal of the duplicate affidavit for duplicate licenses sold by a dealer. The Department requires a license dealer to submit an affidavit for each duplicate license sold by the dealer. The affidavit is furnished by the Department and is included in the license book on the back of the Department copy of the license. The duplicate license is \$4 and the dealer must remit the full license fee when the affidavit is not completed. While the smaller license dealers consistently submit completed duplicate affidavits, the larger license dealers submit approximately three completed duplicate affidavits for every five duplicate licenses sold. This causes the Department to expend additional resources and prevents the timely submittal of license revenue. While the duplicate affidavit requirement is referenced in the reporting section of the rule, the Department proposes to amend the rule to clarify this requirement by adding a subsection that specifically addresses the duplicate affidavit requirement.

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

Overall, the rule is clear, concise, and understandable. However, the Department proposes to amend the rule to ensure conformity with the Arizona Administrative Procedures Act and the Secretary of State's rulemaking format and style requirements. The Department anticipates these changes will result in a rule that is more understandable.

**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 has not received any written criticisms of the rule.

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

**of the rule.**

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on March 7, 2006; which stated the rulemaking would benefit businesses that sell licenses, customers that patronize those businesses, and the Department by removing the requirement that a license dealer specialize in the sale of, or has a department specializing in the sale of, equipment intended for hunting, trapping, or fishing and by allowing a license dealer to use their own license stock, when authorized. Under A.R.S. § 17-338(B), persons issuing licenses or permits shall retain as their compensation five % of the selling price of each license or permit. License dealers sell approximately 553,350 licenses annually, resulting in a total of \$668,330 retained by license dealers.

- 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 Department did not indicate a course of action for this rule in the previous five-year review report.

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

The public benefits from a rule that establishes the requirements that allow a license dealer to transact license sales on behalf of the Department. The Department has six offices located in various cities throughout the state that sell hunting and fishing licenses to the public. License dealers sell approximately 553,350 licenses annually. The public and Department benefit from a rule that is understandable. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

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

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

- 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.**

Not applicable, the rule was adopted before July 29, 2010.

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

The Department proposes to amend R12-4-105 as indicated in this report and anticipates submitting the Notice of Final Rulemaking to the Council by June 2015.

#### **R12-4-106. Licensing Time-frames**

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

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 41-1072 and 41-1073

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

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

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

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. In addition, the Department has not received any written criticisms of the rule and previous licensing time-frame reports indicate the regulated community and the Department met the requirements of the rule more than 99.9 % of the time. The Department believes this data indicates the rule is effective.

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

The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include A.R.S. §§ 41-1072 et seq and Title 17, and 12 A.A.C. Chapter 4.

The Department proposes to amend the rule to remove references to special license-tags because special license tags are self-contained tags (meaning a hunting license is not required) that are exempt from administrative and substantive review. According to the criteria, they are not subject to the requirements of A.R.S. § 41-1072 et seq.

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

The Department enforces this rule through proper administration. Overall, the rule is currently being enforced as written and the Department is not aware of any problems with the enforcement of the rule. However, the Department proposes to amend the rule to establish time-frames for the use of drugs on wildlife authorization, allow the applicant and Department to extend the over-all time-frame, and address scenarios where an applicant either demonstrates they are not eligible for the license prior to the substantive review or fails to respond to Department correspondence. In addition, the Department proposes to amend the rule to increase substantive review time-frames for each license that requires an inspection to ensure the Department has sufficient time to complete the required inspection during the substantive review.

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

Overall, the rule is clear, concise, and understandable. However, the Department proposes to amend the rule title to clearly indicate the rule only applies to special licenses issued by the Department as opposed to a hunting or fishing license that is issued immediately. In addition, the Department proposes to amend the rule to define "overall," "administrative," and "substantive" time-frames,

describe when time-frame periods and suspense time-frame periods begin and end, and specify how an applicant may withdraw an application. The Department anticipates these changes will result in a rule that is more understandable.

- 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.**

The Department has not received any written criticisms of the rule.

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

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on March 7, 2006; which stated the rulemaking would benefit applicants for special big game license tags and the Department by affording more time for participants to apply for a special big game tag and for the Department to consider an application.

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

The Department did not receive any analyses.

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

The Department did not complete the course of action indicated in the five-year review process report as anticipated. G.R.R.C. approved the report at the December 2, 2008 Council Meeting, which stated the Department anticipated submitting the final rules to the Council by July 2009. The Department was

unable to complete the indicated course of action by July 2009 due to the rulemaking moratorium in effect at that time.

While exceptions were granted during the moratorium, the exception criteria were very specific. The Department reviewed the recommended actions for this rule and determined that none of the recommendations included in the previous five-year review report met the exception criteria authorized under Laws 2010, Second Regular Session, Chapter 287, Section 28.

In 2011, the rulemaking moratorium was extended by way of Executive Order 2011-05. Item #4 of the Executive Order exempted any state agency whose agency head is not appointed by the Governor. The Department considered Commission priorities and five-year review report due dates when determining which rulemakings to pursue.

- 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 regulated community benefits from a rule that establishes a definitive time-frame in which the person's application will be processed, which allows the applicant to make decisions relating to the license. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

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

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

- 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.**

Not applicable, the rule was adopted before July 29, 2010.

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

The Department proposes to amend R12-4-106 as indicated in this report and anticipates submitting the Notice of Final Rulemaking to the Council by June 2015.

### **R12-4-107. Bonus Point System**

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

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-102, 17-231(A)(2), and 17-231(A)(7)

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

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

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

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

**supporting the conclusion reached.**

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. The Department believes this data indicates the rule is effective. While the Department has received a number of written criticisms in regards to the current bonus point system, the Commission determined through an extensive public process and a random survey of hunters that a bonus point system was preferred by the regulated public. Implementing a preference point system that awards hunt permit-tags based solely on accumulated points would have a negative impact on the recruitment of new hunters. The bonus point system rewards loyal applicants and provides new applicants an opportunity to successfully participate in the draw.

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

The rule is consistent with and is not in conflict with statutes and rules, with the exception of A.R.S. § 17-341, which states that it is unlawful for a person to knowingly purchase, apply for, accept, obtain or use, by fraud or misrepresentation a license, permit, tag or stamp to take wildlife and a license or permit so obtained is void and of no effect from the date of issuance thereof. Because bonus points are not referenced under A.R.S. § 17-341, the Department has no mechanism in place to void bonus points that are obtained by fraud. The Department proposes to amend the rule to specify that any bonus point that is fraudulently obtained shall be removed from the person's Department record. Statutes and rules used in determining consistency include A.R.S. Title 17 and 12 A.A.C. Chapter 4.

Laws 2013, First Regular Session, Chapter 197, Section 12 amended A.R.S. § 17-333 to authorize the Commission to establish license classifications and their associated fees in rule. The Commission approved the exempt rulemaking implementing recent legislative changes and establishing a simpler license structure and associated fees. The amended rule became effective January 1, 2014.

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

The Department enforces this rule through proper administration. The rule is currently being enforced as written. The Department has received a number of written criticisms from persons who failed to provide sufficient funds to cover the application. In order to accrue a bonus point and maintain a loyalty bonus point, a person must submit a valid application each year; an application is deemed

invalid when the funds are not sufficient to cover the application. A person who fails to provide sufficient funds to cover the required fees will not accrue a bonus point and will forfeit any accrued loyalty bonus point. In response to customer comments, the Commission has directed the Department analyze ways to allow an applicant to retain any accrued loyalty point and bonus points when the payment submitted for the application is less than the total sum of all applicable fees.

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

The rule is clear, concise, and understandable.

**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.**

Multiple comments were received during the Department's Hunt Guidelines public comment period. Portions of comments relating specifically to hunt guidelines, and that do not apply to this rule, are not included below (signified by ellipses). The agency received the following written criticisms of the rule:

*The following comment simply provides a statement relating to the bonus point system; because the commenter does not ask a question or provide a suggestion, the Department believes an agency response is not required:*

**Written Criticism: April 30, 2009.** My only comment is that the "bonus point" system is a miserable failure. As I recall, when it was put into place, hunters were assured they would be drawn by the time they accumulated seven bonus points. I have 11 points for antelope and 9 points for elk. I know five hunters who were drawn last year and drawn again this year for their first choice hunts: one drew a general bull permit, two drew cow permits, and two drew early bull permits. The person with the early bull hunt drew the same tag again this year. The person with the cow permit drew a permit in the same hunt unit again this year. It is really strange that some people are drawn back-to-back for years and some of us are well past the seven year mark that was promised when the Commission campaigned for the bonus system.

*The following comments suggest awarding bonus points to certain applicants, as well as instituting*

*a waiting period that veterans or seniors would be exempt from. Comments regarding waiting periods are addressed in R12-4-104.*

**Written Criticism: April 30, 2009.** In an effort to allow hunters a better opportunity to hunt big game, would it be possible to increase the likelihood of being drawn for deer if a hunter fails to be selected for an elk or antelope hunt? Since the hunts are staggered, I suggest the Department issue a deer bonus point to a person who was not drawn for an elk or antelope hunt. These bonus points would last one-year and expire at the end of the deer drawing. I think just getting the opportunity to hunt, especially big game, is better than not being drawn at all. I know many people who are drawn for both elk and deer in the same year and many people who are not drawn for either in the same year. I love the fact that the deer and elk drawings occur at different times of the year, but I would like to see those who are not drawn for elk have an opportunity to be drawn for deer. As an avid hunter, if I were selected for an elk hunt I would gladly give up a deer hunt to a hunter who would not be drawn for anything in a year. Being on both ends of this situation, I really feel like this would be a positive step in the big game selection process.

**Written Criticism: May 15, 2009.** I am 73 years of age and love to hunt. I was not drawn this last February for an elk tag. I am getting older and I do not have that many years left to hunt; is there any chance of giving senior citizens like myself a preference point or an extra bonus point for whatever hunt draw they are applying for? Maybe it could be based on oldest age. I am quite sure there are others in Arizona who are up in years and would still like to get in a couple of hunts before having to hang up the rifle.

**Written Criticism: May 31, 2009.** I am 71 years of age and a prostate cancer survivor. I use elk meat as a primary source of good, quality red meat. I put in for antlerless muzzleloader to try to increase the odds of being drawn, but I have not been drawn for three years. At the present rate, I will be too old to hunt by the time I am drawn. I suggest the Department increase the odds for the hunters that are in the older age group; possibly issue an additional five permanent bonus points with each Pioneer license. Please consider this as a way to help older hunters who want to hunt while they are still physically able.

**Written Criticism: March 10, 2011.** I would like to see the Department give a break to elderly hunters. I am 80 years of age and I do not have many hunting years left. Extra bonus points for us elderly hunters could help.

**Written Criticism: April 29, 2011.** I would like the Department to look at the process of drawing a tag in Arizona, regardless of the type of hunt. The drawing process is totally screwed up. I often hear

that people draw tags that others have been waiting years to draw, regardless of the amount of bonus points they hold. It seems that that the people with fewer or no bonus points draw the tags. The bonus point process just does not work. I have been putting in for early bull rifle for years; I have 18 bonus points. I hear that people with fewer or no bonus points are drawing what I have been waiting years for. My buddies have been putting in for archery bull for years and cannot draw the tags they want, and again I hear that someone drew their tag with no bonus points. For instance, one buddy had only one bonus point and another buddy has ten. The buddy with one bonus point drew a 3A/3C archery bull tag while my buddy with ten points and me drew nothing. Now tell me, is that how the bonus point system should work? Same goes for me putting in for early bull rifle. A couple years ago, I put in for the Game Management Unit 10 early bull rifle hunt and I had a bunch of bonus points. I heard that a person drew an early bull Game Management Unit 10 rifle hunt and she had zero bonus points. Here I am with too many bonus points to count and I cannot draw a tag. The system is wrong, it does not work correctly. I would not mind sitting out if I had no bonus points and waiting my turn to draw a great tag. Fair is fair, wait your time and then put in for these quality hunts. People drawing quality tags with no or low bonus points just shows me the system does not work. The Department needs to correct this problem and make it fair. Do something like Nevada, Utah, Colorado, and New Mexico: quality high demand hunts with a point restriction for those putting in for these quality hunts. People who wait their time should draw the tags, not those who just threw an early bull hunt on their application. The system is way outdated.

**Written Criticism: August 11, 19, 22, and 24 (2), September 9, and April 11, 2011 (2 from same person, 4 using form letter).** I suggest the Commission award veterans, and persons who file an application with a veteran, 15 permanent bonus points. Once drawn, a successful draw applicant must wait two years before applying for another tag. The waiting period would not apply to veterans and persons who file an application with a veteran.

**Written Criticism: July 19, 2013.** When a hunter applies for a Kaibab hunt as first choice and is not drawn for a permit, the Department should award the hunter a bonus point to carry forward to the following year; even if the hunter is successful in the draw for another unit. I normally make one of the whitetail units my second choice to increase my chances of drawing a permit-tag. I am usually successful, so I lose any accumulated bonus points. The process I suggest would give unlucky hunters like me a better chance to hunt mule deer on the Kaibab or another quality hunt unit. The Kaibab and possibly the late whitetail hunts where only a few permits are issued could be considered premier hunts.

**Agency Response:** Through an extensive public process, the Commission determined a bonus point system was preferred by the regulated public. Implementing suggestions like those above would

convert the current bonus point draw system to a preference point system. Implementing a preference point system that awards hunt permit-tags based solely on accumulated points would have a negative impact on the recruitment of new hunters. The bonus point system rewards loyal applicants and provides new applicants an opportunity to successfully participate in the draw. The Department's draw process is designed to provide equal opportunity to all classes of persons; not to provide an advantage to certain classes. As a result, the Commission believes the Department should offer and award bonus points to all eligible applicants. As to a waiting period, see the responses provided on page 31.

***The following comments address the permanent hunter education bonus point requirements:***

**Written Criticism: May 1, 2009.** The Department should get rid of the requirement that a mandatory in person session is needed to earn the hunter education bonus point. It is too costly for me to travel 2,000 miles for the education course when I already took it in another state and have hunted for 53 years. I feel that, at the tender age of 63, I should not have to do it again. In this economy, the Department cannot expect new hunters to start paying license and draw fees and still expect to not draw a tag for several years. They just will not do it. As us older hunters finally draw, we will stop buying and applying since we may never draw again. So, we go to another state.

**Written Criticism: January 2, 2013.** I would like the Commission to allow a nonresident to take the Arizona hunter safety field course in another state through an accredited instructor, possibly through existing states hunter safety programs.

**Agency Response:** Through an extensive public process, the Commission, decided to award a permanent bonus point to a person who successfully completes the revised Arizona Hunter Education Course. Because each state has their own hunting and fishing laws and rules and distinct wildlife and conservation issues and concerns, the Commission does not believe all hunter education classes are equal and therefore requires completion of the Arizona Hunter Education Course.

***The following comments address a variety of topics:***

**Written Criticism: June 18, 2009.** The current big game hunt draw system is cumbersome and outdated. With the large numbers of persons applying for hunts, the current bonus point system seems to give almost no advantage to the hunter who faithfully applies each year. I know that scrapping the current bonus point system would lead to protests from those who possess accumulated points; however, I would happily forfeit the nine elk bonus points I have to be able to apply online. It is my understanding that the Department has not been able to find a vendor who can handle our complicated point system. Frankly, I find that hard to believe, but that is another subject. Other states seem to have

success with online application processes using credit cards with an option to mail applications. I suppose that if a vendor could be found and the current point system could be kept, I would be in favor of that over today's mail in system. ...

**Agency Response:** The Commission launched the online license application system in January 2010. Since then, approximately 266,000 licenses have been purchased using the online system. The Commission launched the online draw application system in October 2011. Since then, approximately 75% of draw applicants apply using the online system. The online system has increased the Department's efficiency in processing applications and greatly reduced the number of application errors, resulting in fewer rejected applications.

**Written Criticism: March 22, 2012.** I would like to suggest the Department offer a bonus point to applicants who apply using the paper application and pay all costs up front. I am not opposed to online applications; however, it is important for the Department to recognize the negative impact the online process has on draw success. Currently, only those who apply online benefit from the online process (aside from increased revenues for the Department). A bonus point would help level the field, by giving hunters an option to increase their odds, defer payment, and ease the financial burden on nonresident hunters and residents struggling to make it during these hard economic times. The 'paper application' bonus point would complement a great package and offer a fair shake to the hunter while allowing the Department to achieve revenue goals and properly manage wildlife. **Follow-up Criticism: March 26, 2012.** I realize the Department would like to move away from paper applications entirely. I view the manual application bonus point as a point that would not accumulate, it would be very similar to the loyalty bonus point in that a person could only earn one and if the person used the online application the following year, they would forfeit the point. This would offer incentive and an avenue for applicants to "increase" their draw success to offset the decreased draw success rates due to the online system. Out-of-state hunters do not affect resident hunters draw success as they are capped at 10% and that is where a large majority of increased revenue will come from, so the Department wins. The more the merrier in my opinion, so the Department can win big through license sales. A small percentage of hunters will take advantage of the credit card option due to the fact that they need the ability to defer payment. The Department wins again through revenue streams as well as hunter recruitment and so does the small percentage of applicants who could not enter any other way. A majority will use the online application simply for convenience and the Department wins again. A fairly substantial amount of applicants now have the ability to apply up to eight times for the draw at an extremely reduced applicant fee (adult hunt license only, plus application fee) and it would be very difficult for the Department to track and it is completely legal under Commission regulation. However, the morality should be questioned. I'll put it in black and white, parents and/or legal guardians and both sets of grandparents can now apply for hunts with no intention of ever hunting

themselves. This happens a lot; I personally know of five families who are doing this now that the online applications have returned. Two of those families have always done it regardless of available application options. That is an additional 24 applicants that I am now competing with for a tag. I am all for hunter recruitment and doing just about anything to get youth involved in this incredibly important pastime, but this is a little ridiculous and provides those persons with an unfair advantage. This is a link to a poll I started on a hunting forum: <http://www.rutnhard.net/forum/general-discussion/4670-draw-bonus-point-poll.html> (Poll information: Posted May 2011; 63 votes were cast; question: If a bonus was offered for the paper application would you support it? Yes, I like the idea - 68.25%. No, I do not like the idea - 25.40%. Do not understand - 6.35%). The poll is new and I realize it is not a legitimate poll, but I thought I would share it anyway. I did not mention what I shared with the Department in the forum because the problem is big enough as it is and I am not about to educate the general public about this "loop hole" created by the Department for youth hunters. One last thought, the world is moving towards plastic credit which is real scary to me and the reason this economy is in the condition it is in. It would be a great thing to teach our youth what it felt like to earn, touch, save, and "invest" an actual dollar? I think a lot of adults could use a lesson with this as well. When I am not drawn, I cash my application refund check and place it in the gun safe for the next go round, leaving me to scrape up an application fee for the next year. I do not feel sorry for those who "blow it" at the grocery store or wherever they choose. I have never heard anyone say they were glad to receive the refund check so they could pay a bill, save for retirement, or something wise.

**Agency Response:** The Commission provides both a manual (paper) and electronic (online) license and draw application process, which allows the public to choose which process best fits their personal situation. Through an extensive public process, the Commission designed a bonus system that provides equal opportunity to all persons and not to provide an advantage to certain person's based on how they apply. The online system has increased the Department's efficiency in processing applications and greatly reduced the number of application errors, resulting in fewer rejected applications.

**Written Criticism: July 3, 2013.** A resident of Arizona who maintains a valid hunting license should maintain status as an active participant and should be able to maintain their big game hunting points as long as a valid hunting license is held. The resident should not be dismissed after the five-year inactive period for the draw. Quail and dove should count as hunting. This should not be about the revenue that bonus points generate every year. An outdoorsman should be able to take a break from the draw for whatever reason and not be penalized or forced into purchasing a bonus point every year.

**Agency Response:** Bonus points and loyalty bonus points may only be gained or lost through the computerized draw system. Only valid applications are entered into the system. If an application is not entered into the system, the system cannot award a bonus point or detect any licensing activity.

However, your comment will be placed in the record to be considered if the Department chooses to reconfigure the computerized draw system.

**Written Criticism: January 29, 2009.** I am writing to ask the Commission to amend R12-4-107, which prohibits children under age ten from building bonus points for Arizona's big game drawings. I am strongly opposed to the current rule and implore the Commission to change it. My children deserve the greatest opportunities that I as an adult can provide them in all areas of life; and the opportunity to experience hunting is no exception. However, the current rule prevents children from competing effectively for what is becoming extremely limited and highly sought after opportunities to experience the truly world class hunting opportunities that Arizona provides. The Commission has the ability and opportunity to change this to "level the playing field" and I plead for the Commission do so. Please do not further restrict what little chance I have for this. Please modify the rule so that I can build bonus points for my son now, so I will have a realistic chance of being able to hunt with him in the future. Beyond my personal plea for this, it would seem to make sense financially for the Commission to change this rule as well. The license and bonus point fees the Department would collect from my family is 'free money' to the Department. In these tough financial times, at a minimum, this would seem to be good business as it would create a new funding source that generates nearly 100% profit. I am asking the Department to take my money just for a chance to realize a benefit somewhere between 6 and 14 years from now, with no guarantee that any benefit will ever be realized. It just does not get any better than that for the Department. My children will benefit from increased opportunity, the Department will benefit from increased revenues, and the sport of hunting will benefit as children allow the sport to grow. There is no loss in doing this and it can all be accomplished by simply changing this rule.

**Agency Response:** Through an extensive public process, the Commission determined that bonus points should be awarded to eligible hunters, not future hunters. If a youth is nine at the time of application and selects the bonus point only hunt number, they are electing not to hunt during that season, therefore they are not eligible to apply. R12-4-601 prescribes the process by which a person may petition the Commission to reinstate bonus points.

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 Department is unable to determine whether the rule has resulted in the estimated economic, small business, and consumer impacts as the most last making of the rule became effective January 1, 2014. The rule was last amended to remove references to "calendar year" and require a person to possess an appropriate hunting license that is valid on the day of the application deadline or on the day of the extension deadline. The Commission's objectives for the exempt rulemaking are to simplify the license structure and remove barriers for recruitment of new hunters and anglers. The Commission anticipates the new, simplified license structure will benefit constituents and the Department.

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

The Department did not receive any analyses.

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

Not applicable, the Department did not indicate a course of action for this rule in the previous five-year review report.

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

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

However, the Department proposes to simplify the process by which a military member may request the reinstatement of a bonus point by no longer requiring the person to submit a letter requesting the reinstatement of bonus points along with information that is readily available on the unused big game tag (also required). This is done to provide better customer service. In addition, the Department proposes to amend the rule to enable other entities to provide hunter education courses by specifying

requirements for qualifying hunter education courses. The Department awards one permanent bonus point for each genus to a person who successfully completes the Department's hunter education course. Courses are offered on a frequent basis in select cities and online. However, classes fill up months in advance and often require a person to travel. Allowing other entities to provide the course reduces the burden and costs on persons who prefer to take the course in a classroom environment. This change is in response to customer comments received by the Department.

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

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

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

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

The Department proposes to amend R12-4-107 as indicated in this report and anticipates submitting the Notice of Final Rulemaking to the Council by June 2015.

**R12-4-108. Management Unit Boundaries**

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

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-102, 17-231(B)(2) and 17-234

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

The objective of the rule is to establish Game Management Unit boundaries for the preservation and management of wildlife. The Commission divides the state into 76 units for the purpose of managing

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

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

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

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

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

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

The Department enforces this rule through proper administration. The rule is currently being enforced as written and the Department is not aware of any problems with the enforcement of the rule. However, the Department proposes to amend R12-4-108 by updating Game Management Unit boundaries to provide additional clarity and maintain recreational opportunities for the public (both hunters and outdoor recreationists).

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

The rule is clear, concise, and understandable.

- 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.**

The Department has not received any written criticisms of the rule.

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

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on June 5, 2012, which stated the rulemaking would benefit the public and Department by clearly defining boundaries in which certain activities are lawful, and by reducing the probability that a hunter would unwittingly violate the law or potentially endanger public safety.

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

The Department did not receive any analyses.

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

The Department did not complete the course of action indicated in the five-year review process report as anticipated. G.R.R.C. approved the report at the December 2, 2008 Council Meeting, which stated the Department anticipated submitting the final rules to the Council by April 2011. The Department was unable to complete the indicated course of action by April 2011 due to the rulemaking moratorium in effect at that time.

While exceptions were granted during the moratorium, the exception criteria were very specific. The Department reviewed the recommended actions included in the previous report for this rule and determined that only one recommendation met the exception criteria authorized under Laws 2010, Second Regular Session, Chapter 287, Section 28 (B)(7), which allows an agency to eliminate or replace archaic or illegal rules. The Department was granted permission to pursue rulemaking to amend R12-4-108 to include new properties acquired by or donated to the Department and update landmark references (for example, Walnut Creek is now referred to as Walnut Canyon). In compliance with the exception granted, no other amendments were made to the rule. The rulemaking action was completed as follows:

- Notice of Rulemaking Docket Opening: 18 A.A.R. 107, January 13, 2012.
- Notice of Proposed Rulemaking: 18 A.A.R. 69, January 13, 2012.
- Public Comment Period: January 13, 2012 through March 9, 2012.
- G.R.R.C. approved the Notice of Final Rulemaking at the June 5, 2012 Council Meeting.
- Notice of Final Rulemaking: 18 A.A.R. 1458, June 29, 2012.

In 2011, the rulemaking moratorium was extended by way of Executive Order 2011-05. Item #4 of the Executive Order exempted any state agency whose agency head is not appointed by the Governor. The Department considered Commission priorities and five-year review report due dates when determining which rulemakings to pursue.

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

The public benefits from a rule that establishes Game Management Unit boundaries for the preservation and management of wildlife. 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 is open to hunting. It is illegal for a person to take wildlife, specified on the tag, in any area other than the unit specified on the tag and hunters rely on the unit boundary descriptions provided in R12-4-108 to ensure that they are in compliance. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

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

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

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

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

The Department proposes to amend R12-4-108 as indicated in this report and anticipates submitting the Notice of Final Rulemaking to the Council by June 2015.

#### **R12-4-109. Approved Trapping Education Course Fee**

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

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-333.02

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

The objective of the rule is to establish the maximum fee a person may charge for a trapping education course. The trapping education course fee limitation was previously prescribed under A.R.S. § 17-333.02. With the passage of Senate Bill 1223, the Commission was granted the authority to establish the maximum fee a person may charge for a trapping education course. The rulemaking did not change the maximum trapping education course fee that was specified in statute.

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

The rule appears to be effective in achieving the objective stated above. However, because the rule only became effective on January 1, 2014, there has not had sufficient time to adequately determine whether the rule is truly effective in achieving its objective.

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

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

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

The Department enforces this rule through proper administration. The rule is currently being enforced as written. The Department is not aware of any problems with the enforcement of the rule. However, because the rule only became effective on January 1, 2014, there has not had sufficient time to adequately determine whether there are any problems with enforcement of the rule.

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

The rule appears to be clear, concise, and understandable.

**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.**

The Department has not received any written criticisms of the rule.

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

The rule was adopted through exempt rulemaking and the economic, small business, and consumer impacts statement was not required at that time. Under A.R.S. § 17- 333.02(A), a person applying for a trapping license must successfully complete a trapping education course conducted or approved by the

department before being issued a trapping license. The statute further specifies that the Commission shall determine the fee for the course. The Commission determined the fee previously specified under A.R.S. § 17- 333.02(A) was reasonable and sufficient. Trapping is a highly cultural, traditional method of take with a very nested user base; the cost of the trapping education course and license is minimal compared to cost of equipment. While Arizona boasts the longest trapping season in the nation, license sales are not significant; the Department issues an average of 150 trapping licenses annually. Persons who are considering taking up trapping may be directly affected by the rule. A person who participates in an approved trapping education course may incur the cost of paying a fee up to the maximum established in the rule. A user who participates in a trapping education course will benefit from instruction on the history of trapping, trapping ethics, trapping laws, techniques in safely releasing nontarget animals, trapping equipment, wildlife management, proper catch handling, trapper health and safety and considerations and ethics intended to avoid conflicts with other public land users. As a result of the statutory changes, the Department incurred the cost of making these rules and will incur the cost of implementing them. The Department has the benefit of complying with statute. The only businesses directly affected by the rulemaking are providers of an approved trapping education course. Their costs are assumed voluntarily. Because most businesses directly affected by the rule are small businesses, no less intrusive or less costly alternative methods would enable the Department to fulfill its statutory responsibility. It should be noted that any effect on a business is voluntarily assumed by the business because it has determined that the benefits from having a trapping education course outweigh the costs.

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

The Department did not receive any analyses.

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

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

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

The public and the Department benefit from a rule that establishes the maximum fee a person may charge for a trapping education course. The trapping education course fee limitation was previously prescribed by statute and recent amendments to A.R.S. § 17-333.02 granted the authority to establish the maximum fee for a trapping education course. The rulemaking did not change the maximum trapping education course fee that was specified in statute. The public and Department benefit from a rule that is understandable. The Department believes the rule imposes the least burden and costs to persons regulated by the rule.

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

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

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

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

No action

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

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

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-102, 17-231(B)(2), and 17-304

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

The objective of the rule is to prescribe required conduct on State Trust Lands by licensed sportsmen and to ensure access by such sportsmen is not unlawfully blocked. The rule also sets forth the

Commission's criteria for allowing the closure of roads leading to hunting and fishing areas. The rule was adopted to prevent a person from denying access to or use of any existing road located on state lands by persons lawfully scouting for, taking, or retrieving wildlife and to ensure continued use of state lands while protecting public health and property.

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

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. In addition, approximately 265,000 licensed hunters go afield each year in Arizona and, annually, approximately 28 persons are cited for hunting or taking wildlife in the wrong Game Management Unit and 8 persons are cited for hunting or taking wildlife in areas that were closed to hunting. The Department believes this data indicates the rule is effective.

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

The rule is consistent with and is not in conflict with statutes and rules, except for R12-4-801 and R12-4-802. These rules limit or restrict motor vehicle travel on State Land. The Department proposes to amend the rule to specify a person who is hunting, fishing, or trapping (or engaged in any activities associated with hunting, fishing, or trapping) on state land shall not operate motor vehicles off-road or on roads that are closed to the public, except to pick up lawfully taken big game animals. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

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

The Department enforces this rule through proper administration. The rule is currently being enforced as written. The Department is not aware of any problems with the enforcement of the rule. However, to include persons who are lawfully exempt from hunting and fishing license requirements, the Department proposes to amend the rule to replace "licensed hunters and fishermen" with "persons legally taking wildlife." To access state land, a person is required to have a permit issued by the State Land Department. The State Land Department considers hunting or fishing licenses to be the equivalent of this permit when the person is in the act of hunting or fishing or any activities that are within the scope of hunting or fishing. The current language does not address persons who are exempt

from licensing requirements and is replaced with more appropriate language.

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

Overall, the rule is clear, concise, and understandable. However, the Department proposes to amend the rule to provide additional clarity and maintain consistency by further defining “existing road” to clearly indicate that the road referenced has not been closed by the Commission and to specify that a person needs to post signs when the Commission has permitted a road closure. In addition, the Department proposes to amend the rule to ensure conformity with the Arizona Administrative Procedures Act and the Secretary of State’s rulemaking format and style requirements. The Department anticipates these changes will result in a rule that is more understandable.

**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 has not received any written criticisms of the rule.

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

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on March 7, 2006; which stated the rulemaking would benefit the Department and the State Land Department by making the Department’s rules consistent with the State Land’s rule, R12-5-533, to ensure consistent and uniform enforceability of laws and rules on state land and state land users who have gates on the land by requiring a person to close any gate they open when they are hunting, fishing, or trapping to prevent livestock from escaping.

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

The Department did not receive any analyses.

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

The Department did not complete the course of action indicated in the five-year review process report as anticipated. G.R.R.C. approved the report at the December 2, 2008 Council Meeting, which stated the Department anticipated submitting the final rules to the Council by April 2011. The Department was unable to complete the indicated course of action by April 2011 due to the rulemaking moratorium in effect at that time.

While exceptions were granted during the moratorium, the exception criteria were very specific. The Department reviewed the recommended actions for this rule and determined that none of the recommendations included in the previous five-year review report met the exception criteria authorized under Laws 2010, Second Regular Session, Chapter 287, Section 28.

In 2011, the rulemaking moratorium was extended by way of Executive Order 2011-05. Item #4 of the Executive Order exempted any state agency whose agency head is not appointed by the Governor. The Department considered Commission priorities and five-year review report due dates when determining which rulemakings to pursue.

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

The public and the Department benefit from a rule that prescribes the required conduct on State Trust Lands by persons lawfully taking wildlife and ensures access is not unlawfully blocked. Persons who hold grazing privileges or lease State Trust Lands benefit from a rule that protects public safety and personal property. The public and Department benefit from a rule that is understandable. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

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

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

- 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.**

Not applicable, the rule was adopted before July 29, 2010.

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

The Department proposes to amend R12-4-110 as indicated in this report and anticipates submitting the Notice of Final Rulemaking to the Council by June 2015.

#### **R12-4-111. Identification Number**

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

General: A.R.S. § 17-231(A)(1)

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

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

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

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

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any

areas of concern, etc. Responses indicate the rule is understandable and applicable. The Department believes this data indicates the rule is effective.

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

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

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

The Department enforces this rule through proper administration. The rule is currently being enforced as written and the Department is not aware of any problems with the enforcement of the rule; however, the Department proposes to amend the rule to no longer allow the use of a Social Security Number as the Department Identification Number.

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

Overall, the rule is clear, concise, and understandable. However, the Department proposes to replace the term "alias" with "additional names the person has used or is known by" to clarify the intent of the rule. The Department anticipates this change will result in a rule that is more understandable.

**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.**

The agency received the following written criticism of the rule:

**Written Criticism:** Do not use a person's Social Security Number for the identification number as it elevates the risk of identity theft to the sportsman.

**Agency Response:** The agency agrees and proposes to remove the Social Security Number option

from the rule.

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

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on March 7, 2006; which stated the rulemaking would benefit the Department and its customers by making the rule clear, concise, and understandable, resulting in the consistent interpretation of rule, equal and uniform enforceability, and no additional costs to the public.

- 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 Department did not indicate a course of action for this rule in the previous five-year review report.

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

The public benefits from a rule that prescribes the information necessary to obtain a Department identification number. The Department benefits from the rule because the information is used to ensure there is only one record for each person either requesting or assigned an identification number. In the past, due to the variety and inconsistency in the information provided, multiple records could exist for one person. Multiple records for one person enables the person to apply for and obtain more than one license in one year, which is a violation of A.R.S. § 17-332(C). The Department expends resources in

identifying and combining these records and in citing, investigating, and prosecuting persons who purposely violate A.R.S. § 17-332(C). The public and Department benefit from a rule that is understandable. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

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

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

**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.**

Not applicable, the rule was adopted before July 29, 2010.

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

The Department proposes to amend R12-4-111 as indicated in this report and anticipates submitting the Notice of Final Rulemaking to the Council by June 2015.

**R12-4-112. Diseased, Injured, or Chemically Immobilized Wildlife**

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

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-102, 17-231(A)(2), 17-231(A)(7), and 17-250(A)(3)

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

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

obtaining a tag for the purpose of maximizing hunt opportunities of the state's wildlife resources.

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

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

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

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

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

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

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

Overall, the rule is clear, concise and understandable. However, the Department proposes to amend the rule to ensure conformity with the Arizona Administrative Procedures Act and the Secretary of State's rulemaking format and style requirements. The Department anticipates this change will result in a rule that is more understandable.

**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 has not received any written criticisms of the rule.

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

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on March 7, 2006; which stated a person who surrenders an animal they have taken, and that is found to be chemically immobilized by the Department, would benefit by being able to obtain a duplicate tag or license and have the opportunity to take another animal of that particular genus.

- 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 Department did not indicate a course of action for this rule in the previous five-year review report.

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

The regulated community benefits from a rule that enables Department employees to condemn a lawfully taken animal that is unfit for consumption and allow the hunter an opportunity to take another permitted animal. The public and the Department benefit from a rule that is understandable. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

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

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

- 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.**

Not applicable, the rule was adopted before July 29, 2010.

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

The Department proposes to amend R12-4-112 as indicated in this report and anticipates submitting the Notice of Final Rulemaking to the Council by June 2015.

#### **R12-4-113. Small Game Depredation Permit**

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

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-102 and 17-239

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

The objective of the rule is to establish authorized activities for the small game depredation permit authorized by A.R.S. § 17-239(D). The statute allows any person suffering property damage to exercise all reasonable measures to alleviate damage; not to include the injuring or killing of game mammals, game birds, or wildlife protected under federal law or regulation unless authorized under A.R.S. § 17-239(D).

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

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

believes this data indicates the rule is effective.

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

The rule is consistent with and is not in conflict with statutes and rules, with the exception of the citation to 50 C.F.R. 21.27. The Department proposes to incorporate the most recent edition of the applicable regulation by reference, 50 C.F.R. 21.41. Statutes and rules used in determining consistency include 50 C.F.R. Part 21.41, A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

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

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

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

Overall, the rule is clear, concise and understandable. However, the Department proposes to amend the rule to clarify depredation permit application requirements. The Department anticipates these changes will result in a rule that is more understandable.

**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 has not received any written criticisms of the rule.

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

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on March 7, 2006; which stated the rulemaking would benefit the Department and its customers by making the rule clear, concise, and understandable, resulting in the consistent interpretation of rule, equal and uniform enforceability, and no additional costs to the public.

**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 Department did not indicate a course of action for this rule in the previous five-year review report.

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

The rule imposes no burden to persons regulated by the rule beyond written communication with the Department. Furthermore, the objective of the rule is to reduce damages and associated financial losses caused by small game. The regulated community benefits from a rule that provides them with a solution to alleviate damage caused by game mammals, game birds, or wildlife protected by federal law or regulation. The Department expends resources in investigating the property owner's complaint, providing technical advice and assisting in the necessary anti-depredation measures recommended in by investigating Department employees, which may include trapping, capturing, and relocating animals. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

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

50 C.F.R. Part 21.41 is applicable to the subject of the rule. The Department has determined the rule is

not more stringent than federal law.

- 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.**

Not applicable, the rule was adopted before July 29, 2010.

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

The Department proposes to amend R12-4-113 as indicated in this report and anticipates submitting the Notice of Final Rulemaking to the Council by June 2015.

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

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

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-102, 17-231(A)(2), 17-231(A)(3), 17-331(A), 17-332(A), and 17-371

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

The objective of the rule is to prescribe the hunt permit-tag structure, conditions under which the Commission may issue tags, application procedures, and distribution and use of hunt permit- and nonpermit-tags. The rule was adopted to provide the regulated community with the information necessary to apply for a hunt permit-tag and a nonpermit-tag. 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 also makes the computer draw process transparent to the public.

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

The rule appears to be effective in achieving the objective stated above. At the beginning of each rule review, Department employees are asked to provide comments and suggested rule changes for any areas of concern, etc. Responses indicate the rule is understandable and applicable. The Department believes this data indicates the rule is effective. Most comments received indicate the public understands how the computer draw works, but express dissatisfaction with not being drawn. Selecting an appropriate hunt choice and the order in which to list hunt choices appears to be the most difficult aspect of applying for a hunt permit-tag. While this information is not provided in rule, information on how to improve odds for being drawn is available online at [www.azgfd.gov](http://www.azgfd.gov).

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

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

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

The Department enforces this rule through proper administration. The rule is currently being enforced as written. Providing descriptive language relating to tag features in rule makes it difficult for the Department to procure permit- and nonpermit-tags and does not allow the Department to easily change tag features. The Department proposes to amend the rule to remove descriptive language relating to tag features. In response to recommendations made by Department biologists and Regional offices concerning wildlife and wildlife habitat, the Commission increased the bag limit for javelina and allows multiple bag limits for mountain lion. When multiple bag limits are authorized by Commission Order, it is possible that a person may be able to take more than one animal during a single hunt. However, current rule prevents a person from doing so. The Department proposes to amend the rule to state a person may possess the same number of permit- and nonpermit-tags as allowed for the bag limit of that genus. In addition, once a person has reached the bag limit for a specific genus, it is unlawful for that person to apply for, or purchase, another tag for that same genus during the same calendar year. The Department proposes to amend the rule to prohibit a person who has reached the bag limit for a specific genus from applying for another hunt permit-tag or purchasing a nonpermit-tag during the same calendar year.

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

Overall, the rule is clear, concise, and understandable. However, discussions with license dealers and the Department's customer service employees indicate there is some confusion as to when an application is required. The Department proposes to amend the rule to clarify that an application is not required when a person applies for a nonpermit-tag. The computer draw system distributes hunt permit-tags in three phases, which are referred to as "passes" and the rule only provides the computer draw first pass. The Department proposes to amend the rule to describe all phases of the draw process to provide a more complete description of the draw system. There is some confusion in regards to the nonresident tag allocation and, during the hunt regulation guideline review, persons have accused the Department of violating the 10% cap on nonresident tags. Under A.R.S. § 17-332(A), the Commission shall limit the number of big game permits issued to nonresidents in a random drawing to 10% or fewer of the total hunt permits. In some cases, the Department may issue 20% of the tag allocation to nonresidents and still maintain compliance with A.R.S. § 17-332(A) because the total tag allocation was under 10%. The Department proposes to amend the rule to clarify that, even though the Department may issue 20% of the tag allocation to nonresidents, the nonresident cap of 10% is applied to all three passes of the draw and to all tags issued in the computer draw, not just a specific pass or genus.

**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.**

Multiple comments were received during the Department's Hunt Guidelines public comment period. Portions of comments relating specifically to hunt guidelines are not included below (signified by ellipses). The agency received the following written criticisms of the rule:

***The following comments advocate allowing a person who drew a tag, but was unsuccessful in taking that animal (species), to purchase another hunt permit-tag for the same species:***

**Written Criticism: April 30, 2009.** I am part of a group of out-of-state hunters who have hunted in Arizona for over 40 years during the javelina archery season. It is the high point of the year for a lot of us and I believe we contribute a fair amount of money to Arizona's economy. To summarize without going into a tremendous amount of detail, two of us applied as a party and listed a second choice on our application. For the first time, we did not draw our first choice and received a tag for our second

choice. Our first choice did not sell out and if we had not listed a second choice, we would have been able to purchase an over-the-counter tag for our first choice. Because we drew a tag for that species, we could not exchange our tags or purchase another tag for our first choice. It seems as though we were being punished because of the out-of-state limit; it made our hunting experience a lot less enjoyable. We love archery hunting in Arizona and want to spend a fair chunk of money to hunt in Arizona. It does not seem fair to punish a group of people who pay higher fees than Arizona residents.

**Written Criticism: May 12, 2009.** I do not think the Department should strive to increase hunter participation, outside of reaching out to youth hunters. I commend the Department for increasing the youth hunts over the past couple years and think that the over-the-counter turkey tags are awesome. My young cousin had an awesome time participating in youth hunts. I recommend extending the age for youth hunts to 18. I believe the Department has done a good thing by going to the draw for some of the archery deer hunts, but there is one issue the Department should look into: last year I drew a November deer tag, but was not able to purchase a leftover archery deer tag for unit 7. Those leftover deer tags did not sell out and the Department missed out on the \$42.50 I was willing to pay to have been able to hunt the archery season. I understand that the annual bag limit for deer is one, and I am fine with that, but I really missed being able to get out in the woods early in the year in one of my favorite stomping grounds. ...

**Written Criticism: September 13, 2010.** I was not drawn for my first choice. After the draw was conducted, there were leftover tags in the hunt area that I put in for. Those tags were made available to the general public. I received a leftover cow tag through the first come, first served which was my second choice. Anybody who is not drawn for elk should be eligible for these tags. Since that was my first choice area, I feel that the tags should be awarded to those who selected those tags on their initial draw.

**Written Criticism: February 23, 2011.** The Department should allow a person to purchase the next hunt javelina tag. For example, if I did not take a javelina during the archery hunt, I would be able to purchase a HAM tag, and so on. ...

**Written Criticism: March 27, 2011.** I should be able to purchase a leftover tag if I was unsuccessful in a prior hunt (such as buying a leftover general hunt if I did not fill the tag in archery). The Department has plenty leftover tags that no one will use and this would also mean more revenue for the Department.

**Written Criticism: April 27, 2011.** I see no negatives in letting an unsuccessful javelina bowhunters buy a rifle javelina tag. There are a number of tags that remain unsold every year. Why not give the

hunters more opportunities to hunt, raise more revenue for the Department, and get closer to meeting the quota for javelinas? I understand there is a lot of red tape attached to making any changes, but I think a lot of hunters would support any effort the Department puts into making this change.

**Written Criticism: January 4, 2012.** I came across a situation that caught me by surprise and seems a little ludicrous. Briefly, I was denied a leftover Javelina tag for the January archery season because I had already been successful in drawing a January archery permit-tag, through the Spring draw. In my particular situation, I drew a unit 36A, B and C archery hunt permit-tag. I was told that things appear to be getting pretty dangerous in unit 36C due to drug traffickers and undocumented aliens in the area. I was also told that Border Patrol and National Guard personnel are in the area all day and can be heard at night. The people I spoke with said it was the most unpleasant hunting experience they have ever had down there and they have hunted that area since the 1970s. After hearing all of this, and knowing I planned to hunt by myself, I decided to stop by a Department office to purchase a leftover archery tag for a unit closer to Phoenix. I did not want to exchange my old tag, I wanted to buy a new tag. Department personnel told me I could not purchase an over-the-counter tag because of the way the R12-4-104 is interpreted. During discussions, we read the rule language and, since it was apparent I was unable to purchase another January archery tag, I asked if I could purchase a tag for the February HAM hunt. I was told that I could not because I can only make one application for a species per draw cycle and that cycle included all javelina hunt types. I read all of R12-4-104 and cannot find anything that specifically states this limitation. In fact, I believe R12-4-104(R) allows me to purchase another tag: *“If the Director determines that Department error caused an individual to submit an invalid application for a hunt permit-tag, prevented an individual from lawfully submitting an application, caused the rejection of an application for a hunt permit-tag, the Director may authorize an additional hunt permit-tag if the issuance of an additional hunt permit-tag will have no significant impact on the wildlife population to be hunted and the application for the hunt permit-tag would have otherwise been successful based on its random number...”* I have underlined the subsection that may potentially be used to appeal my case to the Commission, if necessary. It seems inappropriate to deny a sportsman the opportunity to purchase a leftover tag, especially in this time when the Department continues to say they want to purchase more people in the field and give them an opportunity to hunt. Additionally, the Department is losing revenue. What a contradiction. I want to purchase another tag, but the Department cannot allow it. While I understand it was my decision to apply for a hunt in units 36A, B, and C and it is ultimately my decision whether or not to hunt in those units, I believe it is inappropriate to deny a sportsman the ability to obtain a leftover tag when it will not negatively impact a species. I suggest the Commission direct the Department to quickly remedy this stumbling block to hunter opportunity and revenue. Department personnel say there is a rulemaking moratorium in place, this issue has come up before, and the Department is working towards remedying the problem. Department personnel further indicate they anticipate beginning rulemaking on Article 1 in 2013, with approvals

occurring in 2014. I urge the Commission to expedite amendments to this rule to allow a person to purchase a leftover tag if they have a previous permit-tag and were unsuccessful during an earlier season. Hopefully, the information I have provided is enough for the Department to recognize my frustration and concerns while at the same time simple enough to give the Department the information needed, should the Department decide to pursue this matter.

**Written Criticism: August 30, 2012.** *{Excerpt from letter sent to Governor's office}* I will be deploying to Afghanistan; a deployment that I welcome as a Soldier and Guardsman. With that deployment, I will have to do my mobilization training from November 1 through the 21. Not an issue, except my hunt was scheduled for November 9 through 15. On discovering this, I called the Department to explain the situation and offer my solution: I would turn in the tags I drew, forfeit the money spent, and purchase leftover tags for another (unpopular) hunt with dates that would better fit my training schedule. The Department told me that the rule states a person cannot possess two tags at the same time for the same deer season, to which I tried to explain that I wanted to turn in the two tags I had and buy two more. To make things worse, when I told my son this past weekend about the pending deployment, the first question out of his mouth was "Dad, we're still going to get to hunt before you leave, right?" To which I had to say, "I do not know son, I'm working on it." It seems that everyone I talk to is either unwilling to listen to me or simply does not care about my situation. I am asking for any ideas or solutions for this situation. I desperately want to be able to give my son this hunting trip and the memories that go with it before I leave for mobilization training.

**Written Criticism: December 6, 2012.** I was drawn for the November Unit 33 deer hunt. However, due to an unexpected upcoming deployment and chaotic training schedule, I missed my opportunity to hunt. Can the Commission grant me permission to hunt in the December hunt in the same unit? It is rare for me to be stationed so close to home and be able to participate in an opportunity like this. I enjoy hunting and have not been drawn in a very long time. It will also be my first opportunity to hunt with my father. If there is anything the Commission can do to help, it would be greatly appreciated.

**Agency Response:** Currently, a person may purchase an over-the-counter nonpermit-tag after having been drawn for the same genus. Beginning in 2013, the bag limit for javelina was increased to two per year. The 2013 spring hunting regulations state, "two (2) javelina per calendar year (except as prescribed under R12-4-120) with no more than one (1) javelina taken per open area as defined in each hunt number. The bag limit may be filled in any combination of permit-tag (draw tag or first-come, first served leftover tag as long as differing hunt numbers are used) or nonpermit-tag (over-the-counter tag) hunts as prescribed under R12-4-114. No more than one (1) permit-tag shall be issued per hunter through the initial draw". A person may purchase nonpermit-tags for elk, deer, javelina, and turkey, when available, even though they were drawn for the same genus. The Department proposes to amend

the rule to clarify that an applicant may hold the same number of nonpermit-tags and hunt permit-tags as the bag limit established by Commission Order, but harvest must not exceed the annual bag limit. ). In addition, the Commission is considering tag surrender options which would allow a hunter to surrender their unused, original hunt permit-tag and purchase another hunt permit-tag through the first-come, first-served process for a future hunt.

*The following comments suggest some variation of a preference point system:*

**Written Criticism: May 21, 2009.** I suggest persons who have more than four bonus points be given preference over those with less. It seems only fair to reward these hunters who have not drawn tags for so many years.

**Written Criticism: January 3, 2013.** The bonus point system is broken. Everyone knows that someone applying for the first time may be drawn, while someone with six or seven bonus points is not drawn. This is unfair and defeats the whole purpose of the bonus point system. The Department must change the bonus point system to ensure that bonus point holders are drawn before first time applicants. We older hunters cannot afford to wait seven to ten years before drawing a tag.

**Written Criticism: April 16 and 17, 2013.** I believe hunters with the highest number of bonus points should be given priority in the draw. A hunter who has 12 or 13 points should have priority over other hunters with fewer bonus points. The draw should work from the most bonus points down to the single bonus point. This would generate more loyalty among the hunters and help keep non-hunters from bogging down the system.

**Written Criticism: April 30, 2009.** Increase the percentage of tags that are awarded to the number of people with maximum bonus points to 50-75%. It is frustrating when the list of people with maximum points does not seem to be going down. They have paid their dues. The Department should benchmark with other Western states to determine what works best in each of those systems and adopt those best practices. If a person is successful in drawing a certain species, perhaps there should be a one or two-year waiting period before that person is eligible to submit for that species again.

**Agency Response:** The Commission, through an extensive public process, determined the public preferred a bonus point system. The suggestions above would change the current bonus point draw system to a preference point system. Implementing a preference point system that awards big game tags based solely on accumulated points would have a negative impact on recruitment of new hunters. The bonus point system rewards loyal applicants and provides new applicants the opportunity to

participate in draws. Currently, the high bonus point holders take priority in the first pass only, which is the 20% bonus point pass starting with maximum bonus point holders.

Demand for big game permits usually exceeds availability, so the Department uses a lottery-style computer draw system to allocate permits. A person can only submit one application per genus in a calendar year, except as otherwise specified by Commission Rule A.A.C. R12-4-104. Each year a person submits a valid application and is unsuccessful in the draw, they are awarded a bonus point.

Approximately four weeks after deadline day, the draw is run by computer. There are three separate passes made during a computer draw. The first is for hunters with maximum bonus points for first and second choices, the second is the “regular pass” for first and second choices, and the third is for third, fourth and fifth choices. Each application is randomly assigned a number. A person receives an additional random number for each bonus point for that particular genus (bonus points for group applications are averaged). The lowest of all random numbers is the one assigned to the person's application for that genus for the draw. The lower the random number, the better the chances are to get the hunt of choice.

For the first pass, the computer sets aside 20% of the available tags for each genus for applicants with maximum bonus points. It groups the applications by the number of bonus points they have (for example, all applications with 17 bonus points go into one group, those with 16 go in the next, etc.), and then sorts them by random number within the bonus point groupings.

As each application is read within each bonus point grouping, the first and then second hunt choices are checked to see if there are any tags available for those hunts as part of the 20% bonus point allotment. If there are enough tags available for each applicant on the application without exceeding the 20% allotment (and without exceeding the 10% nonresident cap), the tags are issued to the applicants. If not, the next application is read and the first and second hunt choices are checked again. This continues until the entire application file has been read or 20% of all tags have been issued, whichever occurs first. Any unissued tags from this first pass will be returned to the available tags for each hunt. The draw then moves to the second pass.

In the second pass, all applications, including those unsuccessful in the bonus point pass, are assigned new random numbers and sorted in random number sequence within genus. The first application (the one with the lowest random number) is read, checking the first and then second hunt choices for available tag. If there are enough tags available for either of the choices for each applicant on the application, without exceeding the 10% nonresident cap, the tags are issued. The application with the next lowest random number is then checked for available tags, and this continues until the entire file is read.

In the third pass, all applications unsuccessful for their first and second choices are assigned new random numbers. They are once again sorted by random number within genus, and each application is then read, checking the third, fourth and fifth hunt choices for available tags for all applicants on each application. When tags are available for each one of the three choices without exceeding the 10% nonresident cap, they are issued to the applicants.

After the entire draw is completed, applicants who submitted valid applications are awarded an additional bonus point for each genus for which they were unsuccessful. The bonus points for each successful applicant are zeroed out for the genus for which they were issued a tag (with the exception of the permanent hunter education and loyalty bonus points, which remain intact).

*The following comments address a variety of topics:*

**Written Criticism: April 30, 2009.** Take a new look at the guidelines for “free licenses” for senior residents. For example, I am 72 years of age, but I have had to work out-of-state for many years to support my family; as a result, I do not meet the criteria for a complimentary license. Work on some additional qualifications; there a number of alternatives. It would enable and enhance us to afford to be able to hunt longer as we age. Elk permits; the system is not right. One can apply for years and years and never be drawn. Another person can hit it lucky five out of every 10 years. That is not right or fair and cannot be justified. Develop plans in which there is equality, certainty, and absolutes. There is no doubt that out-of-state hunters garner preferential treatment due to their revenue stream, which they provide. That is not fair. We as residents pay taxes that provide your jobs and fund the Department. We deserve the highest preference and we deserve the right to be granted an elk permit every few years through a system that is fair and absolute. I wish I knew that the input the Department receives is 100% seriously considered and that it is not just the thing to do (in asking for opinions). Do everything possible to not become a political machine.

**Agency Response:** The requirements for the complimentary pioneer license are prescribed under A.R.S. § 17-336(A)(1), which states the Commission may issue a complimentary license to a person who is seventy years of age or older and has been a resident of this state for twenty-five or more consecutive years immediately preceding application for the license. A legislative amendment is required before the Department may change the eligibility requirements referenced in rule. The Department currently uses a random selection process, generally known as “the draw,” to equitably apportion available tags among hunters when demand exceeds supply. The current draw process is designed to provide an equal opportunity for all hunters, regardless of the number of species hunted. The computer draw is intended to ensure the limited number of tags is distributed fairly. Few hunters are lucky enough to be drawn more often than others and it is understandable that those not drawn

want to improve their chances. However, because the draw is based on probabilities, there is no way to eliminate this possibility without undue complication to the draw process. The Department does not receive money from the state general fund (tax dollars). The Department operates primarily on the funding generated from the sale of hunting and fishing licenses, hunt permit-tags, stamps, and matching funds generated from federal excise taxes paid by hunters and anglers who purchase guns, ammunition, fishing tackle, motorboat fuels, and related equipment. Residents are given preference; the nonresident tag allocation for all tags issued by the Department is capped at 10%. In addition, in most all cases, the revenue generated by resident license and tag sales is greater than the revenue generated by nonresident license and tag sales. However, it is important to note, nonresident hunters and anglers make a significant contribution to the state's economy, particularly in rural parts of our state and spend approximately \$24 million each year in Arizona.

**Written Criticism: May 25, 2009.** ... The bonus point draw system needs renewal. The current system is ineffective and unfair. I know a person who has drawn archery bull tags in unit 27 in five of the last six years. I can share many other “lucky testimonials” as well as my brother’s misfortune of drawing only three elk tags in 35 years. I understand we need a system that incorporates “luck” to retain interest and generate revenue for the Department, but there are other alternative systems that would align with these objectives and also enhance the existing system. I have proposed doubling or tripling the bonus points for many years which would shorten the bell curve while making it fair to all applicants, but have not received an answer as to why the Department deems the suggestion a non-viable. ...

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

**Written Criticism: June 4, 2009.** In the spring, there are always leftover javelina tags and most go unused. As a result, herd populations may not be managed to control the numbers which could lead to over population and force the javelina to move into urban areas to forage. This may not apply to all areas, but I think that as people grow in population, they encroach on wildlife habitat. In January, 19 of us went archery deer hunting in Arizona from January 1 through 7; 13 had javelina tags. The five without deer tags were able to purchase over-the-counter deer tags and join our hunt. I asked about purchasing leftover javelina tags and was told that it took 10 working days. These five hunters decided to hunt at the last minute and therefore could not purchase javelina tags. If the leftover tags were available over-the-counter, five more javelina tags would have been purchased. The question is how to

make it equal for those who do not live near a Department. Here is one suggestion: everyone applies for the hunt, as we have always done. The draw result comes out and leftover tags are made available. For the first two weeks, anyone who wants to apply for a leftover tag can do so by mail only. This will give everyone the 'first come, first served' chance at any leftover tags. After the 'first come, first served' by mail process is complete, the Department should allow a person to purchase a tag by mail or at the nearest Department office. This would allow more tags to be sold because there are people who tend to want to go hunting at the last minute. To increase tags sales; manage javelina, and increase the number of people getting outdoors the Department should consider allowing a person who was drawn, but did not harvest a javelina, to go to a local Department office to turn in their unused tag and purchase one of the leftover tags. Turning in the tag will show that they did not harvest a javelina. For example, I was drawn for archery javelina and went hunting. I did not harvest a javelina, but I cannot apply for a leftover javelina tag because I already drew one. With my suggestion, I could have turned in my archery tag and purchased a HAM hunt tag. If I did not harvest a javelina during the HAM hunt, I could go back to an office, turn that tag in, and purchase a leftover general hunt tag. I would do this if it were an option and I am sure others would do the same. This would create more opportunity for hunters and also cause hunters to spend more time in the outdoors. A person could mail in their unused tag along with an application, for a leftover tag if they did not want to drive to a Department office. If a person has a duplicate tag, they could not apply for a leftover tag. This is to prevent someone from taking more than one per year (of course, there will never be a foolproof way to keep dishonest people from doing wrong). This would also allow more youth to hunt if they are not drawn for a youth hunt; creating more opportunity for youth hunters. We can all agree that the youth in our country are 100% of our future. It is up to all of us to recruit and retain as many as we can. Children have a tendency to stop doing things if they do not get a chance to do it. Every year, we have more youth apply for youth deer hunts than there are tags available. Many of them are never drawn and, after trying for a few years, they get discouraged and may not want to apply anymore. Every year about 1,000 youth are turned away on the deer draw. I suggest the Department offer leftover tags first-come, first-served for the first two weeks by mail only for youth only. This allows the youth a second opportunity to apply for a tag. After this two-week period ends, the Department should offer the remaining leftover tags to all by mail for one week, then starting the fourth week tags are available at Department offices. This would allow our hunting heritage to grow through our youth by creating more opportunities. I am sure there are some people who would disagree with creating more opportunities for youth. I say let them. It is up to all of us protect and make sure that our hunting heritage continues through our youths. This will also help increase revenue for the Department and local sporting goods stores and other businesses that depend on the outdoorsmen for revenue.

**Agency Response:** Currently, a person may purchase an over-the-counter nonpermit-tag after having been drawn for the same genus. Beginning in 2013, the bag limit for javelina was increased to two per

year. The 2013 spring hunting regulations state, “two (2) javelina per calendar year (except as prescribed under R12-4-120) with no more than one (1) javelina taken per open area as defined in each hunt number. The bag limit may be filled in any combination of permit-tag (draw tag or first-come, first served leftover tag as long as differing hunt numbers are used) or nonpermit-tag (over-the-counter tag) hunts as prescribed under R12-4-114. No more than one (1) permit-tag shall be issued per hunter through the initial draw”. A person may purchase nonpermit-tags for elk, deer, javelina, and turkey, when available, even though they were drawn for the same genus. The Department proposes to amend the rule to clarify that an applicant may hold the same number of nonpermit-tags and hunt permit-tags as the bag limit established by Commission Order, but harvest must not exceed the annual bag limit. In addition, the Commission is considering tag surrender options which would allow a hunter to surrender their unused, original hunt permit-tag and purchase another hunt permit-tag through the first-come, first-served process for a future hunt. In order to ensure the application process equal for all applicants, the Commission does not allow paper applications for the initial phase of the first-come, first-served period of the draw as allowing a person to drop off an application would give an advantage to persons who live near an office.

**Written Criticism: February 18, 2013.** I believe several sheep hunts are fully allocated after the 20% bonus pass draw; so many hunters with less than maximum points are submitting applications believing they have a chance to draw a tag when in reality they do not. Consider last year: there were 1,874 first choice applicants for units 22 and 24B. The four permits designated for those units were awarded in the bonus pass draw to maximum bonus point holders. There were only 196 maximum point applicants last year; even if we assume every one of them applied for one of those units as their first choice, it means the other 1,678 applicants who applied for those hunts as their first choice had no chance of drawing a permit. That is 13.7% of the total applicants for 2012 and is based on only two hunt choices. On the surface, this seems wrong. I wish the Department could conduct the sheep draw in two parts, so an applicant would know what permits were available for the random draw portion before they submitted their application. Or perhaps the Department could ensure that all permits for any given unit would not be allocated in the bonus pass drawing. I know this is problematic for the Department, but I do not think there are enough sheep permits or hunt choices for the current system to work the way it was intended to. I would guess that very few people have ever crunched the data in this way and almost nobody understands this because it is too complicated for the average guy to comprehend.

**Agency Response:** The bonus point system and the 20% bonus pass of the computer draw do work as designed, to provide an increased probability of drawing a tag as bonus points are accumulated. The current system of issuing bonus point and tags through the 20% bonus pass of the hunt draw were vetted through a public review process prior to being established in rule. Public input and the one per lifetime restriction for desert bighorn sheep influenced the current process for issuing bighorn sheep

tags. It is a correct statement that in recent years all permits in units 22 and 24B were issued during this bonus pass. This interest is not static and shifts based on which units are producing the largest rams.

**Written Criticism: May 9, 2009.** I would like the 20% draw for the maximum bonus points to be limited to first choice applicants, only. This would help reduce the list of maximum bonus point holders. Also, I would like maximum bonus point holders who are over 60 years of age and applying for a sheep tag to be awarded a bonus point (I am in this group). This would help to eliminate many of the older sheep hunters who have put in for years from the 20% draw. I think this would help in taking older age class rams. A man in his sixties or seventies usually cannot physically get into the best areas where the older age class rams are.

**Agency Response:** The current draw process is designed to provide equal opportunity for all hunters. The Department's draw system attempts to award hunt permit-tags to eligible applicants with the highest number of bonus points first, who are selected by the draw in the order of hunt choice specified on the application. In many units, the number of first choice applicants far exceeds the number of permits available. When this occurs, hunters selected by the draw receive their second choice. Issuing only first choice hunts would move the bonus point system towards a preference point system. In addition, the Commission does not believe that any class of persons should be awarded bonus points for which others are not eligible.

**Written Criticism: August 27, 2009.** I believe the draw process used by the Department is fair. I believe I understand the process and, because I do, I almost always find an opportunity to go hunting. I suspect many who do not completely understand the process and find themselves not hunting are probably the ones who are first to complain. However, I have a comment about the first pass of the drawing process (bonus point round). In this pass, up to 20% of a particular hunt number's permits are issued to those with the most bonus points. This is fair. The concern I have is when a hunter in this pass is issued a permit for his second choice. Many hunters will list a "dream" hunt as a first choice and a higher draw percentage hunt as a second choice. In this scenario, the hunter is issued a permit for his second choice when in fact 80% of the permits for his "dream hunt" first choice still remain unissued. I would rather take my chances at receiving my first choice in the second pass instead of my second choice in the first pass. I realize I might end up with neither first nor second choice, but I would be willing to take that chance. I wonder how many other Sportsmen, who understand the process, might share this view. The solution would be to consider only an applicant's first choice during the bonus point pass.

**Agency Response:** The bonus point pass of the draw looks at both first and second choice on an application. On occasion for some deer and javelina hunts, an applicant will be issued their second

choice during the bonus point pass even though unissued tags for their first choice are still available when the draw has been completed. In these situations, most hunters would prefer to receive their first hunt choice. However, for many other hunts such as bull elk or higher demand deer units, hunters are willing to receive either their first or second hunt choice recognizing the difficulty of drawing either hunt choice. Although, your recommendation is a logical option, the Department would recommend surveying a representative sample of hunters to determine the prevailing view before amending the rule as described above.

**Written Criticism: April 14, 2009.** ... The draw could be done in a "hierarchy." Species draws would be conducted separately and sequentially, such as sheep first, then antelope, then elk, then deer, then turkey, and last javelina. If a person drew a sheep tag, he would be ineligible for the other species draws. After the sheep draw, then the antelope draw would occur with the remaining applicants. If any permits remained after all species were drawn, a second draw round would occur with all applicants for those species still having permits. This draw would help spread the permits to more hunters and reduce the occurrence of some drawing two or more permits, while some unlucky applicants drew none. Has something like this draw been discussed?

**Agency Response:** The value placed on drawing a tag for a given species varies by hunter and is not consistent across all hunters. Although, the Department recognizes and understands the frustration a person feels when they do not draw a tag while another hunter draws tags for two or more species, there is no draw system that would satisfy all hunters. Designing a hierarchal draw system as described would also present logistical problems. The bighorn sheep draw occurs after the pronghorn and elk draw; ultimately, the javelina draw occurs first and javelina are listed as lowest in described hierarchy. The costs related to rearranging the current draw cycles to meet this hierarchy would not outweigh the benefits. A hierarchal draw system is likely to result in an increase in the number of applicants for high demand units while drastically reducing the number of applicants for units that currently have lower interest. For these reasons, the Department does not support a hierarchal draw system.

**Written Criticism: April 30, 2009.** ... Make a percentage of the permits available to people who have been loyal to the Department for years. Ten percent of the tags would go to these loyal customers. The ones that are not drawn can be placed in the general draw, but give us another chance to get a tag before we hang up our guns. I would also like to be able to trade tags. For example, if I have a bull elk tag, I would gladly trade it for a Kaibab Deer tag. I am sure there are people with a Kaibab tag who would trade it for my bull elk tag. This can be done through the Department for a fee; another way for the Department to generate revenue.

**Agency Response:** The current draw process is designed to provide equal opportunity to all hunters. Reserving a percentage of tags for loyal applicants will only take opportunity away from others. The Department currently awards a loyalty bonus point to those persons who have submitted an application for a genus at least once annually for five consecutive years. The Department's draw process is designed to provide equal opportunities to all classes of persons and not provide an advantage to certain classes of hunters. A legislative amendment is required before the Department may allow a person to trade a tag issued in their name to another person. Under A.R.S. § 7-332(D), no license or permit shall be used by anyone except the person to whom such license or permit was issued, except that a person may transfer an unused tag to a nonprofit qualified organization for use by a minor child who has a life-threatening medical condition or by a minor child who has a permanent physical disability or to their minor child or grandchild.

**Written Criticism: May 1, 2009.** I would like the Department to restrict the youth-only tags to one tag per big game species, per person. That way, tags are allocated to a more diverse segment of new hunters. We have such a short time to get youth involved in hunting and participation in the field is paramount to this process. After drawing their youth-only tag, the youth would have to apply for a subsequent, same species tag through the normal draw process. They could also purchase over-the-counter tags or leftover tags, as applicable, and be eligible for any other species youth-only tags. This would demonstrate the Department's commitment to hunter recruitment and retention. The largest single point of contention in our draw process is the perception that it is unfair. While we know that this perception is false, it is bolstered by the redrawing of tags by those who were successful in previous draws. I would like the Department to study the possibility of a limited opportunity pool for the draw process. The pool would consist of all applicants who received a tag in the most recent draw process for big game and other successful applicant's. This draw pool would be limited to a 5% cap, if 5% is too low - make it 10%. The applicant would be in the restricted draw pool for a period of three years and during this time they could still apply and draw tags for the species in which they are restricted. If drawn while in the limited pool, the clock would restart for a new three-year period. The applicant is still eligible for other species tags and any other over-the-counter or leftover tags, as applicable. This idea is very nonrestrictive in that all applicants are eligible for any tags up until the cap for that hunt is met, upon which they would be blocked from exceeding the cap limit. This process will not deter any applicants, but will appear to limit those recently drawn. Statistically, it really has little impact in the draw process, but it presents an image that the process is being balanced in a fair and equitable manner. It certainly will not hurt anything and in some units it may actually result in a broader distribution of tags, which could lead to more participation by our residents. So, why do it if it offers such a small advantage? Because it makes the Department appear to be sensitive to the wants and needs of the majority of the applicants, appears that a positive change has been made, appears to be fair to all, and will not negatively impact the Department's revenue stream. Arizona has grown to

record levels and in order to keep interests growing, the Department must be perceived as fair. This small change addresses this issue and puts it to rest for good. These issues, though simple in nature, are very important to the public's perception of how the Department allocates tags. Given that we have such a relatively small chance of growing our resources, it is in the best interest of the public and the Department to deploy our tags to as broad an end user base as possible. While not significant in numbers, any increases can be viewed as a positive step by the Department. Lotteries are not fair because they are funded by the majority, but when the Department is asking people to ante up the cost of a license, especially when there are several in a household, they deserve a little more consideration and a little better chance to play because they are investing in Arizona's and the Department's future. It is time for the Department to change a system that was made 20 years ago and requires a little updating to accommodate the increased demand.

**Agency Response:** A separate "pool" for successful applicants in the previous year(s) would essentially create a waiting period for persons who received a big game tag. The Department reviewed a variety of waiting period options in response to customer comment; such as one-year and three-year waiting periods for general and specific hunts. The analysis indicated a waiting period would not substantially improve the odds of being drawn for those species that currently have low draw odds. Please see page 31 for more information regarding waiting periods and draw odds. However, current Commission direction asks the Department to provide further analysis regarding a one-year waiting period for Youth-only elk hunts.

*The following comments address the 10% nonresident hunt permit-tag allocation:*

**Written Criticism: April 27, 2011.** I would like the percentage of tags allocated to out-of-state hunters increased to 15-20%. There is a lot federal land out there we should be able to hunt. I grew up in Arizona and really miss going back to hunt.

**Written Criticism: April 27, 2011.** I am an Idaho resident and long-time applicant in Arizona for deer and elk. In these tough economic times, the Department should make it easier on the nonresidents who are applying for permits.

**Written Criticism: April 27, 2011.** The Department should increase the number of out-of-state tags allocated for both deer and elk. This would provide more revenue to the Department and allow more out-of-state hunters to participate. Out-of-state hunters also increase revenue to other parts of Arizona due to purchases, such as gear, lodging, gas, groceries, etc. I do not recommend the continual increases of license and tag fees, as this will eventually deter hunters from applying in Arizona even-though Arizona offers top hunting. There comes a time that the inability of hunters to pay Arizona fees will

cause them to seek hunting elsewhere and this in turn will cause the Department to lose revenue.

**Written Criticism: January 2, 2013.** I would like to see an increase in the percentage of nonresident tags over the existing 10% maximum that is currently in place.

**Agency Response:** The 10% nonresident cap for hunt permit-tags is prescribed under A.R.S. § 17-332(A) and was developed by the Commission through an extensive public process. Many hunts in Arizona already have low draw odds for resident hunters and increasing the number of permits allocated to nonresidents would have a negative impact on residents. The majority of Arizona hunters appear to be satisfied with the current 10% nonresident cap.

*The following comments address the maximum bonus point pass:*

**Written Criticism: April 30, 2009.** Please adjust the bonus point system to accommodate for non-maximum bonus point holders to have a chance at hard to draw deer tags. As it is in some deer units, there are virtually no tags leftover after the 20% bonus point pass occurs, essentially making the bonus point system a preference point system. There has to be a way to do this, and keep the interest of new applicants that are not maximum bonus point holders, while still managing your wildlife. Maximum bonus point holders will still have the best chance to draw a tag, just not the only chance.

**Written Criticism: April 30, 2009.** I am a loyal nonresident applicant. Please remove the regulation giving the first 20% of the nonresident tags to those with maximum bonus points. Since nonresidents only receive "up to" 10%, the entire 10% is made up of maximum bonus point holders for many of the high demand tags. I do not have maximum points. If this regulation was removed, I would have a chance of drawing a high demand tag for deer someday, such as a rifle tag for 13A or 13B. Right now, I will never draw a tag, but I keep paying for the nonresident license hoping the Department will change the regulation to make it fairer and give hope to younger people. There are a few desert sheep tags drawn without maximum points by nonresidents, but not many. While I do believe that the people who have been applying the longest deserve the best chance, I do not believe they deserve the only chance. We are all helping to support Arizona wildlife. Please give us lower point applicants a chance. Perhaps a better way to give preference to maximum point holders would be to do what Nevada does with points; square them for each applicant. This way the maximum point holders are favored exponentially, but lower point holders still have a small chance. I really appreciate the way the Department manages wildlife for all age classes, not just 2½-year old bucks and bulls.

**Written Criticism: June 25, 28, & 29, 2009** (*comment submitted by 5 persons - two 06/25, one 06/28, and two 06/29*). I feel that the 20% maximum bonus point pass takes too much off of the 10%

nonresident big game draw quota, with the entire 10% nonresident cap being filled on the high points pass on some high demand hunts. I feel that the Department should insert an additional 2% nonresident cap on the maximum bonus point pass, Make it so that 20% of the 10% nonresident quota is met in the first maximum bonus point pass, leaving the intended 80% of all hunt permit-tags to go to the bonus points rounds for all applicants as intended. This would leave more tags for residents too, ensuring maximum bonus residents get their full share of the high points quota. Currently maximum bonus point residents are only getting half of the 20%, or 10% of the total for those units. This is both easy and fair.

**Written Criticism: April 27, 2011.** The Department does a great job managing wildlife. I have one request, break the stranglehold that nonresident maximum bonus point holders have in the late hunts on the Kaibab and the Strip.

**Written Criticism: April 16, 2011.** I think the Department is the best in the U.S. It is impressive how great the hunting is in Arizona. The success to the Department continues to have with their wildlife programs is a credit to the Department. I understand the heavy demand for tags in Arizona, especially for nonresidents. I am a nonresident who regularly applies for elk bonus points. Next year, I will have 10 bonus points and would like to draw a tag for unit 1, 3AC, 9, 10, or 23 someday, but with the 20% pool - I will never get one of those tags. I know it cannot be accomplished with every hunt, but it would be nice if one to two tags were pulled from the 20% pass group and offered to nonresident hunters during the regular draw. This would give nonresident hunters who are behind on bonus points a small chance at a tag. This would also help the Department recruit new hunters. It would be great if we could have that slight chance for a tag. Hunters would also have to pay at the time of application, which would help the Department generate revenue. Please think about this option. I think it would give us hunters the slight chance we need and help the Department make more money.

**Written Criticism: June 4, 2011.** ... I do not think it is fair that nonresidents without maximum deer bonus points have no chance at a 13A or 13B rifle deer tag because 20% of the tags are awarded to maximum point holders. The way the system currently works, all nonresidents who are drawn have the maximum bonus points. I keep paying for a license year after year, hoping the Department will change the draw system. I have no problem with maximum bonus point holders having a better chance than me, but there should be some randomly drawn tags too. ...

**Written Criticism: January 23, 2013.** As a licensed guide and lifetime license holder, I have an idea regarding the draw that I hope will be seriously considered. Each year I talk to over 100 perspective hunters on the phone. Most of them are nonresidents with zero to three bonus points. They are disappointed when I explain how Arizona's draw system works and that they have little, if any, chance of ever drawing any of the "premium" archery or early firearms tags for elk. For one who truly

understands the draw and studies the statistics, this is the unfortunate truth for elk in units 9, 10, 1, 3C, 27, 7W, 8, 23N, 23S, etc. I realize that when the 20% bonus point round was implemented into the draw, we could not foresee the consequences to the nonresidents given the 10% cap. But, with this mismatched percentage, what we are getting is a draw system that requires "X" amount of bonus points for a nonresident to draw any of the top seven to eight units during any archery or rut firearms hunts for elk. And, for deer, the scenario is even worse in units 13A and 13B. This is not a good situation at all and without a doubt is going to continue to get worse as we head into the future with more and more bonus points "required" to draw a tag. Here is my suggestion; the Department's draw system should only allow up to 50% of the nonresident tags to be issued during the 20% bonus point round. For example: the unit 9 archery hunt allocates 100 bull tags with 10 of them being "potential" nonresident tags. Only allow five nonresident tags to be issued during the maximum bonus point round. The other potential five tags would carry over into the random pass of the draw. This change would allow the nonresidents some sort of chance and some "hope" to draw a good tag during the "random" stage of the draw regardless of their bonus point total. I understand that nonresidents are not guaranteed 10% of the tags, but can draw "up to 10%" of the tags; but, I do not think this discredits my idea in any way. I cannot help but notice, when I have purchased name lists of successful applicants, that the nonresidents almost always draw exactly 10% of the tags for the better hunts. This is because nonresidents on average carry higher bonus point totals than residents. This results in all of the nonresident tags being issued in the bonus point round *only*, giving others no chance of drawing in the random phase of the draw. If this 50% nonresident idea were implemented, I realize that some of the nonresidents with high point totals may initially complain about the change, but in the long run they would benefit by the change. I know many hunters who will not continue to apply once they draw their long awaited tag because they know it is fruitless with the current system. I do not think this adjustment would need to be made to the resident tags, given that at least 90% of the tags go to residents, since they always have a chance to draw. So, this 50% bonus point rule need only apply to the nonresidents. Please realize that as a lifetime license holder I have nothing to gain by this if it were to change. I guide just as many residents as nonresidents, so I am not looking to profit by this change either. I feel the current draw system works against nonresidents; especially the younger ones that are just getting into the game. If something is not done soon, this problem will only get worse. This will result in more and more hunters not applying. In this internet age, nonresidents are being educated about this flaw in the draw through chat forums. I do not think we can truly measure the negative impact and lost revenue to the Department that this could have in the future if left unchanged. I know that with proper planning and computer technology that this idea could be implemented into the draw. I truly believe this would make the Department 's draw system as perfect as it can get and would only help the Department to generate more funds due to many more nonresidents applying because they would have a legitimate chance at a great tag without having to wait for 20 years or more. If my idea is not in line, I hope that some type of adjustment will be made to the current draw system, since it is

flawed and will only get worse in its bias against nonresidents as time goes on. By making this adjustment, the Department and nonresident hunters would both benefit. Typically, change is resisted most by the residents, but this idea would have no impact on the residents and their draw odds.

**Written Criticism: April 16, 2013.** I believe hunters with the highest number of bonus points should be given priority in the draw. A hunter who has 12 or 13 points should have priority over other hunters with fewer bonus points. The draw should work from the most bonus points down to the single bonus point. This would generate more loyalty among the hunters and help keep non-hunters from bogging down the system.

**Agency Response:** In some of the high demand hunts, the 10% nonresident cap is met in the maximum bonus point pass; statistics show that deer hunts north of the Colorado River and some bull elk hunts regularly reach the cap. The comments suggest that the Department limit the percentage of the nonresident tags reserved for the maximum bonus point pass, anywhere from 20-50%, leaving the rest of the nonresident tags to be issued during the other two passes of the draw or that a set number of the tags in each hunt number be set aside and not issued during the bonus pass of the computer draw. After thorough review, the Department is recommending that no more than 50% of the tags available to nonresidents be issued during the bonus pass; leaving the other 50% of tags for the other two passes (nonresidents tags would still be no more than 10% of tags). The tags available to residents during the maximum bonus point pass would increase and nonresidents would have increased odds of drawing a high demand hunt before reaching maximum bonus points.

*The following comments suggest giving certain persons preference during the draw:*

**Written Criticism: April 28, 2011:** I think that all the people born in Arizona should have first choice on all tags and by age.

**Written Criticism: April 29, 2009.** Simple suggestion: any resident, who has continually lived in Arizona for 50 years and is eligible for the tag, is drawn. A person could include family members on the same application too. Arizona pioneers deserve to be able to hunt in the State we love.

**Written Criticism: May 8, 2009.** There is a defined percentage of permits set aside for out-of-state residents for each draw. My idea would be to set aside a similar percentage of permits for applicants who are native Arizonans. Those people who were born here usually have historic roots to the state community. Being able to develop the multi-generational interest in hunting within the state would be beneficial to maintain hunting interest as a true family bonding experience compared to the out-of-state, trophy hunter mentality.

**Written Criticism: May 6, 2009.** Seniors 60 years of age and older should not have to go through a lottery to obtain a hunt permit. My late Father and his friends went deer and javelina hunting year after year. A great part of their lives revolved around planning where to hunt, getting ready, buying the latest hunt toys, scouting for new areas, figuring out where to camp, ensuring compliance with access requirements, talking to ranchers, etc. They had to keep abreast of the latest changes to the application process, time constraints, assign someone to make sure the check was made out correctly, and the application had all the “blocks” properly completed. There were numerous times when they were not drawn or, on some occasions, the application was rejected for incorrect completion or a late postmark. My late Father and his friends might have killed three javelina and two deer between the age of 60 and 75. Sending this comment is against my better judgment as my opinion is the Department is interested in law enforcement and funds acquisition, not how to make the hunters and anglers experience more enjoyable.

**Written Criticism: June 24, 2009.** I would like to suggest that consideration be given to a person over 60 years of age. I just turned 65 in June. I also have never drawn an elk tag, although I have put in twice so far and was rejected both times. Not only should we be given consideration for our age alone, but also for never having been on a hunt before. For any big game hunts, serious consideration should be given to us old timers as we may not be able to hunt much longer or even be lucky enough to be around to enjoy the great experience of hunting. Youth get a few breaks that us seniors would appreciate. There should be a reduced price for all senior hunters, especially since most of us are living on a small pension or Social Security.

**Agency Response:** The current draw process is designed to provide equal opportunity for all hunters. It was never the Commission’s intention to use the draw as a preference system for issuing tags to special classes of persons. Awarding tags to certain classes of persons would take opportunity away from other applicants. The Department’s draw process is designed to provide equal opportunities to all classes of persons and not provide an advantage to certain classes of hunters.

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

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on March 7, 2006; which stated the rulemaking would not impact most resident and nonresident hunters, except those nonresident hunters who apply for

high-demand hunts, by reducing the number of nonresidents hunters who can receive a hunt permit-tag through the computer draw. Although this was thought to be a benefit to resident hunters and a loss to nonresidents, the Department observed the loss was not unprecedented as the Department had previously established nonresident hunt permit-tag limits of 10%, prior to this rulemaking.

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

The Department did not receive any analyses.

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

The Department did not complete the course of action indicated in the five-year review process report as anticipated. G.R.R.C. approved the report at the December 2, 2008 Council Meeting, which stated the Department anticipated submitting the final rules to the Council by April 2011. The Department was unable to complete the indicated course of action by April 2011 due to the rulemaking moratorium in effect at that time.

While exceptions were granted during the moratorium, the exception criteria were very specific. The Department reviewed the recommended actions for this rule and determined that none of the recommendations included in the previous five-year review report met the exception criteria authorized under Laws 2010, Second Regular Session, Chapter 287, Section 28.

In 2011, the rulemaking moratorium was extended by way of Executive Order 2011-05. Item #4 of the Executive Order exempted any state agency whose agency head is not appointed by the Governor. The Department considered Commission priorities and five-year review report due dates when determining which rulemakings to pursue.

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

The public benefits from a rule that establishes information necessary to apply for hunt permit- and nonpermit-tags. Hunt permit-tags are issued by computer draw and nonpermit-tags are available at any

Department office or license dealer. The information also makes the computer draw process transparent to the public. The public and the Department benefit from a rule that is understandable. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

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

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

**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.**

Not applicable, the rule was adopted before July 29, 2010.

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

The Department proposes to amend R12-4-114 as indicated in this report and anticipates submitting the Notice of Final Rulemaking to the Council by June 2015.

**R12-4-115. Supplemental Hunts and Hunter Pool**

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

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-102, 17-231(A)(2), 17-231(A)(3), 17-234, 17-239, 17-331(A), and 17-332(A)

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

The objective of the rule is to establish the Commission's authority to establish a supplemental hunt when necessary to achieve management objectives when those objectives are not being reached through the regular season structures, take depreddating wildlife, or address an immediate threat to the

health, safety, or management of wildlife or its habitat, or to public health or safety. The rule also establishes the requirements for the supplemental hunter pool, comprised of persons who may be called upon to receive restricted nonpermit-tags when a supplemental hunt is authorized by the Commission. Under A.R.S. 17-239(D), the Commission may establish special seasons, special bag limits, and reduce or waive license and tag fees to crop that wildlife. The rule was adopted to establish an application process and hunter pool to enable the Department conduct those authorized activities.

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

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

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

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

Laws 2013, First Regular Session, Chapter 197, Section 12 amended A.R.S. § 17-333 to authorize the Commission to establish license classifications and their associated fees in rule. The Commission approved the exempt rulemaking implementing recent legislative changes and establishing a simpler license structure and associated fees. The amendments made by the exempt rulemaking became effective January 1, 2014 and are also included in this report.

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

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

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

Overall, the rule is clear, concise and understandable. However, discussions with the Department's customer service employees indicate there is some confusion as to how and when a restricted

nonpermit-tag hunt is approved. The Department proposes to amend the rule to clarify when and how restricted nonpermit-tag hunts are approved. When the Commission authorizes a supplemental hunt in an area that matches the season dates and open areas of another big game animal for which a computer draw has occurred, the Department will offer the restricted nonpermit-tags to persons who were successful in the computer draw. Discussions with the Department's draw employees and some members of the hunter pool have asked why some restricted nonpermit-tags are not available to the pool. The Department offers these restricted nonpermit-tags to those persons who drew a big game tag for that area to limit the number of hunters in the area. The Department proposes to amend the rule to clarify that a "companion tag" is made available only to holders of the hunt permit-tags.

- 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.**

The Department has not received any written criticisms of the rule.

- 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 Department is unable to determine whether the rule has resulted in the estimated economic, small business, and consumer impacts as the most last making of the rule became effective January 1, 2014. The rule was last amended to remove references to "calendar year" and require a person to possess a valid license at the time of application and when in an open area during the hunting season for which the restricted nonpermit-tag in possession. The Commission's objectives for the exempt rulemaking are to simplify the license structure and remove barriers for recruitment of new hunters and anglers. The Commission anticipates the new, simplified license structure will benefit constituents and the Department.

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

The Department did not receive any analyses.

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

Not applicable, the Department did not indicate a course of action for this rule in the previous five-year review report.

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

The regulated community benefits from a rule that allows an additional opportunity to participate in a big game hunt. The Department benefits from a rule that allows a member of the public to assist in harvesting caused by game mammals that are damaging a person's property or to assist in wildlife population management. The public and the Department benefit from a rule that is understandable. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

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

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

- 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 rule complies with A.R.S. § 41-1037 because the restricted nonpermit-tag falls within the definition of "general permit" as defined under A.R.S. § 41-1001.

- 14. Course of action the agency proposes to take regarding the rule, including the month and year in which the agency anticipates submitting the rule to the Council if the agency determines it is**

**necessary to amend or repeal an existing rule or make a rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.**

The Department proposes to amend R12-4-115 as indicated in this report and anticipates submitting the Notice of Final Rulemaking to the Council by June 2015.

#### **R12-4-116. Reward Payments**

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

General: A.R.S. § 17-231(A)(1)

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

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

The objective of the rule is to establish the requirements necessary for reward payments to include the schedule of rewards. 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. Rewards have successfully been distributed on wildlife law enforcement cases that meet certain criteria since the inception of the Operation Game Thief Program (OGT) in 1979. The rule was adopted to protect future populations and keep the state's natural resources available and abundant for the long-term. 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.

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

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

However, the Department proposes to amend the rule by increasing the reward value for antelope, bald

eagles, bear, bighorn sheep, buffalo, deer, elk, javelina, mountain lion, turkey, and any wildlife listed as endangered or threatened to \$500. Reward amounts were established in 1991 and have not been increased since that time. In 1991, the purchasing power of a dollar was close to twice that of today. The Department proposes to increase the reward values in an effort to maintain the intent of the rule.

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

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

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

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

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

The rule is clear, concise, and understandable.

**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.**

The Department has not received any written criticisms of the rule.

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

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on March 7, 2006; which stated the restructuring of this rule would benefit those persons who report wildlife violations that meet the criteria established in rule. The Department has averaged annual reward payments of \$10,825 over the past five years through the Operation Game Thief Program. Payments are funded by fines collected for criminal and civil violations of Title 17. Because the program is funded in this manner, there is no specific annual amount of funding made available by the Department to the program.

- 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 Department did not indicate a course of action for this rule in the previous five-year review report.

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

The public benefits from a rule that is intended 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 and protect future populations and keep the state's natural resources available and abundant for the long-term. Poaching can jeopardize the health and longevity of the herd and interrupt breeding seasons. The Department law enforcement officers benefit from a rule that motivates persons to report violations when a case cannot otherwise be resolved. Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

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

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

- 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.**

Not applicable, the rule was adopted before July 29, 2010.

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

The Department proposes to amend R12-4-116 as indicated in this report and anticipates submitting the Notice of Final Rulemaking to the Council by June 2015.

#### **R12-4-117. Indian Reservations**

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

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-211(E)(4) and 17-309(A)(19)

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

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

rule was adopted to provide notice to members of the public that, even though wildlife may have been lawfully taken on an Indian reservation, all wildlife transported anywhere in this state is subject to inspection.

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

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

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

The rule is consistent with and is not in conflict with statutes and rules. Statutes and rules used in determining consistency include the A.R.S. Title 17, and A.A.C. Title 12, Chapter 4. However, the rule references an incorrect statutory citation. Laws 2012, 2nd Reg. Sess., Ch. 128, amended A.R.S. § 17-309 to remove the prohibition on noise suppressors, resulting in the renumbering of the statute subsections. The Department proposes to amend the rule to correct the statutory reference.

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

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

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

Overall, the rule is clear, concise and understandable. However, the Department proposes to amend the rule to clarify that an inspection may be required when the person is transporting the wildlife anywhere in this state.

**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 has not received any written criticisms of the rule.

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

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on March 7, 2006; which stated the rulemaking would benefit the Department and its customers by making the rule clear, concise, and understandable, resulting in the consistent interpretation of rule, equal and uniform enforceability, and no additional costs to the public.

- 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 Department did not indicate a course of action for this rule in the previous five-year review report.

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

The public benefits from a rule that specifies lawful exemptions and requirements for a person who is taking or intends to take wildlife on an Indian reservation. The Department's enforcement officers

benefit from a rule that establishes the Department's authority as it applies to wildlife taken on an Indian reservation. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

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

Although federal and tribal laws govern the take of wildlife on an Indian reservation, federal law is not applicable to the subjects in the rule: whether state licensure is required on an Indian reservation, transportation of wildlife lawfully taken, and inspection of wildlife.

**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.**

Not applicable, the rule was adopted before July 29, 2010.

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

The Department proposes to amend R12-4-117 as indicated in this report and anticipates submitting the Notice of Final Rulemaking to the Council by June 2015.

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

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

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-231(A)(1) and 17-214

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

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

Department enforcement and non-enforcement activities, as applicable.

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

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

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

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

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

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

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

The rule is clear, concise and understandable. However, the Department proposes to amend the rule to ensure conformity with the Arizona Administrative Procedures Act and the Secretary of State's rulemaking format and style requirements. The Department anticipates these changes will result in a rule that is more understandable.

**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 has not received any written criticisms of the rule.

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

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on March 7, 2006; which stated the rulemaking would benefit the public and Department by allowing non-commissioned reserve volunteers to assist in off-highway vehicle enforcement patrols.

- 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 Department did not indicate a course of action for this rule in the previous five-year review report.

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

The public benefits from a rule that expands the Department's ability to conduct wildlife enforcement patrols, boating enforcement patrols, off-highway vehicle enforcement patrols, special investigations, and other enforcement and related non-enforcement duties. The regulated community benefits from a rule that enables a person interested in an enforcement career the opportunity to gain experience in their chosen field. The Department benefits from a rule that allows reserve volunteers to assist in enforcement and non-enforcement activities; thus allowing the Department to maximize the use of paid staff for official designated duties. The public and the Department benefit from a rule that is understandable. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

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

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

- 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.**

Not applicable, the rule was adopted before July 29, 2010.

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

The Department proposes to amend R12-4-119 as indicated in this report and anticipates submitting the Notice of Final Rulemaking to the Council by June 2015.

#### **R12-4-120. Issuance, Sale, and Transfer of Special Big Game License Tags**

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

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-102, 17-231(A)(2), 17-231(A)(3), 17-231(A)(7), 17-331(A), 17-332(A), and 17-346

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

The objective of the rule is to establish procedures for the application and issuance of special big game license-tags, including the selection criteria for choosing applicants who are awarded such tags as authorized under A.R.S. § 17-346. The Commission is authorized to issue three special license-tags each year for each species of big game to 501(c)(3) organizations. The Commission reviews applications submitted by eligible wildlife conservation organizations and, through a public process, awards those tags to selected organizations to raise funds for wildlife. The selected organizations market and sell the tags. Every dollar raised from each species tag goes directly to the management of

that species through wildlife and habitat management in coordination with the Arizona Habitat Partnership Committee. Projects range from water improvements, wildlife friendly fencing, wildlife studies, game surveys, translocations, habitat restorations, land acquisitions and more. Many of these projects are matched and further leveraged with other funding sources, labor, or supplied materials, stretching every dollar spent even further. Administrative and marketing costs are covered by the wildlife conservation organization. Tags are typically made available to the public through auctions or raffles. A separate hunting license is not required and the hunting season is year-round.

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

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

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

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

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

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

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

The rule is clear, concise and understandable. However, the Department proposes to amend R12-4-120 to ensure conformity with the Arizona Administrative Procedures Act and the Secretary of State's rulemaking format and style requirements.

**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 has not received any written criticisms of the rule.

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

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on March 7, 2006; which stated the rulemaking would benefit the Department and would create a cost for the successful applicants by requiring the funds and any interest to be returned to the Department within a reasonable amount of time.

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

The Department did not receive any analyses.

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

Not applicable, the Department did not indicate a course of action for this rule in the previous five-year review report.

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

The public benefits from a rule that establishes the Special Big Game License Tag program, through the dedication of concerned hunters and sportsmen, by continuing to enjoy the state's full complement

of diverse wildlife, whether it is through consumptive or non-consumptive use. The Special Big Game License Tag program generates approximately \$1,351,260 each year; \$1,332,470.50 more than the Department would have collected if all of the tags had been purchased by nonresident applicants. Revenue generated by the Special Big Game License Tag program funds projects ranging from water improvements, wildlife friendly fencing, wildlife studies, game surveys, translocations, habitat restorations, land acquisitions and more. Projects are matched and further leveraged with other funding sources, labor, or supplied materials, stretching every dollar spent even further. The public and the Department benefit from a rule that is understandable. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

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

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

**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.**

Not applicable, the rule was adopted before July 29, 2010.

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

The Department proposes to amend R12-4-120 as indicated in this report and anticipates submitting the Notice of Final Rulemaking to the Council by June 2015.

**R12-4-121. Big Game Permit or Tag Transfer**

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

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-102, 17-231(A)(2), 17-231(A)(3), 17-231(A)(7), 17-331(A), 17-332(A), 17-332(D)

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

The objective of the rule is to establish the requirements for an unused big game tag transfer as authorized under A.R.S. § 17-332, which allows a parent, guardian, or grandparent to transfer their unused big game tag to a minor child or grandchild; or a person to transfer their unused big game tag to a 501(c)(3) organization that provides hunting opportunities and experiences to a minor child with life-threatening medical conditions or physical disabilities. The rule was adopted to provide the public with the information necessary to process the transfer of a tag.

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

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

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

The rule is consistent with and is not in conflict with statutes and rules, with the exception of A.R.S. § 17-309(A)(17), which states it is unlawful for a person to take wildlife in excess of the established bag limit. The Department proposes to amend the rule to clarify that a tag may not be transferred to a person who has reached the applicable annual or lifetime bag limit for that genus. Statutes and rules used in determining consistency include A.R.S. Title 17 and A.A.C. Title 12, Chapter 4.

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

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

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

The rule is clear, concise, and understandable.

**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.**

The agency received the following written criticisms of the rule.

**Written Criticism: April 29, 2009.** In these troubled times both behind and ahead of us. It is so difficult to be drawn for big game. We have to make a financial decision and decide when and where to hunt nearly eleven months in advance of a hunt (elk tag applications are submitted in late January for hunts that occur in mid-December). So many things can happen in eleven months; for example accidents, death, floods, illness, loss of employment, etc. I know I can transfer them to a minor child or donate them to nonprofit organizations like Hunt of a Lifetime, but it may be time to make these big game tags transferable to any family member? My children are grown and I do not think I want to start with another baby at my age. I do not have any grandchildren either. It is past the time to have an opportunity to pass these lucky non usable tags to the lucky tag holder's family member.

**Written Criticism: April 30, 2009.** I think it is a good idea to allow a person in the military and who received deployment orders to be able to transfer their unused tag to someone of their choice. This year, my wife and I received a bull elk tag for unit 4A. We did not expect her to be deployed, causing her to miss the season. If we had known that she would not be here to hunt, we would not have put in for the elk tags. We want to let someone else have the chance to use the tag, but she has no children. She does have a younger brother who would be willing to take the tag if he can get time off from college and there is one person who we want to give the tag to who helped me hunt last year and did not get anything in return.

**Written Criticism: June 18, 2012.** A friend of mine recently drew a permit for a Camp Navajo/National Guard-Only elk permit. Unfortunately, he is not a member of the guard and had submitted the wrong hunt number. He spoke with a friend of mine who is a Purple Heart recipient and very active in the wounded warrior program in Arizona who suggested he donate the tag to the program for use by a veteran who would qualify for this unique opportunity. However, the current Commission rule only addresses youth with debilitating illnesses. Our wounded veterans, who would truly benefit from this type of donation, do not qualify. I think this is a topic the Commission should address in the next rulemaking. Not only for hunts on Camp Navajo and Fort Huachuca, but all hunts offered on a state-wide basis. These men and women have sacrificed for our freedom, and I feel this

would be a great way to show our support and appreciation for their service. For the last four years, I have donated my time for a marlin fishing trip in Mexico for the wounded warriors; most of them have never experienced these types of activities due to time constraints from their service and the costs associated with these types of trips. Hunting in Arizona under a donated permit would be another great way of introducing them to the outdoors and showing our support for their service. I hope the Commission will consider revisiting this rule and allow our wounded service members to enjoy the outdoors through the donations of permits.

**Agency Response:** The requirements for tag transfers are prescribed under A.R.S. § 17-332(D)(2), which states, “A parent, grandparent or legal guardian may allow the parent’s, grandparent’s or guardian’s minor child or minor grandchild to use the parent’s, grandparent’s or guardian’s big game permit or tag to take big game pursuant to the following requirements...”. . A legislative amendment is required before the Department may amend the rule as suggested in the above comments.

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

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on May 1, 2012, which stated the rulemaking would benefit the regulated community and Department by replacing archaic information and aligning the rule with statute and would not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated.

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

The Department did not receive any analyses.

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

The Department did not complete the course of action indicated in the five-year review process report as anticipated. G.R.R.C. approved the report at the December 2, 2008 Council Meeting, which stated

the Department anticipated submitting the final rules to the Council by April 2011. The Department was unable to complete the indicated course of action by April 2011 due to the rulemaking moratorium in effect at that time.

While exceptions were granted during the moratorium, the exception criteria were very specific. The Department reviewed the recommended actions included in the previous report for this rule and determined that only one recommendation met the exception criteria authorized under Laws 2010, Second Regular Session, Chapter 287, Section 28 (B)(7), which allows an agency to eliminate or replace archaic or illegal rules. The Department was granted permission to pursue rulemaking to amend R12-4-121 to allow grandparents to transfer their big game permit-tag to their minor grandchild. In 2007, amendments to A.R.S. § 17-332 resulted in a rule that was more restrictive as the rule only allowed a parent or guardian to transfer a tag to their minor child. In addition, the kind of tag that could be transferred was expanded to include nonpermit-tags and special big game tags. In compliance with the exception granted, no other amendments were made to the rule. The rulemaking action was completed as follows:

- Notice of Rulemaking Docket Opening: 17 A.A.R. 2345, November 18, 2011.
- Notice of Proposed Rulemaking: 17 A.A.R. 2336, November 18, 2011.
- Public Comment Period: November 18, 2011 through February 10, 2012.
- The Notice of Final Rulemaking was approved by G.R.R.C. at the May 1, 2012 Council Meeting.
- Notice of Final Rulemaking: 18 A.A.R. 1195, May 25, 2012.

In 2011, the rulemaking moratorium was extended by way of Executive Order 2011-05. Item #4 of the Executive Order exempted any state agency whose agency head is not appointed by the Governor. The Department considered Commission priorities and five-year review report due dates when determining which rulemakings to pursue.

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

The public benefits from a rule that establishes the requirements for an unused big game tag transfer as authorized under A.R.S. § 17-332(D). The Department transfers approximately 375 unused big game tags each year; the Department's tracking system does not differentiate tag transfers made between family members and those donated to qualifying organizations. The Department and the public benefit from a rule that is understandable. The Department believes that once the proposed amendments indicated in the report are made, the rule will impose the least burden and costs to persons regulated by the rule.

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

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

- 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 rule complies with A.R.S. § 41-1037 because the unused big game tag falls within the definition of "general permit" as defined under A.R.S. § 41-1001.

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

The Department proposes to amend R12-4-121 as indicated in this report and anticipates submitting the Notice of Final Rulemaking to the Council by June 2015.

**R12-4-122. Handling, Transportation, Processing And Storing of Game Meat Given to Public Institutions and Charitable Organizations**

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

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-102, 17-211(E)(4), 17-233, 17-239(D), and 17-240(A)

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

The objective of the rule is to establish requirements for game meat that can or cannot be donated to a public institution or charitable organization, to include who is authorized to determine when game meat is safe and appropriate for donation. The rule was adopted to provide a mechanism that allows the donation of game meat to charitable organizations, includes but is not limited to soup kitchens and prisons, and prevent game meat from going to waste. By making game meat available to be donated, these organizations will have more resources available for use.

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

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

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

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

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

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

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

The rule is clear, concise, and understandable.

**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 has not received any written criticisms of the rule.

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

**making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule.**

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on March 7, 2006; which stated the rulemaking would benefit charitable organizations and the persons that patronize those organizations by allowing a person to donate javelina meat. The Department is unable to determine the annual amount or the exact dollar value of these donations; however, approximately 25 to 30 elk carcasses, 15 to 20 deer carcasses, and 15 to 20 javelina carcasses are donated to charitable organizations annually.

**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 Department did not indicate a course of action for this rule in the previous five-year review report.

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

The public benefits from a rule that establishes requirements for game meat that can or cannot be donated to a public institution or charitable organization, to include who is authorized to determine when game meat is safe and appropriate for donation. Charitable organizations benefit from donated game meat because it leaves resources that would have been spent on meat available for other uses. While a source that sells javelina meat was not readily found, the cost of elk meat per pound ranges from \$10 to \$30 and the cost of deer meat per pound ranges from \$7 to \$26. The Department believes the rule imposes the least burden and costs to persons regulated by the rule.

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

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

- 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.**

Not applicable, the rule was adopted before July 29, 2010.

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

No action

#### **R12-4-123. Expenditure of Funds**

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

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-231(A)(6) and 17-231(A)(7)

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

The objective of the rule is to establish the Director's authority to expend funds from specific sources within prescribed guidelines, and to require that the Director ensure that Department infrastructure complies with those guidelines. The rule was adopted to formalize the processes used by the Commission for the expenditure of funds arising from appropriations, licenses, gifts, and other sources in a manner that is consistent with the goals and objectives of the Commission.

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

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

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

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

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

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

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

The rule is clear, concise, and understandable.

**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 has not received any written criticisms of the rule.

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

The rule has resulted in the estimated economic, small business, and consumer impacts as stated in the final rulemaking package approved by G.R.R.C. on March 7, 2006; which stated the rulemaking would benefit the Department and its customers by making the rule clear, concise, and understandable, resulting in the consistent interpretation of rule, equal and uniform enforceability, and no additional costs to the public.

- 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 Department did not indicate a course of action for this rule in the previous five-year review report.

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

The public benefits from a rule that establishes the Director's authority to expend funds from specific sources within prescribed guidelines. This information also makes the expenditure of funds process transparent to the public. The public and the Department benefit from a rule that is understandable. The Department believes the rule imposes the least burden and costs to persons regulated by the rule.

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

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

- 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.**

Not applicable, the rule was adopted before July 29, 2010.

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

No action.