

**Arizona Game and Fish Commission  
2011 Five-Year-Review Report**

**TITLE 12. NATURAL RESOURCES  
CHAPTER 4. GAME AND FISH COMMISSION  
ARTICLE 6. RULES OF PRACTICE  
BEFORE THE COMMISSION**

**Prepared for the  
Governor's Regulatory Review Council**



**ARIZONA GAME AND FISH COMMISSION**  
**II. INTRODUCTION**

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every agency shall review its rules at least once every five years to determine whether any rule should be amended or repealed.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 6. Rules of Practice Before the Commission are scheduled to be reviewed by March 2012.

The Arizona Game and Fish Department tasked a team of employees to review the rules contained within Article 6. The Department prepared a report of its findings based on G.R.R.C. standards. In its report, the review team addressed all internal comments from agency staff as well as comments received from the public. The team took a customer-focused approach, considering each comment from a resource perspective and determining whether the request would cause undue harm to the state’s wildlife or negatively affect the Department’s wildlife objectives. The review team then determined whether the request was consistent with the Department’s overall mission, if it could be effectively implemented given agency resources, and if it was acceptable to the public.

The Department anticipates submitting the Notice of Final Rulemaking for actions proposed in this report to the Council by June 2014. However, if the current rulemaking moratorium is extended the rulemaking may be delayed.

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

<b>Current Article 6 Structure</b>	<b>Proposed Article 6 Structure</b>
R12-4-601. Petition for Rule or Review of Practice or Policy	R12-4-601. Definitions
R12-4-602. Written Comments on Proposed Rules	R12-4-602. Petition for Rule or Review of Practice or Policy
R12-4-603. Oral Proceedings Before the Commission	R12-4-603. Written Comments on Proposed Rules
R12-4-604. Ex Parte Communication	R12-4-604. Oral Proceedings Before the Commission
R12-4-605. Standards for Revocation, Suspension, or Denial of a License	R12-4-605. Ex Parte Communication
R12-4-606. Proceedings for License Revocation, Suspension, or Denial of Right to Obtain a License, and Civil Damages	R12-4-606. Standards for Revocation, Suspension, or Denial of a License
R12-4-607. Rehearing or Review of Commission Decisions	R12-4-607. Proceedings for License Revocation, Suspension, or Denial of Right to Obtain a License, and Civil Damages
R12-4-608. Expired	R12-4-608. Rehearing or Review of Commission Decisions
R12-4-609. Commission Orders	R12-4-609. Commission Orders
R12-4-610. Petitions for the Closure of State or Federal Lands to Hunting, Fishing, Trapping, or Operation of Motor Vehicles	R12-4-610. Petitions for the Closure of State or Federal Lands to Hunting, Fishing, Trapping, or Operation of Motor Vehicles
R12-4-611. Petition for a Hearing Before the Commission When No Remedy is Provided in Statute, Rule, or Policy	R12-4-611. Petition for a Hearing Before the Commission When No Remedy is Provided in Statute, Rule, or Policy

**R12-4-601. PETITION FOR RULE OR REVIEW OF PRACTICE OR POLICY**

**1. General and specific statutes authorizing the rule.**

General: A.R.S. § 17-231(A)(1)  
Specific: A.R.S. §§ 17-231(B)(1) and 41-1033

**2. Objective of the rule.**

The objective of the rule is to establish the method and form an individual, organization, or agency shall use to petition the Arizona Game and Fish Commission to adopt, amend, or repeal a rule under A.R.S. § 41-1033.

**3. Effectiveness of the rule in achieving its objective.**

The rule is effective in achieving the previously stated objective.

**4. Consistency of the rule with state and federal statutes and rules; 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. Titles 17 and 41 and 12 A.A.C. 4.

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

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

**6. Agency views regarding the current wisdom of the rule.**

The Department views this rule as wise and necessary to achieve the previously stated objective.

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

Overall, the rule is clear, concise, and understandable. An individual, organization, or agency is required to submit a petition that meets specific formatting requirements. In an effort to simplify and enhance the public petition process, the Department proposes to amend the rule to require a petitioner to use a form furnished by the Department. The proposed form will reduce the number of non-compliant petitions received by the Department.

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

The Department did not receive any written criticisms of the rule.

9. **Estimated economic, small business, and consumer impact of the rule as compared to 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 July 13, 2010.

Since June 2009, the Department received three petitions authorized under R12-4-601.

10. **Any analysis submitted to the agency by another person that compares the rule's impact on this state's business competitiveness to the impact on businesses in other states.**

The Department did not receive any analyses comparing the rule's impact on this state's business competitiveness to the impact on businesses in other states.

11. **If applicable, that the agency completed the previous five-year review process.**

The Department completed the previous five-year review process. G.R.R.C. approved the report at the May 1, 2007 Council Meeting. The Governor's office approved the Department's request to pursue rulemaking to update the Department's address and G.R.R.C. approved the Notice of Final Rulemaking at the July 13, 2010 Council Meeting.

12. **A determination that 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.**

Any individual, organization, or agency may submit a petition as prescribed under this rule. The Department bears the greater burden in facilitating this public process. Although the Department determined that the rule imposes the least burden and cost necessary to achieve the underlying regulatory objective, in an effort to reduce the burden imposed on the regulated community, the Department is amending the rule to require a petitioner to submit a standardized form furnished by the Department.

13. **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, repeal, or make a rule.**

The Department proposes to amend R12-4-601 by:

- Creating a rule that provides definitions for terms used within Article 6. This is proposed to ensure compliance with Secretary of State rule formatting requirements. Whenever an agency amends an Article, agencies are directed to transfer all definitions to the first rule within the Article. Definitions provided in Article 6 rules were moved to R12-4-601 and definitions for "business day", "Commission Chair" and "respondent" were added.
- Renumbering the rule.
- Stating that the petitioner must use a form furnished by the Department. This is proposed to

ensure that all petitions contain the applicable information and to reduce the amount of time, spent by Department employees, in correcting petitions that do not meet the requirements established under rule.

- Ensuring consistency in language for all rules establishing petition requirements.

Subject to the evaluation of the economic, small business and consumer impact of any proposed amendments, the Department anticipates submitting a Notice of Final Rulemaking to the Council by June 2014.

#### **R12-4-601. Definitions**

In addition to the definitions provided under A.R.S. §§ 41-1001, 41-1092, the following definitions apply to this Article unless otherwise specified:

“Business day” means any day other than a furlough day, Saturday, Sunday, or holiday.

“Commission Chair” means the individual who presides over the Arizona Game and Fish Department Commission.

“Ex parte communication” means any oral or written communication with the Commission that is not part of the public record and for which no reasonable prior written notice has been given to all interested parties.

“Individual outside the Commission” means any individual other than a Commissioner, personal aide to a Commissioner, Department employee, consultant of the Commission, or an attorney representing the Commission.

“Matter” means any contested case, appealable agency action, rule or review petition hearing, rulemaking proceeding, or any public input at a Commission meeting.

“Proceeding” means any contested case, appealable agency action, rule or review petition hearing, rulemaking proceeding, or any public input at a Commission meeting.

“Respondent” means the person against whom a motion or petition is filed; including the person’s agent.

#### **R12-4-601 R12-4-602. Petition for Rule or Review of Practice or Policy**

- A. Any individual, ~~including any~~ organization, or agency, requesting that the Commission ~~make~~ adopt, amend, or repeal a rule, shall submit a petition as ~~prescribed~~ established under this Section.
- B. Any individual, ~~including any~~ organization, or agency, requesting that the Commission review an existing Department practice or substantive policy that the petitioner alleges to constitute a rule under A.R.S. § 41-1033, ~~as defined under A.R.S. § 41-1001~~, shall submit a petition as ~~prescribed~~ established under this Section.
- C. A petitioner shall ~~not~~ address ~~more than~~ only one rule, practice, or substantive policy in ~~the~~ a petition.
- D. ~~If the Commission has considered and denied a petition, and a~~ A petitioner ~~submits~~ submitting a petition ~~within the next year that addresses~~ addressing the same substantive issue, ~~considered by the Commission within the previous year~~ the petitioner shall provide a written statement that contains any reason an additional written statement that includes rationale not previously considered by the Commission ~~in~~

making a decision.

- E. A petitioner shall submit ~~an original and one copy of a~~ the petition form to the Arizona Game and Fish Department, Director's Office, 5000 W. Carefree Highway, Phoenix, AZ 85086. ~~The Commission shall render a decision on the petition as required under A.R.S. § 41-1033. The petition form is furnished by the Department and is available at any Department office and on the Department's website at [www.azgfd.gov](http://www.azgfd.gov). The petition form shall contain all of the following information:~~
1. Petitioner identification:
    - a. Name of individual, organization, or agency, as appropriate;
    - b. Petitioner's title, when the petition is submitted by an organization or agency;
    - c. Name of organization or agency representative, when applicable;
    - d. Number of individuals represented by the organization, when applicable;
    - e. Number of Arizona residents represented by the organization, when applicable;
    - f. Mailing address;
    - g. Contact telephone number; and
    - h. E-mail, when available;
  2. Type of request;
  3. Reason for petition;
  4. Statutory authority;
  5. Petitioner's signature;
  6. Date on which the petition was signed; and
  7. Any other information required by the Department.
- F. ~~Within five working days after a petition is submitted, the~~ The Director shall determine whether the petition complies with this Section within 15 business days after receiving the petition.
1. If the petition complies with this Section ~~the~~:
    - a. The Director shall place the petition on a Commission open meeting agenda.
    - b. The petitioner may present oral testimony at that open meeting, as established under R12-4-603.
    - c. The Commission shall render a decision on the petition as required under A.R.S. § 41-1033.
  2. If a petition does not comply with ~~subsection (G) through (L) of this Section, the~~:
    - a. The Director shall return a copy of the petition as filed to the petitioner, and indicate
    - b. Indicate in writing why the petition does not comply with this Section. The Director shall not place the petition on a Commission agenda. The Department shall maintain the original petition on file for five years and consider the petition as a comment during the five year review process.
- G. ~~Petitions shall be typewritten, computer or word processor printed, or legibly handwritten, and double-spaced, on 8 1/2" x 11" paper; or typewritten, computer or word processor printed, or legibly handwritten on a form provided by the Department. The title shall be centered at the top of the first page and appear as "Petition to the Arizona Game and Fish Commission." The petition shall include the items listed in subsections (H) through (L). The items in the petition shall be presented in the order in which they are~~

~~listed in this Section.~~

- H. ~~The title of Part 1 shall be "Identification of Petitioner." The title shall be centered at the top of the first page of this part. Part 1 shall contain:~~
- ~~1. If the petitioner is a private individual, the name, mailing address, and telephone number of the petitioner;~~
  - ~~2. If the petitioner is a private group or organization, the name and address of the group or organization; the name, mailing address, and telephone number of an individual who is designated as the representative or official contact for the petitioner; the total number of individuals, and the number of Arizona residents represented by the petitioner; or the names and addresses of all individuals represented by the petitioner; or~~
  - ~~3. If the petitioner is a public agency, the name and address of the agency and the name, title, and telephone number of the agency's representative.~~
- I. ~~The title of Part 2 shall be "Request for Rule" or "Request for Review," as applicable. The title shall be centered at the top of the first page of this part. Part 2 shall contain:~~
- ~~1. If the petition is for a new rule, a statement to this effect, followed by the heading and specific language of the proposed rule;~~
  - ~~2. If the request is for amendment of a current rule, a statement to this effect, followed by the Arizona Administrative Code number of the current rule proposed for amendment, the heading of the rule, the specific, clearly readable language of the rule, indicating language to be deleted with strikeouts, and language to be added with underlining;~~
  - ~~3. If the request is for repeal of a current rule, a statement to this effect, followed by the Arizona Administrative Code number of the rule proposed for repeal and the heading of the rule; or~~
  - ~~4. If the request is for review of an existing agency practice or substantive policy statement that the petitioner alleges qualifies as a rule, as defined under A.R.S. § 41-1001, a statement to this effect, followed by the practice or policy number, if any, the practice or policy heading, if any, or a brief description of the practice or policy subject matter.~~
- J. ~~The title of Part 3 shall be "Reason for the Petition." The title shall be centered at the top of the first page of this part. Part 3 shall contain:~~
- ~~1. The reason the petitioner believes rulemaking or review of a practice or policy is necessary;~~
  - ~~2. Any statistical data or other justification supporting rulemaking or review of the practice or policy, with clear reference to any exhibits that are attached to or included with the petition;~~
  - ~~3. An identification of any individuals or special interest groups the petitioner believes would be impacted by the rule or a review of the practice or policy, and how they would be impacted; and~~
  - ~~4. If the petitioner is a public agency, a summary of issues raised in any public meeting or hearing regarding the petition, or any written comments offered by the public.~~
- K. ~~The title of Part 4 shall be "Statutory Authority." The title shall be centered at the top of the first page of this part. In Part 4, the petitioner shall identify any statute that authorizes the Commission to make the~~

~~rule, if known, or cite A.R.S. § 41-1033 if the petition relates to review of an existing practice or substantive policy statement.~~

~~L. The title of Part 5 shall be "Date and Signature." The title shall be centered at the top of the first page of this part. Part 5 shall contain:~~

- ~~1. An original signature of the representative or official contact, if the petitioner is a private group or organization or private individual named under subsection (H)(1) or (H)(2); or~~
- ~~2. If the petitioner is a public agency, the signature of the agency head or the agency head's designee;  
and~~
- ~~3. The month, day, and year that the petition is signed.~~

## **R12-4-602. WRITTEN COMMENTS ON PROPOSED RULES**

### **1. General and specific statutes authorizing the rule.**

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-231(B)(1), 41-1003, and 41-1023

### **2. Objective of the rule.**

The objective of the rule is to establish requirements for written comments submitted to the Department in response to a notice of proposed rulemaking.

### **3. Effectiveness of the rule in achieving its objective.**

The rule is effective in achieving the previously stated objective.

### **4. Consistency of the rule with state and federal statutes and rules; 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. Titles 17 and 41, and A.A.C. Title 12, Chapter 4.

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

The rule is enforced as written, however, the Department recognizes the requirements specific to comments submitted on behalf of a group or organization is difficult to enforce. The Department requires this information to determine the origin of the comment. Often, the individual submitting the comment on behalf of a group or organization does not include the required information. The Department attempts to obtain the required information by contacting the individual who submitted the comment, which is time consuming for Department personnel. The Department proposes to clarify how this type of comment is recorded to enhance the Department's ability to enforce the rule and reduce the impact of the rule on Department personnel.

### **6. Agency views regarding the current wisdom of the rule.**

The Department views this rule as wise and necessary to achieve the previously stated objective.

### **7. Clarity, conciseness, and understandability of the rule.**

Overall, the rule is clear, concise, and understandable. However, the Department proposes to clarify the rule by removing unnecessary verbiage and listing requirements specific to comments submitted on behalf of groups.

### **8. Summary of the written criticisms of the rule received by the agency within the 5-years immediately preceding the Five-year Review Report, including letters, memoranda, and written allegations made in litigation and administrative proceedings in which the agency was a party that the rule is discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the conclusion of the litigation and administrative proceedings.**

The Department did not receive any written criticisms of the rule.

- 9. Estimated economic, small business, and consumer impact of the rule as compared to 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 4, 2004.

- 10. Any analysis submitted to the agency by another person that compares the rule's impact on this state's business competitiveness to the impact on businesses in other states.**

The Department did not receive any analyses comparing the rule's impact on this state's business competitiveness to the impact on businesses in other states.

- 11. If applicable, that the agency completed the previous five-year review process.**

The Department did not complete the previous five-year review process. G.R.R.C. approved the report at the May 1, 2007 Council Meeting. The Department began the rulemaking portion of the process; the Secretary of State's Office published the Notice of Docket Opening and Notice of Proposed rulemaking on November 7, 2008. However, as prescribed under A.R.S. § 41-1021(A)(4), the proposed rulemaking expired November 7, 2009 because of the 2009-2011 rulemaking moratorium.

- 12. A determination that 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.**

Any individual may submit written statements, arguments, data, and views on proposed rules that have been filed with the Secretary of State under A.R.S. § 41-1022. The Department has determined that the rule imposes the least burden and cost necessary to achieve the underlying regulatory objective.

- 13. 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, repeal, or make a rule.**

The Department proposes to amend R12-4-602 by:

- Clarifying that a written comment submitted by an individual on behalf of a group or organization that does not contain all of the required information is placed in the rulemaking record as the view of the individual submitting the comment.
- Renumbering the rule.

Subject to the evaluation of the economic, small business and consumer impact of any proposed amendments, the Department anticipates submitting a Notice of Final Rulemaking to the Council by June 2014.

**~~R12-4-602~~ R12-4-603. Written Comments on Proposed Rules**

- ~~A.~~ A. Under A.R.S. § 41-1023, an individual may submit written statements, arguments, data, and views on the notice of proposed rules that have been filed with rulemaking published by the Secretary of State under A.R.S. § 41-1022 in the Arizona Administrative Register.
- ~~B.~~ B. An individual ~~who submits~~ submitting a written comments comment to the Commission may voluntarily provide their name and mailing address. ~~To be placed into the rulemaking record and considered by the Commission for a final decision, the~~ An individual submitting the a written comments comment shall ensure that ~~they~~ the comment:
- ~~1. Are~~ Is received before or on the ~~closing~~ close of record date for written comments, as provided in the Department's notice of proposed rulemaking published by the Secretary of State in the Arizona Administrative Register;
  - ~~2. Indicate if expressed on behalf of a group or organization, whether the views expressed are the official position of the group or organization, the number of individuals represented are represented, types of membership available, and number of Arizona residents in each membership category;. Comments that do not include the information required under this subsection will be placed in the rulemaking record as the views of the individual submitting the comments and not the views of any group or organization; and~~
  - ~~3-2. Are~~ Is submitted to the employee designated by the Department to receive the written comments comment, as published in the Arizona Administrative Register. provided in the Department's notice of proposed rulemaking; and
  3. When submitted on behalf of a group or organization indicates:
    - a. Whether the view expressed by the individual is the official position of the group or organization
    - b. The number of individuals represented by the group or organization.
    - c. The types of membership available.
    - d. The number of Arizona residents in each membership category.
  4. A comment submitted on behalf of a group or organization that does not meet the requirements established under subsection (B)(3) is placed in the rulemaking record as only the view of the individual submitting the comment.

## **R12-4-603. ORAL PROCEEDINGS BEFORE THE COMMISSION**

### **1. General and specific statutes authorizing the rule.**

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-231(B)(1) 17-231(B)(12), Title 37, Chapter 3, Article 3.1, 41-1003, and 41-1023

### **2. Objective of the rule.**

The objective of the rule is to establish the Department's operational process for oral proceedings held before the Commission.

### **3. Effectiveness of the rule in achieving its objective.**

The rule is effective in achieving the previously stated objective.

### **4. Consistency of the rule with state and federal statutes and rules; 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. Titles 17 and 41 and A.A.C. Title 12, Chapter 4.

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

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

### **6. Agency views regarding the current wisdom of the rule.**

The Department views this rule as wise and necessary to achieve the previously stated objective.

### **7. Clarity, conciseness, and understandability of the rule.**

Overall, the rule is clear, concise, and understandable. The Department proposes to further clarify the rule by replacing references to "Chair" with "Commission Chair" and listing oral proceeding authorizations and requirements.

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

The Department did not receive any written criticisms of the rule.

### **9. Estimated economic, small business, and consumer impact of the rule as compared to 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 4, 2004.

**10. Any analysis submitted to the agency by another person that compares the rule's impact on this state's business competitiveness to the impact on businesses in other states.**

The Department did not receive any analyses comparing the rule's impact on this state's business competitiveness to the impact on businesses in other states.

**11. If applicable, that the agency completed the previous five-year review process.**

The Department completed the previous five-year review process. G.R.R.C. approved the report at the May 1, 2007 Council Meeting and the Department did not propose a course of action for this rule.

**12. A determination that the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.**

The rule establishes the Department's operational process for oral proceedings held before the Commission. The Department bears the greater burden in facilitating this public process. The Department has determined that this rule imposes the least burden in cost to the persons regulated by the rule.

**13. 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, repeal, or make a rule.**

The Department proposes to amend R12-4-603 by:

- Moving definitions to R12-4-601.
- Renumbering the rule.

Subject to the evaluation of the economic, small business and consumer impact of any proposed amendments, the Department anticipates submitting a Notice of Final Rulemaking to the Council by June 2014.

**~~R12-4-603~~ R12-4-604. Oral Proceedings Before the Commission**

~~A.~~ For the purposes of this Section, "matter" or "proceeding" means any contested case, appealable agency action, rule or review petition hearing, rulemaking proceeding, or any public input at a Commission meeting.

~~B.~~A. The Commission may allow an oral proceeding on any matter. At an oral proceeding:

1. The Commission Chair:

- a. Is responsible for conducting the proceeding.

- b. May administer an oath to a witness before receiving testimony.
  - c. May order the removal of any individual who is disrupting the proceeding.
  - d. May limit the number of presentations or the time for testimony regarding a particular issue, based on the amount of time available.
  - e. Shall prohibit irrelevant or immaterial testimony.
2. An individual desiring to speak at an oral proceeding shall first request and be granted permission by the Commission Chair.
  - ~~1. The Chair is responsible for conducting the proceeding. If an individual wants to speak, the individual shall first request and be granted permission by the Chair.~~
  - ~~2. Depending on the nature of the proceeding, the Chair may administer an oath to a witness before receiving testimony.~~
  - ~~3. The Chair may order the removal of any individual who is disrupting the proceeding.~~
  - ~~4. Based on the amount of time available, the Chair may limit the number of presentations or the time for testimony regarding a particular issue and shall prohibit irrelevant or immaterial testimony.~~
  - ~~5.3.~~ Technical rules of evidence do not apply to an oral proceeding, and no informality in any proceeding or in the manner of taking testimony invalidates any order, decision, or rule made by the Commission.
- C.B.** The Commission authorizes the Director to designate a hearing officer for oral proceedings to take public input on proposed rulemaking. The hearing officer has the same authority as the Commission Chair in conducting oral proceedings, as provided ~~in~~ under this Section.
- D.C.** The Commission authorizes the Director to continue a scheduled proceeding to a later Commission meeting. To request a continuance, a petitioner shall:
1. Deliver the request to the Director no later than 24 hours before the scheduled proceeding;
  2. Demonstrate that the proceeding has not been continued more than twice; and
  3. Demonstrate good cause for the continuance.

## **R12-4-604. EX PARTE COMMUNICATION**

**1. General and specific statutes authorizing the rule.**

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-231(A)(2), 41-1001, 41-1092, and 41-1033

**2. Objective of the rule.**

The objective of the rule is to establish communication prohibitions during the course of Commission decision processes.

**3. Effectiveness of the rule in achieving its objective.**

The rule is effective in achieving the previously stated objective.

**4. Consistency of the rule with state and federal statutes and rules; 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. Titles 17 and 41 and A.A.C. Title 12, Chapter 4.

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

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

**6. Agency views regarding the current wisdom of the rule.**

The Department views this rule as wise and necessary to achieve the previously stated objective.

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

The rule is clear, concise, and understandable.

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

The Department did not receive any written criticisms of the rule.

**9. Estimated economic, small business, and consumer impact of the rule as compared to 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 4, 2004.

**10. Any analysis submitted to the agency by another person that compares the rule's impact on this state's business competitiveness to the impact on businesses in other states.**

The Department did not receive any analyses comparing the rule's impact on this state's business competitiveness to the impact on businesses in other states.

**11. If applicable, that the agency completed the previous five-year review process.**

The Department completed the previous five-year review process. G.R.R.C. approved the report at the May 1, 2007 Council Meeting and the Department did not propose a course of action for this rule.

**12. A determination that the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.**

The rule establishes the prohibitions in place for communications during the course of Commission decision processes. The Department has determined that the rule imposes the least burden and cost necessary to achieve the underlying regulatory objective.

**13. 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, repeal, or make a rule.**

The Department proposes to amend R12-4-604 by:

- Moving definitions to R12-4-601.
- Removing redundant information.
- Renumbering the rule.

Subject to the evaluation of the economic, small business and consumer impact of any proposed amendments, the Department anticipates submitting a Notice of Final Rulemaking to the Council by June 2014.

**~~R12-4-604~~ R12-4-605. Ex Parte Communication**

**A. For purposes of this Section:**

1. ~~"Individual outside the Commission" means any individual other than a Commissioner, personal aide to a Commissioner, Department employee, consultant of the Commission, or an attorney representing the Commission.~~
2. ~~"Ex parte communication" means any oral or written communication with the Commission that is not part of the public record and for which no reasonable prior written notice has been given to all interested parties.~~

**B.A.** In any contested case (~~as defined in A.R.S. § 41-1001~~) or proceeding or appealable agency action (~~as defined in A.R.S. § 41-1092~~) before the Commission, except to the extent required for disposition of ex parte matters as authorized by law or these rules of procedure, the following prohibitions apply to ex parte communication:

1. An interested individual outside the Commission shall not make or knowingly cause to be made to any Commissioner, Commission hearing officer, personal aide to a Commissioner, Department employee, or consultant who is or may reasonably be expected to be involved in the decision-making process of the proceeding, an ex parte communication relevant to the merits of the proceeding;
2. A Commissioner, Commission hearing officer, personal aide to a Commissioner, Department employee, or consultant who is or may reasonably be expected to be involved in the decisional process of the proceeding, shall not make or knowingly cause to be made to any interested person outside the Commission an ex parte communication relevant to the merits of the proceeding.

**C.B.** A Commissioner, Commission hearing officer, personal aide to a Commissioner, Department employee, or consultant who is or may be reasonably expected to be involved in the decisional process of the proceeding, who receives, makes, or knowingly causes to be made a communication prohibited by subsection ~~(B)(1)~~ (A)(1) or ~~(B)(2)~~ (A)(2) of this Section, shall place on the public record of the proceeding and serve on all interested parties to the proceeding:

1. A copy of each written communication;
2. A memorandum stating the substance of each oral communication; and
3. A copy of each response and memorandum stating the substance of each oral response to any communication governed by subsections ~~(C)(1)~~ (B)(1) and ~~(C)(2)~~ (B)(2).

**D.C.** Upon receipt of a communication made or knowingly caused to be made by a ~~party~~ party person in violation of this Section, the Commission or its hearing officer, to the extent consistent with equity and fairness, may require the ~~party~~ party person to show cause why the claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected because of the violation.

**E.D.** The provisions of this Section apply from the date that a notice of hearing for a contested case is served, a notice of appealable agency action is served, or a request for hearing is filed, whichever comes first, unless the person responsible for the communication has knowledge that a proceeding will be noticed, in which case the prohibitions apply from the date that the individual acquired the knowledge.

## **R12-4-605. STANDARDS FOR REVOCATION, SUSPENSION, OR DENIAL OF A LICENSE**

### **1. General and specific statutes authorizing the rule.**

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-231(B)(1), 17-231(B)(12), and 17-340

### **2. Objective of the rule.**

The objectives of this rule are to establish standards for the revocation, suspension or denial of Department issued licenses.

### **3. Effectiveness of the rule in achieving its objective.**

The rule is effective in achieving the previously stated objective.

### **4. Consistency of the rule with state and federal statutes and rules; and a listing of the statutes or rules used in determining the consistency.**

The rule is not consistent with statutes, but is consistent with rules. Statutes and rules used in determining consistency include A.R.S. Titles 17 and 41 and A.A.C. Title 12, Chapter 4. Laws 2006, Second Regular Session, Chapter 238 amended A.R.S. §§ 17-309 and 17-340. As a result, not all statutory violations mandating a suspension, revocation, or denial are included in rule and the time-frame provided for such suspension, revocation, or denial actions are not consistent with statute. The Department proposes to amend the rule to ensure consistency with State statute.

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

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

### **6. Agency views regarding the current wisdom of the rule.**

The Department views this rule as wise and necessary to achieve the previously stated objective.

### **7. 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 by eliminating redundant language and restructuring the rule to more closely coincide with A.R.S. § 17-340.

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

The Department did not receive any written criticisms of the rule.

- 9. Estimated economic, small business, and consumer impact of the rule as compared to 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 4, 2004.

- 10. Any analysis submitted to the agency by another person that compares the rule's impact on this state's business competitiveness to the impact on businesses in other states.**

The Department did not receive any analyses comparing the rule's impact on this state's business competitiveness to the impact on businesses in other states.

- 11. If applicable, that the agency completed the previous five-year review process.**

The Department did not complete the previous five-year review process. G.R.R.C. approved the report at the May 1, 2007 Council Meeting. The Department began the rulemaking portion of the process; the Secretary of State's Office published the Notice of Docket Opening and Notice of Proposed rulemaking on November 7, 2008. However, as prescribed under A.R.S. § 41-1021(A)(4), the proposed rulemaking expired November 7, 2009 because of the 2009-2011 rulemaking moratorium.

- 12. A determination that the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.**

The rule establishes the standards for revocation, suspension, and denial of a license. The Department bears the greater burden in facilitating this public process. The Department has determined that the rule imposes the least burden and cost necessary to achieve the underlying regulatory objective.

- 13. 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, repeal, or make a rule.**

The Department proposes to amend R12-4-605 by:

- Renumbering the rule.
- Including additional offenses for which the Commission may revoke, suspend, or deny a license. This is proposed to reflect statutory amendments made to A.R.S. §§ 17-309(A)(1), effective September 21, 2006.

Subject to the evaluation of the economic, small business and consumer impact of any proposed amendments, the Department anticipates submitting a Notice of Final Rulemaking to the Council by June 2014.

**~~R12-4-605~~ R12-4-606. Standards for Revocation, Suspension, or Denial of a License**

- A. Under A.R.S. § 17-340, the Commission shall hold a hearing and may revoke, suspend, or deny any hunting, fishing, or trapping license for an individual who has been convicted of any of the following offenses:
1. Killing or wounding a big game animal during a closed season ~~or possessing.~~
  2. Possessing a big game animal taken during a closed season.
  3. ~~Conviction~~ For the purposes of subsections (A)(1) and (A)(2), conviction for possession of a road-kill animal or an animal that was engaged in depredation is not considered "possessing during a closed season" ~~for the purposes of this subsection.~~
  4. Unlawfully selling, offering for sale, or unlawfully bartering wildlife or parts of wildlife.
  - ~~2.5.~~ Destroying, injuring, or molesting livestock, or damaging or destroying personal property, growing crops, notices or signboards, other improvements, or growing crops while hunting, fishing, or trapping.
  - ~~3.4.~~ Careless use of a firearm while hunting, fishing, or trapping that results in the injury or death of any person, if the act of discharging the firearm was deliberate.
  5. Littering public hunting or fishing areas while taking wildlife.
  - ~~4.6.~~ Applying for or obtaining a license or permit by fraud or misrepresentation in violation of A.R.S. § 17-341.
  - ~~5.7.~~ Entering upon a game refuge or other area closed to hunting, trapping or fishing and taking, driving, or attempting to drive wildlife from the area in violation of A.R.S. §§ 17-303 and 17-304.
  - ~~6.8.~~ Unlawfully posting state or federal lands in violation of A.R.S. § 17-304(B).
  - ~~8.9.~~ Unlawfully using aircraft to take, assist in taking, harass, chase, drive, locate, or assist in locating wildlife in violation of A.R.S. § 17-340(A)(7).
- B. Under A.R.S. § 17-340, the Commission shall hold a hearing and may revoke, suspend, or deny any hunting fishing, or trapping license if the Department recommends revocation, suspension, or denial of the license for an individual convicted of any of the following offenses:
1. Unlawfully taking or possessing big game, if sufficient evidence, which may or may not have been introduced in the court proceeding, supports any of the following conclusions:
    - a. The big game was taken without a valid license or permit.
    - b. The unlawful taking was willful and deliberate.
    - c. The person in unlawful possession aided the unlawful taking or was, or should have been, aware that the taking was unlawful.
  2. Unlawfully taking or possessing small game or fish, if sufficient evidence, which may or may not have been introduced in the court proceeding, supports any of the following conclusions:
    - a. The taking was willful and deliberate.
    - b. The possession was in excess of the lawful possession limit plus the daily bag limit.
  3. Unlawfully taking wildlife species if sufficient evidence, which may or may not have been

introduced in the court proceeding, indicates that the act of taking was willful and deliberate and showed disregard for state wildlife laws.

4. Littering a public hunting or fishing area while taking wildlife, if sufficient evidence, which may or may not have been introduced in the court proceeding, indicates that an individual littered the area, the amount of litter discarded was unreasonably large, and that the individual convicted made no reasonable effort to dispose of the litter in a lawful manner.
  5. Careless use of a firearm while hunting, fishing, or trapping that resulted in injury or death to any person, if the act of discharging the firearm was not deliberate, but sufficient evidence, which may or may not have been introduced in the court proceeding, indicates that the careless use demonstrated wanton disregard for the safety of human life or property.
  6. Any violation for which a license can be revoked under A.R.S. § 17-340, if the person has been convicted of a revocable offense within the past three years.
  7. Violation of A.R.S. § 17-306 for unlawful possession of wildlife.
- C. Under A.R.S. §§ 17-238, 17-340, 17-362, 17-363, and 17-364, ~~and 17-340~~, if the Department has made a recommendation to the Commission for license revocation, the Commission shall hold a hearing and may revoke any fur dealer, guide, taxidermy, or special license, (as defined ~~in~~ under R12-4-401), in any case where license revocation is authorized by law.

**R12-4-606. PROCEEDINGS FOR LICENSE REVOCATION, SUSPENSION, OR DENIAL OF RIGHT TO OBTAIN A LICENSE, AND CIVIL DAMAGES**

**1. General and specific statutes authorizing the rule.**

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-231(B)(1), 17-231(B)(12), 17-314, 17-340, Title 37, Chapter 3, Article 3.1, 41-1003, and 41-1023

**2. Objective of the rule.**

The objective of the rule is to establish the proceedings for license revocation, suspension, or denial of Department issued licenses and the assessment of civil damages.

**3. Effectiveness of the rule in achieving its objective.**

The rule is effective in achieving the previously stated objective.

**4. Consistency of the rule with state and federal statutes and rules; and a listing of the statutes or rules used in determining the consistency.**

The rule is not consistent with statutes, but is consistent with rules. Statutes and rules used in determining consistency include A.R.S. Titles 17 and 41 and A.A.C. Title 12, Chapter 4. Laws 2006, Second Regular Session, Chapter 238 amended A.R.S. §§ 17-309 and 17-340. As a result, an individual's license may be revoked for five years, ten years or permanently, depending on the number of convictions. The Department proposes to amend the rule to ensure consistency with State statute.

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

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

**6. Agency views regarding the current wisdom of the rule.**

The Department views this rule as wise and necessary to achieve the previously stated objective.

**7. 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 by eliminating redundant language and to reflect amendments made to A.R.S. § 17-340.

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

The Department did not receive any written criticisms of the rule.

- 9. Estimated economic, small business, and consumer impact of the rule as compared to 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 4, 2004.

- 10. Any analysis submitted to the agency by another person that compares the rule's impact on this state's business competitiveness to the impact on businesses in other states.**

The Department did not receive any analyses comparing the rule's impact on this state's business competitiveness to the impact on businesses in other states.

- 11. If applicable, that the agency completed the previous five-year review process.**

The Department did not complete the previous five-year review process. G.R.R.C. approved the report at the May 1, 2007 Council Meeting. The Department began the rulemaking portion of the process; the Secretary of State's Office published the Notice of Docket Opening and Notice of Proposed rulemaking on November 7, 2008. However, as prescribed under A.R.S. § 41-1021(A)(4), the proposed rulemaking expired November 7, 2009 because of the 2009 - 2011 rulemaking moratorium.

- 12. A determination that the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.**

The rule establishes the proceedings for license revocation, suspension, or denial of Department issued licenses and the assessment of civil damages. The Department bears the greater burden in facilitating this public process. The Department has determined that the rule imposes the least burden and cost necessary to achieve the underlying regulatory objective.

- 13. 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, repeal, or make a rule.**

The Department proposes to amend R12-4-606 by:

- Updating statutory references. This is proposed to reflect statutory amendments made to A.R.S. §§ 17-309(A)(1), effective September 21, 2006.
- Renumbering the rule.

Subject to the evaluation of the economic, small business and consumer impact of any proposed amendments, the Department anticipates submitting a Notice of Final Rulemaking to the Council by June 2014.

**~~R12-4-606~~ R12-4-607. Proceedings for License Revocation, Suspension, or Denial of Right to Obtain a License, and Civil Damages**

- A. The Director may commence a proceeding for the Commission to revoke, suspend or deny a license under A.R.S. §§ 17-238, 17-340, 17-362, 17-363, 17-364, R12-4-105, and R12-4-605. The Director may also commence a proceeding for civil damages under A.R.S. § 17-314.
- B. The Commission shall conduct a hearing concerning revocation, suspension, or denial of the right to obtain a license in accordance with the Administrative Procedure Act, A.R.S. Title 41, Chapter 6, Article 10. A respondent shall limit testimony to facts that show why the license should not be revoked or denied. Because the Commission does not have the authority to consider or change the conviction, a respondent is not permitted to raise this issue in the proceeding. The Commission shall permit a respondent to offer testimony or evidence relevant to the Commission's decision to order recovery of civil damages or wildlife parts.
- C. If a respondent does not appear for a hearing on the date scheduled, at the time and location noticed, no further opportunity to be heard is provided, unless rehearing or review is granted under R12-4-607. If the respondent does not wish to attend the hearing, the respondent may submit written testimony to the Department before the hearing date designated in the Notice of Hearing required ~~by~~ under A.R.S. § ~~17-340(D)~~ 17-340(E). The Commission shall ensure that written testimony received at the time of the hearing is read into the record at the hearing.
- D. The Commission shall base its decision on the officer's case report, a summary prepared by the Department, a certified copy of the court record, and any testimony presented at the hearing. With the notice of hearing required ~~by~~ under A.R.S. § ~~17-340(D)~~ 17-340(E), the Department shall supply the respondent with a copy of each document provided to the Commission for use in reaching a decision.
- E. Any ~~party~~ person may apply to the Commission for issuance of a subpoena to compel the appearance of any witness or the production of documents at any hearing or deposition. Not later than 10 calendar days before the hearing or deposition, the ~~party~~ person shall file a written application that provides the name and address of the witness, the subject matter of the expected testimony, the documents sought to be produced, and the date, time, and place of the hearing or deposition. The Commission ~~chair~~ Chair has the authority to issue the subpoenas.
1. A ~~party~~ person shall have a subpoena served as prescribed in the Arizona Rules of Civil Procedure, Rule 45. An employee of the Department may serve a subpoena at the request of the Commission ~~chair~~ Chair.
  2. A ~~party~~ person may request that a subpoena be amended at any time before the deadline provided in this Section for filing the application. The ~~party~~ person shall have the amended subpoena served as provided in subsection (E)(1).
- F. A license revoked by the Commission is suspended on the date of the hearing and revoked upon issuance of the findings of fact, conclusions of law, and order. If a respondent appeals the Commission's order revoking a license, the license is revoked after all appeals have been completed. A denial of the right to

obtain a license is effective for a period ~~not to exceed five years,~~ as determined by the Commission as authorized under A.R.S. § 17-340, beginning on the date of the hearing.

- G.** A license suspended by the Commission is suspended on the date of the hearing, and suspended upon issuance of the findings of fact, conclusions of law, and order. If a respondent appeals the Commission's order suspending a license, the license is suspended after all appeals have been completed. ~~Under A.R.S. § 17-340(A), a~~
- D.** The suspension of a license is effective for a period ~~not to exceed five years,~~ as determined by the Commission as authorized under A.R.S. § 17-340, beginning on the date of the hearing.

## **R12-4-607. REHEARING OR REVIEW OF COMMISSION DECISIONS**

### **1. General and specific statutes authorizing the rule.**

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-231(B)(1), 17-231(B)(12), Title 37, Chapter 3, Article 3.1, 41-1001, and 41-1092

### **2. Objective of the rule.**

The objective of the rule is to establish the requirements for rehearing or review of a Commission decision.

### **3. Effectiveness of the rule in achieving its objective.**

The rule is effective in achieving the previously stated objective.

### **4. Consistency of the rule with state and federal statutes and rules; 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. Titles 17 and 41 and A.A.C. Title 12, Chapter 4.

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

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

### **6. Agency views regarding the current wisdom of the rule.**

The Department views this rule as wise and necessary to achieve the previously stated objective.

### **7. Clarity, conciseness, and understandability of the rule.**

The rule is clear, concise, and understandable.

### **8. Summary of the written criticisms of the rule received by the agency within the 5-years immediately preceding the Five-year Review Report, including letters, memoranda, and written allegations made in litigation and administrative proceedings in which the agency was a party that the rule is discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the conclusion of the litigation and administrative proceedings.**

The Department did not receive any written criticisms of the rule.

### **9. Estimated economic, small business, and consumer impact of the rule as compared to 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 4, 2004.

**10. Any analysis submitted to the agency by another person that compares the rule's impact on this state's business competitiveness to the impact on businesses in other states.**

The Department did not receive any analyses comparing the rule's impact on this state's business competitiveness to the impact on businesses in other states.

**11. If applicable, that the agency completed the previous five-year review process.**

The Department completed the previous five-year review process. G.R.R.C. approved the report at the May 1, 2007 Council Meeting and the Department did not propose a course of action for this rule.

**12. A determination that the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.**

The rule establishes the requirements a person involved in a contested case or appealable agency action and the Commission must follow for rehearing or review of a Commission decision. The Department has determined that the rule imposes the least burden and cost necessary to achieve the underlying regulatory objective.

**13. 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, repeal, or make a rule.**

The Department proposes to amend R12-4-607 by:

- Moving definitions to R12-4-601.
- Renumbering the rule.

Subject to the evaluation of the economic, small business and consumer impact of any proposed amendments, the Department anticipates submitting a Notice of Final Rulemaking to the Council by June 2014.

**~~R12-4-607~~ R12-4-608. Rehearing or Review of Commission Decisions**

~~A.~~ For purposes of this Section the following terms apply:

1. "Contested case" and "party" are defined as provided in A.R.S. § 41-1001;
2. "Appealable agency action" is defined as provided in A.R.S. § 41-1092(3).

~~B.A.~~ Except as provided in under subsection ~~(G)~~ (F), any ~~party~~ person in a contested case or appealable agency action before the Commission may file a motion for rehearing or review within 30 calendar days after service of the final administrative decision. For purposes of this subsection a decision is served when personally delivered or mailed by certified mail to the ~~party's~~ person's last known residence or

place of business. The party person shall attach a supporting memorandum, specifying the grounds for the motion.

**C.B.** A party person may amend a motion for rehearing or review at any time before the Commission rules upon the motion. An opposing party person has 15 calendar days after service to respond to the motion or the amended motion. The Commission has the authority to require that the parties file written briefs on any issue raised in a motion or response, and allow for oral argument.

**D.C.** The Commission has the authority to grant rehearing or review for any of the following causes materially affecting the moving party person's rights:

1. Irregularity in the proceedings of the Commission, or any order or abuse of discretion that deprived the moving party person of a fair hearing;
2. Misconduct of the Commission, its staff, an administrative law judge, or the prevailing party person;
3. Accident or surprise that could not have been prevented by ordinary prudence;
4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceeding; or
7. That the findings of fact or decision is not justified by the evidence or is contrary to law.

**E.D.** The Commission may affirm or modify the decision or grant a rehearing to all or any of the parties on all or part of the issues for any of the reasons ~~in~~ under subsection ~~(D)~~ (C). The Commission's order modifying a decision or granting a rehearing shall specify the grounds for the order, and any rehearing shall cover only those specified matters.

**F.E.** Not later than 15 calendar days, after a decision, the Commission may grant a rehearing or review on its own initiative for any reason for which it might have granted relief on motion of a party person. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Commission may grant a motion for rehearing or review for a reason not stated in the motion.

**G.F.** When a motion for rehearing or review is based upon affidavits, the party person shall serve the affidavits with the motion. An opposing party person may, within 10 calendar days after service, serve opposing affidavits. The Commission may extend this period for no more than 20 calendar days for good cause shown or by written stipulation of the parties. The Commission has the authority to permit reply affidavits.

## **R12-4-609. COMMISSION ORDERS**

**1. General and specific statutes authorizing the rule.**

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-231(B)(1) and Title 37, Chapter 3, Article 3.1

**2. Objective of the rule.**

The objective of the rule is to establish the public process for the consideration of a Commission Order.

**3. Effectiveness of the rule in achieving its objective.**

The rule is effective in achieving the previously stated objective. However, a recent incident involving Teme Town Lake gave light to the fact that the Commission did not have the authority to issue an Order establishing a special season to allow the take of fish by additional methods on waters where a fish die-off was imminent. As a result of this incident, the Department proposes to amend R12-4-609 by allowing the Commission to establish a special season to allow fish to be taken by additional methods on waters where a fish die-off is imminent before the 20-day notice requirement for a public meeting can be met.

**4. Consistency of the rule with state and federal statutes and rules; 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. Titles 17, 38, and 41 and A.A.C. Title 12, Chapter 4.

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

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

**6. Agency views regarding the current wisdom of the rule.**

The Department views this rule as wise and necessary to achieve the previously stated objective.

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

The rule is clear, concise, and understandable.

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

The Department did not receive any written criticisms of the rule.

9. **Estimated economic, small business, and consumer impact of the rule as compared to 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 4, 2004.

10. **Any analysis submitted to the agency by another person that compares the rule's impact on this state's business competitiveness to the impact on businesses in other states.**

The Department did not receive any analyses comparing the rule's impact on this state's business competitiveness to the impact on businesses in other states.

11. **If applicable, that the agency completed the previous five-year review process.**

The Department completed the previous five-year review process. G.R.R.C. approved the report at the May 1, 2007 Council Meeting and the Department did not propose a course of action for this rule.

12. **A determination that the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.**

The rule establishes the public process for the consideration of a Commission Order. The Department has determined that the rule imposes the least burden and cost necessary to achieve the underlying regulatory objective.

13. **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, repeal, or make a rule.**

The Department proposes to amend R12-4-609 by allowing the Commission to establish a special season to allow fish to be taken by additional methods on waters where a fish die-off is imminent before the 20-day notice requirement for a public meeting can be met.

Subject to the evaluation of the economic, small business and consumer impact of any proposed amendments, the Department anticipates submitting a Notice of Final Rulemaking to the Council by June 2014.

#### **R12-4-609. Commission Orders**

A. Except as provided ~~in~~ under subsection (B):

1. At least 20 calendar days before a meeting where the Commission will consider a Commission Order, the Department shall ensure that a public meeting notice and agenda for the public meeting is posted in accordance with the provisions prescribed under A.R.S. § 38-431.02. The Department shall ~~also~~ issue a public notice of the recommended Commission Order ~~to~~ in print and electronic media at least 20 calendar days before the meeting.

2. The Department shall ensure that the public meeting notice and agenda ~~contains~~ provide the date, time, and location of the Commission meeting where the Commission Order will be considered and a statement that the public may attend and present written comments at or before the meeting.
  3. The Department shall ~~also~~ ensure that the public meeting notice and agenda ~~states~~ state that a copy of the proposed Commission Order is available for public inspection at ~~the~~ Department offices in Phoenix, Pinetop, Flagstaff, Kingman, Yuma, Tucson, and Mesa 10 calendar days before the meeting.
  4. The Commission may make changes to the recommended Commission Order at the Commission meeting.
- B.** The requirements of subsection (A) do not apply to Commission orders establishing:
1. Supplemental hunts as prescribed ~~in~~ under R12-4-115, ~~and~~
  2. Special seasons for individuals that possess special license tags issued under A.R.S. § 17-346 and R12-4-120, and
  3. Special seasons to allow fish to be taken by additional methods on waters where a fish die-off is imminent as established under R12-4-317(C).
- C.** The Department shall publish the content of all Commission orders and make them available to the public without charge.

**R12-4-610. PETITIONS FOR THE CLOSURE OF STATE OR FEDERAL LANDS TO HUNTING, FISHING, TRAPPING, OR OPERATION OF MOTOR VEHICLES**

**1. General and specific statutes authorizing the rule.**

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-231(B)(1), 17-304, 17-452, and 41-1033

**2. Objective of the rule.**

The objective of the rule is to establish the requirements for submitting a petition for the closure of state or federal lands to hunting, fishing, trapping, or operation of motor vehicles.

**3. Effectiveness of the rule in achieving its objective.**

The rule is effective in achieving the previously stated objective.

**4. Consistency of the rule with state and federal statutes and rules; 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. Titles 17 and 41 and A.A.C. Title 12, Chapter 4.

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

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

**6. Agency views regarding the current wisdom of the rule.**

The Department views this rule as wise and necessary to achieve the previously stated objective.

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

Overall, the rule is clear, concise, and understandable. However, in an effort to simplify and enhance the public petition process, the Department proposes to amend the rule to require a petitioner to use a form furnished by the Department. The proposed form will reduce the number of non-compliant petitions returned by the Department.

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

The Department did not receive any written criticisms of the rule.

**9. Estimated economic, small business, and consumer impact of the rule as compared to 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 July 13, 2010.

Since June 2009, the Department received one petition authorized under R12-4-610.

**10. Any analysis submitted to the agency by another person that compares the rule's impact on this state's business competitiveness to the impact on businesses in other states.**

The Department did not receive any analyses comparing the rule's impact on this state's business competitiveness to the impact on businesses in other states.

**11. If applicable, that the agency completed the previous five-year review process.**

The Department completed the previous five-year review process. G.R.R.C. approved the report at the May 1, 2007 Council Meeting. The Governor's office approved the Department's request to pursue rulemaking to update the Department's address and G.R.R.C. approved the Notice of Final Rulemaking at the July 13, 2010 Council Meeting.

**12. A determination that 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.**

Any individual or agency may submit a petition as prescribed under this rule. The Department bears the greater burden in facilitating this public process. Although the Department has determined that the rule imposes the least burden and cost necessary to achieve the underlying regulatory objective, in an effort to reduce the burden imposed on the regulated community, the Department is amending the rule to require a petitioner to submit a standardized form furnished by the Department.

**13. 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, repeal, or make a rule.**

The Department proposes to amend R12-4-610 by:

- Stating that the petitioner must use a form furnished by the Department. This is proposed to ensure that all petitions contain the applicable information and to reduce the amount of time, spent by Department employees, in correcting petitions that do not meet the requirements established under rule.
- Ensuring consistency in language for all rules establishing petition requirements.

Subject to the evaluation of the economic, small business and consumer impact of any proposed amendments, the Department anticipates submitting a Notice of Final Rulemaking to the Council by June 2014.

**R12-4-610. Petitions for the Closure of State or Federal Lands to Hunting, Fishing, Trapping, or Operation of Motor Vehicles**

- A. An individual or agency requesting that the Commission consider closing state or federal land to hunting, fishing, or trapping as provided under A.R.S. § 17-304(B) or R12-4-110; or closing roads or trails on state lands as provided under R12-4-110, shall submit a petition as prescribed in this Section before the Commission will consider the request.
- B. A ~~petition~~ petitioner shall not address more than one contiguous closure request in a petition.
- C. ~~Once the Commission has considered and denied a petition, an individual who subsequently submits~~ A petitioner submitting a petition that addresses the same contiguous closure request previously considered and denied by the Commission shall provide ~~a~~ an additional written statement that ~~contains any reason includes rationale~~ not previously considered by the Commission ~~in making a decision~~.
- D. A petitioner shall submit ~~an original and one copy of the petition form~~ to the Director of the Arizona Game and Fish Department, Director's Office, 5000 W. Carefree Highway, Phoenix, AZ 85086, not less than 60 calendar days before a scheduled Commission meeting to be placed on the agenda for that meeting. If the Commission receives a petition after that time it will be considered at the next regularly scheduled open meeting. At any time, the petitioner may withdraw the petition or request delay to a later regularly scheduled open meeting. The petition form is furnished by the Department and is available at any Department office and on the Department's website at [www.azgfd.gov](http://www.azgfd.gov). The petition form shall contain all of the following information:
1. Petitioner identification:
    - a. When the petitioner is the leaseholder of the area proposed for closure:
      - i. Name of individual,
      - ii. Lease number,
      - iii. Mailing address,
      - iv. Contact telephone number, and
      - v. E-mail, when available;
    - b. When the petitioner is anyone other than the leaseholder of the area proposed for closure:
      - i. Name of individual,
      - ii. Lease number,
      - iii. Mailing address,
      - iv. Contact telephone number,
      - v. E-mail, when available, and
      - vi. Name of each group or organization or organizations that the petitioner represents; or
    - c. When the petitioner is a public agency:
      - i. Name of individual,
      - ii. Name of Agency,
      - iii. Petitioner's title,

- iv. Lease number,
    - v. Agency mailing address,
    - vi. Contact telephone number, and
    - vii. E-mail, when available;
  - 2. Type of request:
    - a. Hunting,
    - b. Fishing,
    - c. Trapping, or
    - d. Operation of motor vehicles.
  - 3. Reason for petition:
    - a. Each reason why the closure should be considered under R12-4-110, A.R.S. § 17-304(B), or A.R.S. § 17-452(A);
    - b. Any data or other justification supporting the reasons for the closure with clear reference to any exhibits that may be attached to the petition;
    - c. Each individual or segment of the public the petitioner believes will be impacted by the closure, including any other valid licensees, lessees, or permittees that will or may be affected, and how they will be impacted, including both positive and negative impacts;
    - d. If the petitioner is a public agency, a summary of issues raised in any public hearing or public meeting regarding the petition and a copy of each written comment or document of concurrence authorized under A.R.S. § 17-452(A), received by the petitioning agency; and
    - e. A proposed alternate access route, under R12-4-110.
  - 4. A concise map identifying the specific location of the proposed closure;
  - 5. Petitioner's signature;
  - 6. Date on which the petition was signed; and
  - 7. Any other information required by the Department.
- E. ~~Within 15 business days after the petition is filed, the Department~~ The Director shall determine whether the petition complies with the requirements established under A.R.S. § 17-452, R12-4-110, and this Section within 15 business days after receiving the petition.
- 1. ~~Once the Department determines that~~ If the petition meets these requirements, and if provided the petitioner has not agreed to an alternative solution or withdrawn the petition, the Department, in accordance with the schedule in subsection ~~(D)~~ (E), shall place the petition on the agenda for the Commission's next open meeting and provide written notice to the petitioner of the meeting date ~~that the Commission will consider the petition.~~
  - 1. ~~The petitioner may present oral testimony in support of the petition at the Commission meeting, in accordance with the provisions established under R12-4-603.~~
  - 2. If a petition does not ~~meet~~ comply the requirements prescribed under A.R.S. § 17-452, R12-4-110, and this Section, ~~the~~

- a. ~~The Department shall return one copy of the petition as filed to the petitioner, and~~
  - b. Indicate in writing with the reasons why the petition does not comply with this Section meet the requirements, and not place the petition on a Commission agenda.
3. If the Department returns a petition to a petitioner for a reason that cannot be corrected, the Department shall serve on the petitioner a notice of appealable agency action under A.R.S. § 41-1092.03.
- F.** When the Department receives a petition not less than 60 calendar days before a regularly scheduled Commission meeting, the Department shall place the petition on the agenda for that meeting. A petition received after this time will be considered at the next regularly scheduled open meeting.
- G.** The petitioner may present oral testimony in support of the petition at the Commission meeting, in accordance with the provisions established under R12-4-603.
- H.** At any time, the petitioner may withdraw the petition or request a continuance to a later regularly scheduled open meeting.
- F.** ~~The petitioner shall submit a petition that:~~
- 1. ~~Is typewritten, computer or word processor printed, or legibly handwritten, and double spaced, on 8 1/2 x 11" paper;~~
  - 2. ~~Has a concise map that shows the specific location of the proposed closure;~~
  - 3. ~~Has the title "Petition for the Closure of Hunting, Fishing, or Trapping Privileges on Public Land" or "Petition for the Closure of Public Lands to the Operation of Motor Vehicles" at the top of the first page;~~
  - 4. ~~Is in four parts, with titles designating each part as prescribed in this subsection;~~
  - 5. ~~Has a "Part 1" with the title "Identification of Petitioner" and contains the following information, if applicable:~~
    - a. ~~If the petitioner is the leaseholder of the area proposed for closure, the name, lease number, mailing address, and home telephone number of the petitioner;~~
    - b. ~~If the petitioner is anyone other than the leaseholder, the name, mailing address, and telephone number of the leaseholder; the name, mailing address, and telephone number of the petitioner; and the name of each group or organization or organizations that the petitioner represents; or~~
    - e. ~~If the petitioner is a public agency, the name and address of the agency and the name, title, and telephone number of the agency's representative regarding the petition.~~
  - 6. ~~Has a "Part 2" with the title "Request for Closure" and contains all of the following information, if applicable:~~
    - a. ~~The type of closure requested: either a hunting, fishing, or trapping closure, or closure to the operation of motor vehicles;~~
    - b. ~~A complete legal description of the area to be closed;~~
    - e. ~~The name or identifying number of any road and the portion of the road affected by the closure;~~  
and

- d. ~~The dates proposed for the closure:~~
  - i. ~~If the closure is to the operation of motor vehicles, the actual time period of the closure (up to five years), and whether or not the closure is seasonal; or~~
  - ii. ~~If the closure is for hunting, fishing, or trapping, whether or not the request is for a permanent closure or for some other period of time.~~
- 7. ~~Has a "Part 3" with the title "Reason for Closure" and contains all of the following information, if applicable:~~
  - a. ~~Each reason why the closure should be considered under R12-4-110, A.R.S. § 17-304(B), or A.R.S. § 17-452(A);~~
  - b. ~~Any data or other justification supporting the reasons for the closure with clear reference to any exhibits that may be attached to the petition;~~
  - e. ~~Each individual or segment of the public the petitioner believes will be impacted by the closure, including any other valid licensees, lessees, or permittees that will or may be affected, and how they will be impacted, including both positive and negative impacts;~~
  - d. ~~If the petitioner is a public agency, a summary of issues raised in any public hearing or public meeting regarding the petition and a copy of each written comment or document of concurrence authorized under A.R.S. § 17-452(A), received by the petitioning agency; and~~
  - e. ~~A proposed alternate access route, under R12-4-110.~~
- 8. ~~Has a "Part 4" with the title "Dates and Signatures" and contains the following:~~
  - a. ~~The original signature of the private party or the official contact named under subsection (F)(5)(a) or (b) of this Section, or, if the petitioner is a public agency, the signature of the agency head or the agency head's designee; and~~
  - b. ~~The month, day, and year when the petition was signed.~~

**R12-4-611. PETITION FOR A HEARING BEFORE THE COMMISSION WHEN NO  
REMEDY IS PROVIDED IN STATUTE, RULE, OR POLICY**

**1. General and specific statutes authorizing the rule.**

General: A.R.S. § 17-231(A)(1)

Specific: A.R.S. §§ 17-231(B)(1) and Title 41, Chapter 6, Article 10

**2. Objective of the rule.**

The objective of the rule is to establish the requirements for submitting a petition for a hearing before the Commission when no remedy is provided in statute, rule, or policy.

**3. Effectiveness of the rule in achieving its objective.**

The rule is effective in achieving the previously stated objective.

**4. Consistency of the rule with state and federal statutes and rules; 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. Titles 17 and 41 and A.A.C. Title 12, Chapter 4.

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

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

**6. Agency views regarding the current wisdom of the rule.**

The Department views this rule as wise and necessary to achieve the previously stated objective.

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

Overall the rule is clear, concise and understandable. However, in an effort to simplify and enhance the public petition process, the Department proposes to amend the rule to require a petitioner to use a form furnished by the Department. The proposed form will reduce the number of non-compliant petitions returned by the Department.

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

The Department did not receive any written criticisms of the rule.

**9. Estimated economic, small business, and consumer impact of the rule as compared to 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 July 13, 2010.

Since June 2009, the Department received one petition authorized under R12-4-611.

**10. Any analysis submitted to the agency by another person that compares the rule's impact on this state's business competitiveness to the impact on businesses in other states.**

The Department did not receive any analyses comparing the rule's impact on this state's business competitiveness to the impact on businesses in other states.

**11. If applicable, that the agency completed the previous five-year review process.**

The Department did not complete the previous five-year review process. G.R.R.C. approved the report at the May 1, 2007 Council Meeting. The Department began the rulemaking portion of the process; the Secretary of State's Office published the Notice of Docket Opening and Notice of Proposed rulemaking on November 7, 2008. However, as prescribed under A.R.S. § 41-1021(A)(4), the proposed rulemaking expired November 7, 2009 because of the 2009-2011 rulemaking moratorium.

However, the Governor's office approved the Department's request to pursue rulemaking to update the Department's address; G.R.R.C. approved the Notice of Final Rulemaking at the July 13, 2010 Council Meeting.

**12. A determination that 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.**

Any individual may submit a petition as prescribed under this rule. The Department bears the greater burden in facilitating this public process. Although the Department has determined that the rule imposes the least burden and cost necessary to achieve the underlying regulatory objective, in an effort to reduce the burden imposed on the regulated community, the Department is amending the rule to require a petitioner to submit a standardized form furnished by the Department.

**13. 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, repeal, or make a rule.**

The Department proposes to amend R12-4-611 by:

- Stating that the petitioner must use a form furnished by the Department. This is proposed to ensure that all petitions contain the applicable information and to reduce the amount of time, spent by Department employees, in correcting petitions that do not meet the requirements established under rule.
- Ensuring consistency in language for all rules establishing petition requirements.

Subject to the evaluation of the economic, small business and consumer impact of any proposed amendments, the Department anticipates submitting a Notice of Final Rulemaking to the Council by June 2014.

**R12-4-611. Petition for a Hearing Before the Commission When No Remedy is Provided in Statute, Rule, or Policy**

~~A. If no~~ An individual may request a hearing before the Commission when an administrative remedy exists ~~in~~ does not exist under statute, rule, or policy, ~~an aggrieved individual may request a hearing before the Commission by following the provisions of this Section.~~

~~B. Any individual who requests a hearing under this Section shall submit a petition as prescribed in this Section before the request for a hearing will be considered by the Commission.~~

~~C.B.~~ A petitioner shall submit ~~an original and one copy of a~~ the petition form to the Arizona Game and Fish Department, Director's Office, 5000 W. Carefree Highway, Phoenix, AZ 85086. The petition form is furnished by the Department and is available at any Department office and on the Department's website at [www.azgfd.gov](http://www.azgfd.gov). The petition form shall contain all of the following information:

1. Petitioner identification:

a. When the petitioner is a private individual:

- i. Name of individual,
- ii. Mailing address,
- iii. Contact telephone number, and
- iv. E-mail, when available;

b. When the petitioner is a private group or organization:

- i. Name of the individual designated as the contact for the group or organization,
- ii. Mailing address,
- iv. Contact telephone number,
- v. E-mail, when available,
- vi. Number of individuals or members represented by the group or agency, and
- vii. Number of individuals or members who are Arizona residents; or

c. When the petitioner is a public agency:

- i. Name of individual,
- ii. Name of Agency
- iii. Petitioner's title,
- iv. Agency mailing address,
- v. Contact telephone number, and
- vi. E-mail, when available;

2. Statement of Facts and Issues:

- a. Description of issue to be resolved, and
- b. Any facts relevant to resolving the issue;

3. Specific proposed remedy;
  4. Petitioner's signature;
  5. Date on which the petition was signed; and
  6. Any other information required by the Department.
- ~~D.~~ The petitioner shall ensure that the petition is typewritten, computer or word processor printed, or legibly handwritten, and double spaced on 8 1/2" x 11" paper. The petitioner shall place the title "Petition for Hearing by the Arizona Game and Fish Commission" at the top of the first page. The petition shall include the items listed in subsections (E) through (H). The petitioner shall present the items in the petition in the order in which they are listed in this Section.
- ~~E.~~ The petitioner shall ensure that the title of Part 1 is "Identification of Petitioner" and that Part 1 includes the following information, as applicable:
1. If the petitioner is a private person, the name, mailing address, telephone number, and e-mail address (if available) of the petitioner;
  2. If the petitioner is a private group or organization, the name and address of the organization; the name, mailing address, telephone number, and e-mail address (if available) of one person who is designated as the official contact for the group or organization; the number of individuals or members represented by the private group or organization, and the number of these individuals or members who are Arizona residents. If the petitioner prefers, the petitioner may provide the names and addresses of all members; or
  3. If the petitioner is a public agency, the name and address of the agency and the name, title, telephone number, and e-mail address (if available) of the agency's representative.
- ~~F.~~ The petitioner shall ensure that the title of Part 2 is "Statement of Facts and Issues." Part 2 shall contain a description of the issue to be resolved, and a statement of the facts relevant to resolving the issue.
- ~~G.~~ The petitioner shall ensure that the title of Part 3 is "Petitioner's Proposed Remedy." Part 3 shall contain a full and detailed explanation of the specific remedy the petitioner is seeking from the Commission.
- ~~H.~~ The petitioner shall ensure that the title of Part 4 is "Date and Signatures." Part 4 shall contain:
1. The original signature of the private party or the official contact named in the petition, or, if the petitioner is a public agency, the signature of the agency head or the agency head's designee; and
  2. The month, day, and year that the petition is signed.
- ~~I.C.~~ If a petition does not comply with this Section, the Director shall return the petition and indicate why the petition is ~~deficient~~ unsatisfactory:
1. The Department shall return the petition to the petitioner, and
  2. Indicate in writing why the petition does not comply with this Section.
- ~~J.D.~~ After the Director receives a petition that complies with this Section, the Director shall place the petition on the agenda of a regularly scheduled Commission meeting.
- ~~K.E.~~ If the Commission votes to deny a petition, the Department shall not accept a subsequent petition on the same matter, unless the petitioner presents new evidence or reasons for considering the subsequent

petition.

**L.F.** This Section does not apply to the following:

1. A matter related to a license revocation, suspension, denial, or civil assessment; or
2. An unsuccessful hunt permit-tag draw application, ~~where there was no~~ that did not involve an error on the part of the Department.