MEMO **F11**

TO: Larry D. Voyles, Director

FROM: Gary Hovatter, Deputy Director

PRESENTER: Jennifer Stewart, Rules and Risk Branch Chief

TITLE: Request to Approve the Economic Impact Statement and Notice of Final Rulemaking Amending R12-4-601, R12-4-610, and R12-4-611.

DESCRIPTION: The Commission will be asked to vote to approve the Economic Impact Statement and Notice of Final Rulemaking for R12-4-601, R12-4-610, and R12-4-611 addressing rules of practice before the Commission. The statement and notice will be submitted to the Governor's Regulatory Review Council (G.R.R.C.) for placement on the July G.R.R.C. agenda. The Commission may vote to take action on and provide the Department direction on this item.

DATE: April 27, 2010

EXECUTIVE SUMMARY:

The Department is proposing to amend R12-4-601, R12-4-610, and R12-4-611, addressing rules or practice before the Commission within Article 6. The Department proposes the following substantive rule amendments:

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

- The Department's address will be updated to reflect the current address in each of these rules.

Originally, these rules were part of larger Article 6 rulemaking package approved by the Commission at the October 2008 Commission Meeting. The Governor's office issued a rulemaking moratorium and the rulemaking was placed on hold until November 30, 2009, when the Governor's office approved the Department's request to pursue rulemaking to amend R12-4-601, R12-4-610, and R12-4-611.

The Notices of Docket Opening and Proposed Rulemaking were approved by the Commission at the February Commission Meeting. The Notices were filed with the Secretary of State's Office and published in the Arizona Administrative Register on March 5, 2010. The rulemaking record was open for public comment from March 5 to April 4, 2010.

The Economic Impact Statement and Notice of Final Rulemaking for R12-4-601, R12-4-610, and R12-4-611 are attached for the Commission's consideration.

If the Commission approves, the Economic Impact Statement and Notice of Final Rulemaking for R12-4-601, R12-4-610, and R12-4-611 will be submitted to G.R.R.C. for review and placement on the G.R.R.C. July agenda.

RECOMMENDATION:

The Department requests that the Commission **VOTE TO APPROVE THE ECONOMIC IMPACT STATEMENT AND NOTICE OF FINAL RULEMAKING TO AMEND R12-4-601, R12-4-610, AND R12-4-611 WITHIN ARTICLE 6.**

GH:js:cmc

Attachments: R12-4-601, R12-4-610, and R12-4-611 Economic Impact Statement
R12-4-601, R12-4-610, and R12-4-611 Notice of Final Rulemaking

NOTICE OF FINAL RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

PREAMBLE

1. **Sections Affected** — **Rulemaking Action**

R12-4-601	Amend
R12-4-610	Amend
R12-4-611	Amend

2. **The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute:	A.R.S. § 17-231(A)(1)
Implementing statutes:	A.R.S. §§ 17-304(B), 17-452, 41-1033, and 41-1092

3. **The effective date of the rules:**

The Commission requests an immediate effective date. Under A.R.S. § 41-1032(A)(4), an agency may request an immediate effective date when the proposed rulemaking will provide a benefit to the public and a penalty is not associated with a violation of the rule. The Commission believes that individuals who petition the Arizona Game and Fish Commission for adoption, amendment, or repeal of a rule; individuals seeking review of an existing agency practice or policy that they allege to constitute a rule; political subdivisions of this state that submit petitions will benefit from a rule that provides the Department's current mailing address.

4. **A list of all previous notices appearing in the *Register* addressing the final rules:**

Notice of Rulemaking Docket Opening:	16 A.A.R. 407, March 5, 2010
Notice of Proposed Rulemaking:	16 A.A.R. 384, March 5, 2010

5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Marty Fabritz
Address:	Arizona Game and Fish Department 5000 W. Carefree Hwy Phoenix, AZ 85086
Telephone:	(623) 236-7281
Fax:	(623) 236-7299
E-mail:	mfabritz@azgfd.gov

6. **An explanation of the rule, including the agency's reason for initiating the rules:**

Laws 2009, Third Special Session, Chapter 7, Section 28 (B)(7) allows an agency to pursue rulemaking that eliminates or replace archaic rules. On November 30, the Governor's office approved the

Department's request to pursue rulemaking for R12-4-601, R12-4-610, and R12-4-611.

Individual's submitting a petition, and the Department, are held to strict time restraints in regards to required statutory and regulatory actions. To ensure that actions requiring the submission of documents to the Department occur in a timely manner, the Commission proposes to amend R12-4-601, R12-4-610, and R12-4-611 to provide the Department's current mailing address.

The Commission proposes additional amendments to R12-4-601, R12-4-610, and R12-4-611 to ensure conformity with the Arizona Administrative Procedures Act, Secretary of State, and Governor's Regulatory Review Council rulemaking format and style requirements.

7. **A reference to any study relevant to the rulemaking that the agency reviewed and either relied on in its evaluation of or justification for the rulemaking or did not rely on in its evaluation of or justification for the rulemaking, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

   Not applicable

8. **A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

   Not applicable

9. **The summary of the economic, small business, and consumer impact:**

   The Department anticipates that the rulemaking will not impact state revenues, political subdivisions, private industry, or the public.

   The only costs the Department will incur are those costs associated with the rulemaking process. The Commission has determined that the benefits of the rulemaking outweigh any costs.

   Individuals who petition the Arizona Game and Fish Commission for adoption, amendment, or repeal of a rule; individuals seeking review of an existing agency practice or policy that they allege to constitute a rule; political subdivisions of this state that submit petitions; and the Department will benefit from a rule that is clear, concise, and understandable.

10. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

    Minor grammatical and style corrections were made at the request of the Governor's Regulatory Review Council staff.

11. **A summary of the comments made regarding the rules and the agency response to them:**

    No comments were received.

12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

    Not applicable

13. **Incorporations by reference and their location in the rules:**

    None

14. **Were the rules previously made as an emergency rules? If so, please indicate the *Register* citation:**

No

15. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 6. RULES OF PRACTICE BEFORE THE COMMISSION

Section

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

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

ARTICLE 6. RULES OF PRACTICE BEFORE THE COMMISSION

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

A. Any individual, including any organization or agency, requesting that the Commission make, amend, or repeal a rule, shall submit a petition as prescribed ~~in~~ 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 ~~in~~ under A.R.S. § 41-1001~~) under A.R.S. § 41-1033~~, shall submit a petition as prescribed ~~in~~ under this Section.

C. No change

D. No change

E. A petitioner shall submit an original and one copy of a petition to the Arizona Game and Fish Department, Director's Office, ~~2221 West Greenway Rd., Phoenix, Arizona 85023~~ 5000 W. Carefree Highway, Phoenix, AZ 85086. The Commission shall render a decision on the petition as required ~~by~~ under A.R.S. § 41-1033.

F. Within five working days after a petition is submitted, the Director shall determine whether the petition complies with this Section.

1. If the petition complies with this Section, the Director shall place the petition on a Commission open meeting agenda. The petitioner may present oral testimony at that meeting, ~~by complying with~~ as established under R12-4-603.
2. No change

G. No change

H. No change

1. No change
2. No change
3. No change

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. No change
2. If the request is for amendment of a current rule, a statement to this effect, followed by the Arizona Administrative Code ~~(A.A.C.)~~ 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 ~~(A.A.C.)~~ 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 ~~in~~ 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. No change

1. No change
2. No change
3. No change
4. No change

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

L. No change

1. No change
2. No change
3. No change

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

A. ~~Any~~ An individual or agency requesting that the Commission consider closing state or federal land to hunting, fishing, or trapping as provided under ~~R12-4-110 or~~ 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. No change

C. No change

D. ~~The~~ A petitioner shall ~~file~~ submit an original and one copy of the petition ~~shall be filed with~~ to the Director of the Arizona Game and Fish Department, ~~2221 West Greenway, Phoenix, Arizona 85023~~ 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.

E. Within 15 business days after the petition is filed, the Department shall determine whether the petition complies with ~~this Section, R12-4-110, and A.R.S. § 17-452~~ A.R.S. § 17-452, R12-4-110, and this Section Once the Department determines that the petition meets these requirements, and if the petitioner has not agreed to an alternative solution or withdrawn the petition, the Department, in accordance with the schedule in subsection (D), shall place the petition on the agenda for the

Commission's next open meeting and provide written notice to the petitioner of the 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 ~~of~~ established under R12-4-603.
2. If a petition does not meet the requirements ~~in this Section, R12-4-110, and A.R.S. § 17-452~~ prescribed under A.R.S. § 17-452, R12-4-110, and this Section the Department shall return one copy of the petition as filed to the petitioner with the reasons why the petition does not meet the requirements, and not place the petition on a Commission agenda.
3. No change

F. No change

1. No change
2. No change
3. No change
4. No change
5. No change
   a. No change
   b. No change
   c. No change
6. No change
   a. No change
   b. No change
   c. No change
   d. No change
      i. No change
      ii. No change
7. No change
   a. No change
   b. No change
   c. No change
   d. No change
   e. No change
8. No change
   a. No change
   b. No change

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

A. No change

B. No change

C. A petitioner shall ~~file the~~ submit an original and one copy of ~~the~~ a petition ~~with~~ to the Arizona Game and Fish Department, Director's Office, ~~2221 W. Greenway Rd., Phoenix, Arizona 85023~~ 5000 W. Carefree Highway, Phoenix, AZ 85086.

D. No change

E. No change

1. No change
2. No change
3. No change

F. No change

G. No change

H. No change

1. No change
2. No change

I. No change

J. No change

K. No change

L. No change

1. No change
2. No change

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 6. RULES OF PRACTICE BEFORE THE COMMISSION

R12-4-601, R12-4-610, and R12-4-611

Economic, Small Business and Consumer Impact Statement

A. Economic, small business and consumer impact summary:

1. Identification of the proposed rulemaking:

The Arizona Game and Fish Department proposes to amend R12-4-601, R12-4-610, and R12-4-611 to reflect the Department's current headquarters address.

2. Brief summary of the information included in the economic, small business and consumer impact statement:

The rulemaking clarifies the process used when petitioning the Department, under R12-4-601, R12-4-610, or R12-4-611, by providing the Department's current address.

The Department anticipates that the rulemaking will not impact state revenues, political subdivisions, private industry, or the public.

The only costs the Department will incur are those costs associated with the rulemaking process. The Commission has determined that the benefits of the rulemaking outweigh any costs.

The Department and individuals submitting a petition to the Arizona Game and Fish Commission, under R12-4-601, R12-4-610, or R12-4-611, will benefit from a rule that is more clear and understandable.

3. Name and address of agency employees who may be contacted to submit or request additional data on the information included in the economic, small business and consumer impact statement:

Name: Marty Fabritz

Address: 5000 W. Carefree Highway

Phoenix, AZ 85086

Telephone: (623) 236-7281

Fax:(623) 236-7299

E-mail: mfabritz@azgfd.gov

B. Economic, small business and consumer impact statement:

1. Identification of the proposed rulemaking:

See paragraph (A)(1) above.

2. Identification of persons who will be directly affected by, bear the costs of or directly benefit from the proposed rulemaking:

Persons to bear costs:

- The Arizona Game and Fish Commission
- The Arizona Game and Fish Department

Persons to benefit:

- The Arizona Game and Fish Commission
- The Arizona Game and Fish Department
- Individuals submitting a petition to the Department

3. **Cost-benefit analysis:**

   a. **Probable costs and benefits to the Arizona Game and Fish Department and other agencies directly affected by the implementation and enforcement of the proposed rulemaking:**

   The Department anticipates that amendments to R12-4-601, R12-4-610, and R12-4-611 will benefit the Department by ensuring that petitions are mailed to the correct address. This avoids unnecessary delays caused when an individual mails the required documentation to the Department's previous address and allows for a more efficient petition process.

   b. **Probable costs and benefits to political subdivisions of this state directly affected by the implementation and enforcement of the proposed rule(s):**

   The Department anticipates that political subdivisions of this state will not incur any additional costs associated with the rulemaking and will benefit from a rule that is clear and understandable.

   c. **Probable costs and benefits to businesses directly affected by the proposed rulemaking, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the proposed rulemaking:**

   The Department anticipates that businesses, their revenues, or their payroll expenditures will not incur any additional costs associated with the rulemaking and will benefit from a rule that is clear, concise, and understandable.

4. **General description of the probable impact on private and public employment in businesses, agencies, and political subdivisions of this state directly affected by the proposed rulemaking:**

   The Department anticipates that the rulemaking will not effect private and public employment in this state.

5. **Statement of the probable impact of the proposed rulemaking on small businesses:**

   a. **Identification of small businesses subject to the proposed rulemaking:**

   Small businesses may include businesses submitting a petition under R12-4-601, R12-4-610, or R12-4-611.

   b. **Administrative and other costs required for compliance with the proposed rulemaking:**

   The Department anticipates that the rulemaking will not impose any additional costs for compliance for small businesses.

   c. **Description of the methods the Arizona Game and Fish Department may use to reduce the impact on small businesses:**

   The rulemaking will not create any additional schedules or deadlines for compliance, thus the Department believes that it is not necessary to provide methods to reduce the impact on small businesses.

d. **Probable cost and benefit to private persons and consumers who are directly affected by the proposed rulemaking:**

The Department anticipates that the rulemaking will not effect private persons and consumers.

6. **Statement of probable effect on state revenues:**

The Department anticipates that the rulemaking will not affect state revenues.

7. **Description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking:**

The Department has determined that there are no less intrusive or less costly alternative methods of achieving the purpose of the proposed rulemaking.

The Department believes the benefits derived from the rulemaking outweigh any associated costs.

C. **Explanation of limitations of the data and the methods that were employed in the attempt to obtain the data and a characterization of the probable impacts in qualitative terms. The absence of adequate data, if explained in accordance with this subsection, shall not be grounds for a legal challenge to the sufficiency of the economic small business and consumer impact statement.**

The Department believes the data used to generate this economic impact statement is adequate and allowed for the sufficient assessment of this rulemaking.