

**NOTICE OF FINAL RULEMAKING**  
**TITLE 12. NATURAL RESOURCES**  
**CHAPTER 4. GAME AND FISH COMMISSION**

**PREAMBLE**

1. **Sections Affected**                      **Rulemaking Action**  
  
R12-4-302                                      Amend  
  
R12-4-305                                      Amend  
  
R12-4-308                                      Amend
  
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the implementing statutes (specific):**  
  
Authorizing statute: A.R.S. § 17-231  
  
Implementing statute: A.R.S. §§ 17-231, 17-234, and 17-302
  
3. **The effective date of the rules:**  
  
The Department anticipates the rules will become effective 60 days after the Council submits them to the Secretary of State.
  
4. **A list of all previous notices appearing in the *Register* addressing the rules:**  
  
Notice of Docket Opening: 11 A.A.R. 4143, October 21, 2005; and  
  
Notice of Proposed Rulemaking: 11 A.A.R. 4081, October 21, 2005
  
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
  
Name:                      Carlos Ramírez, Rule Writer  
  
Address:                      Arizona Game and Fish Department  
  
                                    2221 W. Greenway Rd DORR  
  
                                    Phoenix, AZ 85023-4399  
  
Telephone:                      (602) 789-3288  
  
FAX:                              (602) 789-3677
  
6. **An explanation of the rules, including the agency's reasons for initiating the rulemaking:**

The Arizona Game and Fish Department is making amendments to Commission rules dealing with the taking and handling of wildlife to improve wildlife management and to meet the needs of the regulated community.

The rulemaking authorizes the implementation and use of a “two-part” tag. The Department has sporadically received comments from the public requesting a means to allow an individual that takes wildlife in the field to lawfully authorize another individual to possess a portion of the carcass. The current system does not have a mechanism through which an individual can easily authorize someone other than the original tag holder to transport the parts of their lawfully taken wildlife separate from the original tag. This rulemaking authorizes a new “two-part” tag that will give a hunter the option of attaching one part of a tag to a portion of a wildlife carcass so that another individual may lawfully possess that portion as long as the tag accompanies it.

This rulemaking also authorizes possession of a bear or mountain lion that kills livestock if the individual possesses a valid hunting license, a nonpermit-tag, the wildlife is taken during a closed season, and the take is authorized under A.R.S. § 17-302. Currently, the Department authorizes a property owner or livestock owner and operator to take depredating wildlife if it damages property or kills livestock under A.R.S. §§ 17-239 and 17-302. However, both of these statutes prohibit possession by the hunter who takes the wildlife, and do not require purchase of a license. A mountain lion or bear taken under this rule counts towards the annual bag limit prescribed by Commission Order.

Lastly, the amendments will require that a hunter who takes either bear or mountain lion report the take within 48 hours, if the Department requires inspection of either species. The rulemaking would also require that within 10 days of taking a bear or mountain lion, each hunter shall present the skull, hide, and attached proof of sex for inspection to the Department. A caveat is added that if a hunter freezes the skull or hide before presenting it for inspection, in case the hunter was preparing it for taxidermy, the hunter shall prop the jaw open to allow access to the teeth and shall ensure that proof of sex is attached to the hide and identifiable. The Department’s reason for proposing this change is so that wildlife managers can obtain more accurate wildlife data, and be more reactive in their efforts to regulate the take of bear and mountain lion. For some

Commission authorized mountain lion hunts, only a few animals are authorized to be taken. In those game management units where there are so few tags available, the Department wants to ensure that the harvest objective is adhered to as closely as possible.

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

None

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

The rulemaking will benefit hunters, those with interests in livestock operations where there are established populations of bear and mountain lion, and the Department. There will also be costs to these groups as a result of this rulemaking, though they will be negligible. The proposed rulemaking will not impact private or public employment, and will not significantly impact small businesses or their customers. The proposed rulemaking will not significantly impact state revenues. The Department has determined that there are no alternative means for achieving the objectives of the proposed rulemaking, and that the benefits outweigh any costs.

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

Minor grammar and formatting changes were made at the request of GRRC staff.

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

**Written Comment:** The Department must amend the rules on “taking” of mountain lions, but not in the way I is proposing. The rules must be revised because the agency has no accurate data on populations, actual harvest numbers, or anything else relating to mountain lions. The information the agency relies on is outdated and inaccurate.

**Agency Response:** The Department disagrees. The agency has very accurate data on the harvest of mountain lion in Arizona. A person who fails to report a harvested lion is subject to criminal prosecution. The new

rules will greatly increase the quality of the data used in lion management by allowing the data to be collected in a systematic way by trained wildlife professionals. This data will be incorporated into a comprehensive management strategy to help the Department achieve its wildlife management goals.

**Written Comment:** First you want a tooth, now a check-out requirement. I have not heard any mountain lion information since the requirement to submit a tooth was put in place, and I feel this is just another way to discourage lion hunting. I also feel that it is much easier to have a tag-holder take a lion rather than to have a depredation hunt. Maybe the agency should make rules more effective instead of making more.

**Agency Response:** The Department disagrees. The agency is recommending the amendments regarding depredation issues to allow sport hunters to continue to take depredating lions when and if the lion season is closed. The effect of this rule will not make A.R.S. § 17-302 any more restrictive.

**Written Comment:** Killing mountain lion and bear should not be allowed except in case of self defense.

**Agency Response:** The Department disagrees. The taking of mountain lion and bear are necessary to effectively manage wildlife in this state.

**Written Comment:** Commenting on behalf of several stakeholder groups, we generally support the amendments to R12-4-305 with exception. The rule language should be amended to ensure that the Commission's annual hunt orders are not thwarted by an unintended kill beyond the total annual harvest objective or the specific game management unit annual harvest objective in which a bear or lion is killed under A.R.S. § 17-302. In addition, it will be crucial for the Department to exercise its authority under that statute to conduct investigations and oversight to ensure that any bears or lions killed under this rule are truly depredating animals. This is especially critical in light of the limitation on the public's right to access all pertinent information in connection with such kills. We also strongly support the proposed changes to R12-4-308(A)(4) to shorten the time a successful hunter must report a kill from 10 days to 48 hours, and the requirement for a physical check of bears and lions killed. Thank you for the opportunity to comment.

**Agency Response:** The Department appreciates the support. The recommendation to have bears and mountain lions that are taken for the protection of property under A.R.S. § 17-302 count towards a unit's harvest objective is not necessary. Harvest objectives for mountain lion under the current management system have never been met. Wildlife managers who make bear hunt recommendations currently receive depredation harvest data, and consider depredation harvest trends in addition to hunter harvest in

recommending increases or decreases in female bear harvest objectives. Given these factors, it is highly unlikely that the harvest objective for bear or mountain lion could be thwarted or exceeded, which would make inclusion of the annual harvest objective in rule unnecessary. In response to suggested change, the Department has every intention of continuing to exercise its oversight responsibilities as set forth in A.R.S. § 17-302.

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

None

13. **Any material incorporated by reference and its location in the rules:**

None

14. **Were these rules previously made as emergency rules?**

No

15. **The full text of the rules follows:**

**TITLE 12. NATURAL RESOURCES**

**CHAPTER 4. GAME AND FISH COMMISSION**

**ARTICLE 3. TAKING AND HANDLING OF WILDLIFE**

Sections:

R12-4-302. Use of Tags

R12-4-305. Possessing, Transporting, Importing, Exporting, and Selling Carcasses or Parts of Wildlife

R12-4-308. Wildlife Inspections, Check Stations, and Roadblocks

### ARTICLE 3. TAKING AND HANDLING OF WILDLIFE

#### R12-4-302. Use of Tags

- A. In addition to meeting the requirements of A.R.S. § 17-331, an individual who takes wildlife shall have in possession any tag required for the particular season or hunt area.
- B. A tag obtained in violation of statute or rule is invalid and shall not be used to take, transport, or possess wildlife.
- C. An individual who takes wildlife shall not possess a tag issued to anyone else, except as provided in this Section and R12-4-305, or attach to wildlife a tag issued to anyone else, except as provided in R12-4-217.
- D. An individual shall not allow a tag issued to that individual to be attached to wildlife killed by anyone else, except as provided in R12-4-217.
- E. An individual shall not attach a tag issued to that individual to wildlife killed by anyone else, except as provided in R12-4-217.
- F. An individual shall take and tag only the wildlife identified on the tag.
- G. An individual shall use a ~~hunt permit~~-tag only in the season and hunt area for which the ~~hunt permit~~-tag is valid.
- H. An individual who lawfully possesses both a nonpermit-tag and a hunt permit-tag shall not take a genus or species in excess of the bag limit established for that genus or species.
- I. ~~Unless exempted under R12-4-217, immediately~~ Immediately after an individual kills wildlife, unless exempted under R12-4-217 or the individual who took the wildlife wishes to divide the carcass under R12-4-305, the individual shall attach his or her valid tag to the wildlife carcass in the following manner:
1. Remove all of the detachable paper covering from the adhesive back of the tag;
  2. Seal the exposed adhesive portions of the tag around the wildlife so the tag cannot be removed or reused and all printing on the face of the tag is visible and:
    - a. For a deer, elk, or antelope, seal the tag around the antler or horn, or through the gambrel of a hind leg;
    - b. For a javelina, bighorn sheep, mountain lion, buffalo, or bear, seal the tag through the gambrel of a hind leg; and
    - c. For a turkey, sandhill crane, or pheasant, seal the tag around the neck or a leg.
- J. An individual who lawfully takes wildlife under a tag and wishes to authorize another individual to possess, transport, or ship any portion of a carcass under R12-4-305 shall, at the time the portions are to be possessed, transported, or shipped independent from the original tag holder:

1. Tear and separate the tag portions along the perforated line.
2. Legibly complete and sign the Carcass/Transportation/Shipping Permit portion in accordance with R12-4-305(D), and
3. Provide to the individual who will possess and transport the portions of the carcass the completed Carcass/Transportation/Shipping permit.

K. An individual who possesses, transports, or ships a carcass or any part or parts of a carcass and is not the original tag holder shall possess the completed Carcass/Transportation/Shipping permit issued as part of the original permit authorizing the take of that animal.

L. If a tag or a separated portion of a tag has been sealed or mutilated, or the ~~transportation and shipping~~ Carcass/Transportation/Shipping permit portion of the tag is signed or filled out, the tag is no longer valid for taking wildlife.

**R12-4-305. Possessing, Transporting, Importing, Exporting, and Selling Carcasses or Parts of Wildlife**

A. For the purposes of this Section, "evidence of legality" means:

1. The wildlife is identifiable as the "legal wildlife" prescribed by Commission order, which may include evidence of species, gender, antler or horn growth, maturity and size; and
2. The wildlife is accompanied by the applicable license, tag, separated portion of a tag under R12-4-302, stamp or permit required by law.

B. An individual shall ensure that evidence of legality remains with the carcass or parts of a carcass of any wild mammal, bird, or reptile that the individual possesses or transports, until arrival at the individual's permanent abode, a commercial processing plant, or the place where the wildlife is to be consumed.

C. In addition to the requirement in subsection (B), an individual possessing or transporting the following wildlife shall also ensure that:

1. Big game, sandhill cranes, and pheasant each have the required valid tag attached as prescribed in R12-4-302;
2. Migratory game birds, except sandhill cranes, each have one fully feathered wing attached;
3. Each sandhill crane has either the fully feathered head or one fully feathered wing attached; and

4. Each quail has attached a fully feathered head, or a fully feathered wing, or a leg with foot attached, if the current Commission order has established separate bag or possession limits for any species of quail.

D. An individual who has lawfully taken wildlife that requires a valid tag when prescribed by the Commission, such as big game, sandhill crane, or pheasant, may authorize its transportation or shipment by completing and signing the Transportation/Shipping Permit portion of the valid tag for that animal. A separate Transportation/Shipping Permit issued by the Department is necessary to transport or ship to another state or country any big game taken with a resident license. Under A.R.S. § 17-372, an individual may ship other lawfully taken wildlife by common carrier after obtaining a valid Transportation/Shipping Permit issued by the Department. The individual shall provide the following information on the permit form:

1. Number and description of the wildlife to be transported or shipped;
2. Name of the individual who took the wildlife and that individual's address, license number, license class, and tag number;
3. Name and address of the individual who receives a portion of the divided carcass of the wildlife under subsection (E), if applicable;
4. Address of destination where the wildlife is to be transported or shipped; and
- 4 5. Name and address of transporter or shipper.

E. An individual who lawfully takes wildlife under a tag may authorize another individual to possess the head or carcass of the wildlife by separating and attaching the tag as prescribed in R12-4-302. An individual who receives a portion of the wildlife shall provide the identity of the individual who took and gave the portion of the wildlife.

~~E~~F. An individual shall not possess the horns of a bighorn sheep, taken by a hunter in this state, unless the horns are marked or sealed as prescribed in R12-4-308.

~~F~~ G An individual who sells, offers for sale, or exports the raw pelt of a bobcat taken in this state shall obtain a bobcat permit tag available for a fee as provided in R12-4-102 at Department offices and other locations at those times and places as determined and published by the Department, and shall ensure that the bobcat permit tag is locked through the mouth or eye openings so that it cannot be removed.

H Unless an individual has taken the annual bag limit for bear or mountain lion, an individual who takes bear or mountain lion under A.R.S. § 17-302, if the season for bear or mountain lion is closed, may retain the carcass

of the wildlife if the individual has a valid hunting license and the carcass is tagged with a nonpermit-tag as required by R12-4-114 and R12-4-302. An animal retained shall count towards the annual bag limit for bear or mountain lion as authorized in Commission Order. The individual shall comply with R12-4-308.

Ⓔ I An individual may import into this state carcasses or parts of carcasses of wildlife that have been lawfully taken in another state or country if accompanied by evidence of legality.

Ⓕ J Individuals who obtain buffalo meat under R12-4-306 may sell the meat.

Ⓖ K An individual may import into this state the carcasses or parts of aquatic wildlife that have been lawfully taken in another state or country if accompanied by evidence of legality, and if transported and exported in accordance with the laws of the state or country of origin.

Ⓕ L An individual in possession of or transporting the carcasses of any freshwater fish that have been taken within this state shall ensure that the head, tail, or skin is attached so that the species can be identified, numbers counted, and any required length determined.

Ⓕ M An individual in possession of a carp (*Cyprinus carpio*) or buffalofish (*Ictiobus* spp.) carcass taken under Commission order may sell the carcass.

#### **R12-4-308. Wildlife Inspections, Check Stations, and Roadblocks**

A. The Department has the authority to establish mandatory wildlife check stations. The Department shall publish the location, check-in requirements, and check-out requirements for a season with the published Commission order establishing the season.

1. Hunters shall personally check in at a wildlife check station before hunting in a season with a published check-in requirement.
2. The Department shall ensure that wildlife check stations with a published check-in requirement are open continuously from 8:00 a.m. the day before the season until 8:00 p.m. the first day of the season, and from 8:00 a.m. to 8:00 p.m. during each day of the season.
3. Hunters shall personally check out after hunting in a season with a published check-out requirement, and shall present for inspection any wildlife taken and display any license, tag, or permit required for taking or transporting wildlife.

4. The Department shall ensure that wildlife check stations with a published check-out requirement are open continuously from 8:00 a.m. to 8:00 p.m. during each day of the season and remain open until 12:00 noon on the day following the close of the season.

B. The Department has the authority to conduct inspections for bighorn sheep, archery deer, bear, mountain lion and special big game license-tags (deer, elk, antelope, and buffalo) at the Department's Phoenix and regional offices or designated locations. Regional offices are open 8:00 a.m. to 5:00 p.m., Monday through Friday, except on legal state holidays.

1. All bighorn sheep hunters shall personally check out within three days after the close of the season. Each hunter who takes a bighorn sheep shall submit the intact horns and skull for inspection and photographing. The Department representative shall affix a mark or seal to one horn of each bighorn sheep lawfully taken under Commission order. The hunter shall not remove, alter, or obliterate the mark or seal.

2. All special big game license-tag hunters who tag a deer, elk, antelope, or buffalo shall submit the intact horns or antlers and skull or skullcap for inspection and photographing within three days after the close of the season.

3. A successful non-permit tag archery deer hunter shall report information about the kill to a Department office in person or by telephone within 10 days of taking the deer if the hunt area does not have a check station requirement.

4. A successful bear or mountain lion hunter shall report information about the kill in person or by telephone within 48 hours of taking ~~a bear~~ the wildlife. ~~If the kill is reported by telephone, the~~ The report shall include the name of the hunter, the hunter's hunting license number, the sex of the ~~bear~~ wildlife taken, the management unit where the ~~bear~~ wildlife was taken, and a telephone number where the hunter can be reached for additional information. Within 10 days of taking the wildlife, each hunter who takes a bear or mountain lion shall present the skull, hide, and attached proof of sex for inspection. If a hunter freezes the skull or hide before presenting it for inspection, the hunter shall prop the jaw open to allow access to the teeth and ensure that the attached proof of sex is identifiable and accessible. In addition, the hunter shall provide a tooth from the bear to the Phoenix office within 20 days after contacting the Department.

~~5. A successful mountain lion hunter shall report information about the kill in person or by telephone within 10 days of taking the mountain lion. In addition, the hunter shall provide a tooth from the mountain lion to the Phoenix office within 20 days after contacting the Department.~~

- C. The Director or Director's designee may establish vehicle roadblocks at specific locations when necessary to ensure compliance with applicable wildlife laws. Any occupant of a vehicle at a roadblock shall, upon request, present for inspection all wildlife in possession, and produce and display any license, tag, stamp, or permit required for taking or transporting wildlife.
- D. This Section does not limit the game ranger or wildlife manager's authority to conduct stops, searches, and inspections under A.R.S. §§ 17-211(D) and 17-331, or to establish voluntary wildlife survey stations to gather biological information.