

NOTICE OF PROPOSED RULEMAKING

TITLE 12. Natural Resources

CHAPTER 4. Game and Fish Commission

PREAMBLE

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

R12-4-501	Amend
R12-4-502	Amend
R12-4-503	Amend
R12-4-505	Amend
R12-4-506	Amend
R12-4-507	Amend
R12-4-509	Amend
R12-4-511	Amend
R12-4-514	Amend
R12-4-516	Amend
R12-4-517	Amend
R12-4-520	Amend
R12-4-524	Amend
R12-4-526	New Section
R12-4-528	New Section

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

Authorizing statute: A.R.S. § 5-311

Implementing statute: A.R.S. §§ 5-311(A), 5-321, 5-321.01, 5-324, 5-331, 5-332, 5-336, 5-322, 5-346, 5-349, 5-361, and 5-391 for all rules, and A.R.S. Title 5, Chapter 3, Article 11 in addition for R12-4-527.

3. **A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Docket Opening: TBP

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

Name: Carlos Ramírez, Rules Analyst
Address: Arizona Game and Fish Department
2221 W. Greenway Rd DORR
Phoenix, AZ 85023-4399
Telephone: (602) 789-3288
FAX: (602) 789-3677

5. **An explanation of the rule, including the agency's reasons for initiating the rule :**

The Arizona Game and Fish Commission is proposing to amend its Article 5 rules, dealing with boating and water sports, to enact changes developed during a preceding five-year rule review. After evaluating the scope and effectiveness of the revisions specified in the review, the Commission is also proposing additional changes to further implement its original proposal.

The Commission proposes to amend R12-4-501 to add a definition for the term “certificate of origin” as part of a suite of amendments intended to address concerns about the illegal laundering of watercraft. A certificate of origin will be defined as a document establishing the initial chain of ownership of a watercraft, specifically a manufacturer’s certificate of origin (MCO), a manufacturer’s statement of origin (MSO), an importer’s certificate of origin (ISO), or builder’s certification (Form CG-1261), provided by the manufacturer of a new watercraft or its distributor, its franchised new watercraft dealer, and the original purchaser.

The Commission’s principle efforts in addressing watercraft laundering are focused in R12-4-502. First, the Commission is proposing to amend subsection (B) to compel the inspection of homemade watercraft. Under subsection (K), the Game and Fish Department reserves the right to require inspection of any watercraft to verify registration information provided by the applicant if the Department has reason to believe that the information is inaccurate or false. The agency is having a continuing problem with individuals registering a “homemade watercraft” with a “statement of fact” under subsection (F) for illegal purposes. Under A.R.S. § 5-321, these types of watercraft are not necessarily required for inspection, and criminals are using the registration procedures to fraudulently facilitate personal economic gains, which

include tax evasion, insurance fraud, theft, and reductions in registration fees. Many times, remodeled watercraft are reregistered as homemade when in fact these watercraft are stolen, interiorly modified, and have the hull identification number (HIN) removed. By receiving a HIN through the registration process, criminals are able to pass the stolen watercraft as legal, and otherwise lawfully sell it to those who also assume that the watercraft is homemade.

To further combat attempted unlawful registration and potential laundering of watercraft, the Commission proposes to amend subsection (F)(6) to require that an individual that applies to register a watercraft under a statement of fact present the watercraft to the Department for inspection. It is sometimes difficult to clearly establish ownership of a watercraft registered under a statement of fact because no other form of documentation of the watercraft exists. This amendment would allow the Department to inspect the watercraft and establish a history of ownership through a HIN or other identifiers. The Department also proposes adding a new item (7) to require that an individual that applies to register a new watercraft provide an original certificate of origin (CO). By providing an original CO, the Department is able to verify use and lawful possession of the watercraft, and establish a more definitive history of the watercraft if it is sold or registered by another lawful owner. Requiring an original CO also prevents criminal laundering of watercraft. By requiring a CO, the Department can establish a record that can be used by the Coast Guard and other states to prevent someone from registering an identical watercraft in another state under the same CO. For the purposes of this Section, a new watercraft is any watercraft purchased from a new watercraft dealer or manufacturer within a year before it is registered. Currently, 34 states require a CO from the owner when registering a watercraft.

Lastly under this rule, the Commission proposes to amend R12-4-502 to ensure that an individual transfers registration of an abandoned watercraft through the appropriate process and prevent individuals from transferring registration of watercraft that are erroneously claimed to be abandoned when they may in fact be stolen. To achieve this objective, the Commission proposes to amend subsection (F)(6)(d) to clearly state that an individual who is applying to transfer registration of a watercraft under a statement of fact shall certify that the watercraft was purchased, received as a gift, or received as a trade, and that the watercraft has not been registered, titled or otherwise documented in the past five years.

In the preceding five-year review, the Department suggested amending R12-4-503 to divide telecommunication renewal of watercraft registration into telephone and online renewal to make each process more understandable. This change would result in a new subsection (D) that clearly prescribes requirements for online renewal of watercraft registration. In the original proposal, an applicant for online renewal was only required to provide a Department-approved password and the applicant's date of birth. The Department is now modifying the new subsection (D) to fully include the existing requirements for online renewal. In addition to an applicant paying the registration fee required by A.R.S. § 5-321, an applicant shall also provide the assigned Arizona watercraft number (or AZ number) of the watercraft being renewed. This process is necessary because it identifies what watercraft is being renewed. The Department is also proposing to require an online renewal applicant to provide either the date of birth, the Department-assigned authorization number (previously called the identification number), or the applicant's password.

The Department proposes to further amend R12-4-503 to state that an applicant for watercraft renewal who applies by telephone shall provide the Department-assigned authorization number or the applicant's date of birth under subsection (C)(3). Many people do not feel comfortable giving their security password over the phone, and it is not necessary in lieu of either an authorization number or date of birth.

In reviewing R12-4-505, the Commission did not believe the rule adequately communicated the intent of the rule when prescribing requirements for affixation of a Department-issued HIN. This is problematic when the Department issues a number to a watercraft that already has a HIN that does not conform to Coast Guard standards. Because the Coast Guard has eminent authority over watercraft, it determines the format of HIN's. When the Department encounters a watercraft that has a non-conforming HIN, it will notify the Coast Guard and issue a new number. A problem occurs when those who are issued a replacement HIN do not place it on the watercraft, or place it somewhere on the watercraft where it fades and becomes unreadable. To resolve this concern, the Department proposes to amend subsection (E) of the rule to require an individual to permanently affix the HIN within 30 days of issuance. Either the applicant, the registered owner, or the Department shall affix the permanent HIN.

The Commission proposes to amend R12-4-506 to add a new item (7) under subsection (B) to invalidate a certificate of number and any decals if they are issued as a result of an internal processing error. When entering registration information, these errors can disqualify an individual from receiving an otherwise lawful registration or may result in the Department issuing a registration for an improper application. All such internal processing errors would be corrected using the proper registration process or other procedures.

The Commission proposes to amend R12-4-507 first to alphabetize the definitions listed in subsection (A) according to APA guidelines. The Commission next proposes to amend the subsection to make clear what constitutes “abandoned” in the definition of “abandoned watercraft.” The current definition uses terms that are not definitive and could be openly interpreted. Some individuals have attempted to exploit the ambiguity of the definition in order to transfer registration and gain ownership of a watercraft that may not truly be abandoned. The Commission proposes to amend the definition to state that a watercraft is abandoned if it has remained on or is immediately adjacent to private property without the consent of the private property owner or has remained unattended on a highway, public street, or other public property, or waterways for more than seven days.

The Commission also proposes to amend subsection (C) of this rule to require additional information when reporting an abandoned watercraft. This information will help determine whether the watercraft was truly abandoned. The Commission proposes to amend item (7) to also require an individual to state whether the watercraft was abandoned on private or public property and, if private, whether the applicant is the legal owner of the property. The Department has occasionally received applications for transfer of ownership from individuals who have attempted to fraudulently transfer a watercraft that is left in another person’s driveway or other type of property. The Commission also proposes to add a new item (10) to require an applicant for transfer of registration to state the length of time the watercraft was abandoned. This requirement will ensure that both the Department and the applicant adhere to the transfer of ownership process for abandoned watercraft. Finally, the Commission proposes to add a new item (11) that would require the applicant for transfer to provide a reason why the applicant believes the watercraft is abandoned. This item would reduce fraud by eliminating false claims and determine the appropriate process by which the watercraft can be registered.

The Commission is also proposing to amend R12-4-507 to make the rule more effective in achieving its objective. Under subsection (D), the Department has established a process to notify the owner of an abandoned watercraft when someone is attempting to transfer ownership of it. The agency notifies the legal owner via certified mail and gives the owner the opportunity to reclaim the watercraft or release interest in the watercraft by returning an enclosed pre-addressed postage-paid response card. The Department knows that the owner received the letter when the owner signs and returns the attached response card. The Department does not have a process in rule to resolve what happens when a legal owner does not indicate whether or not he or she is releasing ownership of the watercraft. The Department proposes to add a new (D)(1)(d) to state that failure to either claim or release ownership of the watercraft within 180 days after the date the Department receives a signed certified card constitutes a waiver of interest in the watercraft by any individual having an interest in the watercraft and the watercraft shall be deemed abandoned for all purposes. This addition gives a watercraft owner a sizable opportunity to reclaim his or her property and prescribes a method by which an applicant for transfer may still obtain ownership.

In conjunction with the amendments proposed to R12-4-502, the Commission proposes to amend R12-4-509(G) to add an item requiring a watercraft agent to obtain a certificate of origin when purchasing a new watercraft on behalf of another person. Under the proposed amendments to R12-4-502, a watercraft owner must present that certificate of origin to register the watercraft.

The Commission proposes to amend R12-4-511, dealing with personal flotation devices to reorder the subsections according to the Administrative Procedures Act standards. All references will be updated as well.

The Commission is also proposing to amend R12-4-514 to ensure that watercraft liveries comply with all safety equipment requirements prescribed in this article and its authorizing statutes. Watercraft law enforcement officers statewide routinely encounter rental boats that do not have the appropriate equipment on board. Thus, the Commission proposes to require written acknowledgement of compliance with A.R.S. § 5-371 by the livery operator. This provides written documentation on the rental receipt that the livery operator has provided to the renter all required safety equipment of proper size, quantity, and type as required by A.R.S. Title 5, Chapter 3, Articles 4 and 5, and A.A.C. Title 12, Chapter 4, Article 5. The Commission will also propose that the receipt be signed by both the renter and the livery operator or the livery's agent so that both parties are aware of what equipment is on board and are knowingly in compliance.

The Commission is proposing to make significant changes to R12-4-516 to address the growing problem of watercraft that produce an excessive amount of noise. More and more people are using the state's lakes, and watercraft are being built bigger, faster, and most of all louder. To effectively regulate noise levels on state waters, the Department proposes adding new language that would allow for additional sound tests, incorporating the Society of Automotive Engineers recommended practices SAEJ2005 and SAEJ1970, in addition to those sound tests currently used by the Department.

The Commission will make further changes to its original proposal to clearly prescribe what these tests are and how they are to be conducted. The Department will clarify that SAEJ2005 tests are stationary sound level tests, which have their own protocol, and that an SAEJ1970 test is a shoreline sound level test. The Department is also adjusting the new subsection (C) drafted during the five-year review by creating a new subsection (D) that specifically speaks to operators of watercraft. The new subsection prescribes additional guidelines to the operator of a watercraft if the operator is directed to correct deficiencies by a law enforcement officer after failing a noise level test.

The Department's need to renovate lakes for use by the public are prompting the Commission to propose amendments to R12-4-517 to make greater allowances for use of motorized watercraft on state lakes. To make available the necessary funds for the Department to meet its obligations for conserving aquatic habitat and resources and to serve public safety, the Commission proposes to amend the rule to authorize the use of a maximum 10 horsepower electric motor or single gasoline engine on certain lakes. By authorizing the use of engines that may run on fossil fuels on specific lakes, they will be eligible for improvement funds under the Wallop-Breaux tax, more commonly known as the "gas tax" issued through the State Lakes Improvement Fund. Because of the controversial nature of this proposal, the Commission is only proposing that four lakes be opened to 10 horsepower engines: Arivaca Lake, Black Canyon Lake, Lynx Lake, and Peña Blanca Lake.

The Commission has also received requests from Department personnel in Flagstaff and the division of the National Forest Service that presides over the Coconino National Forest to restrict use of Lower Lake Mary and Marshall Lake to single electric motors or single gasoline engines not exceeding 10 hp in subsection (B). During very wet winters, Lower Lake Mary spreads out, but remains shallow with limited visibility. The obscurity makes it difficult to identify the depth and the numerous hazards that become submerged at the bottom, such as well heads, fences, roads, and signs. Marshall Lake is a smaller lake that fosters waterfowl habitat. For the sake of conserving and retaining this habitat, restrictions will be put in place.

The Commission proposes to amend R12-4-520 to comply with Administrative Procedures Act guidelines for rulemaking language and style and to update references to the Code of Federal Regulations.

When the Commission reviewed R12-4-521, it attempted to address the problem of individuals who reside, live in, or leave watercraft, such as houseboats, on waters that have shared jurisdictions. On these waters, an individual is required to moor their watercraft either to a dock or a government-authorized or private buoy if they leave their watercraft unattended. However, some individuals tie their watercraft to a regulatory marker or aid, or simply drop anchor. The concern is aggravated by the fact that some of these waters do not prescribe time limits for prolonged residence or “camping” on the water. These “water squatters” generate additional problems while moored in the water, including abandonment of watercraft or houseboat, violating clean water regulations by discharging waste or leaking oil from watercraft, blocking access to public waters, thereby obstructing government agencies from carrying out their duties, and avoidance of paying mooring fees.

R12-4-521 already prescribes regulations for mooring or fastening a watercraft to a marker or aid not intended for mooring, but it is not intended to regulate “water squatting.” Instead of expanding the rule, the Commission proposes to add a new Section to address unlawful mooring. The new rule R12-4-526 will state that an individual shall not moor, anchor, fasten to the shore or otherwise secure a watercraft for longer than 14 consecutive days on any public body of water, unless those waters are a special anchorage area as defined in A.R.S. § 5-301.12, or authorized private docks or moorages, or as authorized by the government agency or private interest that has jurisdiction over those waters.

Under R12-4-524, anyone who water skis must be observed by another individual who is physically capable and mentally competent to act as an observer. However, the Department has developed concerns over the use of underage youth as waterskiing observers, like very young children or toddlers. The Commission holds that an individual younger than 12 is not of sound enough temperament to act as observer and will propose the rule accordingly. Both California and Nevada require an observer to be 12 years of age or older.

Finally, the Commission is proposing to add a new Section R12-4-528 to prescribe procedures for watercraft OUI checkpoints and specify the responsibilities of the public upon encountering these checkpoints. A key element of the agency's mission is to provide safe waterways for the use and enjoyment of the regulated community. Checkpoints designated to inspect whether someone is operating a watercraft under the influence serve a public interest in ensuring that safety, particularly with the increasing use of the state's lakes. The new Section also prescribes secondary purposes for checkpoints.

6. **A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

The Department did not rely on any study in its evaluation of or justification for the proposed rules.

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

Not applicable

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

In proposing many of these amendments, the Commission's intent is to address watercraft laundering and watercraft safety, and ensure that ownership of watercraft is clearly established through a lawful process. In that sense, the majority of the benefit of this rulemaking is intended for the regulated community. The agency will also benefit from the proposed rulemaking, although some amendments may incur implementation costs. Overall, the proposed rulemaking will not affect businesses; however, amendments dealing with liveries and safety equipment may result in minor implementation costs. The proposed rulemaking will not affect other agencies, private or public employment, or the state general fund. Although proposed amendments to R12-4-517 that allow maximum 10 horsepower engines on the lakes listed will make them eligible for State Lake Improvement Funds, it will not increase or decrease the amount the agency may receive from the fund. The Commission has determined the benefits of the rulemaking outweigh any costs.

9. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Carlos Ramírez, Rules Analyst
Address: Arizona Game and Fish Department
2221 W. Greenway Rd DORR
Phoenix, AZ 85023-4399
Telephone: (602) 789-3288
FAX: (602) 789-3677

10. **The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule; or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Written comments will be accepted at the above address for thirty days following publication of this Notice in the *Arizona Administrative Register*. The Game and Fish Commission will hold a public hearing and may take action to amend the rule on:

Date: TBA
Time:
Location:

The Arizona Game and Fish Commission follows Title II of the Americans with Disabilities Act. The Commission does not discriminate against persons with disabilities who wish to make oral or written comments on proposed rulemaking or otherwise participate in the public comment process. Individuals with disabilities who need a reasonable accommodation (including auxiliary aids or services) to participate in the public comment process, or who require this information in an alternate form, may contact Dustin McKissen at (602) 789-3288 (Voice); 1-800-367-8939 (TDD); 2221 W. Greenway Rd, Phoenix, Arizona 85023. Requests should be made as soon as possible so that the Arizona Game and Fish Department will have sufficient time to respond.

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

Not applicable

12. Incorporations by reference and their location in the rules:

Not applicable

13. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES
CHAPTER 4. GAME AND FISH COMMISSION
ARTICLE 5. BOATING AND WATERSPORTS

- R12-4-501. Boating and Water Sports Definitions
- R12-4-502. Applications for Watercraft Registration
- R12-4-503. Renewal of Watercraft Registration
- R12-4-505. Hull Identification Numbers
- R12-4-506. Invalidation of Watercraft Registration
- R12-4-507. Transfer of Ownership of an Abandoned or Unreleased Watercraft
- R12-4-509. Watercraft Agents
- R12-4-511. Personal Flotation Devices
- R12-4-514. Liveries
- R12-4-516. Watercraft Sound Level Restriction
- R12-4-517. Watercraft Motor and Engine Restrictions
- R12-4-520. Arizona Uniform State Waterway Marking System
- R12-4-524. Water Skiing
- R12-4-526. ~~Reserved~~ Unlawful Mooring
- R12-4-528. Watercraft Checkpoints

ARTICLE 5. BOATING AND WATERSPORTS

R12-4-501. Boating and Water Sports Definitions

No change

1. No change

2. No change

3. No change

4. “Certificate of origin” means a document establishing the initial chain of ownership of a watercraft: a manufacturer’s certificate of origin (MCO), a manufacturer’s statement of origin (MSO), an importer’s certificate of origin (ICO), an importer’s statement of origin (ISO), or builder’s certification (Form CG-1261), provided by the manufacturer of a new watercraft or its distributor, its franchised new watercraft dealer, or the original purchaser.

~~5.~~ 6. No change

~~6.~~ 7. No change

~~7.~~ 8. No change

~~8.~~ 9. No change

~~9.~~ 10. No change

~~10.~~ 11. No change

~~11.~~ 12. No change

~~12.~~ 13. No change

~~13.~~ 14. No change

~~14.~~ 15. No change

~~15.~~ 16. No change

~~16.~~ 17. No change

~~17.~~ 18. No change

~~18.~~ 19. No change

~~19.~~ 20. No change

~~20.~~ 21. No change

~~21~~ 22. No change

~~22~~ 23. No change

~~23~~ 24. No change

R12-4-502. Application for Watercraft Registration

A. No change

B. The builder, owner or owners of a homemade watercraft shall present the watercraft for inspection at a Department office, and shall sign the application and have it notarized unless it is signed in the presence of a Department employee. The applicant shall provide the following information for registration of homemade watercraft, using the same ownership designations specified in subsection (A):

1. No change

2. No change

3. No change

4. No change

5. No change

6. No change

7. No change

8. No change

9. No change

10. No change

C. No change

1. The applicant is exempt from use tax as provided in ~~15 A.A.C. 5~~ A.A.C. Title 15, Chapter 5,

2. No change

3. No change

4. No change

D. No change

E. No change

F. No change

1. No change
2. No change
3. No change
4. No change
5. No change
6. A statement of fact form available from any Department office if none of the documentation identified in subsections (F)(1) through (F)(5) exists, either in the possession of the watercraft owner or in the records of any jurisdiction responsible for registering or titling watercraft. An applicant that applies for watercraft registration under a statement of fact shall present the watercraft for inspection at a Department office. The owner or owners of the watercraft shall sign the statement of fact form and shall have it notarized unless it is signed in the presence of an authorized Department employee. The owner or owners of the watercraft shall provide the hull identification number of the watercraft on the statement of fact form and shall certify one of the following:
 - a. No change
 - b. No change
 - c. No change
 - d. The watercraft was purchased, received as a gift, or received as a trade, and that the watercraft has not been registered, titled, or otherwise documented in the past five years; or
7. An original certificate of origin if the watercraft was purchased as new, the applicant is applying for watercraft registration within a year of purchasing the watercraft, and the watercraft is not held by a lien holder.

- G. No change
- H. No change
- I. No change
- J. No change
- K. No change

R12-4-503. Renewal of Watercraft Registration

A. No change

B. No change

C. To renew a watercraft's registration by ~~telecommunications~~ telephone, an applicant shall pay the registration fee

required by A.R.S. § 5-321 and shall provide either of the following to the Department or its agent:

1. The name ~~and address~~ of the watercraft's registered owner as it appears on the renewal notice, and

2. The assigned Arizona watercraft number (AZ number) of the watercraft being renewed, ~~or~~ and

3. The Department-assigned ~~identification~~ authorization number or ~~password~~ the applicant's date of birth.

D. To renew a watercraft's registration via the Internet, an applicant shall pay the registration fee required by A.R.S.

§ 5-321 and shall provide the assigned Arizona watercraft number (AZ number) of the watercraft being renewed and one of the following to the Department or its agent:

1. The Department-assigned authorization number,

2. The applicant's date of birth, or

3. The applicant's password.

E. No change

R12-4-505. Hull Identification Numbers

A. No change

B. No change

C. No change

D. No change

E. ~~The~~ Within 30 days of issuance, the applicant, the registered owner, or the Department shall permanently affix

the hull identification number as follows:

1. No change

2. No change

3. No change

4. No change

5. No change

6. No change

7. No change

R12-4-506. Invalidation of Watercraft Registration

A. No change

B. No change

1. No change

2. No change

3. No change

4. No change

5. An applicant provides incomplete or incorrect information to the Department and fails to provide the correct information within 30 days after a request by the Department; ~~or~~

6. The Department revokes the certificate of number, numbers, and decals as provided in A.R.S. § 5-391(H); ~~or~~

7. The Department erroneously issues a certificate of number or any decals.

C. No change

D. No change

R12-4-507. Transfer of Ownership of an Abandoned or Unreleased Watercraft

A. No change

1. "Abandoned watercraft" means a watercraft that ~~is deserted on a highway, a public street, or on public or private property or waters~~ has remained on or is immediately adjacent to private property without the consent of the private property owner or has remained unattended on a highway, public street, or other public property, or waterway for more than seven days. A watercraft left under a written repair or storage order is not an abandoned watercraft.

2. ~~"Unreleased watercraft" means a watercraft for which there is no release of interest from the registered owner.~~ "Release of interest" means a statement giving up, surrendering, or abandoning unconditionally any claim or right of ownership or use in a watercraft.

3. ~~"Release of interest" means a statement giving up, surrendering, or abandoning unconditionally any claim or right of ownership or use in a watercraft.~~ "Unreleased watercraft" means a watercraft for which there is no release of interest from the registered owner.

B. No change

C. No change

1. No change

2. No change

3. No change

4. No change

5. No change

6. No change

7. If the watercraft is abandoned, the description or address of the location where the watercraft was found, whether the watercraft was abandoned on private or public property, and if private, whether or not the applicant is the legal owner of the property;

8. No change

9. State in which the watercraft will be used;

10. Length of time the watercraft was abandoned; and

11. Reason why the applicant believes the watercraft is abandoned.

D. No change

1. No change

a. No change

b. No change

c. If service is successful and the registered owner does not respond to the notice in writing within 30 days from the date of mailing, when service was successful, the Department shall advise the applicant of the failure to respond, and the Department shall not register the watercraft to the applicant unless the applicant provides proof of ownership and complies with R12-4-502;

d. If service is successful and the registered owner does not provide written notice to claim or release interest in the watercraft within 180 days after the date the Department receives the notice, this failure

to act shall constitute a waiver of interest in the watercraft by any individual having an interest in the watercraft, and the watercraft shall be deemed abandoned for all purposes.

2. No change

E. No change

R12-4-509. Watercraft Agents

A. No change

1. No change

2. No change

B. No change

1. No change

2. No change

3. No change

4. No change

5. No change

6. No change

7. No change

C. No change

D. No change

E. No change

F. No change

G. No change

1. No change

a. No change

b. No change

c. No change

d. No change

e. No change

f. No change

g. No change

h. No change

i. No change

2. The agent shall obtain a certificate of origin from the manufacturer and provide it to the purchaser of the new watercraft.

3. No change

~~3~~ 4. No change

H. No change

I. No change

1. No change

2. No change

3. No change

J. No change

1. No change

2. No change

3. No change

4. No change

5. No change

K. No change

R12-4-511. Personal Flotation Devices

A. For the purpose of this Section, “wear” means that the personal flotation device is being worn according to the manufacturer’s design or recommended use; that all closures of the personal flotation device are fastened, snapped, tied, zipped, or secured according to the manufacturer’s design or recommended use; and that the personal flotation device is adjusted for a snug fit.

B. No change

1. No change

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

~~B~~ C. In addition to the personal flotation devices prescribed in subsection ~~(A)~~ (B), the operator of a watercraft that is 16 feet or more in length, except a canoe or kayak, shall ensure that the watercraft is also equipped with a U.S. Coast Guard-approved buoyant cushion, ring buoy, or horseshoe buoy (Type IV Personal Flotation Device).

~~C~~ D. Persons on board a watercraft or personal watercraft shall wear an appropriately-sized, U.S. Coast Guard-approved personal flotation device as prescribed in A.R.S. § 5-331(C) and A.R.S. § 5-350(A).

~~D~~. For the purpose of this Section, "wear" means that the personal flotation device is being worn according to the manufacturer's design or recommended use; that all closures of the personal flotation device are fastened, snapped, tied, zipped, or secured according to the manufacturer's design or recommended use; and that the personal flotation device is adjusted for a snug fit.

E. Subsections ~~(A)~~, (B), ~~and (C)~~, and (D) do not apply to the operation of a racing shell or rowing skull during competitive racing or supervised training, if the racing shell or rowing skull is manually propelled, recognized by a national or international association for use in competitive racing, and designed to carry and does carry only equipment used solely for competitive racing.

R12-4-514. Liveries

~~Pursuant to~~ Under A.R.S. § 5-371, a watercraft owned by a boat livery ~~which~~ that requires registration and does not have the certificate of number on board shall be identified while in use by means of a receipt provided by the livery to, and to be kept in the possession of, the person operating the rented watercraft. The receipt shall contain the following information:

1. No change
2. No change
3. The beginning date and time of the rental period; and
4. Written acknowledgement on the receipt of compliance with A.R.S. § 5-371 signed by both the livery operator or the livery's agent and the renter.

R12-4-516. Watercraft Sound Level Restriction

- A. It shall be unlawful for any person to operate a watercraft upon the waters of this state under any condition or in any manner that ~~the watercraft emits a sound level in excess of 86 decibels on the "A" weighted scale when measured from a distance of 50 feet or more from the watercraft~~ exceeds any of the following.
1. A noise level of 86dB(A) measured at a distance of 50 feet or more from the watercraft as prescribed in Society of Automotive Engineers Standards, SAEJ 34.
 2. For engines manufactured:
 - a. Before January 1, 1993, a noise level of 90 dB(A) when subjected to the Society of Automotive Engineers Recommended Practice stationary sound level test SAEJ2005; and
 - b. On or after January 1, 1993, a noise level of 88 dB(A) when subjected to the Society of Automotive Engineers Recommended Practice stationary sound level test SAEJ2005; or
 3. A noise level of 75 dB(A) measured as specified in the Society of Automotive Engineers Recommended Practice shoreline sound test SAEJ1970.
- B. A measurement of noise level that is in compliance with this Section does not preclude the conducting of a test or multiple tests of noise levels.
- C. A peace officer authorized to enforce the provisions of this Section who has reason to believe that a watercraft is being operated in violation of the noise levels established in this Section may direct the operator of the watercraft to submit the watercraft to an on-site test to measure noise level.
- D. An operator of a watercraft who receives a request from a peace officer to test the noise level of the watercraft under subsection (C) shall allow the watercraft to be tested. If, based on a test to determine the noise level of a watercraft administered under this Section, the noise level of the watercraft exceeds the decibel levels in subsection (A), the operator of the motorboat shall take immediate measures to correct the violation as prescribed by A.R.S. § 5-391(C).
- ~~B~~ E. This Section shall not apply to watercraft operated under permits issued in accordance ~~to~~ with A.R.S. § 5-336(C).

R12-4-517. Watercraft Motor and Engine Restrictions

A. A person operating a motorized watercraft on the following waters shall use an electric motor only:

Ackre Lake

~~Arivaca Lake~~

Bear Canyon Lake

~~Black Canyon Lake~~

Bunch Reservoir

Carnero Lake

Chaparral Park Lake

Cluff Ponds

Coconino Reservoir

Coors Lake

~~Dankworth~~ Dankworth Pond

Dogtown Reservoir

Fortuna Lake

Goldwater Lake

Granite Basin Lake

Horsehief Basin Lake

Hulsey Lake

J.D. Dam Lake

Knoll Lake

Lee Valley Lake

~~Lynx Lake~~

McKellips Park Lake

~~Pena Blanca Lake~~

Pratt Lake

Quigley Lake

Redondo Lake

Riggs Flat Lake

Roper Lake

~~Rucker Canyon Lake~~

Santa Fe Lake

Scott's Reservoir

Sierra Blanca Lake

Soldier Lake (in Coconino County)

Stehr Lake

Stoneman Lake

Tunnel Reservoir

Whitehorse Lake

Willow Valley Lake

Woodland Reservoir

Woods Canyon Lake

- B. A person operating a motorized watercraft on the following waters shall use only a single electric motor or a single gasoline engine not exceeding 10 manufacturer-rated horsepower:

Arivaca Lake

Ashurst Lake

Becker Lake

Big Lake

Black Canyon Lake

Blue Ridge Reservoir

Cataract Lake

Chevelon Canyon Lake

Cholla Lake Hot Pond

Concho Lake

Crescent Lake

Fool Hollow Lake

Kaibab Lake

Kinnikinick Lake

Little Mormon Lake

Lower Lake Mary

Luna Lake

Lynx Lake

Marshall Lake

Mexican Hay Lake

Nelson Reservoir

Parker Canyon Lake

Peña Blanca Lake

Rainbow Lake

River Reservoir

Show Low Lake

Whipple Lake

White Mountain Lake (in Apache County)

Willow Springs Lake

C. No change

D. No change

R12-4-520. Arizona Uniform State Waterway Marking System

The Arizona ~~Uniform State Waterway Marking System~~ uniform state waterway marking system is that prescribed in 33 CFR 62, revised July 1, ~~1998~~ 2004, not including any later editions or amendments, which is incorporated by reference in this Section. A copy is ~~on file with the Secretary of State and~~ is available from any Department office, or it may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

R12-4-524. Water Skiing

An operator of a watercraft shall ensure that the observer of a water skier is physically capable, ~~and~~ mentally competent, and at least 12 years of age to act as an observer.

R12-4-526. Reserved Unlawful Mooring

An individual shall not moor, anchor, fasten to the shore, or otherwise secure a watercraft for longer than 14 consecutive days in any public body of water unless:

1. The individual moves the watercraft at least 25 nautical miles from its previous location,
2. Those waters are a special anchorage area as defined by A.R.S. § 5-301(12),
3. It is authorized on private dock or moorage, or
4. As authorized by the government agency or private interest that has jurisdiction over those waters.

R12-4-528. Watercraft Checkpoints

- A. A law enforcement agency may establish a watercraft checkpoint to ensure public safety on state waterways, to screen for unsafe or impaired watercraft operators, or to gather demographic, statistical and compliance information related to watercraft activities.
- B. An individual may be required to perform the following at a watercraft checkpoint:
 1. Stop or halt as directed when entering the established checkpoint boundary under A.R.S. § 5-391, and
 2. Provide evidence of required safety equipment and registration documentation under A.R.S. Title 5, Chapter
3, Boating and Water Sports.
- C. This Section does not limit any state peace officer's authority to conduct routine watercraft patrol efforts under A.R.S. Title 5, Chapter 3, Boating and Water Sports.