

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

PREAMBLE

1. Section Affected

R12-4-121

Rulemaking Action

Amend

2. Citations to the agency's statutory authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 17-231(A)(1)

Implementing statute: A.R.S. §§ 17-102, 17-231(A)(2), 17-231(A)(3), 17-231(A)(8), 17-331(A), 17-332(A), and 17-346(D)

3. The effective date of the rules:

Pursuant to A.R.S. § 41-1032, the rule becomes effective sixty days after being filed in the office of the Secretary of State.

a. If the agency selected a date earlier than the 60 days effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):

Not applicable

b. If the agency selected a date later than the 60 days effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(B):

Not applicable

4. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the proposed rule:

Notice of Rulemaking Docket Opening: 17 A.A.R. 2345, November 18, 2011

Notice of Proposed Rulemaking: 17 A.A.R. 2336, November 18, 2011

5. The agency's contact person who can answer questions about the rulemaking:

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Please visit the AZGFD web site to track progress of this rule and any other agency rulemaking matters at

http://www.azgfd.gov/inside_azgfd/rules/rulemaking_updates.shtml.

6. An agency's justification and reason why the rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

Laws 2010, 2nd Regular Session, Ch. 287, Section 28(B)(7) allows an agency to eliminate or replace archaic or illegal rules.

On May 20, 2011, the Governor's office approved the Commission's request to pursue rulemaking to amend R12-4-121.

The Commission proposes to amend R12-4-121 to establish requirements for transferring a big game tag to an eligible minor child or grandchild. Laws 2007, 1st Regular Session, Ch. 5, amended A.R.S. § 17-332 to allow grandparents to transfer their unused big game tag to their minor grandchild. The current rule is more restrictive than statute as it allows only a parent or legal guardian to transfer their unused big game tag to their minor child. The Department implemented an internal policy that allows the Customer Service Program to comply with the statutory requirements and, as a result, the Department policy allows an activity not authorized under rule. In addition, persons unable to use their big game tag are not aware of their ability to transfer the tag to their minor grandchild.

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

The agency did not rely on any study in its evaluation of or justification for the rule.

8. A showing of good cause why the rulemaking 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

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

The Commission anticipates the proposed rulemaking will benefit the regulated community and the Department by replacing archaic information and aligning the rule with statute. In addition, the rulemaking will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

R12-4-121(B)(5) is amended to allow any grandparent, parent, or legal guardian to accompany the minor child in the field, regardless of which family member donated the unused tag to the minor child. This is done to make the rule less restrictive.

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

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

The agency did not receive any public or stakeholder comments about the rulemaking.

12. All agency's shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

a. Whether the rule requires a permit, whether a general permit is used, and if not, the reason why a general permit is not used:

The rule does not require a permit.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law, and if so, citation to the statutory authority to exceed the requirements of federal law:

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

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

The agency has not received an analysis that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states.

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

Not applicable

14. Whether the rule previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the *Register* as specified in R1-4-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

Not applicable

15. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES
CHAPTER 4. GAME AND FISH COMMISSION
ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

Section

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

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

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

- A.** ~~A parent or guardian to whom a big game hunt permit tag is issued is issued may transfer the unused permit or tag to the parent's guardian's minor child may transfer the unused permit or tag to the parent's or guardian's minor child, if:~~
- ~~1. The minor child is from 10 to 17 years old on the date of transfer;~~
 - ~~2. The minor child has a valid hunting license on the date of transfer; and~~
 - ~~3. A minor child less than 14 years old satisfactorily completes a Department approved hunter education course by the beginning date of the hunt.~~
- B.** ~~A parent or guardian may obtain a transfer, in person, at any Department office. To obtain a transfer, a parent, or guardian shall provide the following:~~
- ~~1. Proof of ownership of the big game permit or tag to be transferred;~~
 - ~~2. The minor's valid hunting license; and~~
 - ~~3. The unused big game permit or tag.~~
- C.** ~~An individual to whom a hunt permit tag is issued or the individual's legal representative may donate the unused tag to a non profit organization if:~~
- ~~1. The organization is exempt from federal taxation under Section 501(c) of the Internal Revenue Code;~~
 - ~~2. The organization provides opportunities and experiences to children with life threatening medical conditions; and~~
 - ~~3. The individual or legal representative that donates the tag provides the organization with some type of statement that indicates that the tag is voluntarily donated to that organization.~~
- D.** ~~A non profit organization that receives a hunt permit tag under subsection (C) may obtain a transfer by contacting any Department office. To obtain a transfer, an organization shall:~~
- ~~1. Provide proof of donation of the big game permit tag to be transferred;~~
 - ~~2. Provide the unused big game permit or tag;~~
 - ~~3. Provide proof of the minor child's valid hunting license; and~~
 - ~~4. Transfer the tag to a minor child who meets the following criteria:~~
 - ~~a. Has a life threatening medical condition;~~
 - ~~b. Is 10 to 17 years old by the date of the transfer;~~
 - ~~e. Has a valid hunting license; and~~
 - ~~d. If is less than 14 years old, satisfactorily completes a Department approved hunter education course before the beginning date of the hunt.~~
- E.** ~~The Department shall issue a transfer permit or tag in the name of the minor child if it is lawfully submitted according to this Section.~~
- A.** For the purposes of this Section, "unused tag" means a big game hunt permit-tag, non-permit tag, or special license tag that has not been attached to any animal.

- B.** A parent, grandparent, or guardian issued an unused tag to the parent's, grandparent's, or guardian's minor child or grandchild.
1. A parent, grandparent, or guardian may transfer the unused tag to a minor child or grandchild at any time prior to the end of the season for which the unused tag was issued.
 2. A parent, grandparent, or guardian may transfer the unused tag by providing all of the following documentation in person at any Department office:
 - a. Proof of ownership of the unused tag to be transferred.
 - b. The unused tag, and
 - c. The minor's valid hunting license.
 3. If a parent, grandparent, or legal guardian is deceased, the personal representative of the individual's estate may transfer an unused tag to an eligible minor. In addition to the requirements established under subsection (A)(2), the individual acting as the personal representative shall present:
 - a. The deceased individual's death certificate, and
 - b. Proof of the individual's authority to act as the personal representative of the deceased individual's estate.
 4. To be eligible to receive an unused tag under subsection (A), the minor child shall meet the criteria established under subsection (D).
 5. A minor child or grandchild receiving an unused tag from a parent, grandparent, or legal guardian shall be accompanied into the field by any grandparent, parent, or legal guardian of the minor child.
- C.** An individual issued a tag or the individual's legal representative may donate the unused tag to a non-profit organization for use by a minor child who has a life threatening medical condition or permanent physical disability.
1. A qualifying organization:
 - a. Is exempt from federal taxation under Section 501(c) of the Internal Revenue Code; and
 - b. Provides hunting opportunities and experiences to children with life-threatening medical conditions or permanent physical disabilities.
 2. The individual or legal representative that donates the unused tag shall provide the non-profit organization with a written statement indicating the unused tag is voluntarily donated to the organization.
 3. The non-profit organization receiving a donated tag under this subsection (C) may transfer the unused tag to an eligible minor child by contacting any Department office.
 - a. To obtain a transfer, the non-profit organization shall:
 - i. Provide proof of donation of the unused tag to be transferred;
 - ii. Provide the unused tag;
 - iii. Provide proof of the minor child's valid hunting license; and
 - b. To be eligible to receive a donated unused tag under subsection (B), the minor child shall meet the criteria established under subsection (D).
- D.** To receive an unused tag authorized under subsections (A) or (B), an eligible minor child shall meet the

following criteria:

1. Possess a valid hunting license, and
2. Is 10 to 17 years of age on the date of the transfer. A minor child under the age of 14 shall have satisfactorily completed a Department-approved hunter education course before the beginning date of the hunt.