

**NOTICE OF PROPOSED 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  
  
R12-4-318                                      Amend
  
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. § 17-231  
  
Implementing statute: A.R.S. §§ 17-231 and 17-234
  
3. **A list of all previous notices appearing in the *Register* addressing the proposed rules:**  
  
Notice of Docket Opening:
  
4. **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 ext. 206  
  
FAX:                              (602) 789-3677
  
5. **An explanation of the rules, including the agency's reasons for initiating the rules:**  
  
The Arizona Game and Fish Department is proposing amendments to Commission rules dealing with the taking and handling of wildlife to improve wildlife management and to meet the needs of the regulate community.

The proposed rulemaking would authorize the implementation and use of a “two-part” tag. The Department has sporadically received comments from the public requesting a means to authorize another individual to possess a separate piece of an animal that is taken in the field. Currently, Commission rules do not allow another individual to possess the severed parts of an animal that was tagged and taken by another individual. A new “two-part” tag would give a hunter the option of attaching one part of the tag to one part of an animal, and the other part of the tag to another part of the animal. Both parts of the tag would include information about the individual that took the animal, such as name and hunter ID number, but the second half of the tag would also include a form of authorization from the hunter that allows the other person to possess that other part of the wildlife. The Department is only proposing to offer this option in antlered hunts for elk and deer, antelope, and buffalo.

This rulemaking would also establish a “livestock predation” season. 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 the hunter that takes the wildlife to possess it; and only A.R.S. § 17-302 applies to bear or mountain lion. The proposed rulemaking would allow the Commission to open a new type of season for the purpose of taking bear or mountain lion that has demonstrably preyed upon livestock. This season would be authorized under the Commission’s authority in A.R.S. § 17-234 to open and close seasons, and would allow a hunter that participated in the season to possess wildlife that is taken.

Lastly, the proposed amendments would require that a hunter that 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 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. 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.

6. **A reference to any study relevant to the rules that the agency reviewed and either proposes to 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

7. **A showing of good cause why the rules are 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:**

The proposed 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 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.

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:**

Carlos Ramírez, Rule Writer

Arizona Game and Fish Department

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(602) 789-3288 ext. 206

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

The Game and Fish Commission will hold a public hearing to receive oral comment from the regulated community on:

Date: October 19, 2005

Time: 6:00PM

Location: Arizona Game and Fish Department Headquarters

Roadrunner Room

2221 W. Greenway Rd.

Phoenix, AZ 85007

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 Sherry Crouch at (602)789-3288 (Voice); 1-800-367-8939 (TDD); 2221 W. Greenway Road, 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 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

R12-4-318. Seasons for Lawfully Taking Wildlife Mammals, Birds, and Reptiles

### 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, 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 R12-4-417 or unless the individual that took the wildlife wishes to split up 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 splits up the carcass under R12-4-305 shall attach the tag in the following manner:
1. Tear the tag along the perforated line;

2. Seal the top portion of the tag onto the head of the wildlife and seal the bottom portion of the tag through the gambrel of a hind leg so that the portions of the tag cannot be removed or reused and all printing on the face of the tag is visible:
  - a. For antlered deer, bull elk, or antelope, seal the top portion of the torn tag around the antler or horn;
  - b. For buffalo, seal the top portion of the torn tag through an ear.
3. The individual to whom the tag was issued shall legibly sign the portion of the tag that accompanies the part of the wildlife that will be taken by the other individual.

K. If a tag or a torn portion of a tag has been sealed or mutilated, or the transportation and 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, torn 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 piece 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 has lawfully taken an antlered deer, bull elk, antelope, or buffalo 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 piece of the wildlife shall provide the identity of the individual who gave the piece of the wildlife, and also shall provide evidence of legality.

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.

G H. 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.

H I. Individuals who obtain buffalo meat under R12-4-306 may sell the meat.

‡ J. 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.

‡ K. 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.

‡ L. 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 before presenting it for inspection, the hunter shall prop the jaw open to allow access to the teeth. ~~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.

**R12-4-318. Seasons for Lawfully Taking Wild Mammals, Birds, and Reptiles**

A. Methods of lawfully taking wild mammals and birds during seasons designated by Commission order as "general" seasons are designated in R12-4-304. Restrictions designated in subsection (C) do not apply to general seasons.

B. Methods of lawfully taking big game during seasons designated by Commission order as "special" are designated in R12-4-304. "Special" seasons are open only to individuals who possess special big game license tags issued under A.R.S. § 17-346 and R12-4-120.

C. When designated by Commission order, the following seasons have specific requirements and lawful methods of take more restrictive than those for general and special seasons, as prescribed in this Section. While taking the species authorized by the season:

1. An individual participating in a "muzzleloader" season shall not use or possess any firearm other than muzzle-loading rifles or muzzle-loading handguns, as defined in R12-4-101.
2. An individual participating in an "archery-only" season shall use and possess only a bow and arrow as prescribed in R12-4-304, and shall not use or possess any other weapons, including crossbows or any other bows with a device that holds the bow in a drawn position, except as authorized by R12-4-216.
3. An individual participating in a "handgun, archery, and muzzleloader (HAM)" season may only use or possess any or all of the following: handguns, muzzle-loading rifles as defined in R12-4-101, crossbows, and bows and arrows as prescribed in R12-4-304.
4. An individual who possesses a valid tag for a bear season between January 1 and July 31 shall not use dogs to take bear.
5. An individual participating in a "pursuit-only" season may use dogs to pursue bears, mountain lions, or raccoons as designated by Commission order, but shall not kill or capture the quarry. An individual participating in a "pursuit-only" season shall possess and, at the request of Department personnel, produce

a valid hunting license and any required tag for taking the animal pursued, even though there shall be no kill.

6. An individual participating in a "livestock protection" season may take and possess the depredating bear or mountain lion. If an individual who suffers property damage as a result of depredating bear or mountain lion contacts a hunter so that the hunter can take the wildlife, the individual who suffered damages shall report the name, physical description, and address of the hunter to the Department within 48 hours after the hunter takes the wildlife.

7. An individual participating in a "limited weapon" season may only use or possess the following methods or devices for taking wildlife, when prescribed in R12-4-304 as lawful for the species hunted: bow and arrow; crossbow; pneumatic weapons; falconry; slingshots; any trap except foot-hold steel traps; nets; hand-propelled projectiles; or capture by hand.

7 8. An individual participating in a "limited weapon-shotgun" season may only use or possess the following methods or devices for taking wildlife, when prescribed in R12-4-304 as lawful for the species hunted: shotgun shooting shot or slug; bow and arrow; crossbow; pneumatic weapons; falconry; slingshots; any trap except foot-hold steel traps; nets; hand-propelled projectiles; or capture by hand.

8 9. An individual participating in a "limited weapon-shotgun shooting shot" season may only use or possess the following methods or devices for taking wildlife, when prescribed in R12-4-304 as lawful for the species hunted: shotgun shooting shot, bow and arrow, crossbow, pneumatic weapons, falconry, slingshots, any trap except foot-hold steel traps, nets, hand-propelled projectiles, or capture by hand.

9 10. An individual participating in a "limited weapon-rimfire" season may only use or possess the following methods or devices for taking wildlife, when prescribed in R12-4-304 as lawful for the species hunted: rifled firearms using rimfire cartridges; shotgun shooting shot or slug; bow and arrow; crossbow; pneumatic weapons; falconry; slingshots; any trap except foot-hold steel traps; nets; hand-propelled projectiles; or capture by hand.

10 11. An individual participating in a "falconry-only" season shall be a falconer either licensed under R12-4-422 or exempted under R12-4-407, and use no method of take except falconry.

11 12. An individual may participate in a "juniors-only hunt" up to and throughout the calendar year of the individual's 17th birthday, provided the individual meets the requirements of A.R.S. § 17-335.

~~12~~ 13. An individual participating in a "CHAMP" season shall be a challenged hunter access/mobility permittee under R12-4-217.

~~13~~ 14. An individual participating in a "raptor capture" season shall be a licensed falconer under R12-4-422 or exempted under R12-4-407.