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

PREAMBLE

1. Article, Part, or Section Affected (as applicable) Rulemaking Action
   R12-4-303 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. §§ 17-231(A)(3), 17-102, and 17-301

3. The effective date of the rules:
   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):
      January 1, 2020. The Commission requests a later date to prevent any currently scheduled events from being impacted by the rule change. The Commission believes good cause exists for and the public interest will not be harmed by the later date.

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: 25 A.A.R. 894, April 12, 2019
   Notice of Proposed Rulemaking: 25 A.A.R. 875, April 12, 2019

5. The agency’s contact person who can answer questions about the rulemaking:
   Name: Celeste Cook, Rules and Policy Manager
   Address: Arizona Game and Fish Department
            5000 W. Carefree Highway
            Phoenix, AZ 85086
   Telephone: (623) 236-7390
   E-mail: CCook@azgfd.gov
   Please visit the AZGFD website to track the progress of this rule; view the regulatory agenda and all previous Five-year Review Reports; and learn about any other agency rulemaking matters at https://www.azgfd.com/agency/rulemaking/.
6. **An agency’s justification and reason why the rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**

The Arizona Game and Fish Commission proposes to adopt rules to regulate hunting activities consistent with the guiding principles governing the Commission’s duty to preserve wildlife for the beneficial use of the public. The proposed rulemaking will designate a predator/fur-bearing hunt contest, as defined by the rule, an unlawful manner and method of take for predator/fur-bearing animals. A rule that provides clear instruction about the legal hunting of predator/fur-bearing species provides for the conservation, maintenance, and utilization of wildlife under the jurisdiction of the State for the benefit of all the citizens.

This proposed rulemaking contains rule language included in the Notice of Proposed Rulemaking, see 24 A.A.R. 529, March 16, 2018, which was approved by the Governor's Regulatory Review Council on February 5, 2019 and becomes effective on June 1, 2019.

An exemption from Executive Order 2019-01 was provided for this rulemaking by Hunter Moore, Natural Resource Policy Advisor, Governor's Office, in an email dated February 15, 2019.

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’s intent in adopting the rule is to address social concerns associated with predator/fur-bearing contests, and to proscribed the manner and method of take for participants to a predators/fur-bearings contest. Wildlife predator/fur-bearing hunting contest that link economic gain to the greatest number or variety of animals killed are contrary to the important principle that the take of wildlife should not be allowed to go to waste or taken for economic gain. The Commission believes the rulemaking will benefit the State and persons regulated by the rule by reducing regulatory uncertainty, and strengthening consistency with the principles that guide the Commission’s public trust responsibility to conserve wildlife for the benefit of the citizens of Arizona. Extensive public controversy exists about predator/fur-bearing contests that award prizes to participants who kill the largest number or variety of predator/fur-bearing animals or the contest is based on the combined weight of animals a participant kills. To the extent these contests reflect on the overall hunting community, public outrage with these events has the potential to threaten hunting as a legitimate wildlife management function. Regulated hunting fundamentally supports wildlife conservation efforts in North America. The loss of hunting would equate to a measurable loss in conservation efforts, and would represent a failure of the Commission in its duty to preserve wildlife for the beneficial use of present and future generations. The Commission anticipates the rulemaking will impose a burden on persons regulated by the rule by prohibiting wildlife predator/fur-bearing contests. The Commission anticipates the rulemaking will result in no impact to agencies or political
subdivisions of this State, private and public employment in businesses, or State revenues. The Commission has determined the rulemaking will not require any new full-time employees. The Commission has determined that there are no less intrusive or costly alternative methods of achieving the purpose of the rulemaking. The Department will incur costs related to the cost of rulemaking and implementing the rule. The Commission has determined that the benefits of the rulemaking outweigh any costs.

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

   Subsection R12-4-303(A)(4)(i) was revised to include the term "sponsor." The Department believes the term "promote" also addressed sponsorship activities, however, to the extent that the meaning of the terms "sponsor" and "promoter" differ, the Department proposes to include the term "sponsor." This is not viewed as a substantive change.

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

   The Notice of Rulemaking was published in the Arizona Administrative Register on April 12, 2019; the official public comment period began April 12 and ended on May 12, 2019. The Department also issued a number of press releases regarding the changes proposed in the Notice of Rulemaking and the Department’s contact information for persons interested in submitting a comment. The Department received 41 comments prior to April 12; most of them voicing their support for the rulemaking. The Department received 4810 comments during the public comment period with a great majority of them being form letters generated by animal welfare organizations. Due to the volume of comments received, with much of it being redundant or similar and many simply voicing their support or opposition to the rulemaking or asking rhetorical questions, it is necessary to summarize the majority of comments rather than attempting to respond to each comment individually. It is important to note, the original comments were provided to the Commission and the Governor’s Regulatory Review Council for consideration.

1. **A number of comments are directed to who the Commission should or should not listen to in its decision-making.** Some argue that the Commission should listen to only those who buy hunting and fishing licenses and who therefore support the Department financially. Some feel that the Commission is being non-supportive of hunters if it adopts a rule restricting or prohibiting hunting contests for predators and fur-bearing animals. There are also arguments that the Commission should not listen to animal welfare organizations or out-of-state individuals and organizations; they do not want "extremists and radicals" telling Arizonans how to vote on matters which apply to Arizona wildlife and hunters.

   **Agency Response:** Arizona law does not limit who can submit comments for or against a proposed rule.

2. **A number of comments state contests are ethically and ecologically indefensible; contests that link
economic gain to the greatest number or variety of animals killed are barbaric, unethical, and trivialize the value of wildlife and that wildlife should not be treated on the same level as inanimate objects such as those used in other sports.

Agency Response: This is an individual and personal ethical issue. However, to the extent these contests reflect on the overall hunting community, public outrage with events that award prizes to competitors that kill the largest number or variety of predator or fur-bearing animals has the potential to threaten hunting as a legitimate wildlife management function. Regulated hunting fundamentally supports wildlife conservation efforts in North America. The loss of hunting would equate to a measurable loss in conservation efforts, and would represent a failure of the Commission to fulfill its duty to preserve wildlife for the beneficial use of present and future generations.

3. A number of comments state contests occur on public lands, where wildlife should find sanctuary, not assaults; public lands are for outdoor activities that are compatible with the maintenance of a healthy environment; and contest attendees pose a threat to the safety of persons who are utilizing public lands to hike, bird watch, off-road, etc.

Agency Response: Regulated hunting fundamentally supports wildlife conservation efforts in North America. Hunting is useful for the ecology, hunting guarantees that natural populations of game species are supportable from one decade to the next. Excise taxes paid by hunters on sporting equipment and related expenditures are distributed to the states for such purposes as improving natural life living space, overseeing and keeping up of parks and wildlife refuges, and directing reviews and research to decide the status of diversion as well as some non-game species. Along these lines, hunters contribute widely to the environment.

Hunting contest participants are neither more nor less dangerous to the safety of persons utilizing public lands compared to hunters who are not participating in contests. As the data suggests, hunting is a safe recreational activity for hunters and non-hunters alike. The Commission holds that hunting and fishing are outdoor activities that are compatible with a healthy environment.

There are a number of laws and rules in place that regulate hunting in the interest of public safety and the protection of non-target species. These laws and rules regulate the types of weapons that can be used, when and how such weapons can be used, and what species are legal to hunt. Statewide compliance with existing game and fish laws is typically 96% or higher. A 2011 study from the National Sporting Goods Association found hunting with firearms to be one of the safest sports when compared to others (0.04% injuries per 100 participants), slightly higher than injuries associated with billiards/pool and slightly lower than bowling. Between the years of 1985 and 2013 hunting related accidents in Arizona averaged slightly above two
incidents per year, with only one verified incident over the last two years.

The proposed rule is intended to address social outrage over these specific hunting contests. The proposed rule would be in place on all lands in the state of Arizona with the exception of tribal reservation lands, and is intended to address social outrage over these specific hunting contests; it is neither supported nor contradicted by science. Regulated hunting fundamentally supports wildlife conservation efforts in North America.

4. A number of comments state the Wildlife Society (TWS) approved an issue statement calling out killing contests for "flawed use of science" and for "making a game of killing animals, thus demonstrating disrespect for and devaluing animals."

Agency Response: While the TWS statement includes the text above, it is taken out of context. The original statement text is as follows: "Killing contests are viewed in widely different perspectives. Some people view them as making a game of killing animals, thus demonstrating disrespect for and devaluing animals; others view them as a potential management tool to be used to control predators and increase prey populations, or as entertainment without a perceived legitimate use of the harvested animals. In some cases, particularly for predators, justification for the killing contests is often based on flawed use of science. For example, coyote killing contests are often justified on the basis that coyotes kill deer or other game; however, that fails to recognize that predation is a proximal cause of mortality, but not necessarily the ultimate cause that limits a species’ population. The policy of The Wildlife Society regarding wildlife killing contests: 1. Discourages contests that adversely affect the wildlife resource or the public appreciation of wildlife resources. 2. Supports that wildlife killed must be put to legitimate uses. 3. Opposes all contests that: a). intentionally wound animals in a manner that causes excess pain and suffering, b). kill parents resulting in orphaned, dependent young, c). or devalue wildlife by showing disrespectful photos of piles of dead animals. 4. Discourage contests that portray hunting in an unethical fashion. If a contest is held, all applicable permitting and hunting regulations must be followed during the contest by all parties involved. 5. Support public attitude surveys to determine societal values regarding killing contests and encourage agencies to consider these survey results when managing and regulating killing contests. 6. Recognize that there is little evidence to support the use of killing contests for controlling predator populations. 7. Recognize that while species killed in contests can be legally killed in most states, making a contest of it may undermine the public's view of ethical hunting.

5. A number of comments state contests leave carcasses behind, allowing condors, bald eagles, Mexican gray wolves, and other wildlife to feed on the bodies and ingest lethal doses of lead.

Agency Response: The Department has not documented or observed any lead poisoning issues specifically
linked to predator and fur-bearing contests.

6. **A number of comments state that either 1) a rule prohibiting hunting contests for predators and fur-bearing animals should not be adopted because it is based on social influences rather than scientific or wildlife management needs and contests help regulate predator species and reduce fawn predation; or 2) that it should be adopted because of scientific biology or wildlife management needs; wild animals play an important ecological role in healthy ecosystems and increase biodiversity.**

**Agency Response:** The proposed rule is intended to address social outrage over these specific hunting contests, and is neither supported nor contradicted by science.

The Department recognizes that predators and their prey are integral parts of the same ecosystem and therefore, cannot be managed separately. However, the relationship between predator and prey is very complex. The Department must work toward balancing the needs of all species in Arizona, including predator species and their prey.

The management goal for prey species is to have healthy, sustainable populations able to withstand some predation. When predation limits the population growth of prey species or prey species populations are below management objectives, then area-specific predation management plans may be developed in accordance with the Predation Management Policy (A1.13).

In the past the Department has, at times, coordinated with hunt contest organizers to focus predator hunting in specific areas and at specific times in an effort to meet management goals. The proposed rule would not apply to lawful, regulated hunting of predatory and fur-bearing animals, which plays an important role in wildlife management, and the Department will continue to rely on hunters to help maintain the predator prey balance.

7. **A number of comments state Tucson, Dewey-Humboldt, Flagstaff, Coconino County, Pima County, and Yavapai County have already passed resolutions condemning wildlife killing contests and encourage the Commission to do the same.**

**Agency Response:** The proposed rule will make it unlawful to use any method of take to capture or kill predator or fur-bearing animals during a hunting contest. The proposed rule would be in place on all lands in the state of Arizona with the exception of tribal reservation lands, and is intended to address social outrage over these specific hunting contests; it is neither supported nor contradicted by science. Within the state of Arizona, the authority to manage wildlife is vested in the Arizona Game and Fish Commission, city and county governments do not have the authority to regulate hunting.
8. A number of comments state contests put dogs that are out for a walk with their owners at risk, including deer and endangered Mexican gray wolves here in the Southwest; non-target species are killed or severely injured and off-spring are left to die.

**Agency Response:** There are a number of laws and rules in place that regulate hunting in the interest of public safety and the protection of non-target species. These laws and rules regulate the types of weapons that can be used, when and how such weapons can be used, and what species are legal to hunt. All of these laws and rules apply to predator and fur-bearing contests, and the Department has not observed any significant compliance issues associated with these contests; statewide compliance with existing game and fish laws is typically 96% or higher.

The Department has not documented or observed any conflicts between predator and fur-bearer hunt contests and wolves. Additionally, the Department continues proactive outreach and education to all hunters who might hunt within the Mexican wolf range about the wolves presence, ways to identify wolves, and how to distinguish them from other wildlife species.

9. A number of comments state contests violate the public trust doctrine that wildlife belongs to all people and all future generations.

**Agency Response:** The proposed rule will make it unlawful to use any method of take to capture or kill predator or fur-bearing animals during a hunting contest. The proposed rule would be in place on all lands in the state of Arizona with the exception of tribal reservation lands, and is intended to address social outrage over these specific hunting contests; it is neither supported nor contradicted by science.

To the extent these contests reflect on the overall hunting community, public outrage with these events that award prizes to competitors that kill the largest number or variety of predator or fur-bearing animals has the potential to threaten hunting as a legitimate wildlife management function. Regulated hunting fundamentally supports wildlife conservation efforts in North America. The loss of hunting would equate to a measurable loss in conservation efforts, and would represent a failure of the Commission to fulfill its duty to preserve wildlife for the beneficial use of present and future generations.

10. A number of comments state contests cast the sport of hunting in a bad light to non-hunters; they are not a legitimate form of hunting because the animals are left to waste.

**Agency Response:** The proposed rule is intended to preserve hunting. To the extent these contests reflect on the overall hunting community, public outrage with these events that award prizes to competitors that
kill the largest number or variety of predator or fur-bearing animals has the potential to threaten hunting as a legitimate wildlife management function. Regulated hunting fundamentally supports wildlife conservation efforts in North America. The loss of hunting would equate to a measurable loss in conservation efforts, and would represent a failure of the Commission to fulfill its duty to preserve wildlife for the beneficial use of present and future generations.

11. A number of comments state contests result in an increase in the number of rodents and snakes; predators are detrimental to song bird and sparrow populations; more predators help reduce the incidents of Lyme's disease.

Agency Response: The Department has not documented or observed any evidence that predator and fur-bearing hunting contests correlate with increased populations of rodents and snakes, reduced populations of song birds and sparrows, or increased occurrences of Lyme's disease. The proposed rule would be in place on all lands in the state of Arizona with the exception of tribal reservation lands, and is intended to address social outrage over these specific hunting contests; it is neither supported nor contradicted by science.

12. A number of comments state the Commission is being pressured by anti-hunter/anti-gun groups to stop fellow hunters and outdoorsman from competing in a contest.

Agency Response: The proposed rule is intended to preserve hunting. To the extent these contests reflect on the overall hunting community, public outrage with these events that award prizes to competitors that kill the largest number or variety of predator or fur-bearing animals has the potential to threaten hunting as a legitimate wildlife management function.

Regulated hunting fundamentally supports wildlife conservation efforts in North America. The loss of hunting would equate to a measurable loss in conservation efforts, and would represent a failure of the Commission to fulfill its duty to preserve wildlife for the beneficial use of present and future generations.

13. A number of comments ask if this same logic apply to fishing contests.

Agency Response: No. Unlike fishing events, predator and fur-bearing hunting contest threaten hunting as a legitimate wildlife management function. With a fishing event, there is a legal limit on the number of fish caught, every effort is made to keep fish alive and returned to a lake in good health, and there is often a limit on the number of tournaments and tournament days. The public generally does not object to fishing events for these and other reasons.

14. A number of comments state the impact of these contests are less than they appear to the outsider;
they are not extinction hunts.

**Agency Response:** The Department has no evidence or data to indicate these contests have a significant impact on predator or fur-bearing populations, but to the extent these contests reflect on the overall hunting community, public outrage with these events that award prizes to competitors that kill the largest number or variety of predator or fur-bearing animals has the potential to threaten hunting as a legitimate wildlife management function.

Regulated hunting fundamentally supports wildlife conservation efforts in North America. The loss of hunting would equate to a measurable loss in conservation efforts, and would represent a failure of the Commission to fulfill its duty to preserve wildlife for the beneficial use of present and future generations.

15. **A number of comments state the rulemaking is just the first step in eliminating the sport of hunting, and possibly fishing.**

**Agency Response:** The proposed rule is intended to preserve hunting. The proposed rule will make it unlawful to use any method of take to capture or kill predator or fur-bearing animals during a hunting contest.

The proposed rule does not limit, restrict, or prohibit any hunting privileges. It is intended to address contests for predator and fur-bearing animals, only. Unlike fishing events, predator and fur-bearing contests threaten hunting as a legitimate wildlife management function.

Regulated hunting fundamentally supports wildlife conservation efforts in North America. The loss of hunting would equate to a measurable loss in conservation efforts, and would represent a failure of the Commission to fulfill its duty to preserve wildlife for the beneficial use of present and future generations.

16. **A number of comments state the proposed rule would negatively impact cattle ranchers who already struggle with coyote depredation. When a competition is involved, more people participate and predator populations are better controlled. A 2015 USDA report dealing with nationwide cattle losses found that “coyotes accounted for the highest percentage of calf deaths in Arizona due to predators at 68.6%.**

**Agency Response:** The proposed rule would not apply to lawful, regulated hunting of predatory and fur-bearing animals, which plays an important role in wildlife management. In addition, A.R.S. § 17-239 and R12-4-113 provide relief from wildlife depredation and are unaffected by the rulemaking.
Under A.R.S. § 17-239 and R12-4-113, a no-fee small game depredation permit provides short-term relief until long-term, non-lethal measures can be implemented to eliminate or significantly reduce issues. The permits are issued to eliminate or reduce agricultural damage, private property damage, threats to human health and safety, and threats to recovery of protected wildlife. In addition, if harvest of animals is found to be necessary to relieve damage, the Commission may establish special seasons or special bag limits, and either set reduced fees or waive any or all license fees to crop that wildlife. If the Commission determines that this cropping by hunters is impractical, it may issue a special permit for taking that wildlife to the landowner, lessee, livestock operator, or municipality suffering damage.

17. A number of comments state the groups asking to eliminate these contests do not care about wildlife and the proper management of wildlife, rather their target is to eliminate all sport hunting using individual's emotions rather than scientific data.

Agency Response: The proposed rule is intended to preserve hunting. The proposed rule does not limit, restrict, or prohibit any hunting privilege. It addresses hunting contests for predator and fur-bearing animals, only. Regulated hunting fundamentally supports wildlife conservation efforts in North America. The loss of hunting would equate to a measurable loss in conservation efforts, and would represent a failure of the Commission to fulfill its duty to preserve wildlife for the beneficial use of present and future generations.

The proposed rule will make it unlawful to use any method of take to capture or kill predator or fur-bearing animals during a hunting contest. The proposed rule would be in place on all lands in the state of Arizona with the exception of tribal reservation lands, and is addressing social outrage over these specific hunting contests. Unlike regulated hunting, predator and fur-bearing hunting contest threaten hunting as a legitimate wildlife management function.

18. A number of comments state the proposed rule violates the public trust doctrine of the North American Model by excluding contest hunters from hunting a renewable resource that should be held for all.

Agency Response: Hunting is the foundation of the North American Model (NAM) of Wildlife Conservation, and neither the NAM nor the public trust doctrine protects predator and fur-bearing hunt contests.

The proposed rule is intended to preserve hunting. It would not apply to lawful, regulated hunting of predatory and fur-bearing animals, which plays an important role in wildlife management. To the extent these contests reflect on the overall hunting community, public outrage with these events that award prizes
to competitors that kill the largest number or variety of predator or fur-bearing animals has the potential to threaten hunting as a legitimate wildlife management function.

Regulated hunting fundamentally supports wildlife conservation efforts in North America. The loss of hunting would equate to a measurable loss in conservation efforts, and would represent a failure of the Commission to fulfill its duty to preserve wildlife for the beneficial use of present and future generations.

19. A number of comments state the Department will lose revenue due to contest participants not purchasing a hunting license and expending Department resources to enforce the proposed prohibition.

**Agency Response:** The proposed rule is intended to preserve hunting. It will not apply to the lawful, regulated hunting of predatory and fur-bearing animals. The Department does not anticipate a significant decline in hunting license sales as a result.

The U.S. Fish and Wildlife Service's 2011 National Survey of Fishing, Hunting, and Wildlife-associated Recreation report indicates hunters spend approximately $132 on hunting equipment and trip expenditures per day (user day). On an annual basis, it is estimated that there are 11 predator/fur-bearing hunting contests within Arizona resulting in approximately 4,600 user days equaling approximately $607,200 of economic impact. According to Hunt Arizona 2014, on an annual basis general predator and fur-bearing hunters account for 175,237 user days in Arizona. The economic impact of general predator and fur-bearing hunting in Arizona is estimated to be over $23,000,000. The Commission anticipates the rulemaking will protect these hunting opportunities.

The Department has not observed any significant compliance issues associated with these contests; statewide compliance with existing game and fish laws is typically 96% or higher. The Department does not see a need for special enforcement activities related to the proposed rule.

Part of the rulemaking process is to ensure the rule is enforceable. The officer in the field is responsible for conducting an investigation, collecting evidence, and, when determined valid, issuing a citation. Every time a citation is written by any officer, it is their interpretation of the law and the situation at hand that causes the issuance of the citation. The officer is part of the judicial process, but does not usurp the court's final authority.

20. A number of comments state the rulemaking the proposed rule will inhibit or take away Americans freedom to hunt; predatory and fur-bearing animal contests are a traditional pastime and provide a great opportunity to introduce younger generations to hunting.
Agency Response: The proposed rule is intended to preserve hunting. It would not prevent hunters from introducing youth to hunting because it would not apply to lawful, regulated hunting of predatory and fur-bearing animals, which plays an important role in wildlife management.

To the extent these contests reflect on the overall hunting community, public outrage with these events that award prizes to competitors that kill the largest number or variety of predator or fur-bearing animals has the potential to threaten hunting as a legitimate wildlife management function.

Regulated hunting fundamentally supports wildlife conservation efforts in North America. The loss of hunting would equate to a measurable loss in conservation efforts, and would represent a failure of the Commission to fulfill its duty to preserve wildlife for the beneficial use of present and future generations.

21. A number of comments state contests result in important data being provided to Department biologists; prohibiting contests will remove a valuable tool from the Department’s tool box that could be used to not only save the Department money, but would also help manage wildlife better.

Agency Response: The proposed rule would not apply to lawful, regulated hunting of predatory and fur-bearing animals, which plays an important role in wildlife management. The Department will continue to communicate with predator and fur-bearing hunters to gather data when appropriate.

The Department has, at times, coordinated with hunt contest organizers to focus predator hunting in specific areas and at specific times in an effort to meet management goals. The proposed rule would not apply to lawful, regulated hunting of predatory and fur-bearing animals, which plays an important role in wildlife management, and the Department will continue to coordinate with hunters to help maintain the predator prey balance as part of an integrated wildlife management program.

22. A number of comments state the proposed rulemaking will result in an increase in wildlife diseases, such as mange, parvo, and rabies.

Agency Response: The Department has not documented or observed any evidence of a relationship between hunting contests and wildlife diseases.

23. A number of comments state contests contribute to the State and local economies and towns like Seligman, and small businesses benefit economically from them because contestants purchase food, lodging, sporting goods, and out-of-state contestants purchase nonresident licenses.
Agency Response: The proposed rule is intended to preserve hunting. It would not apply to lawful, regulated hunting of predatory and fur-bearing animals, which plays an important role in wildlife management. Regulated hunting fundamentally supports wildlife conservation efforts in North America. The loss of hunting would equate to a measurable loss in conservation efforts, and would represent a failure of the Commission to fulfill its duty to preserve wildlife for the beneficial use of present and future generations.

The U.S. Fish and Wildlife Service's 2011 National Survey of Fishing, Hunting, and Wildlife-associated Recreation report indicates hunters spend approximately $132 on hunting equipment and trip expenditures per day (user day). On an annual basis, it is estimated that there are 11 local wildlife predator/fur-bearing hunting contests resulting in approximately 4,600 user days equalling approximately $607,200 of economic impact. Arizona's economy, both rural and urban, is greatly benefited by hunting of any kind. Predator and fur-bearing contests make up a very small percentage of that economic benefit. Predator hunting in general is a larger percentage. According to Hunt Arizona 2014, on an annual basis general predator and fur-bearing hunters account for 175,237 user days in Arizona. The economic impact of general predator and fur-bearing hunting in Arizona is estimated to be over $23,000,000. The Commission anticipates the rulemaking will protect these hunting opportunities.

24. A number of comments ask why the Department isn't it concerned about the larger prizes and cash given out under other events involving other wildlife, such as fishing tournaments.

Agency Response: Unlike fishing tournaments or other hunting events, predator and fur-bearing hunting contests threaten hunting as a legitimate wildlife management function. To the extent these contests reflect on the overall hunting community, public outrage with these events that award prizes to competitors that kill the largest number or variety of predator or fur-bearing animals has the potential to threaten hunting as a legitimate wildlife management function.

Regulated hunting fundamentally supports wildlife conservation efforts in North America. The loss of hunting would equate to a measurable loss in conservation efforts, and would represent a failure of the Commission to fulfill its duty to preserve wildlife for the beneficial use of present and future generations. The proposed rule would not apply to the lawful, regulated hunting of predatory and fur-bearing animals which plays an important role in wildlife management.

25. A number of comments ask why the Department did not rely on scientific data or conduct an environmental impact study before proposing the rule.

Agency Response: The proposed rule is intended to address social outrage over these specific hunting
contests, and is neither supported nor contradicted by science. An environmental impact study is not required for this action.

The proposed rule would not apply to lawful, regulated hunting of predatory and fur-bearing animals, which plays an important role in wildlife management, and the Department does not anticipate a significant decline in the hunting of predators and fur-bearings, and does not anticipate any measurable environmental impact.

26. A number of comments ask what the estimated number of breeding pairs of coyotes in Arizona is.

**Agency Response:** A population estimate, or estimate of breeding pairs, is difficult to determine given the wide distribution range of coyotes in Arizona. They inhabit every habitat type including urban areas and are opportunists and generalists when it comes to food sources allowing them to eat just about anything and thrive just about anywhere. Achieving a population estimate for coyotes would require an enormous undertaking in terms of time, funding, and manpower; and even then estimating the coyote population would be nearly impossible because of their wide distribution range.

27. A number of comments ask what the target number of removal of coyotes is.

**Agency Response:** The Department does not set a target number during planned predation management efforts. The objective is to reduce coyote predation on specific prey species during the period when young are most vulnerable (birth through the first few months of life). These efforts are short-term and site specific. Research in Arizona and other Western states has shown that focused, intense coyote removal through aerial gunning can increase recruitment (Brown et al. 2011; Canon 1993; Menzel 1992; Smith et al. 1986; Wakeling et al. 2015, and Willis et al. 1994).

28. A number of comments ask how many coyotes does the Department remove from the wild and what costs are incurred on an annual basis.

**Agency Response:** On an annual basis, and as part of site-specific predation management plans, about 200 to 250 coyotes are removed. The Department expends about $30,000 annually on area-specific, targeted removal of coyotes. Such action targets a specific area during a short period of time and most often effectively reduces coyote densities just prior to and during the birthing season, thereby reducing coyote predation on young.

29. A number of comments ask what impact predators have on other wildlife populations.
Agency Response: The Department recognizes that predators and their prey are integral parts of the same ecosystem and therefore, cannot be managed separately. The Department must work toward balancing the needs of all species in Arizona, including predator species and their prey species. The management goal for prey species is to have healthy, sustainable populations able to withstand some predation.

In some areas around the state, prey populations are below management objectives and predation has been identified as one factor in limiting population recovery. Predation management may be necessary to decrease predation in order to aid in the recovery, increase total numbers, and/or promote expansion of the prey species. Predation management is a valuable wildlife management tool that can affect populations of species that are preyed upon. When predation limits the population growth of prey species or prey species populations are below management objectives, then area-specific predation management plans may be developed in accordance with the Predation Management Policy (A1.13).

The Department has, at times, coordinated with contest organizers to focus predator hunting in specific areas, at specific times in an effort to meet established management goals. The Department will continue to coordinate with hunters to help maintain the predator prey balance as part of an integrated wildlife management program.

30. A number of comments ask whether reducing the number of predators, specifically coyotes, is a game management objective of the Department.

Agency Response: The Department recognizes that predators and their prey are integral parts of the same ecosystem and cannot be managed separately. However, the relationship between predator and prey is very complex. The Department must work toward balancing the needs of all species in Arizona, including predator and prey species. The management goal for prey species is to have healthy, sustainable populations that are able to withstand some predation. In some areas around the state, prey populations are below management objectives and predation has been identified as one factor in limiting population recovery. Predation management may be necessary to decrease predation in order to aid in the recovery, increase total numbers, and/or promote expansion of the prey species. Predation management is a valuable wildlife management tool that can affect populations of species that are preyed upon.

The proposed rule is intended to preserve hunting. It would not apply to lawful, regulated hunting of predatory and fur-bearing animals, which plays an important role in wildlife management.

31. A number of comments state the Department has directed some predator clubs to hold events in places in the North and West of Arizona to help reduce the coyote population.
Agency Response: The Department has, at times, coordinated with hunt contest organizers to focus predator hunting in specific areas and at specific times in an effort to meet management goals. The proposed rule would not apply to lawful, regulated hunting of predatory and fur-bearing animals, which plays an important role in wildlife management, and the Department will continue to coordinate with hunters to help maintain the predator prey balance as part of an integrated wildlife management program.

32. A number of comments state contests provide a small incentive for urban hunters to spend the time and money to prepare for the contest and to travel to the location of the event. For those willing to spend $60 to $100 in fuel to participate in a "contest," the chance of winning a small prize to help preserve an antelope herd is a small reward.

Agency Response: The proposed rule is intended to preserve hunting. It would not apply to lawful, regulated hunting of predatory and fur-bearing animals, which plays an important role in wildlife management. Regulated hunting fundamentally supports wildlife conservation efforts in North America. The loss of hunting would equate to a measurable loss in conservation efforts, and would represent a failure of the Commission to fulfill its duty to preserve wildlife for the beneficial use of present and future generations.

The U.S. Fish and Wildlife Service's 2011 National Survey of Fishing, Hunting, and Wildlife-associated Recreation report indicates hunters spend approximately $132 on hunting equipment and trip expenditures per day (user day). On an annual basis, it is estimated that there are 11 local wildlife predator/fur-bearing hunting contests resulting in approximately 4,600 user days equaling approximately $607,200 of economic impact. The economic impact of general predator and fur-bearing hunting in Arizona is estimated to be over $23,000,000. According to Hunt Arizona 2014, on an annual basis general predator and fur-bearing hunters account for 175,237 user days in Arizona. The Commission anticipates the rulemaking will protect these hunting opportunities.

33. A number of comments state hunting is a legitimate sport, is a necessary activity, and has positive social consequences even for those who oppose it.

Agency Response: The Department agrees with this comment, and the proposed rule is intended to preserve hunting. It would not apply to lawful, regulated hunting of predatory and fur-bearing animals, which plays an important role in wildlife management. Regulated hunting fundamentally supports wildlife conservation efforts in North America. The loss of hunting would equate to a measurable loss in conservation efforts, and would represent a failure of the Commission to fulfill its duty to preserve wildlife for the beneficial use of present and future generations.
34. A number of comments state contests must comply with fair chase and adhere to game laws; contests do not cause hunters to hunt and harvest more predators.

Agency Response: The proposed rule would not apply to lawful, regulated hunting of predatory and fur-bearing animals, which plays an important role in wildlife management. To the extent these contests reflect on the overall hunting community, public outrage with these events that award prizes to competitors that kill the largest number or variety of predator or fur-bearing animals has the potential to threaten hunting as a legitimate wildlife management function. Regulated hunting fundamentally supports wildlife conservation efforts in North America. The loss of hunting would equate to a measurable loss in conservation efforts, and would represent a failure of the Commission to fulfill its duty to preserve wildlife for the beneficial use of present and future generations.

35. A number of comments state the Commission should change seasons, set bag limits, or use other means to reach the objective of the rule.

Agency Response: The proposed rule is addressing social outrage over these specific hunting contests, and is neither supported nor contradicted by science. To the extent these contests reflect on the overall hunting community, public outrage with these events that award prizes to competitors that kill the largest number or variety of predator or fur-bearing animals has the potential to threaten hunting as a legitimate wildlife management function. Regulated hunting fundamentally supports wildlife conservation efforts in North America. The loss of hunting would equate to a measurable loss in conservation efforts, and would represent a failure of the Commission to fulfill its duty to preserve wildlife for the beneficial use of present and future generations.

The Commission could terminate this rule process and begin the process to change the Commission Orders to establish new seasons, bag, and possession limits for predators and fur-bearing animals. However, this alternative would directly affect general predator and fur-bearing hunting rather than only predator and fur-bearing contests. The current proposed, narrowly scoped, rule is far less burdensome than imposing new seasons, bag, and possession limits that would apply to all hunters.

36. A number of comments state a fear that once anti hunters gain traction on this front they will not stop until all hunting and fishing activities are stopped.

Agency Response: The Department does not believe that the rulemaking will lead to future impacts on hunting and fishing activities. General hunting, game bird field trials, fishing tournaments, etc. do not threaten hunting as a legitimate wildlife management function. The proposed rule is intended to preserve hunting.
The proposed rule would not apply to lawful, regulated hunting of predatory and fur-bearing animals, which plays an important role in wildlife management. To the extent these contests reflect on the overall hunting community, public outrage with these events that award prizes to competitors that kill the largest number or variety of predator or fur-bearing animals has the potential to threaten hunting as a legitimate wildlife management function. Regulated hunting fundamentally supports wildlife conservation efforts in North America. The loss of hunting would equate to a measurable loss in conservation efforts, and would represent a failure of the Commission to fulfill its duty to preserve wildlife for the beneficial use of present and future generations.

37. A number of comments state the rule should be revised to broaden the definition of "contest" as it is too vague (include contests that do not require a fee or registration, or award a prize); broaden the scope of species covered by the rule to include all terrestrial wildlife, not just predatory and fur-bearing wildlife as preemptive measure for prohibiting "creative” attempts to hold contests of other wildlife species; and include the term "sponsor" to ensure sponsorship is also a prohibited activity.

Agency Response: The rulemaking process requires an agency to ensure rules are the least burdensome possible as necessary to address the agency’s objective. The proposed rule would not apply to lawful, regulated hunting of predatory and fur-bearing animals, which plays an important role in wildlife management. Regulated hunting fundamentally supports wildlife conservation efforts in North America. The loss of hunting would equate to a measurable loss in conservation efforts, and would represent a failure of the Commission to fulfill its duty to preserve wildlife for the beneficial use of present and future generations.

The definition of a “contest” is not vague but is purposely defined narrowly to ensure the proposed rule is as “least burdensome” as possible to address the Commission’s objective to preserve hunting and will not have unintended consequences. In order to be a “contest” as defined by the proposed rule an event would have to satisfy all of the following elements: a competition among participants; participants register or record entry; participants pay a fee; and prizes or cash are awarded to winning or successful participants. Given the elements of the definition of a “contest” the Department does not believe the proposed rule would apply to the scenarios described by the comment. Broadening the definition of a “contest” would go beyond the Commission’s objective to preserve hunting and potentially impact other hunting related social activities beyond organized predator and fur-bearing contests.

The Department believes the act of a sponsor is addressed by the term "promote," however, to the extent that the meaning of the terms "sponsor" and "promoter" are substantially similar, the Department proposes to include the term "sponsor." This is not viewed as a substantive change.

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38. A number of comments state the rule could make violators out of two hunters who are making a friendly wager.

Agency Response: A violation of the proposed rule is restricted by the definition of a “contest.” The term “contest” is purposely defined narrowly to ensure the proposed rule is as “least burdensome” as possible and does not have unintended consequences. In order to be a “contest” as defined by the proposed rule an event would have to satisfy all of the following elements: a competition among participants; participants register or record entry; participants pay a fee; and prizes or cash are awarded to winning or successful participants. Given the elements of the definition of contest, the rule would not apply to the scenario described above.

39. A number of comments state the Department should regulate contests such as imposing bag limits, establishing a permitting process, requiring furs to be sold and the proceeds donated to a local charity, meat to be used, establishing check-in and check-out requirements; requiring the area Wildlife Manager to determine whether a contest may be held, requiring contests to be held during appropriate birthing times so it can benefit said species, etc.

Agency Response: The Department does not believe the regulatory approach proposed by this comment alleviates the social concerns related to predator and fur-bearing hunting contests – a financial incentive to take as many animals as possible when no bag limits exist.

The rulemaking process requires an agency to ensure rules are the least burdensome possible as necessary to address the agency’s objective. The Department estimates around 4,600 hunter days expended during predator and fur-bearing hunting contests in Arizona each year that would be impacted by the proposed rule. If the Commission was to change seasons, set bag limits etc. they would be impacting an estimated 23,155 hunters and 175,237 hunter days (Hunt Arizona 2014). The definition of a “contest” was purposely defined narrowly to ensure the proposed rule is as “least burdensome” as possible to meet the Commission’s objective to preserve hunting and does not have unintended consequences.

The Department has not observed any significant compliance issues associated with these contests; statewide compliance with existing game and fish laws is typically 96% or higher.

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 general 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 directly applicable to the subject of the rule. The rule is based on state law.

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 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:
The rule was not previously made, amended, or repealed as an emergency rule.

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

Section
R12-4-303. Unlawful Devices, Methods, and Ammunition
ARTICLE 3. TAKING AND HANDLING OF WILDLIFE

R12-4-303. Unlawful Devices, Methods, and Ammunition

A. In addition to the prohibitions prescribed under A.R.S. §§ 17-301 and 17-309, the following devices, methods, and ammunition are unlawful for taking wildlife in this state:

1. A person shall not use any of the following to take wildlife:
   a. Fully automatic firearms, including firearms capable of selective automatic fire.
   b. Tracer or armor-piercing ammunition designed for military use.
   c. Any smart device as defined under R12-4-301.
   d. Any self-guided projectiles.

2. A person shall not take big game using full-jacketed or total-jacketed bullets that are not designed to expand upon impact,

3. A person shall not use or possess any of the following while taking wildlife:
   a. Poisoned projectiles or projectiles that contain explosives or a secondary propellant.
   b. Pitfalls of greater than 5-gallon size, explosives, poisons, or stupefying substances, except as permitted under A.R.S. § 17-239 or as allowed by a scientific collecting permit issued under A.R.S. § 17-238.
   c. Any lure, attractant, or cover scent containing any cervid urine.
   d. Electronic night vision equipment, electronically enhanced light-gathering devices, thermal imaging devices or laser sights projecting a visible light; except for devices such as laser range finders projecting a non-visible light, scopes with self-illuminating reticles, and fiber optic sights with self-illuminating sights or pins that do not project a visible light onto an animal.

4. A person shall not by any means:
   a. Hold wildlife at bay other than during daylight hours, unless authorized by Commission Order.
   b. Injure, confine, place, or use a tracking device in or on wildlife for the purpose of taking or aiding in the take of wildlife.
   c. Place any substance, device, or object in, on, or by any water source to prevent wildlife from using that water source.
   d. Place any substance in a manner intended to attract bears.
   e. Use a manual or powered jacking or prying device to take reptiles or amphibians.
   f. Use dogs to pursue, tree, corner or hold at bay any wildlife for a hunter, unless that hunter is present for the entire hunt.
   g. Take migratory game birds, except Eurasian collared-doves:
      i. Using a shotgun larger than 10 gauge, a shotgun of any description capable of holding more than three shells unless it is plugged with a one-piece filler that cannot be removed without disassembling the shotgun so that its total capacity does not exceed three shells.
      ii. Using electronically amplified bird calls or baits.
      iii. By means or aid of any motordriven land, water, or air conveyance, or any sailboat used for the
purpose of or resulting in the concentrating, driving, rallying, or stirring up of any migratory bird.

iv. Activities described under subsections (g)(i) through (g)(iii) are prohibited under 50 C.F.R. 20.21, revised October 1, 2015. The material incorporated by reference in this Section does not include any later amendments or editions. The incorporated material is available at any Department office, online from the Government Printing Office website www.gpoaccess.gov, or may be ordered from the Superintendent of Documents, P.O. Box 979050, St. Louis, MO 63197-9000.

h. Discharge any of the following devices while taking wildlife within one-fourth mile (440 yards) of an occupied farmhouse or other residence, cabin, lodge or building without permission of the owner or resident:
   i. Arrow or bolt,
   ii. Hybrid device, or
   iii. Pneumatic weapon .35 caliber or larger.

   i. Participate in, organize, promote, sponsor, or solicit participation in a contest where a participant uses or intends to use any device or implement to capture or kill predatory animals or fur-bearing animals as defined under A.R.S. § 17-101. For the purposes of this subsection, "contest" means a competition among participants where participants must register or record entry and pay a fee and prizes or cash are awarded to winning or successful participants.

5. A person shall not use a live-action trail camera, or images from a live-action trail camera, for the purpose of:
   a. Taking or aiding in the take of wildlife, or
   b. Locating wildlife for the purpose of taking or aiding in the take of wildlife.

6. A person shall not use images of wildlife produced or transmitted from a satellite or other device that orbits the earth for the purpose of:
   a. Taking or aiding in the take of wildlife, or
   b. Locating wildlife for the purpose of taking or aiding in the take of wildlife.
   c. This subsection does not prohibit the use of mapping systems or programs.

7. A person shall not use edible or ingestible substances to aid in taking big game. The use of edible or ingestible substances to aid in taking big game is unlawful when:
   a. A person places edible or ingestible substances for the purpose of attracting or taking big game, or
   b. A person knowingly takes big game with the aid of edible or ingestible substances placed for the purpose of attracting wildlife to a specific location.

8. Subsection (A)(7) does not limit Department employees or Department agents in the performance of their official duties.

9. For the purposes of subsection (A)(7), edible or ingestible substances do not include any of the following:
   a. Water.
   b. Salt.
   c. Salt-based materials produced and manufactured for the livestock industry.
d. Nutritional supplements produced and manufactured for the livestock industry and placed during the course of livestock or agricultural operations.

B. It is unlawful for a person who is a prohibited possessor to take wildlife with a deadly weapon or prohibited weapon.

C. Wildlife taken in violation of this Section is unlawfully taken.

D. This Section does not apply to any activity allowed under A.R.S. § 17-302, to a person acting within the scope of their official duties as an employee of the state or United States, or as authorized by the Department.