

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1995, each agency shall begin the rulemaking process by 1st filing a Notice of Proposed Rulemaking, containing the preamble and the full text of the rules, with the Secretary of State's Office. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the Arizona Administrative Register.

Under the Administrative Procedure Act (A.R.S. § 41-1001 *et seq.*), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 4. DEPARTMENT OF AGRICULTURE

PLANT SERVICES DIVISION

PREAMBLE

1. Sections Affected Rulemaking Action
R3-4-204 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. § 3-107
Implementing statute: A.R.S. §§ 3-201.01(A), 3-202, 3-209, and 3-210.
3. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:
Name: Shirley Conard, Rules Specialist
Address: Department of Agriculture
1688 West Adams, Room 124
Phoenix, Arizona 85007
Telephone: (602) 542-0962
Fax: (602) 542-5420
4. An explanation of the rules, including the agency's reasons for initiating the rules:

The boll weevil and the pink bollworm are destructive pests of cotton which cause annual economic losses to the agricultural industry and consumers. Since their introduction in southern Texas in the late 1800's, the boll weevil and pink bollworm have spread across the area of the United States known as the Cotton Belt. Since the early 1950's, the United States agricultural community has acknowledged the need for a belt-wide strategy for controlling these pests. Since the 1st pilot program in 1971, programs implemented in an incremental fashion have been successful in eradicating the boll weevil from over 3.5 million acres in major areas of the Cotton Belt. To date, Arizona has effectively eradicated the boll weevil; however, the pink bollworm still continues to infest Arizona's cotton crops.

The Department of Agriculture, in cooperation with the USDA and local cotton producers, developed a program, which includes the zone classifications in R3-4-204, dealing with plow-up and planting dates, to prevent the reinfestation of boll weevil and pink bollworm in Arizona. The plow-up and planting dates are critical to the overall cotton pest control program; however, the scientific community is undecided as to the length and timing of a host-free period needed to eradicate or control cotton pests. The cotton boll weevil and the pink bollworm are not the only cotton pests controlled by these host-free periods; whitefly infestations can also be significantly reduced by early planting and plow up.

In October 1995, the Arizona Cotton Growers Association (ACGA) requested that the Department promulgate an emergency rule to allow producers who plow up on time to have the opportunity to plant 15 days earlier than the prescribed planting dates specified by R3-4-204(E)(5). The whitefly's resistance to chemicals used in the past resulted in lower cotton yields, creating an environmental concern by the vast amount of pesticides used to fight the pest, and producing a threat of sticky cotton. By establishing an earlier planting date for those growers who comply with the existing plow up requirements, the grower would be able to plant and harvest earlier to escape whitefly infestation in the late stages of cotton production and be able to reduce chemical usage.

Although the above concerns did not warrant an emergency rule, the Director agreed that a menace existed and that it was necessary to suppress or control this menace. (A.R.S. § 3-208(B)). On November 16, 1995, the Director signed an administrative order designating the early planting dates for growers who complied with specific tillage deadlines.

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When the Department began rulemaking on R3-4-204, additional discussions were held by the Department and the cotton community. On June 20, 1996, the ACGA petitioned the Department to promulgate a rule with the following requirements: (1) The adoption of an across-the-board 15-day host-free period for all zones currently established under R3-4-204; (2) The deletion of the proposed 15-day early planting provisions; (3) No exceptions be granted for plow up, including weather, nor any exceptions be granted in assessing penalties for late plow up; (4) Should the boll weevil or the pink bollworm be detected in sufficient numbers to be considered as a reinfestation or as a threat to the Arizona cotton industry, the Department, upon request of the Arizona Cotton Research and Protection Council and the ACGA immediately re-establish a 60-day host-free period as currently established under R3-4-204; and (5) If any growers in a zone should wish to establish more stringent plow up or planting dates, they may petition the Department and the Cotton Advisory Committee for consideration of their proposal.

New legislation in A.R.S. § 3-1083(B)(4) includes the Department in the development of a program to refund the cotton abatement free to the growers. The intent of the new legislation is to form a program that will uphold the 15-day host-free period, with no exceptions. This program will result in the entire abatement fee being withheld from a grower who does not meet the plow-up deadline appropriate for their zone.

During the preliminary comment and discussion period for this Section, the zones along the Colorado River, zones "A", "C", and "E", petitioned to keep their current 45/60 day host-free period. During a July 17, 1996, meeting of the Cotton Advisory Committee, the Yuma representative testified that the current 45/60-day-time-frame is zoned to realize the best profit for Yuma growers. They have found that there has been a decrease in the pink bollworm, and that the current time-frame is economically in balance with their farming methods and with the Imperial Valley cotton growing procedures. The early planting time specified by R3-4-204(5) allows their growers to have their cotton defoliated before the whitefly becomes a menace for the lettuce crop.

When a grower destroys the host plant and root system, it doesn't matter what method the grower uses as long as it is destroyed. Not all farmers choose to till their fields by plowing. Many farmers use machines that merely cut the stalk from the root, thus effectively killing the plant and may then water down the field to begin decomposition, or wait until it is time to get the field ready for a new crop. The phrase "and to incorporate plant debris within the soil" in subsection (E)(3) is being removed. Plant debris incorporated into the soil is not an issue for plant destruction.

5. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:
Not applicable.
6. The summary of the economic, small business, and consumer impact:

Establishing a definite economic impact is impossible because the changes in this Section deal with the "threat" of the whitefly and intensity of that threat. Circumstances beyond the control of humans, such as weather conditions, drive the magnitude of this pest that results in year-to-year changes. The following summary establishes some possibilities of economic impact.

 - A. *The Department of Agriculture.*
No enforcement changes have been made, therefore the Department will not be impacted by this Section. The Department, however, will have to readjust its current schedule of crop inspections to meet the new deadlines.
 - B. *Political subdivision.*
Political subdivisions of this state are not directly affected by the implementation and enforcement of this proposed rulemaking.
 - C. *Businesses directly affected by the rulemaking (cotton growers).*
Growers in the 15-day host-free zones "B", "D", "F", and growers who choose to take advantage of the earlier planting dates in zones "A", "C", "E" could experience lower expenses due to the decreased amount of pesticide used. If the grower chooses to follow the current planting date and whitefly infests the grower's cotton fields, could result in lower yields and higher costs to the farmer.
 - D. *Private and public employment.*
Private and public employment is not directly affected by the implementation and enforcement of this proposed rulemaking.
 - E. *Consumers and the public.*
The consumer will not be affected by this rule, unless the whitefly infestation is such that the cotton yield drops to a point where, due to lack of supply, cotton prices would rise.
 - F. *State revenues.*
This rulemaking will have not impact on state revenues.
7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name:	Shirley Conard, Rules Specialist
Address:	Department of Agriculture 1688 West Adams, Room 124 Phoenix, Arizona 85007
Telephone:	(602) 542-0962
Fax:	(602) 542-5420

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

Written comments on the proposed rules or preliminary economic, small business, and consumer impact statement must be received by 4:30 p.m., September 18, 1996. The Department is committed to complying with the Americans with Disabilities Act. If any individual with a disability needs any type of accommodation, please contact Pat Stevens, (602) 542-4316, at least 72 hours before the oral proceeding.

Date: September 16, 1996
Time: 10 a.m.
Location: Department of Agriculture
1688 West Adams, Room 206
Phoenix, Arizona 85007
Nature: Oral Proceeding

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable.

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

Subsection (D)(2) USDA Plant Protection and Quarantine Treatment Manual, Treatment Schedule Series T200, T300, and T400.

11. The full text of the rules follows:

TITLE 3. AGRICULTURE

**CHAPTER 4. DEPARTMENT OF AGRICULTURE
PLANT SERVICES DIVISION**

ARTICLE 2. QUARANTINE

Section
R3-4-204. Pink Bollworm and the Cotton Boll Weevil Complex

ARTICLE 2. QUARANTINE

R3-4-204. Pink Bollworm and the Cotton Boll Weevil Complex

A. Definitions. In addition to the definitions provided in A.R.S. § 3-201 and R3-4-102, the following terms shall apply to this rule:

1. "Crop remnant" means the stalks, leaves, bolls, lint, pods, and seeds of cotton.
2. "Pests" means the pink bollworm, *Pectinophora gossypiella* (Saunders), and the boll weevil complex, *Anthonomus grandis* Boheman complex.
3. "Stub or soca cotton" means those cotton stalks of a previous crop which begin to show signs of growing by displaying buds which that swell, or which that send out shoots of plant growth (either white or green).
4. "Volunteer cotton" means sprout from seed of a previous crop.

B. Covered commodities. The following items are designated as a host plant plants or carrier carriers of the pests:

1. Cotton, all parts;
2. Cotton gin trash;
3. Used cotton harvesting machines;
4. Other materials, products, and equipment which are means of disseminating or proliferating the pests.

C. Processing of cotton gin trash. Trash from cotton gins operated within the state shall be destroyed daily by using a disposal fan as prescribed by the United States Department of Agriculture Domestic Program Manual, M301.52 Regulatory Procedures (III)(C)(4), revised December 1979. ~~The This~~ material is incorporated herein by reference, does not include any later

amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.

D. Movement of covered commodities within the state.

1. No covered commodity produced or located within an area infested with the pests may be moved out of that area unless a permit is issued by the Director. Persons intending to move, transport, or allow the movement of hosts plants or carriers shall ~~make application~~ apply to the Department before the date of movement or shipment. The application shall contain the following:

- a. The quantity of the article to be moved,
- b. The location of the article,
- c. The names and addresses of the consignee and consignor,
- d. The method of shipment, and
- e. The scheduled date of the shipment.

2. Permits shall be attached to the manifest, waybill, or bill of lading covering the shipment and shall accompany the shipment. Permits shall specify the manner of handling or treating the host plant or carrier. Any treatment pertaining to pink bollworm prescribed by the United States Department Plant Protection and Quarantine Treatment Manual, Treatment Schedule Series T200, T300, and T400, revised November 1992 January 1996, which is applied under official supervision, is hereby prescribed for treating like commodities under the provisions of this rule. ~~The This~~ material is incorporated herein by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.

E. Cultural practices.

1. ~~There are six~~ Six cultural zones are established in the state:

- a. Zone "A" -- Yuma County west of a line extended directly north and directly south of Avenue 58E.
- b. Zone "B" -- Cochise County, Graham County, and Greenlee County.

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- c. Zone "C" -- La Paz County (except the Cibola Valley) and Mohave County.
 - d. Zone "D" -- Pima County and the following portions of Pinal County: T10S, R10E, section 34, 35, and 36, T10S, R11E, section 31, and the Aguila area T7N, R8W and T7N, R9W and T7N, R10W and T7N, R11W to the western boundary of section 35, 26, and 23.
 - e. Zone "E" -- The following portions of La Paz County: Cibola Valley T1N, R23W and T1N, R24W and T1S, R23W and T1S, R24W.
 - f. Zone "F" -- All portions of the state not included in zones "A", "B", "C", "D", and "E."
2. No stub, soca, or volunteer cotton shall be grown in or allowed to grow in the state. The elimination of stub, soca, or volunteer cotton found growing shall be the responsibility of the landowner.
 3. Except as provided in ~~paragraph subsection~~ subsection (E)(4), the crop remnant of the host plant remaining in the field after harvest shall be shredded and the land tilled to destroy the host plant and its root system with no stalks remaining attached to the soil, ~~and to incorporate plant debris within the soil~~ prior to the following dates or prior to planting another crop, whichever occurs earlier: Zone "A", December 15; Zone "B", ~~February 15; March 1~~ February 15; March 1 ~~except growers in Cochise County above 4100 feet who pasture their fields, March 2~~; Zone "C", January 15; Zone "D", ~~February 1~~ March 1; Zone "E", December 31; Zone "F", ~~January 15~~ February 15.
 4. In lieu of the ~~required tilling requirements~~ required tilling requirements under ~~paragraph subsection~~ subsection (E)(3), the crop remnant remaining in the field after the harvest season shall be shredded and the land ~~disked and cross-disked to a depth of four inches or more to destroy the plant material tilled~~ by the dates specified in ~~paragraph subsection~~ subsection (E)(3). The land shall be irrigated and planted to a crop other than cotton prior to the following dates: Zone "A", December 30; ~~Zone "B", March 1~~; Zone "C", January 30; ~~Zone "D", February 16~~; Zone "E", January 15; ~~Zone "F", January 30~~.
5. Growers who meet their tillage deadline specified in subsection (E)(3) for the preceding cotton crop year shall not plant cotton before the following dates: Zone "A", February 1; Zone "C", March 1; Zone "E", February 15. Growers who do not meet their tillage deadline specified in subsection (E)(3) for the preceding cotton crop year shall not plant cotton before the following dates: Zone "A", February 15; Zone "C", March 15; Zone "E", March 1. However, growers using the practice of dry planting shall be allowed to plant 10 days prior to the planting date for this zone, but not water until the planting date.
 - 5.6. For all other zones, the earliest planting dates for cotton shall be the following: Zone "A", ~~February 15~~, Zone "B", ~~April 1~~ March 15; Zone "C", ~~March 15~~, Zone "D", ~~April 1~~ March 15; Zone "E", ~~March 1~~, Zone "F", ~~March 15~~, March 1, however ~~However~~, growers using the practice of dry planting shall be allowed to plant ~~ten~~ 10 days prior to the planting date for this zone, but not water until the planting date.
 - 6.7. An agent of the Department shall give written notice to any landowner found in violation of subsection (E). The processes set forth in ~~paragraphs subsections~~ subsections (3) and (4) shall be repeated, as necessary, to destroy the pests.
- F. Advisory Committee. The Department shall appoint an advisory committee consisting of 1 representative from each of the following organizations to make recommendations to the Department ~~by June 30 of each year, on needed amendments to this rule.~~
1. The Arizona Cotton Growers Association,
 2. The Arizona Farm Bureau Federation,
 3. The Arizona Crop Protection Association,
 4. The University of Arizona Experiment Station,
 5. The University of Arizona Extension Service,
 6. USDA-Research,
 7. USDA-APHIS,
 8. The Department of Agriculture, and
 9. A grower from each of the 6 zones.

NOTICE OF PROPOSED RULEMAKING

TITLE 19: ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

PREAMBLE

1. Sections Affected Rulemaking Action
R19-3-326 New Section
2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):
Authorizing statute: A.R.S. § 5-504(B).
Implementing statute: A.R.S. § 5-504(B).
3. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:
Name: Sandy Williams, Executive Director
Address: Arizona State Lottery Commission
4740 East University
Phoenix, Arizona 85034
Telephone: (602) 921-4400

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4. **An explanation of the rules, including the agency's reasons for initiating the rules:**
R19-3-326 sets forth provisions unique to the conduct of the Arizona Lottery's instant games. The provisions of this Section are necessary to implement the requirements of A.R.S. § 5-504(B) which have not been specified generically in R19-3-301. The unique provisions described in this Section are the nature and location of play symbols, the ticket number, the validation codes, the prize denominations, and the method of selecting a winning ticket.
5. **A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable.
6. **The summary of the economic, small business, and consumer impact:**
This game will provide our players with a larger variety of instant games with a potential increase in sales. The only impact this Section has upon Lottery retailers is to specify how they determine if a ticket is a winning ticket and, if so, the prize amount.
7. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**
Name: Sandy Williams, Executive Director
Address: Arizona Lottery State Commission
4740 East University Drive
Phoenix, Arizona 85034
Telephone: (602) 921-4400
8. **The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule, or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:**
Date: September 20, 1996
Time: 10 a.m.
Location: Arizona State Lottery Commission
4740 East University Drive
Phoenix, Arizona
Nature: Oral Proceeding
9. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
Close of the record is 5 p.m., September 19, 1996, for written comments, and at the close of the oral proceeding for verbal comments.
10. **Incorporations by reference and their location in the rules:**
None.
11. **The full text of the rules follows:**

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 3. ARIZONA STATE LOTTERY COMMISSION

ARTICLE 3. INSTANT LOTTERY GAMES

Section
R19-3-326. "Win for Life"

ARTICLE 3. INSTANT LOTTERY GAMES

R19-3-326. "Win for Life"

- A. In the latex play area located on the lower half of the ticket, 2 horizontal rows of 5 play symbols appear with "YOUR NUMBERS" printed above, and are 1 of the following: "1", "2", "3", "4", "5", "6", "7", "8", "9", "10", "11", "12", "13", "14", "15", "16", "17", "18", "19", or "20" with confirming captions. Two play symbols appear on the upper-right front of the latex area with "WINNING NUMBERS" printed above, and are 1 of the following: "1", "2", "3", "4", "5", "6", "7", "8", "9", "10", "11", "12", "13", "14", "15", "16", "17", "18", "19", or "20" with confirming captions.
- B. The play symbol captions correspond with and verify the play symbols as follows:

<u>Play Symbol</u>	<u>Caption</u>
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
11	ELV
12	TLV
13	THN
14	FRN
15	FTN
16	SXT
17	SVT
18	EGN
19	NIT
20	TWY

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C. Prize symbol captions correspond with and verify each of the prize symbols and are 1 of the following: "\$1", "\$2", "\$3", "\$4", "\$5", "\$10", "\$20", "\$50", "\$1,000", or "LIFE" with confirming captions. The confirming captions are as follows:

<u>Prize Symbol</u>	<u>Caption</u>
<u>\$1</u>	<u>ONEDOL</u>
<u>\$2</u>	<u>TWODOL</u>
<u>\$3</u>	<u>THRDOL</u>
<u>\$4</u>	<u>FORDOL</u>
<u>\$5</u>	<u>FIVEDOL</u>
<u>\$10</u>	<u>TENDOL</u>
<u>\$20</u>	<u>TWYDOL</u>
<u>\$50</u>	<u>FTYDOL</u>
<u>\$1,000</u>	<u>ONETHOU</u>
<u>LIFE</u>	<u>\$1,000/MNTH</u>

D. A pack-ticket number beginning with 400001 is located in the lower-left portion on the back of the ticket.

E. The retailer validation code verifies instant winners of a "\$2", "\$5", "\$10", "\$50", or "\$100" ticket. The retailer validation code which corresponds with and verifies each of these winners is as follows:

<u>TWO</u>	<u>==</u>	<u>\$2</u>	<u>FFY</u>	<u>==</u>	<u>\$50</u>
<u>FIV</u>	<u>==</u>	<u>\$5</u>	<u>ONH</u>	<u>==</u>	<u>\$100</u>
<u>TEN</u>	<u>==</u>	<u>\$10</u>			

F. A prize winner in the "WIN FOR LIFE" instant game is determined by removing the latex from the play area on the front of the ticket to reveal the play symbols and prize symbols. Neither the retailer validation code (or any portion thereof), the

pack-ticket number (or any portion thereof), nor the validation number (or any portion thereof) are play symbols or prize symbols and are not usable or playable as such. If any play symbol under "YOUR NUMBERS" matches either play symbol under "WINNING NUMBERS", the player wins the prize shown directly under the play symbol. There are 20 chances to win 10 times on a ticket. The prizes are as follows:

<u>\$1 + \$1</u>	<u>==</u>	<u>\$2 (two dollars) or</u>
<u>\$2</u>	<u>==</u>	<u>\$2 (two dollars) or</u>
<u>\$5</u>	<u>==</u>	<u>\$5 (five dollars) or</u>
<u>\$1 + \$1 + \$1 + \$2</u>	<u>==</u>	<u>\$5 (five dollars) or</u>
<u>\$1 + \$2 + \$2</u>	<u>==</u>	<u>\$5 (five dollars) or</u>
<u>\$1 + \$4</u>	<u>==</u>	<u>\$5 (five dollars) or</u>
<u>\$10</u>	<u>==</u>	<u>\$10 (ten dollars) or</u>
<u>\$1 + \$2 + \$2 + \$5</u>	<u>==</u>	<u>\$10 (ten dollars) or</u>
<u>\$2 + \$3 + \$5</u>	<u>==</u>	<u>\$10 (ten dollars) or</u>
<u>\$5 + \$5</u>	<u>==</u>	<u>\$10 (ten dollars) or</u>
<u>\$50</u>	<u>==</u>	<u>\$50 (fifty dollars) or</u>
<u>\$10 + \$10 + \$10 + \$20</u>	<u>==</u>	<u>\$50 (fifty dollars) or</u>
<u>\$10 + \$20 + \$20</u>	<u>==</u>	<u>\$50 (fifty dollars) or</u>
<u>\$50 + \$50</u>	<u>==</u>	<u>\$100 (one hundred dollars) or</u>
<u>\$1,000</u>	<u>==</u>	<u>\$1,000 (one thousand dollars)</u>

LIFE == or
\$1,000 dollars/month/life up
to \$170,000 (one thousand
dollars per month for life, not
to exceed one hundred sev-
enty thousand dollars)