

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* 1st as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. 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* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 6. DEPARTMENT OF ADMINISTRATION PUBLIC BUILDINGS MAINTENANCE

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|-----------------------------|--------------------------|
| R2-6-201 | Repeal |
| R2-6-201 | New Section |
| R2-6-202 | Repeal |
| R2-6-202 | New Section |
| R2-6-203 | Repeal |
| R2-6-203 | New Section |
| R2-6-204 | Repeal |
| R2-6-204 | New Section |
| R2-6-205 | Repeal |
| R2-6-205 | New Section |
| R2-6-206 | Repeal |
| R2-6-206 | New Section |
| R2-6-207 | Repeal |
| R2-6-207 | New Section |
| R2-6-208 | Repeal |
| R2-6-208 | New Section |
| R2-6-209 | Repeal |
| R2-6-209 | New Section |
2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):
Authorizing statutes: A.R.S. §§ 41-795 and 41-796.
Implementing statute: A.R.S. § 41-796.
3. The effective date of the rules:
July 15, 1999
4. A list of all previous notices appearing in the Register addressing the final rule:
Notice of Rulemaking Docket Opening: 3 A.A.R. 2410, August 29, 1997.
Notice of Proposed Rulemaking: 3 A.A.R. 2436, September 5, 1997.
Notices of Public Information: 4 A.A.R. 163, January 9, 1998; 4 A.A.R. 2969, October 9, 1998;
5 A.A.R. 506; February 12, 1999.
5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:
Name: Scott Cooley
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6. An explanation of the rule, including the agency's reasons for initiating the rule:

The Department of Administration (Department) is updating and reorganizing this Chapter. Traffic and parking rules are being repealed and replaced by a new Article 2, which is more readable. Monetary penalties have been increased so that they are consistent with those of other Arizona jurisdictions.

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

None.

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

Not applicable.

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

Minor modifications to Article 2, improving readability, will make the rules easier to use. Small businesses and consumers will benefit because the rules will be easier to use. Monetary penalties have been increased so that they are consistent with those of other Arizona jurisdictions. The amount of each penalty is related to the rate of inflation and the severity of the violation.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules:

1. Grammatical and punctuation changes were made throughout the rule package.
2. Changed the wording of R2-6-201(1) and R2-6-206(B) from "notice of hearing" to "notice to appear."
3. Added a definition of "state property" in R2-6-201 and renumbered the other definitions.
4. In R2-6-204(B), replaced "A.R.S. § 28-378" with "by rules of the Department of Transportation."
5. In R2-6-205(A), replaced "All state laws governing the operation of vehicles are adopted by the Department for the control of vehicles on state property" with "On state property the Department shall enforce all state laws governing the operation of vehicles."
6. Added "under the Department's jurisdiction" to the end of R2-6-205(C).
7. In R2-6-206(B) & (D) and R2-6-207(A), replaced "prescribed in A.R.S. § 41-1092.05," "A.R.S. § 41-796," and "prescribed in subsection (A)" with "described in A.R.S. § 41-796(E)," "A.R.S. § 41-796(E)," and "described in A.R.S. § 41-796(E)," respectively.
8. Removed cross reference to R2-6-203(A)(2) in R2-6-206(B)(2).
9. In R2-6-206(C), added "or security aide" after "police officer."
10. Moved R2-6-207(B) to a new R2-6-206(C), changing "notice of hearing" to "notice to appear." Relabeled the remaining subsections.
11. Moved the time period of 10 business days to the beginning of the new R2-6-206(D).
12. Added language to R2-6-206(D) regarding no contest.
13. In R2-6-206(D), added "of the vehicle" after "registered owner" and replaced "owner violated this Article" with "vehicle was involved in a violation of this Article and the vehicle was registered in the name of the owner."
14. Added "registered" before "owner" in: the third sentence of R2-6-206(D), R2-6-206(E) after "notice of default on the", R2-6-207(A), and R2-6-209. Also deleted the last sentence from R2-6-206(D).
15. In R2-6-206(E), added "of the citation date" after "within 10 business days."
16. In R2-6-206(E) and R2-6-207(C), added ", based on the resources available for pursuing collection" at the end of the last sentence.
17. Moved R2-6-207(C) to R2-6-207(A) and clarified that the notice issued by the police officer is a notice to appear.

18. Relabeled R2-6-207(A) to R2-6-207(B) and clarified that Department employees other than the Capitol Police schedule the hearing and serve notice of it, rather than merely requesting hearing dates. Relabeled the remaining subsections.

19. Added "Article 10" to the citation in R2-6-207(C).

20. Added "The registered owner shall pay the monetary penalty within 10 business days from the date on the decision or within the time prescribed by the administrative law judge. If the registered owner does not pay the monetary penalty within this time, the registered owner shall pay an additional monetary penalty of \$20.00." as the 4th and 5th sentences within R2-6-207(C).

21. In R2-6-208(A) replaced "receiving" with "service of" and deleted the citation to A.R.S. § 41-1092.08.

22. In R2-6-208(B), changed "Any other party may file a response within 5 days after service of a motion for rehearing or review" to "An opposing party may file a response within 15 days after the date the motion for rehearing or review is filed."

23. In R2-6-208(H), replaced the 1st sentence with "The Director shall rule on the motion as prescribed in A.R.S. § 41-1092.09."

11. A summary of the principle comments and the agency response to them:

No comments were submitted on the proposed rulemaking.

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

Not applicable.

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

Not applicable.

14. Was this rule previously adopted as an emergency rule?

No.

15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 6. DEPARTMENT OF ADMINISTRATION

PUBLIC BUILDINGS MAINTENANCE

ARTICLE 2. TRAFFIC AND PARKING

Sections

R2-6-201.	Definitions
R2-6-202.	Parking areas <u>General Provisions</u>
R2-6-203.	Special assignment parking permits <u>Parking Prohibitions</u>
R2-6-204.	Operation of vehicles on State property <u>Parking Decals</u>
R2-6-205.	Penalties <u>Operation of Vehicles on State Property</u>
R2-6-206.	Impoundment <u>Penalties</u>
R2-6-207.	Hearings
R2-6-208.	Rehearing
R2-6-209.	General information <u>Removal of Vehicles from State Property</u>

ARTICLE 2. TRAFFIC AND PARKING

R2-6-201. Definitions

- ~~A. "Employee" means any person elected, appointed or employed by the state, either on a part-time or full-time basis, and whether paid by payroll or under contract.~~
- ~~B. "Motor vehicle" includes automobile, truck, motorcycle, motor scooter, motor bike, moped type vehicle, and any other motor powered, passenger-carrying vehicle operated on land.~~
- ~~C. "Parking" refers to stopping, or standing, regardless of whether a vehicle is attended or unattended.~~
- ~~D. "Restricted area" includes any parking or space posted for either special assignment parking or a specific purpose which would exclude general parking.~~
- ~~E. "Service", except where otherwise specifically provided, is deemed completed when the decision or motion is deposited in the United States mail, first class, prepaid postage or by deposit in interoffice or intra-office mails.~~
- ~~F. "Visitor" refers to any person other than employees.~~

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The following definitions apply in this Article:

1. "Citation" means a document, issued by the Department's Capitol Police under A.R.S. § 41-796, that contains a notice to appear.
2. "Decal" means a graphic designed label, placard, sticker, or tag which, when properly displayed, authorizes preferential parking privileges in state parking lots for the driver of a vehicle.
3. "Designate" means to identify with signs or markings.
4. "Employee" means any person elected, appointed, or employed by the state, either on a part-time or full-time basis, whether paid by payroll or under contract.
5. "Loading zone" means an area that is painted yellow, designating a place for business pickups and deliveries.
6. "No-parking zone" means an area that is painted red, designating a place where parking is not permitted.
7. "Parking" means stopping or placing a vehicle in an area, regardless of whether the vehicle is attended or unattended.
8. "Parking space" means an area that the Department outlines with painted white lines, designating a place for parking a vehicle.
9. "Reserved parking space" means any parking space designated for a special purpose or a special class, such as physically disabled persons, travel reduction program participants, or visitors.
10. "Safety zone" means an area or space that is both:
 - a. Officially set apart within a roadway for the exclusive use of pedestrians; and
 - b. Protected, marked, or indicated by adequate signs as to be plainly visible at all times.
11. "State property" means all real property and buildings under the jurisdiction of the Department, as prescribed by A.R.S. § 41-791.
12. "Vehicle" has the meaning in A.R.S. § 28-101 and includes a "motor vehicle," a term also defined in A.R.S. § 28-101.
13. "Visitor" means any person other than an employee.

R2-6-202. Parking areas Repealed

- A.** ~~The Department of Administration will designate special parking areas for employees and visitors on state property.~~
1. ~~Visitors may park in designated visitor parking areas and unrestricted areas.~~
 2. ~~Only employees and visitors who have been issued special assignment parking permits may park in restricted areas.~~
 3. ~~Curbs painted red indicate "No Parking" zones. Curbs painted yellow indicate loading and unloading areas for business deliveries. Parking in yellow zones, or blocking loading docks or entrances to buildings and driveways, is prohibited.~~
 4. ~~Driving or parking a vehicle in any area on state property which has been closed by the use of barricades, chains, or other traffic control devices is prohibited.~~
 5. ~~Parking a vehicle on pedestrian paths, sidewalks, or safety zones is prohibited.~~
 6. ~~Parking a vehicle in such a location as to obstruct a properly parked vehicle is prohibited.~~
 7. ~~Parking a motorcycle, motor scooter, or motor bike in bicycle racks or areas is prohibited. Moped-type vehicles may park in open bicycle racks. Moped type vehicles and bicycles may not park inside buildings or under breezeways.~~
 8. ~~On special occasions, and in emergencies, parking limitations may be imposed by the Department of Administration as required by the particular circumstances.~~
- B.** ~~Should it become necessary to park in an illegal manner, the Department of Administration Security Office must be contacted immediately for authorization.~~

R2-6-202. General Provisions

- A.** The state is not responsible for the care and protection of any vehicle or its contents at any time the vehicle is operated or parked on state property.
- B.** The person to whom a parking permit is issued is responsible for all parking violations involving the person's vehicle.
- C.** If parking lot or area reservation hours are altered, the Department shall post notices at the parking lot or area, and the changes are effective immediately.

R2-6-203. Special assignment parking permits Repealed

- A.** ~~Parking in designated special areas without properly displaying an appropriate permit is prohibited.~~
- B.** ~~Permits must be displayed as follows:~~
1. ~~Permits for physically handicapped persons: Staff with permanent or temporary physical handicaps may secure a permit which will be displayed in accordance with permit instructions.~~
 2. ~~Rideshare permits: Permits for Rideshare parking will be displayed by suspending the permit from the rear vision mirror in such a manner that it is visible through the windshield. Rideshare permits can be obtained through the employee's agency.~~
 3. ~~Courier permits: Permits for courier parking will be displayed by suspending the permit from the rear vision mirror in such a manner that it is visible through the windshield. Courier permits are issued through the employee's agency.~~
 4. ~~Special use permits: Permits for special use are issued through the employee's agency with the approval of the Director of the Department of Administration and displayed by suspending the permit from the rear vision mirror or displaying it on the dash where it can be seen through the windshield.~~

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R2-6-203. Parking Prohibitions

- A.** A person shall not park a vehicle in a:
 - 1. Bicycle rack or area;
 - 2. Loading zone, unless the person is making a pickup or delivery and the person's vehicle has commercial license plates or is state owned. Loading zone parking is permitted during the time the person is actually engaged in loading or unloading;
 - 3. Location that is not designated as a parking space;
 - 4. No parking zone;
 - 5. Reserved parking space without authorization, unless the person is a visitor using parking reserved for visitors; or
 - 6. Safety zone.
- B.** A person shall not obstruct any of the following with a vehicle:
 - 1. Building entrance.
 - 2. Driveway.
 - 3. Fire lane.
 - 4. Loading dock, or
 - 5. Properly parked vehicle.
- C.** A person shall not drive or park a vehicle:
 - 1. On a pedestrian path or sidewalk; or
 - 2. In any area on state property closed by barricades, chain, tape, rope, traffic cones, or other traffic-control devices.
- D.** A person shall not park outside of the area designated by painted white lines when using a parking space.
- E.** In an emergency the Department may impose parking limitations or prohibitions required by the particular circumstances.
- F.** For special events the Department may impose parking limitations or prohibitions based on all of the following factors:
 - 1. Previous experience with similar events, and
 - 2. Risk data.

~~R2-6-204. Operation of vehicles on State property Repealed~~

- A.** All state laws governing the movement and operation of motor vehicles are adopted by the Department of Administration for control of vehicles on state property and, accordingly, such laws are in force on such property.
- B.** A maximum speed limit of five (5) MPH will be enforced in all state parking lots.
- C.** All accidents involving moving vehicles which occur on state property must be reported immediately to the Department of Administration Security Office.

R2-6-204. Parking Decals

- A.** Unless a person is a visitor using parking reserved for visitors, the person shall properly display a reserved parking space decal in the manner prescribed in this Section to be authorized to park in a reserved parking space.
- B.** To park in a parking space reserved for the physically disabled, a person shall obtain a removable windshield placard or special plates, bearing the international symbol of access, from the Department of Transportation, Motor Vehicle Division, and display the placard or plates as prescribed by rules of the Department of Transportation.
- C.** A person with a decal for any other kind of reserved parking space shall display the decal from the rearview mirror, attach the decal to the left side of the windshield, or display the decal on the left side of the dashboard. The person shall ensure that the decal is visible through the windshield so it can be read by someone standing outside the vehicle.

~~R2-6-205. Penalties Repealed~~

- A.** ~~Violators of R2-6-102, R2-6-103, or R2-6-104 are subject to the monetary penalties prescribed herein.~~
- B.** ~~Security Officers shall issue citations for parking and traffic violations according to the following schedule.~~
 - 1. ~~Parking in a handicapped area~~ \$35
 - 2. ~~Parking violation of posted signs~~ \$6
 - 3. ~~Parking by staff in visitor areas~~ \$6
 - 4. ~~Parking on sidewalk or unauthorized area~~ \$6
 - 5. ~~Obstructing a drive or driveway~~ \$6
 - 6. ~~Obstructing a properly parked vehicle~~ \$6
 - 7. ~~Moving or crossing traffic control devices~~ \$6
 - 8. ~~Continuous parking in excess of posted limits~~ \$6
 - 9. ~~Parking outside stall lines~~ \$6
 - 10. ~~Improperly displaying parking permit~~ \$6
- C.** ~~The registered owner of the vehicle involved in a violation is presumed to be the operator of that vehicle.~~
- D.** ~~All monetary penalties issued pursuant to subsection (B) shall be declared in default if not appealed according to procedures set forth in R2-6-107 or paid within ten working days of the issuance date of the citation. Notice of a monetary penalty declared in default shall be forwarded by the Department of Administration to the state agency that employs the employee who is named in the Notice as the registered owner or operator of the vehicle. The Department of Administra-~~

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tion may take appropriate action to secure the collection of a monetary penalty declared in default whenever the registered owner of the vehicle is a visitor.

R2-6-205. Operation of Vehicles on State Property

- A. On state property the Department shall enforce all state laws governing the operation of vehicles.
- B. A person driving or parking a vehicle on state property shall obey posted traffic and parking signs.
- C. The Department's Capitol Police shall enforce a maximum speed limit of 5 miles per hour in all state parking lots under the Department's jurisdiction.
- D. Any person who has been in an accident involving a moving vehicle on state property shall immediately report the accident to the Department's Capitol Police.

R2-6-206. Impoundment Repealed

The Department of Administration will remove and impound any vehicle found on state property parked in a barricaded area, abandoned, or parked in such a way as to constitute a serious hazard or impediment to vehicular or pedestrian traffic or to the movement and operation of emergency equipment. In addition to the above, any person who habitually or flagrantly disregards the traffic and parking regulations will also have his/her vehicle subject to impoundment. The owner will be responsible for costs involved in removing, impounding and storage of such a vehicle.

R2-6-206. Penalties

- A. The registered owner of a vehicle involved in a violation of R2-6-203, R2-6-204, or R2-6-205 shall pay the monetary penalties prescribed in this Section.
- B. Capitol Police officers or Capitol Police security aides shall issue citations, containing the notice to appear described in A.R.S. § 41-796(E), according to the following schedule:
 - 1. Parking in a bicycle rack or area: \$16.00;
 - 2. Parking in a loading zone: \$20.00;
 - 3. Parking in a location that is not designated as a parking space: \$20.00;
 - 4. Parking in a no parking zone: \$20.00;
 - 5. Unauthorized parking in a space reserved for the physically disabled: \$50.00;
 - 6. Unauthorized parking in any other kind of reserved parking space: \$16.00;
 - 7. Parking in a safety zone: \$20.00;
 - 8. Obstruction of a building entrance, driveway, fire lane, loading dock, or properly parked vehicle: \$20.00;
 - 9. Driving or parking on a pedestrian path or sidewalk: \$25.00;
 - 10. Driving or parking in any area on state property closed by barricades, chain, tape, rope, traffic cones, or other traffic-control devices: \$25.00;
 - 11. Parking outside of parking space lines: \$16.00;
 - 12. Improper display of a parking decal: \$10.00;
 - 13. Failure to obey a state law governing the operation of a vehicle while on state property: \$16.00;
 - 14. Failure to obey posted traffic or parking signs on state property: \$16.00;
 - 15. Exceeding the maximum speed limit of 5 miles per hour in a state parking lot: \$16.00;
 - 16. Failure to immediately report an accident involving a moving vehicle on state property to the Department's Capitol Police: \$16.00.
- C. For the purposes of this Article, service of a notice to appear is complete when the police officer or security aide issuing the citation secures it to the vehicle in a conspicuous place.
- D. Within 10 business days from the issuance date of a citation, the registered owner of the vehicle shall pay the appropriate monetary penalty to the Department, admitting the violation or indicating no contest, or contest the citation under A.R.S. § 41-796(E) and the procedures in R2-6-207. The registered owner may pay the penalty by checking the appropriate box and mailing the payment and citation to the Department, using the address printed on the citation.
- E. If the registered owner does not pay the monetary penalty within 10 business days of the citation date and fails to request a hearing under R2-6-207, the Department shall treat the failure to respond as an admission of the violation, declare the penalty to be in default, and serve a notice of default on the registered owner with a bill for the amount of the original penalty and an additional monetary penalty of \$20.00 for failure to respond. The Department may take appropriate action to collect these monetary penalties, based on the resources available for pursuing collection.

R2-6-207. Hearings

The owner or operator of a vehicle to whom the Department has issued a citation may request a hearing. Requests for hearings shall be in writing and must be received within five (5) working days of the issuance date of the citation at the Department of Administration, Operations Division, Capitol West Wing, Room 800, Phoenix, Arizona. Not later than thirty (30) days before the hearing, the Department shall notify the person requesting a hearing in writing of the time and place of the hearing. Hearings shall be conducted as contested cases pursuant to the provisions of the Arizona Administrative Procedure Act (A.R.S. Title 41, Ch. 6, Art. 1) applicable to contested cases.

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- A.** If a registered owner wishes to contest a citation, the registered owner shall request a hearing within 10 days after issuance of the notice to appear described in A.R.S. § 41-796(E) by checking the appropriate box and mailing the citation to the Department, using the address printed on the citation.
- B.** Upon receipt of a request for hearing, the Department shall schedule a hearing and serve notice of the hearing, according to A.R.S. § 41-1092.05.
- C.** The Director or an administrative law judge from the Office of Administrative Hearings shall conduct each hearing as a contested case, in the manner prescribed in A.R.S. Title 41, Chapter 6, Article 10. The Department shall serve its decision on the registered owner. If the Director or the administrative law judge determines that a violation has occurred and imposes a monetary penalty, a bill for the amount of the penalty shall be served with the decision. The registered owner shall pay the monetary penalty within 10 business days from the date on the decision or within the time prescribed by the administrative law judge. If the registered owner does not pay the monetary penalty within this time, the registered owner shall pay an additional monetary penalty of \$20.00. The Department may take appropriate action to collect any monetary penalty imposed, based on the resources available for pursuing collection.

R2-6-208. Rehearing

- A.** A party in a contested case before the Department who is aggrieved by a decision rendered in such case may file with the Department not later than ten (10) days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefor.
- B.** A motion for rehearing under this rule may be amended at any time before it is ruled upon by the Department. A response may be filed within ten (10) days after service of such motion or amended motion by the Attorney General. The Department may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.
- C.** A rehearing of the decision may be granted for any of the following causes materially affecting the moving party's rights:
 - 1. Irregularity in the proceedings before the Department or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
 - 2. Misconduct of the Department, its employees or its hearing officer;
 - 3. Accident or surprise which could not have been prevented by ordinary prudence;
 - 4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
 - 5. Excessive or insufficient penalties;
 - 6. Error in the admission or rejection of evidence or other error of law occurring at the hearing;
 - 7. That the decision is not justified by the evidence or is contrary to law.
- D.** The Department may affirm or modify the decision or grant a rehearing as to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.
- E.** The Department, within the time for filing a motion for rehearing under this rule, may on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties notice and an opportunity to be heard on the matter, the Department may grant a motion for rehearing, timely served, for a reason not stated in the motion. In either case, the order granting such a rehearing shall specify the ground therefor.
- F.** When a motion for rehearing is based upon affidavits, they shall be served with the motion. The Attorney General may within ten (10) days after such service serve opposing affidavits.
- A.** A party in a contested case before the Department may file a motion for rehearing or review within 30 days after service of the final administrative decision, as prescribed in A.R.S. § 41-1092.09. The party shall attach a supporting memorandum, specifying the grounds for the motion. A party is not required to file a motion for rehearing or review of the final administrative decision to exhaust the party's administrative remedies.
- B.** An opposing party may file a response within 15 days after the date the motion for rehearing or review is filed. The party shall support the response with a memorandum discussing relevant legal and factual issues.
- C.** Any party may request oral argument.
- D.** The Director may grant a rehearing or review for any of the following causes materially affecting a party's rights:
 - 1. Irregularity in the administrative proceedings or any order or abuse of discretion, which deprived the moving party of a fair hearing;
 - 2. Misconduct of the Department, the administrative law judge, or the prevailing party;
 - 3. Accident or surprise which could not have been prevented by ordinary prudence;
 - 4. Newly discovered material evidence which could not, with reasonable diligence, have been discovered and produced at the hearing;
 - 5. Excessive or insufficient penalties;
 - 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceeding;
 - 7. That the findings of fact or decision are not justified by the evidence or are contrary to law.

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R3-4-609	New Section
R3-4-610	Repeal
R3-4-610	New Section
R3-4-611	Repeal
R3-4-612	Repeal
R3-4-613	Repeal
R3-4-614	Repeal
R3-4-615	Repeal
R3-4-616	Repeal
R3-4-617	Repeal
R3-4-618	Repeal
Appendix A	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, 3-903(C), 3-904(C) and (E), 3-905(C), 3-906(D), 3-910(B), 3-912(A), 3-913.

Implementing statute: A.R.S. §§ 3-201.01, 3-202, 3-203, 3-204, 3-205, 3-205.01, 3-206, 3-207, 3-208(B), 3-209, 3-210, 3-214, 3-901 et seq.

3. The effective date of the rules:

July 15, 1999

4. A list of all previous notices appearing in the Register addressing the final rule:

Notices of Rulemaking Docket Opening: 4 A.A.R. 932, April 17, 1998; 4 A.A.R. 1973, July 26, 1998; 4 A.A.R. 2127, July 31, 1998; 4 A.A.R. 2171, August 7, 1998; 4 A.A.R. 2709, September 25, 1998; 4 A.A.R. 3342, October 23, 1998; 5 A.A.R. 73, January 8, 1999.

Notice of Proposed Rulemaking: 5 A.A.R. 1057, April 16, 1999.

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

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Address: Arizona Department of Agriculture
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Phoenix, Arizona 85007
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6. An explanation of the rule, including the agency's reasons for initiating the rule:

This rulemaking clarifies existing language, updates the current format and structure of each Section to meet the guidelines of the Office of the Secretary of State, and updates rulemaking requirements to follow current practices and state and federal quarantine restrictions.

R3-4-102. Definitions. This rule defines the terms used within this Chapter and simplifies interpretation of responsibility and clarity of purpose. The terms 'disseminate,' 'imported plant,' 'notice of quarantine,' 'plant product,' and 'terminal inspection,' have been deleted; the 'nursery' definition is not the same as the statute definition and has been changed; and the term 'soil,' the phrase 'quarantine holding area,' and the statute definition for 'plant' have been added.

R3-4-201. Transportation and Packaging. The 1992 legislative session removed the requirement for all vehicles to stop at a port-of-entry station for inspection for pests before entering the state. A year later, new legislation provided the Department with the authority to staff 5 port-of-entry stations (2 in Yuma) to inspect commercial vehicles. This rulemaking removes all references to, and requirements for, private vehicle inspections and removes all outdated information and references to inspection stations and inspection points.

This rule combines R3-4-201 and R3-4-202 and lists many of the agricultural commodities that require inspection upon arrival in Arizona. The rule establishes the requirements for commercial vehicles, consignees and postmasters when transporting agricultural commodities into the state, and describes the types of packaging allowed for any commodity shipment entering Arizona and the thickness of waxes and coating allowed on plants so that inspection for plant pests is possible.

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R3-4-204, Pink Bollworm and the Cotton Boll Weevil Complex. This rule provides growers with a list of specific small-grain crops that may be rotated following cotton harvest if the grower elects to take advantage of minimum tillage. The rule changes the boundaries in zones "C," "D," and "F," and changes the plow-down and planting dates in zone "E."

Meeting the requirement of destroying the cotton host plant and root system after the cotton harvest may be accomplished by shredding the plants when the land is tilled, leaving no stalks attached to the soil. The field may then be prepared for a second crop.

If a grower decides to plant the field with a second crop, that grower shall choose only the small-grain crops specified in the rule, unless another small-grain crop is approved by the Director. Any host plant or root that has not been destroyed will continue to grow with the second crop. If the 2nd crop has a short growing season, it can be harvested before the cotton host plant or root can create a fertile environment for the pink bollworm.

In July 1998, the Arizona Cotton Growers Association requested that R3-4-204, Pink Bollworm and the Cotton Boll Weevil Complex, be updated to allow growers in zones "A" and "C" to elect an earlier planting date if they comply with the existing plow-down requirements.

Subsection (E)(4) establishes that if a grower in zone "A" or "C" elects to plant a small-grain second crop, the grower need not shred or till the land before the small-grain crop is planted.

In July, the Arizona Cotton Research and Protection Council received 3 letters from growers requesting zone changes for their plow-down and planting dates. The proposed changes would allow the growers to schedule their plow up and planting dates according to a zone that more accurately reflected the land elevation or was consistent with the grower's other property. These changes will reduce economic hardships on the grower. The Cotton Advisory Committee met December 4, 1998 to discuss the requests and the effect they would have on existing zones and on ensuring cotton pest abatement. This rulemaking reflects the Committee's recommendations.

R3-4-238, Whitefly Pests. This rule corrects errors in the host commodity list; adds 3 additional commodities; and updates the area under quarantine and the entry requirements for hosts originating from a quarantined area outside the infested area. The option for destruction of a commodity has been removed because it repeats A.R.S. § 3-210.

R3-4-239, Imported Fire Ants. This rule consolidates information found in the current imported fire ants rule; adds pine straw as a covered commodity; requires that all covered commodities be unloaded into a holding or staging area to prevent pest infestation; and removes shipment destruction options because these options are already stated in A.R.S. § 3-210.

Arizona's mandate *to control, eradicate or suppress a crop pest or disease or prevent introduction into this state of a crop pest or disease from out of state* (A.R.S. § 3-201.01(A)(2)(c)) is becoming increasingly difficult because surrounding states are already infested with the pest. Southeastern states have become totally infested with the pest and no longer have a proactive program to monitor and deal with imported fire ant infestations.

In late January, 1999, the Governor declared a public health and economic emergency and released state emergency funds to combat the introduction of the red imported fire ant into Arizona. These funds were released after California officials determined that portions of Orange, Los Angeles, and Riverside counties were infested with the red imported fire ant. The California infestation threatens more than 800 nurseries and landscape operations in Arizona. As many as 14 major suppliers of nursery stock and sod to Arizona have been found infested with fire ants, presenting a significant threat to Arizona.

Arizona is considered 'pest-free' for red imported fire ants, although the state each year abates isolated infestations. (Three incidents were abated in 1998.) All commercial shipments from known fire-ant areas, mostly the Southeast, Texas and New Mexico, are stopped at Arizona's borders and inspected for fire ants. The addition of California and its large volume of plant material imported into Arizona each year, including the bee pollination activities, promises to strain pest protection efforts.

Introduced in Alabama in 1930 from South America, fire ants feed on seeds and young plants. They damage electrical and irrigation systems and prevent harvesting crops by hand. Fire ants also attack people, livestock, and wild animals. The red imported fire ant biting and stinging behavior are generally a defensive reaction. When a mound is disturbed, large numbers of worker ants come to the mound surface and can rapidly cover an unsuspecting victim.

Red imported fire ants live and do most of their foraging for food in underground tunnels. A nest consists of a network of tunnels and chambers that occupy a vertical column 12-18" in diameter and 36" deep.

Nests are generally built in sunny, open areas such as lawns, golf courses, pastures, cultivated fields, and meadows. The ants also may be found around trees or stumps, under pavement and buildings, and occasionally indoors. Electrical equipment and utility houses may serve as fire ant nest sites, sometimes resulting in short circuits.

New colonies do not make conspicuous mounds for several months. Once a colony is established, a single queen can lay more than 2,000 eggs per day. The red imported fire ant is notorious for its painful sting that results in a pustule and intense itching which can persist for 10 days. Some people are allergic to the sting and, in some cases, fire-ant stings can result in death.

R3-4-242. Brown Citrus Aphid. This rule is based upon a Director's Administrative Order and establishes quarantine requirements for the brown citrus aphid.

R3-4-244. Regulated and Restricted Noxious Weeds. In addition to minor editing, the pest, sweet resinbush, was added to the list of restricted noxious weeds.

Sweet resinbush (*Euryops sunbcarnosus* subsp. *vulgaris*) is a shrubby member of the Sunflower Family (*Asteraceae*) and is native to the arid and semi-arid regions of southern Africa. The plant was introduced into Arizona by the Soil Conservation Service (SCS) during the early 1930's as a drought-resistant forage plant. No other state was involved.

Propagation nurseries were established by the SCS on Frye Mesa (SW of Thatcher) in Graham County and on sites in Pima County. From 1934 to 1942, the SCS provided the Civilian Conservation Corps with sweet resinbush seeds and seedlings for use in their erosion control projects. Records of planting sites were poorly kept or not recorded at all. Today the following 7 localities are known to contain naturalized populations of *Euryops*:

Frye Mesa -- Graham County

East Side of Penaleno Mountains -- Graham County

Southeast of Cottonwood -- Yavapai County

Punkin Center, 5 miles south of -- Gila County

South of Globe -- Gila County

Sabino Canyon (north of Tucson) -- Pima County

Santa Rita Range (south of Tucson) -- Pima County

Sweet resinbush is a highly undesirable invader of rangeland and desert. It is a pest that threatens the environment and the livestock industry. The weed is aggressive and invasive; it establishes a monoculture wherever it is allowed to grow, causing a severe decline in species diversity; the weed is allelopathic – its roots secrete a toxin that inhibits the growth of native plants as they attempt to reestablish in an area; the phytochemistry of the plant makes foliage extremely bitter for livestock and wild browsers; sheet erosion of soil occurs within sweet resinbush stands due to absence of soil-binding grass roots and its roots won't hold the soil.

Sweet resinbush is expanding its range in Arizona, especially in the Frye Mesa area. The natural communities of arid grassland, desert-scrub, and Sonora desert occupy the elevational range and soil types ideal for this weed. Areas occupied by these natural vegetations will steadily shrink and be replaced by pure stands of sweet resinbush. Because sweet resinbush will not support livestock, this industry will become much less a part of Arizona's economy and could eventually disappear from southern Arizona.

Dissemination of sweet resinbush through human means is becoming more and more of a possibility because of sweet resinbush's expanding range, the increase in off-road travel, and livestock movement by truck. These factors could aid in this weed's introduction into New Mexico, Texas, and California.

Many federal agencies will not initiate control action against a weed if it is not declared noxious by the state in which it is causing the problems. This is true in the case of agencies such as the Bureau of Land Management, Natural Resource Conservation Service and the U.S. Forest Service.

R3-4-601. Definitions. This rule defines the terms used within this Article and simplifies interpretation of responsibility and clarity of purpose. The terms 'device, equipment or vehicle' have been removed because those terms fall under the Chapter definition of 'appliance.' The terms 'imported plants,' 'inaccessible,' 'mutilate,' and 'unsalvageable protected native plant,' are not used within the Article and have been deleted. The term 'permit' is used within the Article, but does not always mean the removal and transportation permit and has been deleted.

The terms 'blue seal,' 'red seal,' and 'white seal,' have been deleted from this Section and transferred to R3-4-606(C). The Department is taking this rulemaking opportunity to coordinate the colors of the seals and tags so that it

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will be easier for stakeholders and enforcement agencies to determine whether the protected native plants are correctly labeled.

The current red seal, which specifies the saguaro cactus, will be discontinued and replaced with a white seal. This white seal will be paired with the white tag. The current white seal will be replaced with the yellow seal, paired with the yellow tag, and represent all protected native plants, except the saguaro. The current yellow seal will be replaced by a green seal and represent all imported plants. The blue seal represents protected native plants that will be moved from locations that are not their original growing sites and remains unchanged.

The term 'simple survey' has been included with the term 'survey' and expanded to define a 'complete survey.'

Statutory authority does not extend to issuing permits for educational purposes. Therefore, the term 'scientific or education collection' has been changed to 'scientific collection.'

R3-4-602, Protected Native Plant Destruction. This new Section is a combination of the current R3-4-602, R3-4-603, and R3-4-604.

R3-4-603, Disposal and Salvage of Protected Native Plants by a State Agency. This Section lists the options for disposing of protected native plants.

R3-4-604, Protected Native Plant Permits; Tags; Fees. This Section provides the application and fee requirements and, except for the fee increases, is a compilation of requirements currently found in R3-4-609, R3-4-610, R3-4-613, and R3-4-614.

R3-4-605, Scientific Permits. This Section provides the application requirements for scientific permits.

R3-4-606, Protected Native Plant Survey; Fee. This Section establishes that native plant surveys must be taken for salvage assessed native plants and sets the parameters for meeting this survey requirement.

R3-4-607, Movement Permit; Tags, Metal Seals, and Cord Use. This Section provides the applicant with instructions on obtaining a Movement Permit, how to move a protected native plant, and how to attach the seals, tags, and cord required for transportation of the plant. This Section identifies each metal seal and by transferring the definition meanings, explains the use of each.

R3-4-608, Salvage Assessed and Harvest Restricted Native Plants. This Section establishes the salvage assessed and harvest restricted native plant requirements, and is a compilation of requirements currently found in R3-4-611 and R3-4-612.

R3-4-609, Arizona Native Plant Law Education. This Section establishes seminars and training courses for native plant education and is a compilation of requirements currently found in R3-4-607 and R3-4-608.

R3-4-610, Permit Denial, Revocation, and Suspension. This Section lists the prohibited acts that would cause denial, revocation or suspension of a permit and is a compilation of requirements currently found in R3-4-610(B), R3-4-611(B), and R3-4-617.

R3-4-611, Confiscation of Plants, Plant Parts, Wood or Fiber as Evidence. This Section deals with the disbursal of any native plant as evidence in a violation proceeding. Because any court may be involved with a native plant violation, the term 'appellate' has been deleted. It should be understood that the Department will dispose of confiscated evidence 'in the best interest of the state.' Therefore, this phrase has been deleted.

Appendix A. This Section identifies native plants by categories and lists those specific native plants that are protected by this Article.

The Agavaceae family in the highly safeguarded, salvage restricted, and harvested-restricted protected native plant categories has been amended to show that some of the species in the Nolinaceae family are included in the Agavaceae family. Because some universities and other institutions do not recognize the Nolinaceae family, this addition makes known that certain plants within the Nolinaceae family are regulated under this Article. This addition reflects the technical advisory board's recommendation of the best way to deal with those certain plants belonging to the Nolinaceae family.

At the request of the Native Plant Technical Advisory Board, *Parkinsonia aculeata* L.-Jerusalem Thorn has been removed from the Salvage Restricted Protected Native Plant category. This committee is established by A.R.S. § 3-910(D) and *annually reviews the numbers of native plants harvested and salvaged in order to assess whether plant species, communities or populations are being depleted, to recommend revisions to the protected categories and to recommend priorities for additional monitoring and scientific study.*

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

None.

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

N/A

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

A. *Estimated Costs and Benefits to the Arizona Department of Agriculture.*

Fire ant eradication is expensive. In Texas alone, officials estimate more than \$300 million is spent on fire ants. Another \$90 million is spent in Texas' urban areas each year fighting fire ants. California estimates it will spend \$650 thousand in the next 6 months on survey and detection.

The emergency funds, released in late January, 1999, will be spent on increased staffing at Phoenix and Tucson agriculture district offices; Ehrenberg and Yuma ports of entry; the state's pest survey and detection program; and the Arizona State Agricultural Laboratory.

The Department will continue high-risk nursery surveys for the presence of red imported fire ants and abate if necessary; review all commercial loads originating from infested areas in California through Arizona's western ports; continue some scrutiny at eastern ports for shipment from red imported fire ant areas; establish destination inspections for nursery material and sod from red imported fire ant areas; and require suspect nursery stock and beehives to enter holding or staging areas for detailed inspection and treatment, if necessary.

The Department is considering hiring 4 people who are already experienced in handling beehives to do the required inspections at the beehive staging areas. Because these employees will be temporary, they will be teamed with current Department employees, moved from other programs specifically for this program.

The Department will bring all employees working with the pest to 1 of 3 locations – Phoenix, Tucson or Yuma – to receive safety and inspection procedure training.

Beekeepers were successful in repealing Arizona's apiary laws in 1994 and will be opposed to this rule because of their aversion to any kind of restriction on their activities. Litigation may occur as a result of the rulemaking.

In August 1998, the Department's budgeting office notified the native plant program manager that the native plant fund either had to reflect increased revenues or the program must decrease expenditures to remain solvent in FY 2001. In fact, if expenses rise in FY2000 the projected \$3,300 overage could disappear.

Previously, a September 1997, rulemaking established 'at cost' fees for metal seals. While this new fee did not add revenue to the native plant fund, it did pay for the Department's cost of the metal seals, which had been provided free of charge with the tags.

This rulemaking increases the fees for tags for saguaro, trees cut for firewood and listed in the harvest restricted category; harvested-restricted native plants of *nolina* and *yucca* parts, and all other protected native plants referenced in A.R.S. § 3-903(B) and listed in Appendix A by \$1 each (R3-4-606).

The following chart provides the income and expenditures for the native plant fund for the past 5 years and includes the FY98/99 projected revenue:

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TAG TYPE/FEE/ REVENUE	93/94	94/95	95/96	96/97	97/98	98/99 Projected
Saguaro Current fee @ \$5 Proposed fee @ \$6	8,778 \$43,890 -----	9,262 \$46,310 -----	10,022 \$50,110 -----	10,833 \$54,165 -----	10,833 \$54,165 -----	10,833 ----- \$64,998
Wood Current fee @ \$3 Proposed fee @ \$4	255 \$765 -----	534 \$1,602 -----	232 \$696 -----	133 \$399 -----	249 \$747 -----	249 ----- \$996
Harvest Restricted Current fee @ \$3/ton Proposed fee @ \$4/ton	2,969 \$8,907 -----	2,906 \$8,718 -----	2,750 \$8,250 -----	2,179 \$7,521 -----	2,014/ton \$6,042 -----	2,014/ton ----- \$8,056
Pincushion Current fee @ \$.50	749 \$374.50	941 \$470.50	250 \$125	280 \$140	250 \$125	250 \$125
Salvage Assessed Current fee @ \$3 Proposed fee @ \$4	39,690 \$119,070 -----	39,149 \$117,447 -----	28,524 \$85,572 -----	36,234 \$108,702 -----	37,542 \$112,626 -----	37,542 ----- \$150,168
TOTALS	173,006	174,547	144,753	170,927	173,705	224,343
TOTAL INCREASE						\$50,638.

The chart below shows actual and estimated source and disposition of funds for FY 98/99 through FY 2001/2002.

SOURCE OF FUNDS	Actual FY 1998	Estimated FY 1999	Estimated FY 2000 (w/fee increase)	Estimated FY 2001
Balance Forward from Prior Year	55.8	62.9	35.9	47.8
Permits and Seals	6.1	6.1	6.1	6.1
Tags	173.7	173.7	224.3	227.1
Misc. Receipts, Fines, Charges for Goods and Services, Interest Income	5.7	6.3	6.3	6.3
TOTAL RECEIPTS	<u>241.3</u>	<u>249.0</u>	<u>272.6</u>	<u>284.5</u>
DISPOSITION OF FUNDS				
Total Disbursements, including Personal Services, Employee-Related Expenditures, In-State and Out-of-State Travel, Equipment, Other Operating Expenses, and Equipment	178.4	213.1	224.8	224.8
Balance Forward to Next Year	62.9	35.9	47.8	59.7

B. Estimated Costs and Benefits to Political Subdivisions.

Political subdivisions of this state are not directly affected by the implementation and enforcement of this rule-making.

C. Businesses Directly Affected By the Rulemaking. (Common and private carriers, mail facilities, railroads, instate and out-of-state nurseries, and retail outlets.)

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R3-4-204, Pink Bollworm and the Cotton Boll Weevil Complex. Growers electing to take advantage of minimum tillage must grow only listed small-grain crops as their second crop, unless they receive approval from the Director to grow another small-grain crop. This may have an economic advantage for the grower by not having to spend the time and money to till the soil to remove stub, soca, or volunteer cotton. This earlier planting date gives the crop a longer growing season and may produce a larger harvest. The earlier planting date also shortens the time that the field is fallow and reduces the opportunity for cotton plants to produce volunteer, stub, or soca cotton.

The zone changes provide the requesting growers an economic benefit by allowing them to plow up and plant later. In some cases the growers will be able to coordinate their farming responsibilities between land that is not contiguous, but within the same elevation, and thus the same growing conditions.

R3-4-239, Imported Fire Ants. Before an Order on imported fire ants was enacted by the Director, the Dona Ana County N.M. nurseries shipped to Arizona without restrictions. The threat of infestation of imported fire ants was enormous. Now, all shipments must go to Arizona nurseries with approved holding areas. Because all receivers, such as Target stores, may not qualify for holding areas, alternate holding areas may have to be obtained. The alternate receiver will be responsible for holding, watering and ultimately delivering the commodity to the nursery or retail outlet. This process may delay the delivery of the nursery product and any sales or promotions would have to be managed accordingly. However, the necessity to maintain a commodity in a location that will preclude the spread of a pest far outweighs the cost of maintaining or finding alternate holding areas.

The addition of covered commodities new host plants requires nurseries to treat plants and covered commodities for these pests before shipping and to obtain certification of the treatment. Treatment costs can vary depending upon the method used and the location of the treatment.

Methyl bromide – Approximately \$550 per shipment.

Chlorpyrifos – Approximately \$300.

Bifenthrin – Approximately \$200.

No actual cost can be given for the treatment of aphids. The cost would depend upon the specific pesticide product chosen by the owner and the labor used in the treatment.

It is impossible to forecast the economic impact on Arizona's golf courses and landscaping and agricultural industries other than to stress that the impact will be significant.

Beekeepers returning beehives to Arizona will be required to go to a staging area for inspection. The hives need to be removed from the trailer for inspection. Hives that are infested with imported fire ants will have to be treated.

Benefits associated with implementing these rules far outweigh the costs by removing the possibility of commodities becoming infested with pests.

Native Plants. The educational permit is a non-fee permit and its removal from the rule should not adversely affect stakeholders as only 3 persons have taken advantage of this permit. In 2 of those cases, plants were donated to schools and in the other case, the permittee was using the educational permit as a means to sell native plants in his business (which the permit prohibits). The financial impact of removing this permit is minimal.

If the proposed increases are not implemented as outlined within the Department's economic, small business, and consumer impact summary, the balance forwarded for FY2001 will not be \$47,800 but only \$3,300. If permits, seals, tags, and other expenses remain constant, FY 2001 will generate \$29,300 more expenses than revenues. The native plant program depends upon the proposed fee increases and unless legislative changes are made to provide general funds, the program will cease to exist.

D. *Estimated Costs and Benefits to Private and Public Employment.*

Private and public employment are not directly affected by the implementation and enforcement of this rulemaking.

E. *Estimated Costs and Benefits to Consumers and the Public.*

The red imported fire ant, if allowed to establish itself in Arizona, will severely impact Arizona's quality of life and raise serious public health concerns for the state's at-risk populations, namely children and the elderly. In states with known infestations, taxpayers spend hundreds of millions of dollars annually on fire ant abatement and control. Urban areas are impacted, too, because residents try to control fire ants in lawns and gardens, repair damage done by the pests, and obtain medical treatment for bites.

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This rulemaking increases the positive public relations between the nursery industry and consumers by providing more pest and covered commodity requirements to assure that plants are not infested.

Native Plants. The consumers and the public are not directly affected by the implementation and enforcement of this rulemaking. However indirect benefits occur through public perception and Arizona's tourism industry. The saguaro is representative of Arizona and many of the protected native plants in Appendix A are not found in any other place in the world.

F. *Estimated Costs and Benefits to State Revenues.*

This rulemaking will have no impact on state revenues.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

The rule is not clear that the saguaro, or any protected plant, less than 8" is assessed the 50¢ pincushion fee. A definition of 'pincushion,' which includes the coryphantha and mammillaria cactus, has been added to R3-4-601 and R3-4-604(D)(1)(c) has been changed accordingly.

Minor grammatical and technical changes were made at the request of the Secretary of State and G.R.R.C. staff.

11. A summary of the principal comments and the agency response to them:

COMMENT: Salvage operators should be informed about salvage opportunities. Saguaros less than 3" -4" should have a seal rather than a tag. It is not profitable to pay \$5 tag fee per plant if the property owner is also paid \$5. If the small saguaros can't be salvaged they will be plowed under.

RESPONSE: The Department cannot make a landowner salvage plants or to offer them for salvage. A.R.S. § 3-904 only requires the landowner to notify the Department when protected plants will be destroyed. The Department issues a 50¢ pincushion tag for any plant 8" or under.

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

None.

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

R3-4-204(D)(2) Pink bollworm treatment for cotton products, USDA Treatment Manual, revised April 1998

14. Was this rule previously adopted as an emergency rule:

No.

15. The full text of the rules follows:

TITLE 3. AGRICULTURE

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

ARTICLE 1. GENERAL PROVISIONS

Sections

R3-4-101. Definitions

ARTICLE 2. QUARANTINE

Sections

~~R3-4-201. Transportation and inspection requirements for plants and plant products and for other agricultural products or equipment subject to inspection under Arizona law and vehicle quarantine~~ Repealed

~~R3-4-202. Packaging, Sealing, Waxing and Coating of Nursery Stock~~ Repealed

R3-4-201. Transportation and Packaging

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

R3-4-238. ~~Whiteflies quarantine~~ Whitefly Pests

R3-4-239. ~~Imported fire ants~~ Fire Ants

R3-4-242. Brown Citrus Aphid

R3-4-244. Regulated and Restricted Noxious Weeds

ARTICLE 6. ARIZONA NATIVE PLANTS

Sections

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- R3-4-601. Definitions
- ~~R3-4-602. Notice of Intent: Written or Oral~~ Repealed
- ~~R3-4-603. Confirmation of Notice of Intent~~ Repealed
- ~~R3-4-604. Public Notice: Posting and Mailing List; Fee~~ Repealed
- ~~R3-2-602. Protected Native Plant Destruction~~
- ~~R3-4-605.~~~~R3-4-603. State Agencies—Disposal and Salvage of Protected Native Plants by a State Agency~~
- ~~R3-4-604. Protected Native Plant Permits; Tags; Fees~~
- ~~R3-4-605. Scientific Permits~~
- ~~R3-4-606. Protected Native Plant Surveys; Fee~~
- ~~R3-4-607. Seminars, Training Courses, Pamphlets and Printed Material; Fee~~ Repealed
- ~~R3-4-608. Native Plant Law Educational Classes; Fee~~ Repealed
- ~~R3-4-609. Permits~~ Repealed
- ~~R3-4-610. Qualifications for Permit Applicants~~ Repealed
- ~~R3-4-611. Qualifications for Salvage Assessed Native Plant Permit~~ Repealed
- ~~R3-4-612. Qualifications for Annual Permits for Harvest Restricted Native Plants; Fee~~ Repealed
- ~~R3-4-613. Native Plant Permit Fees; Exemptions~~ Repealed
- ~~R3-4-614. Native Plant Tag Assessments and Receipt Fees~~ Repealed
- ~~R3-4-615. Procedures for Attaching Tags, Metal Seals and Cord to Protected Native Plants~~ Repealed
- ~~R3-4-616.~~~~R3-4-607. Use of Metal Seals, Movement Permit; Tags, Metal Seals, and Cord Use~~
- ~~R3-4-617. Misuse of Permits, Tags or Metal Seals~~ Repealed
- ~~R3-4-608. Salvage Assessed and Harvest Restricted Native Plants~~
- ~~R3-4-609. Arizona Native Plant Law Education~~
- ~~R3-4-610. Permit Denial, Revocation, and Suspension~~
- ~~R3-4-618.~~~~R3-4-611. Confiscation of Plants, Plant Parts, Wood, or Fiber, or Artifacts as Evidence~~
- Appendix A Protected Native Plants by Categories

ARTICLE 1. GENERAL PROVISIONS

R3-4-101. Definitions

In addition to the definitions provided in A.R.S. §§ 3-201, 3-231, 3-441 and 3-481, the following ~~shall~~ terms apply to this Chapter:

1. “Air plant (Epiphyte)” means a plant that grows on another plant or object but does not require ~~it~~ the other plant or object as a source of nutrients.
2. “Appliance” means any box, tray, container, ladder, tent, vehicle, implement, or any article or thing ~~which that~~ is or may be used in ~~connection with the~~ growing, harvesting, handling, packing, or ~~transportation of~~ transporting any agricultural commodity.
3. “Aquatic” means living or growing in or on water.
4. “Bulk container” means a package ~~for a commodity that is~~ used solely for ~~the transportation of the~~ transporting a commodity in bulk quantities.
5. “Carrier” means any plant, ~~plant product, or any other material~~ or thing ~~which that~~ can transport or harbor a crop pest.
6. “Certificate” means a an original document issued by an inspector ~~or of~~ of the Department, ~~the~~ United States Department of Agriculture, or duly authorized officer of the ~~State of Origin~~ state of origin, stating name, quantity and nature of the regulated ~~articles~~ commodity, and the information required by a specific regulation.
7. “Certificate of Inspection” means a document issued by an inspector of the Department, ~~United States Department of Agriculture,~~ or duly authorized officer of the State of Origin stating that the commodity for which the certificate of inspection is issued ~~has been inspected and found apparently free of pests or diseases.~~
- ~~8-7.~~ “Commodity” means any plant, ~~plant product,~~ appliance, soil, material, or thing ~~which that~~ is subject to ~~Department~~ federal and state laws and rules.
- ~~9-8.~~ “Common carrier” means any person transporting ~~commodities~~ a commodity for compensation or commercial purposes.
- ~~10-9.~~ “Consumer container” means a package ~~for a commodity~~ that is produced or distributed for retail sales or for consumption by an individuals.
- ~~11-10.~~ “Container” means any box, crate, lug, chest, basket, carton, barrel, keg, drum, can, sack or other receptacle for a commodity.
- ~~12-11.~~ “Cotton harvesting machine” means any machine used ~~for the purpose of picking or harvesting~~ to pick or harvest raw cotton in ~~the a~~ a field.
- ~~13-12.~~ “Cotton lint” means the remnant produced when cottonseed is processed in a gin.

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- 14-13. "Cotton plant" means all parts of *Gossypium* spp. whether wild or domesticated, except manufactured cotton products.
- 15-14. "Cotton products" includes seed cotton, cotton ~~list~~ lint, cotton linters, motes, cotton waste, gin trash, cottonseed, and cotton hulls.
- 16-15. "Cotton waste" includes all waste products from the processing of cotton at gins and cottonseed-oil mills, in any form or under any trade designation.
- 17-16. "Defoliate" means ~~the removal of~~ to remove the leaves from a plant.
- 18-17. "Diseased" means ~~a disease can be demonstrated to exist therein or in any part thereof.~~ an abnormal condition of a plant resulting from an infection.
19. ~~"Disseminate" means to scatter, spread abroad, or disperse.~~
- 20-18. "Fumigate" means to apply a gaseous substance to a commodity in a closed area ~~for the purpose of eradicating to~~ eradicate a pests.
- 21-19. "Gin trash" means organic waste or materials resulting from ~~the~~ ginning ~~of~~ cotton.
- 22-20. "Head leaves" means all leaves ~~which that~~ enfold the compact portion of the a head of lettuce or cabbage.
- 23-21. "Host" means a plant ~~or plant product~~ on or in which a pest can live ~~and/or reproduce, or both.~~
- 24-22. "Hull" means the dry outer covering of a seed or nut.
- 25-23. "Husk" means the membranous outer envelope of many seeds and fruit, such as of an ear of corn or a nut.
26. ~~"Imported plant" means any plant grown outside the state of Arizona and brought into Arizona.~~
- 27-24. "Infected" means any plant, ~~plant product,~~ or other material on or in which ~~has been found~~ a disease is found.
- 28-25. "Infested" means any plant, ~~plant product,~~ or other material on or in which ~~has been found~~ a pest is found.
- 29-26. "Inspector" means an employee of the Department or other ~~cooperating~~ governmental agencies ~~whose duties are the enforcement of any agency who enforces any law or rule of the Department.~~
- 30-27. "Label" means all tags and other written, printed, or graphic representations in any form ~~whatsoever,~~ accompanying or pertaining to ~~any a~~ plant, ~~plant product,~~ or other commodity.
31. ~~"Location" means the locality of any commodity.~~
- 32-28. "Lot" means any ~~one~~ 1 group of ~~specimens of such plants, plant products,~~ or things, whether or not containerized, ~~and which that~~ is set apart or is separate from any other group.
33. ~~"Notice of quarantine" means an official order or notice given out to detain a commodity from being sold or transported.~~
- 34-29. ~~"Nursery" means any grounds or premises on or in which nursery stock is grown, or propagated for sale or distribution.~~ "Nursery" means real property or other premises on or in which nursery stock is propagated, grown or cultivated or from which source nursery stock is offered for distribution or sale. (A.R.S. § 3-201(6))
- 35-30. "Permit" means an official document authorizing the movement of a host plants and carriers.
- 36-31. "Person" means an individual, partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any `character, or another agency.
32. "Plant" includes every kind of vegetation, wild or domesticated, and any part thereof, as well as seed, fruit or other natural product of such vegetation. (A.R.S. § 3-201(8))
37. ~~"Plant product" means any plant part which has not been subjected to processing or manufacturing.~~
- 38-33. "Private carrier" means any person transporting ~~commodities~~ a commodity for a noncommercial purposes.
34. "Quarantine holding area" means a site approved by the Department to hold plant material originating from an area infested with imported fire ants or nematode pests.
- 39-35. "Reshipment" means ~~a the~~ shipment of a commodity after ~~having been received~~ receipt from another shipping point.
- 40-36. "Sell" means to exchange for money or its equivalent including to offer, expose, or possess a commodity for sale, ~~expose for sale, posses for sale~~ or to otherwise exchange, barter, or trade.
- 41-37. "Serious damage" means any injury or defect rising from any circumstance, natural or mechanical, ~~which that~~ affects the appearance or the edible or shipping quality of ~~the a~~ commodity, ~~or the lot as a whole.~~
38. "Soil" means any non-liquid combination of organic, or organic and inorganic material in which plants can grow.
- 42-39. "Standard container" means ~~a container~~ receptacle used to pack a specific commodity ~~as specified within this Article.~~
- 43-40. "Stub or soca cotton" means ~~those~~ cotton stalks of a previous crop ~~which that~~ begin to show signs of growing by displaying buds, which swell or ~~which~~ send out shoots of plant growth, either white or green.
- 44-41. "Subcontainer" means any container ~~when~~ being used within another container.
45. ~~"Terminal inspection" means the inspection of a commodity at a destination.~~
- 46-42. "Transport" means ~~the~~ moving of an article from ~~one~~ 1 point to another.
- 47-43. "Treatment" means an application of a substance as either a spray, mist, dust, granule, or fumigant; or a process in which a substance or procedure is used to control or eradicate a crop pests.

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- 48-44. ~~“Warning-hold for agricultural inspection~~ Warning-Hold For Agricultural Inspection” means an official Department notice given ~~out~~ to a common carrier or private carrier to place a commodity ~~or commodities~~ carried under quarantine.
- 49-45. “Vector” means an organism (usually an insect) that may carry a pathogens from ~~one~~ 1 host plant to another.
- 50-46. “Vehicle” means an automotive device, such as a car, bus, truck, or private or recreational vehicle.
- 51-47. “Volunteer cotton” means a sprout from seed of a previous crop.
- 52-48. “Wrapper leaves” means all leaves ~~which~~ that do not closely enfold the compact portion of the head of lettuce or cabbage.

ARTICLE 2. QUARANTINE

~~R3-4-201. Transportation and inspection requirements for plants and plant products and for other agricultural products or equipment subject to inspection under Arizona law and vehicle quarantine~~

~~A. Notice of quarantine:~~

- 1. ~~It has been determined that importation of plants, plant products and certain other agricultural products and equipment into the state of Arizona constitutes a menace to the agriculture and ornamental horticulture of Arizona unless said plants, plant products and certain other agricultural products and equipment are inspected for dangerous crop pests. In order to prevent the introduction into the state of Arizona of dangerous crop pests, it is hereby ordered and declared that transportation and inspection of plants, plant products and certain other agricultural products and equipment shall be governed by this regulation.~~
- 2. ~~It has also been determined that in order to facilitate the inspection of plants, plant products or certain other agricultural products and equipment which are subject to inspection; or anything deemed to be a host or carrier of any crop pest under Title 3, Chapters 1 and 2, Arizona Revised Statutes, which is being transported by common or private carrier, passenger vehicles, recreational vehicles and buses into, within or through the state of Arizona; and to reduce to a minimum the delay incidental to inspection, and at the same time safeguard the state of Arizona against the introduction and/or the dissemination of dangerous crop pests, the transporting of plants, plant products or certain other agricultural products and equipment by common or private carrier, passenger vehicles, recreational vehicles and buses into, within or through the state of Arizona shall be governed by the following regulation. The State Entomologist is ordered to carry out these regulations and the State Entomologist is authorized to grant this authority to his agents by designation.~~

~~B. Plants, plant products, and other agricultural products and equipment subject to inspection:~~

~~1. Plants or nursery stock:~~

Agaves	Herbaceous plants
All trees	—Annual
Buds	—Biennial
Bulbs	—Perennial
Caeti	Plant cuttings
Corms	Rhizomes
Decorative plant material	Roots
Flowers	Scions
Fruit pits or seeds	Shrubs
Grafts	Succulents
Grass	Turf
	Vegetable plants
	Vines

~~and other plants intended for sale, gift, personal use, or propagation from either cultivated sources or collected in the wild.~~

~~2. Fruits, vegetables and nuts:~~

Apples	Nectarines
Apriots	Peaches
Beans (in the pod)	Pears
Beets	Pecans in the shell
Butternuts in the shell	Peppers
Cherries	Persimmons
Citrus fruits, which include: oranges, lemons, limes, grapefruit, tangerines, and all others	Plums
Corn	Pomegranates
Crab apples	Prunes
	Quince
	Rhubarb

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Dates	Sorghum
Endive	Sweet potatoes-
Green coconuts with caps attached	Swiss chard
Hawthorn	Tropical fruit:
	Mangos,
Hickory nuts in the shell	papayas, and
	avocados
Loquats	Walnuts in the husk

3. Plant products: Plant products shall consist of plants which include every kind of vegetation, wild or domesticated and any part thereof:

Bees and bee equipment	Grains
Cotton, raw and unmanufactured	Seeds— for all purposes
Cut palm fronds	Spanish moss
Fruits	

and other natural products of such vegetation which have not been subjected to processing or manufacturing.

4. Other agricultural products and equipment: Other agricultural products and equipment shall consist of:

Agricultural harvest and tillage equipment— used	Cotton appliances— used
Citrus appliances— used	Soil from all states
	Sugar beet appliances— --used

and any commodity that the Commission shall have declared to be a carrier of dangerous crop pests.

C. Articles exempt from inspection: The following materials are hereby exempt from inspection:

1. Cut flowers, except citrus blossoms.
2. Cut ornamental greens or florist greens except pine boughs and holly.
3. Vegetables for human consumption, except those listed above.

D. Common carriers' responsibilities:

1. Common carriers are required to hold and not deliver to a consignee any products listed in (B) above until such shipment has been inspected by an inspector and a Certificate of Release issued to the common carrier, except as specified in (D)(2) below.
2. The Entomologist, inspectors or employees of the Commission may give permission to a common carrier to deliver regulated commodities to a consignee for inspection at the final destination.

E. Postmasters' responsibilities:

1. The "Terminal Inspection Act" (March 4, 1915, as amended, 38 Stat.1113, 7 U.S.C. 166) grants authority to states desiring it to request the U.S. Postal Service to hold for state inspection mail containing plants or plant material en route to destinations within the state. The Arizona Commission of Agriculture and Horticulture has registered its desire for terminal inspection at post offices within this state in order to protect itself by quarantining against plants and plant products from other states arriving through the mail.
2. Postmasters at bulk mail facilities are required to hold all parcels containing plants or plant products for inspection. All such parcels are not to be released until an agent or inspector of the Arizona Commission of Agriculture and Horticulture has made an inspection and stamped the parcel "Inspected and Released".
3. Postmasters at other post offices throughout the state are also required to intercept any parcel containing plants or plant products which do not have an imprint of the stamp "Inspected and Released" placed on it. All such parcels must be held and the agent or inspector notified at the nearest Class "A", "B", "C" or "D" inspection point.

F. Consignees' responsibilities: Any person who receives a shipment of a product listed in (B) above at any post office, United Parcel terminal point of delivery, or from any common carrier with such shipment not having a tag, sticker, or stamp bearing the following, "Arizona Commission of Agriculture and Horticulture — Inspected and Released", shall immediately notify the local inspector or the Office of the State Entomologist before shipment is used, moved, or disposed of in any manner and shall present the products for inspection in such a manner that an adequate inspection can be made.

G. Private carriers' responsibilities: Private carriers are required to hold and not use, deliver, or dispose of any product listed in (B) above until such product has been inspected and released by inspector.

H. Reporting to inspection stations: Upon arrival in the state of Arizona at any quarantine inspection station, or any properly signed temporary quarantine inspection station, established by the Commission, the driver of any common or private carrier, passenger vehicles, recreational vehicles and buses, shall stop and offer the contents of his common or private carrier, passenger vehicles, recreational vehicles and buses, for inspection in the following manner:

1. Present to the inspector the freight bills covering the load; or
2. Present to the inspector an itemized manifest covering the load; or

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3. Present to the inspector a short form manifest approved by the Commission containing a statement that the load contains no live plants, trees, shrubs, fruits, vegetables, seed, cotton, used beekeeping equipment, or other agricultural products or equipment subject to inspection under Arizona law; or that the load does contain such articles and lists the articles and destination. The statement must be signed by the authorized agent of the company having the responsibility of loading the truck or the foreman supervising the loading; or
4. Open the vehicle and expose the contents for complete inspection and assist the inspector in gaining access to any material requiring inspection;
5. Answer truthfully the questions of the inspector in regard to the carrying of products or equipment subject to inspection, origin of such products and final destination.

I. Products entering Arizona:

1. If any or all of the material or equipment requiring inspection is consigned to Arizona and cannot be adequately inspected at an inspection station, the inspector may:
 - a. Issue a "Warning Hold for Agricultural Inspection": notice requiring the carrier to report with the shipment to the inspector nearest the point of delivery for inspection. The driver's copy will be attached to the freight bill or manifest covering the shipment or shipments.
 - b. Seal the truck with Commission seals; instruct the driver of the common or private carrier not to break the seals except in the presence of an inspector, or after permission has been granted by an inspector or employer of the Commission.
2. If the material requiring inspection is consigned to, or destined to, a point outside the state of Arizona, and this fact is confirmed by either a short form manifest or freight bill or other means, the inspector shall give the driver a notice in writing, or by transit stamp, that this load is under quarantine while in the state, and it is unlawful to dispose of it in any way unless it is inspected and released by a quarantine inspector of the Commission. The vehicle need not be sealed when inspected at the border inspection station. The driver of the vehicle will be required to check out at the inspection station nearest his point of departure from the state of Arizona, if he is so instructed in writing by the issuing inspector.
3. The Entomologist may exempt certain carriers from the sealing requirements listed in (I)(1)(b), when there is no likelihood of spreading harmful pests.

J. Rejected products moving through or out of Arizona under quarantine: When an operator of any type of vehicle is in possession of, or responsible for, any load of agricultural products or equipment a commodity covered by this regulation which has been inspected by an inspector of the Commission and found to be in violation of Arizona quarantine laws:

1. The operator of a common or private carrier shall secure a "Warning Hold for Agricultural Inspection" notice from the inspector who placed the agricultural products or equipment under quarantine and have it in his possession until the product is removed from the state of Arizona through a border inspection station designated by the inspector, and such removal noted on said notice.
2. The operator of a common or private carrier shall surrender the "Warning Hold for Agricultural Inspection" notice (Driver's copy) at the specified border inspection station.
3. The operator of a passenger vehicle, recreational vehicle or bus shall secure a Warning Transit Card from the inspector who placed the product under quarantine and have it in his possession until the product has been transported to a point outside the state of Arizona and his copy of the card will then be mailed to the Commission office at Phoenix.

K. Actions when violations occur: Any person who violates the provisions of this regulation by failing to comply with the requirements of the "Warning Hold for Agricultural Inspection" notice, or the Warning Transit Card, or who violates the instructions of the enforcing officer or breaks the seals of the sealed vehicle or delivers product under quarantine before it has been released by an inspector of the Arizona Commission of Agriculture and Horticulture, shall be required to submit all loads for total inspection at a border quarantine inspection station, or other location where apprehended, as required by the Entomologist.

L. Inspection points: The following classes of inspection points are maintained by the state of Arizona. The names of the communities which constitute an inspection point, and the class of each location is designated below:

1. Class "A" inspection points—Highway inspection stations which inspect vehicles entering the state of Arizona. Such stations are maintained on a 24-hour-a-day basis and will perform all types of inspection:

Cameron	Sanders
Douglas	San Simon
Ehrenberg	Solomon
Kingman	Springerville
Parker	Yuma
2. Class "B" inspection points—Points where full-time inspectors are located and where inspection will be made during regular working hours, or after working hours by special arrangements with the district supervisor:

Casa Grande	Safford
Nogales	Tucson
Parker	Willeox

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- Phoenix Yuma
- 3. Class "C" inspection points—Points where part-time inspectors are located, and where inspections will be made during regular working hours upon call:
 - Bisbee Show Low
 - Cottonwood Sierra Vista
 - Flagstaff Superior
 - Lake Havasu City Wickenburg
 - Prescott
- 4. Class "D" inspection points—Points where inspectors will make calls to make inspections upon request made to the nearest Class "A", "B", "C" inspection point:
 - Bowie Inspiration
 - Buckeye Mesa
 - Central Miami
 - Chandler Marana
 - Clarkdale Peoria
 - Claypool Pima
 - Coolidge Poston
 - Duncan Stanfield
 - Eagar Somerton
 - Eloy Sun City
 - Florence Tempe
 - Gilbert Thatcher
 - Globe Warren
 - Glendale

M. Forwarding shipments to designated inspection points: All shipments of plants, plant products, other agricultural products, or equipment entering Arizona which are subject to inspection must be inspected at an "A", "B", "C" or "D" inspection point, except railroad earload shipments which may be inspected at destination upon request (see (N)). Less than railroad earload shipments consigned to a point in Arizona not listed as an inspection point will be forwarded to the nearest inspection point for inspection at the expense of the consignee or the shipper. The Federal Terminal Inspection Act, which applies to parcel post shipments and postal regulations pertaining to the forwarding of such shipments, will be in force.

N. Railroad earload shipments: Railroad earload shipments will be inspected at destination. However, if destination is not listed as an inspection point, the Office of the State Entomologist must be notified in sufficient time to make arrangements to have an inspector at the point of destination.

O. Transportation of materials subject to inspection within the state: Common or private carriers will not transport shipments containing articles which require inspection from Points "A", "B", "C" or "D" to a point not listed as an inspection point unless the shipment bears a tag, sticker or stamped, "Arizona Commission of Agriculture and Horticulture—Inspected and Released". Shipments which require inspection shall never be released to the consignee until the common or private carrier has in his possession a Certificate of Release issued by an inspector of the Arizona Commission of Agriculture and Horticulture, except as provided by (D)(2).

P. Inspection certificates and permits from other states: Inspection certificates, treatment certificates and permits issued by plant quarantine officials of other States are not valid as Certificates of Release within the state of Arizona.

Q. Nursery stock labeling:

- 1. All nursery stock or plants shipped into the state of Arizona, or from one point to another within the state of Arizona, shall be labeled with the following information:
 - a. Name and address of shipper
 - b. Name and address of consignee
 - c. Certificate of Inspection executed by an authorized inspector of the state of origin
 - d. State or country where grown
 - e. The botanical name or common name of all plants. (When a number of each species or variety of plants is included in one shipment to one consignee, only one of each species or variety need be labeled, but when only one of each species or variety is labeled, a statement of the number of each variety or species must accompany the shipment.)
- 2. The above labeling requirements are general in nature and are required in addition to certificates required by separate quarantine regulations.

R. Responsibilities of Arizona inspectors:

- 1. Arizona inspectors will, upon request and by appointment, inspect noncommercial parcels of nursery stock or plants being shipped by mail, express or any other common carrier. A Certificate of Inspection will be issued by the inspector for each parcel to be shipped provided it is free of insect pests and diseases and meets the requirements of the state

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of destination. These provisions apply only to individuals desiring to make shipments and not to nurseries or firms engaged in the business of growing or shipping plants.

2. Inspectors of the Commission are not authorized to attempt to separate apparently uninfested or uninfected plants or trees from a shipment found to be infested or infected with a plant pest.
3. Inspectors of the Commission will not attempt to determine whether surface pests are dead or alive. The presence of dangerous pests will be cause for rejection unless plants, plant products, or other agricultural products or equipment are treated and properly certified.
4. If, after treatment, examination reveals that the pests are still alive, the produce may be held under quarantine for further treatment, destruction or shipment out of state.

S. Postal laws and regulations: All United States Postal Service Plant Quarantines and the associated rules and regulations will be followed for all United States mail shipments.

T. General rules: See "General Rules and Definitions, Article 1."

R3-4-202. Packaging, sealing, waxing and coating of nursery stock

A. Notice of quarantine: It has been determined that the packaging, sealing, waxing and coating of nursery stock, plants and plant parts in such a manner as to prevent adequate inspection as required by Title 3, Chapter 2, Article 1, Section 3-209, Arizona Revised Statutes, constitutes a menace to the state of Arizona in that plants cannot be adequately inspected to determine the presence of dangerous crop pests. In order to prevent the introduction into the state of Arizona of dangerous plant pests, it is hereby ordered and declared that the packaging, sealing, waxing and coating of nursery stock shipped into the state of Arizona shall be governed by the following regulation.

B. Packaging of plants:

1. Nursery stock, plants and plant parts intended for planting or propagation which are shipped into or transported into the state of Arizona from any state or territorial possession of the United States must be packaged, boxed or otherwise wrapped in such a manner as to permit the free and unhampered inspection by inspectors of the Commission.
2. The following types of packages, and other similar types, shall be considered a violation of subsection (B):
 - a. Plants packaged in containers which cannot be opened without destroying the package to the extent that the plants can be repackaged or rewrapped to give adequate protection to the viability without supplying additional packing material and moisture to the package.
 - b. Plants packaged or sealed with wire or seals which cannot be opened and resealed without special tools or equipment.
 - c. Plants packaged in individual packages which cannot be readily and quickly opened for inspection without unnecessary loss of inspection time.

C. Waxes, coatings and films:

1. Nursery stock, plants and plant parts intended for propagation which are shipped into or otherwise transported into the state of Arizona from any state or territorial possession of the United States must be free of waxes, coatings, films or other materials which, because of their opacity, thickness or color, interfere with or prohibit the free and unhampered inspection by inspectors of the Commission.
2. The following types of coatings, and other similar types, will be considered in violation of paragraph (C)(1):
 - a. Heavy waxes which coat the aerial parts of a plant and prevent inspection;
 - b. Colored waxes or other materials which coat the aerial parts of the plant and change the appearance of the plant surface so as to prevent adequate inspection;
 - c. Plastic films hermetically sealed over the entire plant.

D. Disposition of plant material: Upon arrival of plants or plant materials in the state of Arizona which do not meet the requirements of subsections (B) and (C), an inspector will place the plants under quarantine and will notify the shipper in writing, giving the following options:

- a. Reship the plants or plant parts out of the state of Arizona.
- b. Furnish the necessary labor and material to open the plants for inspection and repackage the plants after inspection.
- c. Treat the plants or plant parts in such a manner as to abate any plant pests or diseases which could be present on the plants or plant parts under the supervision and at the direction of an inspector.
- d. Have the shipment destroyed under the supervision of an inspector.

E. General rules: See "General Rules and Definitions, Article 1."

R3-4-201. Transportation and Packaging

A. Any commodity shipped or transported into the state shall be inspected to determine whether the commodity is free of all pests subject to federal and state laws and rules.

B. Each commodity shipped or transported into the state shall display the following information on a bill of lading, manifest, freight bill, or on the outside of the carton:

1. The name and address of the shipper and receiver;
2. A certificate of inspection for nursery stock, if applicable;

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3. The botanical or common name of the commodity;
4. The quantity of each type of commodity;
5. The state or foreign country where each commodity originated;
6. Any other certificate required by this Article.

C. Packaging.

1. Any commodity shipped or transported into the state shall be packaged or wrapped in a manner to allow inspection by an inspector.
2. The following and other similar types of packages are prohibited:
 - a. Packages that cannot be opened without destroying either the package or its contents;
 - b. Packages that cannot, once opened, be resealed after inspection without the inspector supplying additional packing material to protect the contents;
 - c. Commodities that are packaged or sealed with wire or seals that cannot be opened and resealed without special tools or equipment;
 - d. Clear or colored waxes applied to a commodity that prevent inspection.

D. Restrictions.

1. Nursery stock shipments shall not enter Arizona between 8:00 a.m. Friday and 12:01 a.m. Monday, or during a legal holiday.
2. Common and private carriers. A carrier shall declare all commodities at a port-of-entry.
 - a. All carriers shall hold a commodity until it is inspected by an inspector and a Certificate of Release, under A.R.S. § 3-209, is issued. The Director may authorize a carrier to deliver a commodity to a consignee before the inspection.
 - i. If the commodity requiring inspection cannot be adequately inspected, the inspector may place the commodity under a "Warning-Hold for Agricultural Inspection."
 - ii. The inspector may seal the truck to prevent the likelihood of spreading harmful pests.
 - b. When a carrier enters the state at a port-of-entry where agricultural inspections are performed, the driver shall:
 - i. Provide the inspector with the bill of lading, manifest, or a short-form manifest signed by the company's authorized agent responsible for supervising the loading of the contents in the shipment;
 - ii. Open the vehicle and expose the contents for inspection; and
 - iii. Assist the inspector in gaining access to the contents.
 - c. When a carrier enters the state at a port-of-entry where no agricultural inspections are performed, the carrier shall follow procedures specified in subsection (D)(3)(b)(i) through (D)(3)(b)(iii), proceed to destination for inspection, and provide the following information on a Load Report form:
 - i. The name, address, and telephone number of the shipper;
 - ii. The name, address, and telephone number of the primary receiver;
 - iii. The name and address of the carrier;
 - iv. The tractor unit number and trailer license number; and
 - v. The name and address of additional receivers, if any.
3. Bulk mail facility. All commodities entering a bulk mail facility shall be held for inspection. The commodity shall not be released until an inspector inspects the commodity and issues a Certificate of Release.
4. Railroad. Any commodity shipped by railroad shall be inspected at destination. The responsible party shall notify the Director in advance of the shipment to schedule an inspection of the commodity.
5. Out-of-state destination. If a commodity requiring inspection is shipped to, a point outside the state, and is confirmed by a short-form manifest, freight bill or bill of lading, the inspector shall give the driver a notice in writing, or by transit stamp, that the shipment is under quarantine while in the state, and it is unlawful to dispose of the shipment in any way unless the shipment is inspected and released by an inspector.
6. Certificate of Release. Any person receiving a commodity from a post office, United Parcel Service terminal, or any carrier without a Certificate of Release shall immediately notify the Department and request an inspection.

E. Disposition of commodity. When a carrier is in possession of, or responsible for, a commodity inspected by an inspector and found in violation of Arizona quarantine laws, and elects to ship the commodity out-of-state:

1. The inspector shall issue a "Warning-Hold for Agricultural Inspection" notice to the carrier. The carrier shall hold the notice until the commodity is removed from the state through a port-of-entry designated by the inspector and the removal is noted on the notice.
2. The carrier shall surrender the "Warning-Hold for Agricultural Inspection" notice (driver's copy) at the port-of-entry specified on the notice.

F. Violations.

1. The inspector shall place any commodities not meeting the requirements of subsections (C)(1) and (C)(2) under quarantine and notify the shipper in writing of the following options:
 - a. Reship the commodity out-of-state;
 - b. Provide the necessary labor and material to open the package and reseal it after inspection; or

- c. Under the supervision of an inspector, destroy the shipment.
2. Any person who violates any of the following provisions shall submit the load for complete inspection at a port-of-entry, or where apprehended:
 - a. Fails to comply with the requirements on the "Warning-Hold for Agricultural Inspection" notice;
 - b. Fails to comply with the inspector's instructions;
 - c. Breaks the seals of a sealed vehicle; or
 - d. Delivers a product under quarantine before it is released by an inspector, or authorized by the Director.

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 apply to this ~~rule~~ Section:
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.
- B.** Covered commodities. The following ~~articles~~ commodities are host plants or carriers of the pests:
1. Cotton, all parts;
 2. Cotton gin trash;
 3. Used cotton harvesting machines; and
 4. Other materials, products, and equipment that are means of disseminating or proliferating the pests.
- C.** Processing of cotton gin trash. ~~The~~ Any person operating ~~the~~ an Arizona cotton gin ~~within the state~~ shall daily destroy cotton gin trash 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. This material is incorporated 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~~ Any person intending to move, transport, or allow the movement of ~~a covered commodity~~ commodity shall provide the Department with the following information before the date of movement or shipment:
 - a. The quantity of the covered commodity to be moved;
 - b. The location of the ~~article;~~ commodity;
 - c. The names and addresses of the consignee and consignor;
 - d. The method of shipment; and
 - e. The scheduled date of the shipment.
 2. The shipper shall attach all permits to the manifest, waybill, or bill of lading ~~covering the shipment and which~~ shall accompany the shipment. Permits shall specify the manner of handling or treating the host plant or carrier commodity. ~~Any treatment pertaining to pink bollworm prescribed by the United States Department of Agriculture Plant Protection and Quarantine Treatment Manual, Treatment Schedule Series T200, T300 and T400, revised January 1996, which is applied under official supervision, is prescribed for treating like commodities under the provisions of this rule. Pink bollworm treatment shall be under official supervision and applied as prescribed for cotton products in the USDA Treatment Manual, revised April 1998.~~ This material is incorporated 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. ~~Six cultural zones are established in the State~~ Arizona's cultural zones are:
 - 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.
 - c. Zone "C" -- Mohave County, La Paz County, (except the Cibola Valley), and T6N, R11W, 12W, 13W; T5N, R13W; T4N, R12W, 14W, 15W; T3N, R10W, 11W; T2N, R11W, and Mohave County.
 - d. Zone "D" -- Pima County and the following portions of Pinal County: T10S, R10E, sections 34, 35 and 36, T10S, R11E, section 31, T7S, R16E, T6S, R16E, T5S, R15E, and T4S, R14E, 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 landowner shall be responsible for eliminating stub, soca, or volunteer cotton.
 3. Tillage deadline. Except as provided in subsection (E)(4), ~~the~~ a grower shall ensure that ~~the~~ a crop remnant of ~~the~~ a host plant remaining in the field after harvest is shredded and the land tilled to destroy the host plant and its root system ~~with so~~ no stalks ~~remaining~~ remain attached to the soil before the following dates or before planting another crop, whichever occurs earlier:

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Zone "A", December 15; Zone "D", March 1;
Zone "B", March 1; Zone "E", ~~December 31~~ January 31;
Zone "C", January 15; Zone "F", February 15.

4. ~~In lieu of the requirements under subsection (E)(3), the crop remnant remaining in the field after the harvest season shall be shredded and the land tilled by the dates specified in subsection (E)(3). The land shall be irrigated and planted to a crop other than cotton before the following dates: Zone "A", December 30; Zone "C", January 30; Zone "E", January 15. Rotational crop following cotton harvest.~~
- a. If a grower elects to plant a small-grain crop following a cotton harvest, the grower may irrigate and plant with wheat, barley, oats, or other similar small-grain crop approved in writing by the Director instead of shredding and tilling as prescribed in subsection (E)(3). The small-grain crop shall be planted before the following dates:
Zone "A", December 30; Zone "D", March 1;
Zone "B", March 1; Zone "E", ~~January 15~~ January 31;
Zone "C", January 30; Zone "F", February 15.
- b. The Director shall approve other small-grain crops not specifically listed in subsection (E)(4)(a), if the planting, growth, and harvest cycles of the small-grain crop prevents the maturation of stub, soca, or volunteer cotton. A grower shall submit a written request for approval of a small-grain crop, other than wheat, barley, or oats, at least 30 days before the planting date. The written request shall include the scientific and common name of the proposed small-grain crop and the estimated date of harvest.
- c. If a grower elects to plant a crop other than an approved small-grain crop following a cotton harvest, the requirements specified in subsection (E)(3) apply.
5. Planting dates.
- a. A grower who meets the 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 "D", March 15;
Zone "B", March 15; Zone "E", ~~February 15~~ March 1;
Zone "C", March 1; Zone "F", March 1.
- b. A grower who does not meet the 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 "D", March 15;
Zone "B", March 15; Zone "E", March 1;
Zone "C", March 15; Zone "F", March 1.
~~However, a grower who uses the practice of dry planting shall be allowed to plant cotton 10 days before the planting date for this zone, but not water until the planting date.~~
6. ~~For all other zones, the earliest planting dates for cotton shall be Zone "B", March 15; Zone "D", March 15; Zone "F", March 1. However, a Dry planting. Any grower who uses the practice of dry planting shall be allowed to may plant cotton 10 days before the planting date for this that zone, but shall not water until the planting date.~~
7. ~~An agent of the Department inspector shall give written notice to any landowner found in violation of subsection (E). The processes set forth established in subsections (E)(3) and (E)(4) shall be repeated, as necessary, to destroy the pests.~~

F. Advisory Committee. The ~~Department~~ Director shall appoint an advisory committee consisting of 1 representative from each of the following organizations and the committee shall ~~to~~ make recommendations to the Department on amendments to this rule Section:

- The Arizona Cotton Growers Association,
- The Arizona Farm Bureau Federation,
- The Arizona Crop Protection Association,
- The University of Arizona Experiment Station,
- The University of Arizona Extension Service,
- USDA-Research,
- USDA-APHIS,
- The Arizona Department of Agriculture, and
- A grower from each of the 6 zones.

R3-4-238. Whiteflies quarantine Whitefly Pests

A. Notice of quarantine. It has been determined that Citrus whiteflies, *Dialeurodes citrifolii* (Morgan) and *Dialeurodes Citri* (Ashm.), and woolly whitefly, *Aleurothrixus floccosus* (Maskell) are dangerous pests not known to occur in the state of Arizona and are a serious threat to the citrus industry and many ornamental plants in the state of Arizona. In order to prevent the introduction of these serious pests, it is hereby ordered and declared that the entry of quarantined articles into the state of Arizona shall be governed as provided in this rule.

B. Pests: Definition.

"Pest" means:

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1. Citrus whitefly, *Dialeurodes citri* (Ashm.);
2. Cloudy-winged whitefly, *Dialeurodes citrifolii* (Morgan);
3. Woolly whitefly, *Aleurothrixus floccosus* (Maskell).

~~**C.B.**~~ Area under quarantine. All states, districts and territories of the United States. Infested area. Entire states of Alabama, Arkansas, California, Florida, Georgia, Hawaii, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia.

~~**D.C.**~~ Commodities covered: ~~The following plants and parts are declared to be hosts and possible carriers of the pests herein quarantined against:~~

~~All of the following genera and species:~~

~~*Ailanthus* spp. (Tree of Heaven),~~

~~*Amplopsis* spp. (Boston Ivy),~~

~~*Bignonia capreolata* spp. (Trumpet Cross Vine),~~

~~*Choisya ternata* (Mexican Orange),~~

~~*Citrus Poncirus*~~

~~*Citrus* spp.,~~

~~*Coffea* spp. (Coffee),~~

~~*Diospyros* spp. (Persimmon),~~

~~*Feijoa* spp. (Pineapple guava),~~

~~*Ficus macrophyll* (Ficus),~~

~~*Fortunella* spp. (Kumquat),~~

~~*Gardenia* spp. (Gardenia or Cape Jasmine),~~

~~*Ilex* spp. (Holly),~~

~~*Jasminum* spp. (Jasmine),~~

~~*Lagerstroemia* spp. (Crape Myrtle),~~

~~*Ligustrum* spp. (Privet),~~

~~*Maclura pomifera* (Osage Orange),~~

~~*Melia* spp. (Chinaberry),~~

~~*Musa* spp. (Banana Shrub),~~

~~*Osmanthus* (Osmanthus) (Not tolerant to methyl bromide fumigation),~~

~~*Plumaria* spp. (Frangipani, temple tree),~~

~~*Poncirus* spp. (Trifoliolate orange),~~

~~*Prunus caroliniana* (Carolina Cherry Laurel),~~

~~*Psidium* spp. (Guava),~~

~~*Punica granatum* (Pomegranate),~~

~~*Pyrus communis* (Pear),~~

~~*Sapindus mukorossi* (Chinese Soapberry),~~

~~*Smilax* spp. (Sarsparilla),~~

~~*Syringa vulgaris* (Common Lilac), and~~

~~*Viburnum* spp. (Viburnum).~~

~~**E.D.**~~ Restrictions.

1. ~~Host plants admitted if completely defoliated: No restrictions are placed on any of the restricted plants or parts thereof, herein quarantined against, which are shipped in a completely defoliated condition and which are found on arrival in this state to be in such completely defoliated condition.~~
2. ~~Gardenia spp. shall be admissible from quarantined areas only if completely defoliated or if certified treated in accordance with subsection R3-4-238(G).~~
3. ~~All other commodities covered which are grown in and shipped from a quarantined area outside the infested areas shall be admitted if certified by an authorized official of the state of origin that:~~
 - a. ~~The restricted plants or parts thereof contained in the shipment were field grown for one year immediately prior to the shipment and have not been placed prior to shipment in a greenhouse or other heated structure where Citrus Whitefly may exist or in which restricted plants from the infested area are kept or grown; or~~
 - b. ~~The restricted plants or parts thereof contained in the shipment were grown in a greenhouse or other heated structure in which no restricted plants from the infested area are kept and in which no Citrus Whitefly exists.~~
- 4.1. ~~Certified treated restricted plants with foliage shall be, from all points. Restricted plants or parts thereof with foliage from any point within the quarantined area which do not comply with paragraphs (1) – (3) herein shall be admitted only if they have been treated immediately prior to shipment and certified by an authorized official of the state of origin in the manner provided under R3-4-238(G). All covered commodities with foliage listed in subsection (C) shall be treated as prescribed in subsection (E) immediately before shipment and certified by an authorized official from the state of origin; or~~

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~~5-2. Products admitted under permit. The State Entomologist Director may issue a permits admitting restricted products a covered commodity subject to the specific limitations, conditions, and provisions which eliminate the risk of the pest which he may prescribe therein.~~

F. ~~Disposition of violations.~~

- ~~1. Any shipment or lot of quarantined articles as herein defined arriving in Arizona in violation of this quarantine shall be immediately sent out of the state or destroyed at the option and expense of the owner or the owner's responsible agents and under the direction of the State Entomologist or his inspectors.~~
- ~~2. If any shipment of restricted plants or plants parts which has been certified in accordance with paragraph (E)(3) is found infested with living whiteflies by inspectors of the Arizona Commission of Agriculture and Horticulture, all subsequent shipments into Arizona of restricted plants or plant parts from that shipper shall be denied until evidence acceptable to the State Entomologist is received demonstrating the complete eradication of Whiteflies from the premises of that shipper.~~

G.E. ~~Treatment and issuance of treatment certificates. As a condition of entry of restricted plants and parts thereof treated as herein required, the Entomologist shall have approved in writing the construction, equipment, and operation of the fumigation chamber. Treatment certificates shall be issued only provided the restricted plants or parts thereof being certified were treated under official supervision. Any of the treatment techniques listed below is acceptable.~~

- ~~1. Methyl bromide fumigation: 2 ½ pounds of methyl bromide formulation registered for such use per 1000 cu. ft. of chamber space for 2 hours at a temperature of 80°F or above more for a period of 2 hours.~~
- ~~2. Sodium cyanide 99% chamber fumigation: 25cc HCN gas per 100 cu. ft. for 1 hour at not less than 18.3°C (60°F) or more than 29.4°C (85°). See label for method of generating HCN gas from sodium cyanide. Circulation shall be maintained during the entire fumigation period. Fruit fumigated with HCN gas shall be dry.~~
- ~~3. Chlorpyrifos in a Chlorpyrifos. 4 lb. per gallon of Chlorpyrifos (4E) formulation registered for such use, in an emulsion of narrow range spray-oil (petroleum) oil, NR-415, emulsive.~~
 - ~~a. 4.7 ml of Chlorpyrifos Chlorpyrifos (4E), plus 19 ml of narrow range 415 oil per gallon of water, or~~
 - ~~b. 16 fluid ounces fl. oz. of Chlorpyrifos Chlorpyrifos (4E), plus 64 fluid ounces fl. oz. narrow range 415 oil per 100 gallons of water.~~
 - ~~c. Methods of treatment:~~
 - ~~i. Dip. Totally submerge plant material for two 2 minutes, remove for one 1 minute, and submerge again for one 1 minute. Then remove and let dry.~~
 - ~~ii. Spray. Apply to all plant parts, so as to thoroughly Thoroughly drench all surfaces of leaves; and all other aerial plant parts.~~

H. ~~General rules: See "General Rules and Definitions, Article 1".~~

R3-4-239. Imported fire ants Fire Ants

A. ~~Jurisdiction. The movement of quarantined commodities within the state of Arizona shall be governed by the following rule.~~

B. ~~Pests covered. Any species of imported fire ants, including but not limited to Solenopsis invicta, Solenopsis richteri.~~

A. Definitions.

"Pest" means any species of imported fire ants, including Solenopsis invicta and Solenopsis richteri.

"Pine straw" means baled, loose, or bulk pine needles.

C. ~~Area under quarantine. All areas in the state of Arizona which receive commodities covered in subsection (E) of this rule from any known infested areas listed in subsection (D) of this rule.~~

D.B. Infested areas. States known to be infested with these pests are: Area under quarantine. All states or portion of any state listed in 7 CFR 301.81-3, amended January 1, 1998, any area declared by a state as being infested with the pest, or any area known to be infested with the pest. This material is incorporated by reference, on file with the Office of the Secretary of State, and does not include any later amendments or editions of the incorporated matter.

Alabama	Mississippi
Arkansas	North Carolina
Florida	South Carolina
Georgia	Texas
Louisiana	

E.C. ~~Commodities covered. The commodities covered by this quarantine are soil and all genera, species and varieties of nursery stock associated with that soil.~~

- ~~1. Pine straw;~~
- ~~2. Beehives;~~
- ~~3. Soil, except potting soil shipped in original containers in which the potting soil is packaged after commercial preparation;~~
- ~~4. All plants associated with soil, except:~~
 - ~~a. Indoor-grown house plants not for sale, and~~
 - ~~b. Plants shipped bare-root and free from soil.~~

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- F.** Exemptions. The following commodities are exempt from the requirements of this quarantine rule:
1. Aquatic plants grown in soil-free material.
 2. Shipments of 25 or less indoor grown house plants that have been maintained in a home and are not for sale.
 3. Plants shipped bare root and free from all soil.
- G.D.** Restrictions. This quarantine rule applies to all Arizona nurseries which receive any commodities described in subsection (E) of this rule from any infested areas listed in subsection (D) of this rule.
1. Upon the arrival of a shipment covered by this rule, the receiving nursery shall notify the Commission.
 2. The commodities covered by this rule shall be held in a designated quarantine area for the inspection by an Inspector of the Commission.
 3. The covered commodities shall be kept undisturbed in the designated quarantine area for a minimum of five working days, and none of these commodities shall be moved from the quarantine area until they are inspected and released by an Inspector of the Commission.
 4. While being held in the quarantine area, no pesticide or other chemicals shall be applied to the quarantined commodities.
1. Pine straw shall be fumigated with 3-9 lbs./1,000 ft³ methyl bromide for 16-24 hours before entering the state and shall be accompanied by an original treatment certificate issued by an official of the state of origin. Pine straw fumigated in trailers shall be loaded to allow circulation of methyl bromide.
 2. A receiver shall apply to the Director in writing for a quarantine holding area compliance agreement. The application shall include:
 - a. The location of the holding area.
 - b. The type of barrier used to prevent the public from entering the holding area.
 3. The receiver shall meet the following criteria before the quarantine holding area is approved by the inspector:
 - a. The floor of the holding area shall be composed of a permeable surface, such as sand or soil, and shall be free from debris, grass, and weeds; and
 - b. If the holding area is outdoors, the holding area shall be at least 15 ft. from all other plants.
 4. Commodities shall be unloaded at destination into a quarantine holding area and held, undisturbed, until released by an inspector.
 - a. Pine straw and covered commodities originating in areas not regulated by R3-4-234 shall be held at least 3 calendar days.
 - b. All other covered commodities, except beehives, shall be held for at least 5 calendar days.
 5. No pesticide or other chemical shall be applied to a covered commodity while in the quarantine holding area except under the direction and supervision of an inspector.
 6. Beehives shall be allowed into Arizona if accompanied by a certificate evidencing that the beehives have been inspected and found free of the pest. The inspection shall include:
 - a. In palletized hives, the interior of each hive and those areas where the hives come into contact with each other;
 - b. Verification that hive pallets and bottom boards are free from soil; and
 - c. The interior of each individual hive when no bee activity is apparent.
- H.** Description of quarantine area. In order to receive any commodities from any infested areas listed in this rule, a nursery shall establish a quarantine area as described in the following paragraphs. When a nursery has established such a quarantine area, that area shall be inspected and approved by an Inspector of the Commission.
1. The quarantine area shall be of adequate size to accommodate all covered commodities expected to be received by that nursery in any seven-day period.
 2. The quarantine area shall be located at least 15 feet from the nearest plants outside the quarantine area and at least 15 feet from the nearest public walkway or nursery employee work area.
 3. The quarantine area shall be plainly designated by signs or notices and shall be totally surrounded by a fence, wire, rope, ribbon or other barrier arranged to prevent the public from entering the quarantine area.
 4. The quarantine area shall have a floor composed of soil, sand, gravel, humus or other permeable material. Floors composed of concrete, brick, tile, block, wood asphalt or other impervious material are not acceptable for the quarantine area.
- I.** Disposition of violations. Any commodities covered by this rule which are shipped into the state of Arizona or moved within the state of Arizona and are in violation of this rule shall, at the option and expense of the owner or authorized agent, be sent out of the state or destroyed. This disposition shall be under the direction of the Director and supervision of an Inspector of the Commission.

R3-4-242. Brown Citrus Aphid

- A.** Area Under Quarantine: Hawaii and any county in Florida that, by notification from the Florida Department of Agriculture and Consumer Services, is infested with the brown citrus aphid.
- B.** Commodities covered: All plants, except seed and fruit.
- C.** Restrictions.

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1. The species, subspecies, varieties, ornamental forms, and any hybrid having at least 1 ancestor of the following genera are prohibited from entering the state:
 - a. Citrus,
 - b. Fortunella, and
 - c. Poncirus.
2. All other covered commodities, whether moved directly from the area under quarantine or by diversion or reconsignment from any other point, are prohibited from entering Arizona unless the following requirements are met:
 - a. Aquatic plants are accompanied by an original certificate affirming that the commodity was inspected and found free of the pest within 5 days before shipment.
 - b. Terrestrial plants are accompanied by an original certificate affirming that the commodity was treated, as prescribed in subsection (E), within 5 days before shipment.
 - c. The certificate shall indicate:
 - i. The common chemical name of the product's active ingredient,
 - ii. The rate at which the product was applied, and
 - iii. The treatment date.

D. The Director may issue a permit admitting a covered commodity subject to specific limitations, conditions, and provisions that eliminate the risk of the pest.

E. Treatment.

1. An application of a pesticide labeled for the treatment of aphids applied according to label instructions, or
2. Any other treatment approved by the Director.

R3-4-244. Regulated and Restricted Noxious Weeds

A. Definitions. In addition to the definitions provided in A.R.S. § 3-201, the following terms apply to this Section:

1. "Infested area" means each individual container in which ~~the~~ a pest is found or the specific area that harbors a pest.
2. "Regulated pest" means any of the following plant species, including viable plant parts (stolons, rhizomes, cuttings and seed, except agricultural, vegetable, and ornamental seed for planting purposes), found within the state may be controlled to prevent further infestation or contamination:
 - a- *Cenchrus echinatus* L. -- Southern sandbur,
 - b- *Cenchrus incertus* M.A. Curtis -- Field sandbur,
 - c- *Convolvulus arvensis* L. -- Field bindweed,
 - d- *Eichhornia crassipes* (Mart.) Solms -- Floating waterhyacinth,
 - e- *Medicago polymorpha* L. -- Burclover,
 - f- *Portulaca oleracea* L. -- Common purslane,
 - g- *Tribulus terrestris* L. -- Puncturevine.
3. "Restricted pest" means any of the following plant species, including viable plant parts (stolons, rhizomes, cuttings and seed, except agricultural, vegetable and ornamental seed for planting purposes), found within the state shall be quarantined to prevent further infestation or contamination:
 - a- *Acroptilon repens* (L.) DC. -- Russian knapweed,
 - b- *Aegilops cylindrica* Host. -- Jointed goatgrass,
 - c- *Alhagi pseudalhagi* (Bieb.) Desv. -- Camelthorn,
 - d- *Cardaria draba* (L.) Desv. -- Globed-podded hoary cress (Whitetop),
 - e- *Centaurea diffusa* L. -- Diffuse knapweed,
 - f- *Centaurea maculosa* L. -- Spotted knapweed,
 - g- *Centaurea solstitialis* L. -- Yellow starthistle (St. Barnaby's thistle),
 - h- *Cuscuta* spp. -- Dodder,
 - i- *Elytrigia repens* (L.) Nevski -- Quackgrass,
 - j- *Euryops sunbcarnosus* subsp. *vulgaris* -- Sweet resinbush.
 - k- *Halogeton glomeratus* (M. Bieb.) C.A. Mey -- Halogeton,
 - l- *Helianthus ciliaris* DC. -- Texas blueweed,
 - m- *Ipomoea triloba* L. -- Three-lobed morning glory,
 - n- *Linaria genistifolia* var. *dalmatica* -- Dalmation toadflax,
 - o- *Onopordum acanthium* L. -- Scotch thistle.

B. Area under quarantine: All infested areas within the state.

C. The following commodities are hosts or carriers of the regulated or restricted pest:

1. All plants ~~and plant parts~~ other than those categorized as a regulated or restricted pest;
2. Forage, straw and feed grains;
3. Live and dead flower arrangements;
4. Ornamental displays; and
5. Any appliance, construction or dredging equipment, boat, boat trailer or related equipment, or any other vehicle with soil attached or carrying plant debris.

- D. The Department may quarantine any commodity or area infested or contaminated with a regulated pest and notify the owner or carrier of the restrictions and treatments listed in subsections (F) and (G). If the regulated pest is not quarantined, the Department shall provide the grower with technical information on effective weed control activities through integrated pest management.
- E. The Department shall quarantine any commodity or area infested or contaminated with a restricted pest and shall notify the owner or carrier of the restrictions and treatments of the pest listed in subsections (F) and (G).
- F. Restrictions.
1. No regulated or restricted pest or commodity infested or contaminated with a regulated or restricted pest shall be moved to a non-infested area unless the Director issues a permit for the transporting or propagating of ~~such~~ the pest.
 2. ~~The~~ An owner or the owner's representative shall notify the Department at least ~~two~~ 2 working days in advance of moving contaminated equipment from ~~the~~ an infested area.
 3. The Department may inspect all equipment within ~~two~~ 2 working days after ~~the~~ a request to inspect the equipment is made: if the equipment:
 - a. Has been moved into or through a non-infested area.
 - b. Has not been treated, or
 - c. Has been used to harvest an infested crop within the past 12 months.
- G. Treatments.
1. ~~The~~ An owner or the owner's representative shall treat all soil and debris from ~~the~~ the equipment used in ~~the~~ a quarantined area ~~to such a degree that~~ until it is free of the regulated or restricted pest before the equipment is moved ~~from the infested area.~~ Removal or destruction of the ~~weed and weed seed~~ restricted or regulated pest shall be accomplished through ~~one~~ 1 of the following methods:
 - a. Autoclaving.
 - i. Dry heat. The commodity shall be heated for 15 minutes at 212° F.
 - ii. Steam heat. The commodity shall be heated for 15 minutes at 212° F.
 - b. Fumigating with ethylene oxide, chamber only; The commodity shall be fumigated with 1,500 mg/L for ~~four~~ 4 hours in a chamber pre-heated to 115-125° F;
 - c. High pressure water spray;
 - d. Crushing;
 - e. Incinerating; or
 - f. Burying in a sanitary landfill to a depth of ~~six~~ 6 feet.
 2. ~~The~~ An owner or the owner's representative shall treat ~~the~~ an infested area, including the area within the crop, range-land, ditchbank, roadside, private property, or body of water, with treatments based on an integrated pest management program appropriate to the commodity. The treatments shall take place under the direction of an inspector and shall include:
 - a. Reshipment from the state;
 - b. Manual removal;
 - c. Application of a herbicide;
 - d. Biological control including insects, fungi, nematodes or microbes; or
 - e. Any other treatment approved by the Director.

ARTICLE 6. ARIZONA NATIVE PLANTS

R3-4-601. Definitions

~~In this Article unless the context otherwise requires:~~ In addition to the definitions provided in A.R.S. § 3-901, the following terms apply to this Article:

1. "Agent" means ~~one~~ a person authorized to manage, represent, and act for ~~the~~ a landowner.
2. "Blue seal" means a blue metal seal, stamped with the letters ADA, issued by the Department to identify plants which are of the protected native plant families, genera or species which are to be moved from locations which are not their original growing sites.
- 3.2. "Cord" means a specific type ~~cord~~ string or small rope issued by the Department ~~and used to attach native plant for attaching~~ tags or and seals to protected native plants.
- 4.3. "Destroy" means to cause the death of any protected native plant ~~by any means.~~
5. "Device, equipment or vehicle" means any implement which is used to unlawfully take, destroy, mutilate, dig, transport or possess any protected plant, plant part, or woody parts.
6. "Imported plants" means any plant not grown in Arizona, but which is of the protected native plant families, genera, or species, as referenced in A.R.S. § 3-903(B), and listed in Appendix A.
7. "Inaccessible" means protected native plants that are not easy to approach by conventional transportation.
- 8.4. "Landowner" means a person who holds fee title to a parcel of land.
9. "Mutilate" means to maim, damage or disfigure any protected native plant.

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- 10.5. ~~“Original growing site” means the a place in the wild where the a plant is growing wild and is rooted to the ground or any property owned by the same landowner where the a protected native plant is relocated or transplanted.~~
11. ~~“Permit” means Native Plant Removal and Transportation Permit issued by the Department.~~
- 12.6. ~~“Permittee” means any person who is issued a valid Native Plant Removal and Transportation Permit by the Department permit for the removal removing and transportation of transporting protected native plants.~~
7. ~~“Pincushion” means any coryphantha or mammillaria cactus and for purposes of assessing tag fees in R3-4-604(D) includes any protected plant 8" or less.~~
- 13.8. ~~“Protected native plants” means any living plant or plant part listed in Appendix A and of the species growing wild in the State of Arizona which are referenced in A.R.S. § 3-903(B), and listed in Appendix A;~~
14. ~~“Red seal” means a red metal seal, stamped with the letters ADA, issued by the Department to identify protected saguaro caeti.~~
- 15.9. ~~“Scientific or educational collection” means protected native plants used in a controlled experimental project of protected native plants carried on within established guidelines conducted by qualified individuals intended to address specific questions or to publicly display the plants for educational purposes.~~
- 16.10. ~~“Securely affixed” means to fasten in a tight and secure manner to prevent removal of native plant tags, seals, or string cord.~~
17. ~~“Simple survey” means the process by which a parcel of land is examined for the presence of protected native plants without a determination being made of the kind and number of each species.~~
- 18.11. ~~“Survey” means the process by which a parcel of land is examined for the presence of protected native plants to determine the kind and number of each species.~~
- a. ~~Simple survey determines only whether protected native plants are present;~~
- b. ~~Complete survey establishes the kind and number of each species present.~~
19. ~~“Unsalvageable protected native plant” means a native plant which, due to an inaccessible location, severe growing conditions, its size, or the presence of disease or injury, has no economic value or public use.~~
20. ~~“White seal” means a white metal seal, stamped with the letters ADA, used to identify all protected native plants, except saguaro caeti.~~
- 21.12. ~~“White tag” means a white tag issued by the Department to identify any saguaro cactus being moved from its original growing site.~~
- 22.13. ~~“Yellow tag” means a yellow tag issued by the Department to identify any protected native plant, except a saguaro cactus, being moved from its original growing site.~~

~~R3-4-602. Notice of Intent: written or oral~~

- ~~A. All landowners shall submit a Notice of Intent to the Department before a protected native plant is destroyed, pursuant to A.R.S. § 3-904. The Notice of Intent shall consist of the following information:-~~
- ~~1. The name, address and telephone number of the landowner;~~
 - ~~2. The name, address and telephone number of the landowner’s agent in this state who can be contacted by the Department about the destruction or salvage of the protected native plant if the landowner is not a resident of this state or is otherwise unavailable;~~
 - ~~3. The most recent tax parcel ID number of the permit site, or other tax assessment documents indicating land ownership;~~
 - ~~4. A legal description, assessor’s parcel number, map, address or other adequate description of the area and the surrounding land for ½ mile in each direction in which the protected native plants subject to the destruction are located;~~
 - ~~5. The earliest date that the plant destruction will begin;~~
 - ~~6. The landowner’s intentions for the disposal or salvage of native plants on the private land.~~
- ~~B. Landowners who will destroy protected native plants over an area of one acre or less may submit all of the above information prescribed orally in lieu of written notification to the Department, as prescribed by A.R.S. 3-904(C)(2).~~

~~R3-4-603. Confirmation of Notice of Intent~~

- ~~A. Upon receipt of a Notice of Intent, either written or oral, a confirmation copy of the Notice of Intent shall be mailed by the Department to the landowner or agent.~~
- ~~B. The landowner may not proceed with the destruction until the landowner receives the confirmation copy of the Notice of Intent from the Department, and the time prescribed under A.R.S. § 3-904(A) has elapsed.~~

~~R3-4-604. Public Notice: Posting and Mailing List; Fee~~

~~When the Department receives notice from the landowner of the planned destruction of protected native plants the Department shall:~~

- ~~1. Give notice to the public, pursuant to A.R.S. § 3-904(E), and shall post the notice in a conspicuous location in the public area of the division office in the county where the protected native plants are located.~~
- ~~2. Give notice by mail to any person requesting such information. Such person may obtain the information from the Department by completing an official Department request form, or by giving their name, address, and telephone number, and paying an annual non-refundable fee of \$25.00 to the Department at the time the request is submitted.~~

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R3-4-602. Protected Native Plant Destruction

A. Department notification.

1. Before any protected native plant is destroyed, the landowner shall submit the following information to the Department on a Notice of Intent form:
 - a. The name, address, and telephone number of the landowner;
 - b. The name, address, and telephone number of the landowner's agent if the landowner is not a resident of this state or is otherwise unavailable;
 - c. The most recent tax parcel identification number or other tax assessment document indicating land ownership;
 - d. A legal description, assessor's parcel number, map, address, or other description of the area in which the protected native plants subject to the destruction are located;
 - e. The earliest date of the plant destruction; and
 - f. The landowner's intentions for the disposal or salvage of protected native plants on the private land.
2. A landowner who will destroy protected native plants over an area less than 1 acre may orally submit the information required in subsection (A)(1).

B. A landowner shall not destroy any protected native plants until a written confirmation notice is received from the Department and the time prescribed under A.R.S. § 3-904(A)(3) has elapsed.

C. Any salvage operator or interested person may obtain protected native plant destruction notice information by providing that person's name, address, and telephone number, and an annual non-refundable \$25.00 fee.

R3-4-605. R3-4-603. State Agencies -- Disposal and Salvage of Protected Native Plants by a State Agency

A. To preserve protected native plants on state land, a state agency shall notify the Department, under A.R.S. § 3-905, and may dispose of the protected native plants using any of the following methods:

1. The plants may be sold at a public auction;
2. The plants may be relocated or transported to a different location on the same property or to another property owned by the state;
3. The state agency may obtain permits for removal of the plants for revegetation projects;
4. The plants may be donated to scientific, educational, research, and charitable institutions;
5. The plants may be donated to other state agencies or municipalities political subdivisions;
6. The plants may be salvaged by the general public or commercial dealers.

B. Pursuant to A.R.S. § 3-905(C), the Department shall require that a survey be conducted, as prescribed by R3-4-606, to determine the kinds and approximate number of plants involved in the salvage or harvest.

R3-4-604. Protected Native Plant Permits; Tags; Fees

A. A person shall not collect, transport, possess, sell, offer for sale, dispose, or salvage protected native plants unless that person is 18 years of age or older and holds a permit.

B. A permit applicant shall submit the following information to the Department, if applicable:

1. The name, business name, address, telephone number, social security number, and signature of the applicant;
2. The name and number of plants to be removed;
3. The purpose of the plant removal;
4. Whether the applicant has a conviction of a state or federal statute regarding the protection of native plants within the previous 5 years.
5. Except for salvage assessed native plants:
 - a. The name, address, telephone number, and signature of the landowner;
 - b. The location of the permitted site and size of acreage;
 - c. The destination address where the plants will be transplanted;
 - d. The legal and physical description of the location of the original growing site; and
 - e. The most recent tax parcel identification number available for the permitted site, or other tax assessment documents indicating land ownership.

C. Permit fees.

1. Any person removing and transporting protected native plants shall submit the following applicable fee to the Department with the permit application:
 - a. Salvage assessed native plants, annual use, \$25.00;
 - b. Harvest restricted native plants, annual use, \$25.00;
 - c. All other native plants, one-time use, \$5.00.
2. Exemptions. The following protected native plants are exempt from fees if:
 - a. The protected native plants intended for personal use by a landowner are taken from 1 piece of land owned by the landowner to another piece of land also owned by the landowner, remain on the property of the landowner, and are not sold or offered for sale;
 - b. The protected native plants are collected for scientific purposes; or
 - c. A landowner donates the protected native plant to a scientific, educational or charitable institution.

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D. Tag fees.

1. Any person obtaining a white tag or yellow tag shall submit the following applicable fee to the Department at the time the tag is obtained:
 - a. Saguaro, \$6.00 per plant;
 - b. Trees cut for firewood and listed in the harvest restricted category, \$4.00 per cord;
 - c. Pincushion, \$.50 per plant;
 - d. All other protected native plants referenced in A.R.S. § 3-903(B) and listed in Appendix A, \$4.00 per plant.
2. Harvested restricted native plants, of nolina and yucca parts is \$4.00 per ton.

E. Salvage assessed permits and plant tags are valid for the calendar year in which they are issued. The tags expire at the end of the calendar year unless the permit is renewed.

R3-4-605. Scientific Permits

A. A person shall not collect protected native plants for research projects unless that person holds a scientific permit.

B. A permit applicant shall submit the following information to the Department:

1. The name, address and telephone number of the company or research facility applying for the permit;
2. The name and title of the person conducting the research project;
3. The purpose and intent of the research project;
4. The results of the research, whether the results will be published, and the media used to publish the results;
5. The controls used;
6. The variables considered;
7. The length of time the project will take;
8. The expected results;
9. The type of reports and record keeping used to monitor the project;
10. The type of funding that will be used;
11. The funding of the company or research facility;
12. The written approval for collection of the plants from the legal owner;
13. The date of the application; and
14. The signature of the person authorized on behalf of the company or research facility affirming that the plants collected will not be sold or used for personal interests.

C. Scientific research permits shall be issued if all of the following are met:

1. The native plant removal site is restored to a natural appearance and the site restoration is approved by the site owner;
2. The removal and movement of the native plants are accomplished by a person equipped and experienced in native plant removal and transplantation;
3. The native plants used in the project are accessible to the scientific community and state and local regulatory agencies;
4. The ecology of the project site is beneficial to the growth of the specific plants in the project;
5. Arrangements are made for a suitable permanent planting site for the surviving plants after the project's completion; and
6. Security is provided at the project site to prevent the destruction or theft of native plants used in the research.

D. Scientific permits are valid for the calendar year in which they are issued.

R3-4-606. Protected Native Plant Surveys; Fee

A. Pursuant to A.R.S. § 3-910(B), written reports of plant survey results shall be required prior to the issuance of a permit, except for permits issued for the salvage of salvage assessed native plants, as set forth in A.R.S. § 3-906(C). Except for permits issued for salvage assessed native plants, any person harvesting protected native plants shall conduct a survey and provide a written report to the Director of the plant survey results before a permit is issued.

B. The landowner, permittee, or agent shall have the option to may conduct the survey or to request that the survey be conducted by the Department.

~~C.1.~~ If the landowner, permittee, or agent chooses to conduct the survey, the following survey information shall be completed on a survey form furnished by the Department:

- ~~1-a.~~ The name, address, telephone number, and signature of the landowner, permittee, or agent performing the survey;
- ~~2-b.~~ The date the survey was is performed;
- ~~3-c.~~ The survey results including the names and numbers of plants;

~~D.2.~~ The Department upon request shall conduct If the Department conducts the survey, which the survey shall be completed within 20 working days. Upon completion of the survey, the Department shall mail a letter of confirmation to notify the landowner, permittee, or agent which shall include of:

- ~~1-a.~~ The date the survey was performed;
- ~~2-b.~~ The amount of the survey fee payable to the Department;
- ~~3-c.~~ The name of Department personnel performing the survey;

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4.d. The survey results including the names and numbers of protected native plants.

~~E.~~ There shall be no fee for conducting a simple survey.

~~F.C.~~ The following fees for a Department-conducted survey shall be paid to the Department within 30 days from the date of the notification.

1. Simple survey, no fee;

2. Fees established for a Department conducted survey shall include but not be limited to time, as prescribed by A.R.S. § 38-611(B), and travel, as prescribed by A.R.S. § 38-623(C) and (D), shall be paid to the Department by the permittee requesting the survey, pursuant to A.R.S. § 3-910. Complete survey, includes time and travel, as prescribed under A.R.S. §§ 38-611(B) and 38-623(C) and (D).

~~G.~~ All fees shall be paid to the Department within 30 days from the date of the letter of confirmation.

R3-4-607. Seminars, Training Courses, Pamphlets and Printed Material; Fee

~~A.~~ The Department shall charge a \$5.00 fee per session to a person who attends a seminar or training class.

~~B.~~ Schools, law enforcement agencies and government entities shall be exempt from fees for seminars or training classes offered by the Department.

~~C.~~ The time, date and location of the training class shall be set by the Department.

~~D.~~ The Department shall charge an additional fee for printed material or pamphlets based on document printing and mailing costs.

R3-4-608. Native Plant Law Educational Classes; Fee

~~A.~~ A person convicted of violating the Arizona native plant statutes or rules and ordered by the court to attend a native plant law educational class, pursuant to A.R.S. § 3-911, shall pay a non-refundable fee of \$15.00 to the Department prior to class.

~~B.~~ The time, date and location of the educational class shall be set by the Department.

~~C.~~ The Department shall provide written confirmation to those persons who have satisfactorily completed the native plant law educational class.

R3-4-609. Permits

~~A.~~ Upon completion of the permit requirements, the Department shall issue Native Plant Removal and Transportation Permits which authorize the permittee to remove and transport protected native plants for highly safeguarded, salvage restricted, salvage assessed and harvest restricted native plant categories, pursuant to A.R.S. §3-903(B), and listed in Appendix A. This permit shall include:

1. The name or business name, address, telephone number and signature of the permittee;

2. The name of the landowner, except for salvage assessed native plants;

3. The destination address where the plants will be transplanted, except for salvage assessed native plants;

4. The legal and physical description of the location of the original growing site, except for salvage assessed native plants;

5. The name and number of plants to be removed;

6. The purpose for plant removal;

7. The date and place of permit issue;

8. The date of permit expiration;

9. The number of each tag or wood receipt issued under permit by the Department;

10. The fee assessed by the Department for the tags or wood receipts;

11. The name and title of the Department employee issuing the permit, tags or wood receipts.

~~B.~~ Salvage assessed permits and plant tags are valid for the calendar year in which they are issued. The tags shall expire unless the permit is renewed.

R3-4-610. Qualifications for Permit Applicants

~~A.~~ Applicants for a permit shall:

1. Submit an application to the Department which shall include:

a. The name, business name, address, telephone number and signature of the applicant;

b. The name, address and telephone number of the landowner, except salvage assessed native plants;

c. The location of the permit site and size of acreage, except salvage assessed native plants;

d. The most recent tax parcel ID number available for the permit site, or other tax assessment documents indicating land ownership, except salvage assessed native plants;

e. The name and number of plants to be removed;

f. The purpose for plant removal.

2. Be 18 years of age or older.

3. Inform the Department of any previous conviction of a state or federal statute regarding the protection of native plants within the previous five years.

~~B.~~ The Director may refuse to issue or may revoke a permit for any of the following acts:

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1. A violation of the Arizona native plant statute, A.R.S. Title 3, Chapter 7, Article 1 and 2, Arizona Revised Statutes, its rules, or any federal native plant statute;
 2. Failure of an applicant or permittee to submit a complete and accurate permit application;
 3. Misuse of a permit, tags or metal seals.
- C.** The permittee may request in writing that the Department provide an administrative hearing to appeal any refusal or revocation of a permit, pursuant to A.R.S. § 41-1061, et seq.

R3-4-611. Qualifications for Salvage Assessed Native Plant Permits

- A.** All applicants for a permit to collect, transport, and possess salvage assessed native plants shall comply with the application requirements in R3-4-610.
- B.** The Director may refuse to issue or may revoke a permit for any of the following acts:
1. Failure of a permittee to submit a complete and accurate transaction report, as defined in subsection (D);
 2. Failure to obtain written approval by the landowner or agent for the removal of a plant;
 3. Failure to allow the Department to inspect transaction records;
 4. Failure of a permittee to have transaction records, as defined in subsection (D), available to Department inspectors to inspect at permittee's address listed on permit.
- C.** Pursuant to A.R.S. § 3-910(B), each permittee shall keep, for a period of two years from the date of each transaction, a complete record of each plant removed under the annual permit. The transaction record shall include:
1. The date plants were removed;
 2. The permit and tag numbers.
- D.** Prior to January 31st of the following calendar year, the permittee shall submit a copy of each transaction that took place during the prior calendar year.
- E.** Transaction records shall be kept by the permittee and the permittee shall allow inspection of the records by the Department during normal business hours.

R3-4-612. Qualifications for Annual Permits for Harvest Restricted Native Plants; Fee

- A.** All applicants for a permit to collect, transport, and possess harvest restricted native plants shall comply with the application requirements in R3-4-610 and R3-4-611, with the exception of R3-4-611(E).
- B.** After issuance of the permit, the permittee shall weigh all unprocessed nolina and yucca fiber at an approved bonded scale.
- C.** The permittee shall mail the weight certificates and shall pay a \$3.00 non-refundable fee, as prescribed by R3-4-614, to the Department no later than the 10th day of each month following harvest.
- D.** No later than the 10th day of each month following harvest, the permittee shall submit the transaction records to the Department for each month that a transaction took place or shall submit a written statement that no transaction was conducted for that month.

R3-4-613. Native Plant Permit Fees; Exemptions

- A.** Any person wishing to collect protected native plants shall submit the following applicable fee to the Department with the permit application prescribed in R3-4-610:
1. Salvage assessed native plants, annual use; \$25.00.
 2. Harvest restricted native plants, annual use; \$25.00.
 3. All other native plants, one time use; \$5.00.
- B.** The Department shall exempt from permit fees plants for personal use by a landowner or plants relocated to a scientific and educational collection provided that:
1. The plants intended for personal use by the landowner are taken from one piece of land owned by the landowner to another piece of land also owned by the landowner, remain the property of the landowner, and are not sold or offered for sale; or
 2. The plants intended for scientific and educational purposes are relocated to a scientific and educational collection

R3-4-614. Native Plant Tag Assessments and Receipt Fees

- A.** Any person wishing to obtain white or yellow tags shall submit the following applicable fee to the Department with the permit application prescribed in R3-4-610 at the time the tag is obtained:
1. Saguaro; \$5.00 per plant
 2. Trees cut for firewood and listed in the harvest restricted category; \$3.00 per cord.
 3. Coryphantha, mammillaria and pincushion cactus; \$.50 per plant.
 4. All other protected native plants referenced in A.R.S. § 3-903(B) and listed in Appendix A; \$3.00 per plant.
- B.** Assessment fees for harvested restricted native plants of nolina and yucca parts shall be paid to the Department at \$3.00 per ton no later than the 10th day of the month following each harvest.

R3-4-615. Procedures for Attaching Tags, Metal Seals and Cord to Protected Native Plants

- A.** The permittee shall obtain all requisite tags, red and white metal seals and cord from the Department after paying the required fees and use them in the following manner:

1. The cord shall be securely affixed around the middle of the plant and knotted with tag attached.
 2. The cord shall be placed on the plant so that it cannot be removed without breaking the seal or cutting the cord.
 3. The metal seal shall be placed directly over the knot and snapped firmly closed.
 4. A tag used to identify a specific native plant shall be attached to the plant before being transported from the permitted property.
 5. Upon loading the plant, every effort shall be made to make the tag visible during transporting.
- B.** No rope, string, twine or wire shall be used to attach metal seals or tags to a protected native plant except for the cord provided by the Department at the time the permit, tags, and metal seals are obtained by the permittee

R3-4-616. R3-4-607. Use of Metal Seals, Movement Permit, Tags, Metal Seals, and Cord Use

- A.** Any person wishing to move a protected native plant that has previously been transplanted from its original growing site in Arizona and will be transplanted transplanting it to another location shall apply to the Department for a Movement Permit. The property owner landowner from where the plant is being moved from shall provide the following information on the permit application: The Movement Permit shall contain:
1. The property owner's name, and telephone number, and signature of the landowner;
 2. The location of the plant;
 3. The name, address, and telephone number of the receiver;
 4. The name, address, and telephone number of the carrier;
 5. The number, species, and description of the plants to be plant being removed;
 - 5.6. The signature of the property owner The tax parcel identification number; and
 - 6.7. The date of the application.
- B.** Movement of protected native plants obtained outside Arizona.
1. Any person wishing to move moving a protected native plant that has been obtained outside Arizona and will be transported transporting and planted planting it within the state shall declare the protected native plant at the agricultural inspection station nearest the port of entry. The Department shall place the protected native plant under quarantine "Warning Hold" to the nearest district office.
 2. If no agricultural station is in operation at the port of entry, the person shall declare the protected native plant at the nearest district office.
 3. The person shall obtain a yellow seal and a movement permit at the nearest district office. If no agricultural inspection station is in operation at the port of entry, the person shall declare the protected native plant at the nearest district office, and obtain the yellow seal and Movement Permit. After the plants have been declared, the district office shall issue a Movement Permit and a green seal.
- C.** Any person wishing to move moving protected native plants shall obtain, at cost, the following metal seals from the Department and securely attach the appropriate seal to each protected native plant:
1. Blue seals, which have a one-time use, shall be securely attached to identify each protected native plant described in subsection (A). Blue seals identify protected native plants that will be moved from locations that are not the original growing sites.
 2. White seals, which have a one-time use, shall be securely attached to identify protected native plants, other than saguaro cacti, before taking or removing the plants from their original growing sites. White seals identify the protected saguaro cactus.
 3. Red seals, which have a one-time use, shall be securely attached to identify protected saguaro cacti before taking or removing the plants from their original growing sites; Green seals identify all imported protected native plants.
 4. Yellow seals, which have a one-time use, shall be securely attached to identify protected native plants described in subsection (B). Yellow seals identify all protected native plants, except imported protected native plants and the protected saguaro cactus.
- D.** Tag, metal seal, and cord attachment.
1. A tag shall be attached to each protected native plant taken from its original growing site, using cord provided by the Department, before being transported. No other type of rope, string, twine, or wire is allowed.
 2. The cord shall be securely affixed around the plant and knotted with the tag attached so that it cannot be removed without breaking the seal or cutting the cord.
 3. The metal seal shall be placed directly over the knot and snapped firmly closed.
 4. Upon loading the plant, every effort shall be made to make the tag visible during transporting.

R3-4-617. Misuse of Permits, Tags, or Metal Seals

- A.** Pursuant to A.R.S. § 3-912, the Department may suspend, revoke, or refuse to renew a permit and may confiscate permits, tags or metal seals for any of the following acts:
1. Taking of plants from areas other than locations listed on the permit, or taking of plants not specified on the permit;
 2. Allowing use of the permit, tags or metal seals by anyone except the permittee or designated agent;
 3. Using tags other than those numbered and listed on the permit;
 4. Removing native plant tags or metal seals for reuse after delivery of plants to the final owner;

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5. ~~Using permits, tags or metal seals past their expiration date;~~
 6. ~~Selling permits, tags or metal seals to anyone;~~
 7. ~~Failing to comply with the Arizona native plant statute, its rules, or any federal native plant statute;~~
 8. ~~Giving false statements on applications;~~
 9. ~~Making copies of permits for use by persons other than the permittee or designated agent.~~
- B.** ~~The permittee may request, in writing, that the Department provide an administrative hearing, pursuant to A.R.S. § 41-1061, et seq, to appeal action taken against renewal of a permit, or confiscation of a permit, tag or metal seal.~~

R3-4-608. Salvage Assessed and Harvest Restricted Native Plants

- A.** Harvest restricted native plants.
1. Unprocessed nolina and yucca fiber shall be weighed at a state-certified bonded scale;
 2. The harvester shall submit payment and weigh certificates to the Department no later than the 10th day of the month following each harvest.
- B.** Recordkeeping.
1. Salvage Assessed Native Plants.
 - a. A permittee shall maintain a record of each protected native plant removed under an annual permit for 2 years from the date of each transaction and allow Department inspection of the records during normal business hours. The transaction record shall include the date salvage restricted protected native plants were removed, and the permit and tag numbers.
 - b. Before January 31st, the permittee shall submit to the Department a copy of each transaction record for the prior calendar year.
 2. Harvest Restricted Native Plants. No later than the 10th day of each month, a permittee shall submit the transaction records for transactions that took place the previous month, or a written statement that no transaction was conducted for that month.

R3-4-609. Arizona Native Plant Law Education

- A.** Seminars and training courses shall be scheduled on an as-needed basis.
- B.** In addition to the following fees, charges for printed materials or pamphlets shall be assessed based upon the document printing and mailing costs:
1. Any person attending a seminar or training course in Arizona native plant law shall pay a nonrefundable fee of \$5.00 to the Department before the class.
 2. Any person convicted of violating the Arizona native plant statutes or rules and ordered by a court to attend a native plant law educational class shall pay a nonrefundable fee of \$15.00 to the Department before the class.
 3. Schools, law enforcement agencies, and government entities are exempt from seminar and training course fees.
- C.** The Department shall provide written confirmation of satisfactory completion to any person ordered by a court to attend the class.

R3-4-610. Permit Denial, Revocation, and Suspension

- A.** In addition to the prohibited acts listed in A.R.S. § 3-908(A), the Director may deny, revoke, or suspend a permit for any of the following:
1. A violation of 3 A.R.S. 7; 3 A.A.C. 4, Article 6; or any federal native plant law;
 2. Misuse of a permit, tag, or metal seal;
 3. Failure of an applicant or permittee to submit a complete and accurate permit application or a transaction report; and
 4. Failure to allow the Department to inspect transaction records.
- B.** The applicant or permittee may request in writing that the Department provide an administrative hearing under 41 A.R.S. 6, Article 10, to appeal any denial, revocation, or suspension of a permit.

~~R3-4-618. R3-4-611. Confiscation of Plants, Plant Parts, Wood, or Fiber, or Artifacts as Evidence~~

- A.** Following any determination by a court or the Department that a native plant law has been violated, all protected native plants, plant parts, wood, or fiber, or artifacts confiscated and held as evidence shall become the property of the state, unless the court or the Department orders otherwise.
- B.** Following a final decision by a court or the Department that a native plant law has been violated confiscated items needed as evidence shall be held pending appeal. If the defendant appeals the conviction, the confiscated evidence shall be held by the Department pending ruling by the appellate court.
- C.** All confiscated evidence which that becomes the property of the state shall be disposed of by the Department in the best interest of the state.

APPENDIX A
PROTECTED NATIVE PLANTS BY CATEGORIES

A. Highly Safeguarded Protected Native Plants

The following list includes those species of native plants and parts of plants, including the seeds and fruit, whose prospects for survival in Arizona are in jeopardy or which are in danger of extinction.

AGAVACEAE Agave Family (including Nolinaceae)

- Agave arizonica* Gentry & Weber—Arizona agave
- Agave delamateri* Hodgson & Slauson
- Agave murpheyi* Gibson—Hohokam agave
- Agave parviflora* Torr.—Santa Cruz striped agave, Small-flowered agave
- Agave schottii* Engelm. var. *treleasei* (Toumey) Kearney & Peebles

APIACEAE Parsley Family. [= Umbelliferae]

- Lilaeopsis schaffneriana* (Schlecht.) Coult. & Rose ssp. *recurva* (A. W. Hill) Affolter—Cienega false rush, Huachuca water umbel.

Syn.: *Lilaeopsis recurva* A. W. Hill

APOCYNACEAE Dogbane Family

- Amsonia kearneyana* Woods.—Kearney's bluestar
- Cycladenia humilis* Benth. var. *jonesii* (Eastw.) Welsh & Atwood—~~Jone's~~ Jones' cycladenia

ASCLEPIADACEAE Milkweed Family

- Asclepias welshii* N. & P. Holmgren—Welsh's milkweed

ASTERACEAE Sunflower Family [= Compositae]

- Erigeron lemmonii* Gray—Lemmon fleabane
- Senecio franciscanus* Greene—San Francisco Peaks groundsel
- Senecio huachucanus* Gray—Huachuca groundsel

BURSERACEAE Torch Wood Family

- Bursera fagaroides* (H.B.K.) Engler—Fragrant bursera

CACTACEAE Cactus Family

- Carnegiea gigantea* (Engelm.) Britt. & Rose—Saguaro: 'Crested' or 'Fan-top' form only
- Syn.: *Cereus giganteus* Engelm.
- Coryphantha recurvata* (Engelm.) Britt. & Rose—Golden-chested beehive cactus
- Syn.: *Mammillaria recurvata* Engelm.
- Coryphantha robbinsorum* (W. H. Earle) A. Zimmerman—Cochise pincushion cactus, Robbin's cory cactus.
- Syn.: *Cochiseia robbinsorum* W.H. Earle
- Coryphantha scheeri* (Kuntze) L. Benson var. *robustispina* (Schott) L. Benson—Scheer's strong-spined cory cactus.
- Syn.: *Mammillaria robustispina* Schott
- Echinocactus horizonthalonius* Lemaire var. *nicholii* L. Benson—Nichol's Turk's head cactus
- Echinocereus triglochidiatus* Engelm. var. *arizonicus* (Rose ex Orcutt) L. Benson—Arizona hedgehog cactus
- Echinomastus erectocentrus* (Coult.) Britt. & Rose var. *acunensis* (W.T.Marshall) L. Benson—Acuna cactus
- Syn.: *Neolloydia erectocentra* (Coult.) L. Benson var. *acunensis* (W. T. Marshall) L. Benson
- Pediocactus bradyi* L. Benson—Brady's pincushion cactus
- Pediocactus paradinei* B. W. Benson—Paradine plains cactus
- Pediocactus peeblesianus* (Croizat) L. Benson var. *fickeiseniae* L. Benson
- Pediocactus peeblesianus* (Croizat) L. Benson var. *peeblesianus* Peebles' Navajo cactus, Navajo plains cactus
- Syn.: *Navajoa peeblesiana* Croizat
- Pediocactus sileri* (Engelm.) L. Benson—Siler pincushion cactus
- Syn.: *Utahia sileri* (Engelm.) Britt. & Rose

COCHLOSPERMACEAE Cochlospermum Family

- Amoreuxia gonzalezii* Sprague & Riley

CYPERACEAE Sedge Family

- Carex specuicola* J. T. Howell—Navajo sedge

FABACEAE Pea Family [=Leguminosae]

- Astragalus cremnophylax* Barneby var. *cremnophylax* Sentry milk vetch
- Astragalus holmgreniorum* Barneby—Holmgren milk-vetch
- Dalea tentaculoides* Gentry—Gentry indigo bush

LENNOACEAE Lennoa Family

- Pholisma arenarium* Nutt.—Scaly-stemmed sand plant
- Pholisma sonora* (Torr. ex Gray) Yatskievych—Sandfood, sandroot
- Syn.: *Ammobroma sonora* Torr. ex Gray

LILIACEAE Lily Family

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Allium gooddingii Ownbey–Goodding’s onion

ORCHIDACEAE Orchid Family

Cypripedium calceolus L. var. *pubescens* (Willd.) Correll–Yellow lady’s slipper

Hexalectris warnockii Ames & Correll–Texas purple spike

Spiranthes delitescens C. Sheviak

POACEAE Grass Family [=Gramineae]

Puccinellia parishii A.S. Hitchc.–Parish alkali grass

POLYGONACEAE Buckwheat Family

Rumex orthoneurus Rech. f.

PSILOTACEAE Psilotum Family

Psilotum nudum (L.) Beauv. Bush Moss, Whisk Fern

RANUNCULACEAE Buttercup Family

Cimicifuga arizonica Wats.–Arizona bugbane

Clematis hirsutissima Pursh var. *arizonica* (Heller) Erickson–Arizona leatherflower.

ROSACEAE Rose Family

Purshia subintegra (Kearney) J. Hendrickson–Arizona cliffrose, Burro Creek cliffrose

Syn.: *Cowania subintegra* Kearney

SALICACEAE Willow Family

Salix arizonica Dorn–Arizona willow

SCROPHULARIACEAE Figwort Family

Penstemon discolor Keck–Variegated beardtongue

B. Salvage Restricted Protected Native Plants

The following list includes those species of native plants that are not included in the highly safeguarded category but are subject to damage by theft or vandalism. In addition to the plants listed under Agavaceae, Cactaceae, Liliaceae, and Orchidaceae, all other species in these families are salvage restricted protected native plants.

AGAVACEAE Agave Family (including Nolinaceae)

Agave chrysantha Peebles

Agave deserti Engelm. ssp. *simplex* Gentry–Desert agave

Agave mckelveyana Gentry

Agave palmeri Engelm.

Agave parryi Engelm. var. *couseii* (Engelm. ex Trel.) Kearney & Peebles

Agave parryi Engelm. var. *huachucensis* (Baker) Little ex L. Benson

Syn.: *Agave huachucensis* Baker

Agave parryi Engelm. var. *parryi*

Agave schottii Engelm. var. *schottii* – Shindigger

Agave toumeyana Trel. ssp. *bella* (Breitung) Gentry

Agave toumeyana Trel. ssp. *toumeyana*

Agave utahensis Engelm. spp. *kaibabensis* (McKelvey) Gentry

Syn.: *Agave kaibabensis* McKelvey

Agave utahensis Engelm. var. *utahensis*

Dasyllirion wheeleri Wats.–Sotol, desert spoon

Nolina bigelovii (Torr.) Wats.–Bigelow’s nolina

Nolina microcarpa Wats.–Beargrass, sacahuista

Nolina parryi Wats.–Parry’s nolina

Nolina texana Wats. var. *compacta* (Trel.) Johnst.–Bunchgrass

Yucca angustissima Engelm. var. *angustissima*

Yucca angustissima Engelm. var. *kanabensis* (McKelvey) Reveal

Syn.: *Yucca kanabensis* McKelvey

Yucca arizonica McKelvey

Yucca baccata Torr. var. *baccata*–Banana yucca

Yucca baccata Torr. var. *vespertina* McKelvey

Yucca baileyi Woot. & Standl. var. *intermedia* (McKelvey) Reveal

Syn.: *Yucca navajoa* Webber

Yucca brevifolia Engelm. var. *brevifolia*–Joshua tree

Yucca brevifolia Engelm. var. *jaegeriana* McKelvey

Yucca elata Engelm. var. *elata*–Soaptree yucca, palmilla

Yucca elata Engelm. var. *utahensis* (McKelvey) Reveal

Syn.: *Yucca utahensis* McKelvey

Yucca elata Engelm. var. *verdiensis* (McKelvey) Reveal

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- Syn.: *Yucca verdiensis* McKelvey
Yucca harrimaniae Trel.
Yucca schidigera Roetzl.–Mohave yucca, Spanish dagger
Yucca schottii Engelm.–Hairy yucca
Yucca thornberi McKelvey
Yucca whipplei Torr. var. *whipplei*–Our Lord’s candle
Syn.: *Yucca newberryi* McKelvey
- AMARYLLIDACEAE** Amaryllis Family
Zephyranthes longifolia Hemsl.–Plains Rain Lily
- ANACARDIACEAE** Sumac Family
Rhus kearneyi Barkley–Kearney Sumac
- ARECACEAE** Palm Family [=Palmae]
Washingtonia filifera (Linden ex Andre) H. Wendl.–California fan palm
- ASTERACEAE** Sunflower Family [=Compositae]
Cirsium parryi (Gray) Petrak ssp. *mogollonicum* Schaak
Cirsium virginensis Welsh–Virgin thistle
Erigeron kuschei Eastw.–Chiricahua fleabane
Erigeron piscaticus Nesom–Fish Creek fleabane
Flaveria macdougalii Theroux, Pinkava & Keil
Perityle ajoensis Todson–Ajo rock daisy
Perityle cochisensis (Niles) Powell–Chiricahua rock daisy
Senecio quaerens Greene–Gila groundsel
- BURSERACEAE** Torch-Wood Family
Bursera microphylla Gray–Elephant tree, torote
- CACTACEAE** Cactus Family
Carnegiea gigantea (Engelm.) Britt. & Rose–Saguaro
Syn.: *Cereus giganteus* Engelm.
Coryphantha missouriensis (Sweet) Britt. & Rose
Coryphantha missouriensis (Sweet) Britt. & Rose var. *marstonii* (Clover) L. Benson
Coryphantha scheeri (Kuntze) L. Benson var. *valida* (Engelm.) L. Benson
Coryphantha strobiliformis (Poselger) var. *orcuttii* (Rose) L. Benson
Coryphantha strobiliformis (Poselger) var. *strobiliformis*
Coryphantha vivipara (Nutt.) Britt. & Rose var. *alversonii* (Coult.) L. Benson
Coryphantha vivipara (Nutt.) Britt. & Rose var. *arizonica* (Engelm.) W. T. Marshall
Syn.: *Mammillaria arizonica* Engelm.
Coryphantha vivipara (Nutt.) Britt. & Rose var. *bisbeeana* (Orcutt) L. Benson
Coryphantha vivipara (Nutt.) Britt. & Rose var. *deserti* (Engelm.) W. T. Marshall
Syn.: *Mammillaria chlorantha* Engelm.
Coryphantha vivipara (Nutt.) Britt. & Rose var. *rosea* (Clokey) L. Benson
Echinocactus polycephalus Engelm. & Bigel. var. *polycephalus*
Echinocactus polycephalus Engelm. & Bigel. var. *xeranthemoides* Engelm. ex Coult.
Syn.: *Echinocactus xeranthemoides* Engelm. ex Coult.
Echinocereus engelmannii (Parry ex Engelm.) Lemaire var. *acicularis* L. Benson
Echinocereus engelmannii (Parry ex Engelm.) Lemaire var. *armatus* L. Benson
Echinocereus engelmannii (Parry ex Engelm.) Lemaire var. *chrysocentrus* L. Benson
Echinocereus engelmannii (Parry ex Engelm.) Lemaire var. *engelmannii*
Echinocereus engelmannii (Parry) Lemaire var. *variegatus* (Engelm.) Engelm. ex Rümpler
Echinocereus fasciculatus (Engelm. ex B. D. Jackson) L. Benson var. *fasciculatus*
Syn.: *Echinocereus fendleri* (Engelm.) Rümpler var. *fasciculatus* (Engelm. ex B. D. Jackson) N. P. Taylor, *Echinocereus fendleri* (Engelm.) Rümpler var. *robusta* L. Benson; *Mammillaria fasciculata* Engelm.
Echinocereus fasciculatus (Engelm. ex B. D. Jackson) L. Benson var. *bonkeriae* (Thornber & Bonker) L. Benson.
Syn.: *Echinocereus boyce-thompsonii* Orcutt var. *bonkeriae* Peebles; *Echinocereus fendleri* (Engelm.) Rümpler var. *bonkeriae* (Thornber & Bonker) L. Benson
Echinocereus fasciculatus (Engelm. ex B. D. Jackson) L. Benson var. *boyce-thompsonii* (Orcutt) L. Benson
Syn.: *Echinocereus boyce-thompsonii* Orcutt
Echinocereus fendleri (Engelm.) Rümpler var. *boyce-thompsonii* (Orcutt) L. Benson
Echinocereus fendleri (Engelm.) Rümpler var. *fendleri*
Echinocereus fendleri (Engelm.) Rümpler var. *rectispinus* (Peebles) L. Benson
Echinocereus ledingii Peebles

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- Echinocereus nicholii* (L. Benson) Parfitt.
Syn.: *Echinocereus engelmannii* (Parry ex Engelm.) Lemaire var. *nicholii* L. Benson
- Echinocereus pectinatus* (Scheidw.) Engelm. var. *dasyacanthus* (Engelm.) N. P. Taylor
Syn.: *Echinocereus pectinatus* (Scheidw.) Engelm. var. *neomexicanus* (Coult.) L. Benson
- Echinocereus polyacanthus* Engelm. (1848) var. *polyacanthus*
- Echinocereus pseudopectinatus* (N. P. Taylor) N. P. Taylor
Syn.: *Echinocereus bristolii* W. T. Marshall var. *pseudopectinatus* N. P. Taylor, *Echinocereus pectinatus* (Scheidw.) Engelm. var. *pectinatus sensu* Kearney and Peebles, Arizona Flora, and L. Benson, The Cacti of Arizona and The Cacti of the United States and Canada.
- Echinocereus rigidissimus* (Engelm.) Hort. F. A. Haage.
Syn.: *Echinocereus pectinatus* (Scheidw.) Engelm. var. *rigidissimus* (Engelm.) Engelm. ex Rümpler–Rainbow cactus
- Echinocereus triglochidiatus* Engelm. var. *gonacanthus* (Engelm. & Bigel.) Boiss.
- Echinocereus triglochidiatus* Engelm. var. *melanacanthus* (Engelm.) L. Benson
Syn.: *Mammillaria aggregata* Engelm.
- Echinocereus triglochidiatus* Engelm. var. *mojavensis* (Engelm.) L. Benson
- Echinocereus triglochidiatus* Engelm. var. *neomexicanus* (Standl.) Standl. ex W. T. Marshall.
Syn.: *Echinocereus triglochidiatus* Engelm. var. *polyacanthus* (Engelm. 1859 non 1848) L. Benson
- Echinocereus triglochidiatus* Engelm. var. *triglochidiatus*
- Echinomastus erectocentrus* (Coult.) Britt. & Rose var. *erectocentrus*
Syn.: *Neolloydia erectocentra* (Coult.) L. Benson var. *erectocentra*
- Echinomastus intertextus* (Engelm.) Britt. & Rose
Syn.: *Neolloydia intertexta* (Engelm.) L. Benson
- Echinomastus johnsonii* (Parry) Baxter–Beehive cactus
Syn.: *Neolloydia johnsonii* (Parry) L. Benson
- Epithelantha micromeris* (Engelm.) Weber ex Britt. & Rose
- Ferocactus cylindraceus* (Engelm.) Orcutt var. *cylindraceus*–Barrel cactus
Syn.: *Ferocactus acanthodes* (Lemaire) Britt. & Rose var. *acanthodes*
- Ferocactus cylindraceus* (Engelm.) Orcutt var. *eastwoodiae* (Engelm.) N. P. Taylor
Syn.: *Ferocactus acanthodes* (Lemaire) Britt. & Rose var. *eastwoodiae* L. Benson; *Ferocactus eastwoodiae* (L. Benson) L. Benson
- Ferocactus cylindraceus* (Engelm.) Orcutt. var. *lecontei* (Engelm.) H. Bravo
Syn.: *Ferocactus acanthodes* (Lemaire) Britt. & Rose var. *lecontei* (Engelm.) Lindsay; *Ferocactus lecontei* (Engelm.) Britt. & Rose
- Ferocactus emoryi* (Engelm.) Orcutt–Barrel cactus
Syn.: *Ferocactus covillei* Britt. & Rose
- Ferocactus wislizenii* (Engelm.) Britt. & Rose–Barrel cactus
- Lophocereus schottii* (Engelm.) Britt. & Rose–Senita
- Mammillaria grahamii* Engelm. var. *grahamii*
- Mammillaria grahamii* Engelm. var. *oliviae* (Orcutt) L. Benson
Syn.: *Mammillaria oliviae* Orcutt
- Mammillaria heyderi* Mühlenpf. var. *heyderi*
Syn.: *Mammillaria gummifera* Engelm. var. *applanata* (Engelm.) L. Benson
- Mammillaria heyderi* Mühlenpf. var. *macdougalii* (Rose) L. Benson
Syn.: *Mammillaria gummifera* Engelm. var. *macdougalii* (Rose) L. Benson; *Mammillaria macdougalii* Rose
- Mammillaria heyderi* Mühlenpf. var. *meiacantha* (Engelm.) L. Benson
Syn.: *Mammillaria gummifera* Engelm. var. *meiacantha* (Engelm.) L. Benson
- Mammillaria lasiacantha* Engelm.
- Mammillaria mainiae* K. Brand.
- Mammillaria microcarpa* Engelm.
- Mammillaria tetrancistra* Engelm.
- Mammillaria thornberi* Orcutt
- Mammillaria viridiflora* (Britt. & Rose) Bödeker.
Syn.: *Mammillaria oestra* L. Benson
- Mammillaria wrightii* Engelm. var. *wilcoxii* (Toumey ex K. Schumann) W. T. Marshall
Syn.: *Mammillaria wilcoxii* Toumey
- Mammillaria wrightii* Engelm. var. *wrightii*
- Opuntia acanthocarpa* Engelm. & Bigel. var. *acanthocarpa*–Buckhorn cholla
- Opuntia acanthocarpa* Engelm. & Bigel. var. *coloradensis* L. Benson

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- Opuntia acanthocarpa* Engelm. & Bigel. var. *major* L. Benson
Syn.: *Opuntia acanthocarpa* Engelm. & Bigel var. *ramosa* Peebles
- Opuntia acanthocarpa* Engelm. & Bigel. var. *thornberi* (Thornber & Bonker) L. Benson
Syn.: *Opuntia thornberi* Thornber & Bonker
- Opuntia arbuscula* Engelm.—Pencil cholla
- Opuntia basilaris* Engelm. & Bigel. var. *aurea* (Baxter) W. T. Marshall—Yellow beavertail
Syn.: *Opuntia aurea* Baxter
- Opuntia basilaris* Engelm. & Bigel. var. *basilaris*—Beavertail cactus
- Opuntia basilaris* Engelm. & Bigel. var. *longiareolata* (Clover & Jotter) L. Benson
- Opuntia basilaris* Engelm. & Bigel. var. *treleasei* (Coult.) Toumey
- Opuntia bigelovii* Engelm.—Teddy-bear cholla
- Opuntia campii* ined.
- Opuntia canada* Griffiths (*O. phaeacantha* Engelm. var. *laevis* X *major* and *O. gilvescens* Griffiths).
- Opuntia chlorotica* Engelm. & Bigel.—Pancake prickly-pear
- Opuntia clavata* Engelm.—Club cholla
- Opuntia curvospina* Griffiths
- Opuntia echinocarpa* Engelm. & Bigel—Silver cholla
- Opuntia emoryi* Engelm.—Devil cholla
Syn.: *Opuntia stanlyi* Engelm. ex B. D. Jackson var. *stanlyi*
- Opuntia engelmannii* Salm-Dyck ex Engelm. var. *engelmannii*—Engelmann’s prickly-pear
Syn.: *Opuntia phaeacantha* Engelm. var. *discata* (Griffiths) Benson & Walkington
- Opuntia engelmannii* Salm-Dyck ex Engelm. var. *flavospina* (L. Benson) Parfitt & Pinkava
Syn.: *Opuntia phaeacantha* Engelm. var. *flavispina* L. Benson
- Opuntia erinacea* Engelm. & Bigel. var. *erinacea*—Mohave prickly-pear
- Opuntia erinacea* Engelm. & Bigel. var. *hystricina* (Engelm. & Bigel.) L. Benson
Syn.: *Opuntia hystricina* Engelm. & Bigel.
- Opuntia erinacea* Engelm. & Bigel. var. *ursina* (Weber) Parish—Grizzly bear prickly-pear Syn.: *Opuntia ursina* Weber
- Opuntia erinacea* Engelm. & Bigel. var. *utahensis* (Engelm.) L. Benson
Syn.: *Opuntia rhodantha* Schum.
- Opuntia fragilis* Nutt. var. *brachyarthra* (Engelm. & Bigel.) Coult.
- Opuntia fragilis* Nutt. var. *fragilis*—Little prickly-pear
- Opuntia fulgida* Engelm. var. *fulgida*—Jumping chain-fruit cholla
- Opuntia fulgida* Engelm. var. *mammillata* (Schott) Coult.
- Opuntia imbricata* (Haw.) DC.—Tree cholla
- Opuntia X kelvinensis* V. & K. Grant pro sp.
Syn.: *Opuntia kelvinensis* V. & K. Grant
- Opuntia kleiniae* DC. var. *tetracantha* (Toumey) W. T. Marshall
Syn.: *Opuntia tetrancistra* Toumey
- Opuntia kunzei* Rose.
Syn.: *Opuntia stanlyi* Engelm. ex B. D. Jackson var. *kunzei* (Rose) L. Benson; *Opuntia kunzei* Rose var. *wrightiana* (E. M. Baxter) Peebles; *Opuntia wrightiana* E. M. Baxter
- Opuntia leptocaulis* DC.—Desert Christmas cactus, Pencil cholla
- Opuntia littoralis* (Engelm.) Cockl. var. *vaseyi* (Coult.) Benson & Walkington
- Opuntia macrocentra* Engelm.—Purple prickly-pear
Syn.: *Opuntia violacea* Engelm. ex B. D. Jackson var. *macrocentra* (Engelm.) L. Benson; *Opuntia violacea* Engelm. ex B. D. Jackson var. *violacea*
- Opuntia macrorhiza* Engelm. var. *macrorhiza*—Plains prickly-pear
Syn.: *Opuntia plumbea* Rose
- Opuntia macrorhiza* Engelm. var. *pottsii* (Salm-Dyck) L. Benson
- Opuntia martiniana* (L. Benson) Parfitt
Syn.: *Opuntia littoralis* (Engelm.) Cockerell var. *martiniana* (L. Benson) L. Benson; *Opuntia macrocentra* Engelm. var. *martiniana* L. Benson
- Opuntia nicholii* L. Benson—Navajo Bridge prickly-pear
- Opuntia parishii* Orcutt.
Syn.: *Opuntia stanlyi* Engelm. ex B. D. Jackson var. *parishii* (Orcutt) L. Benson
- Opuntia phaeacantha* Engelm. var. *laevis* (Coult.) L. Benson
Syn.: *Opuntia laevis* Coult.
- Opuntia phaeacantha* Engelm. var. *major* Engelm.

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- Opuntia phaeacantha* Engelm. var. *phaeacantha*
Opuntia phaeacantha Engelm. var. *superbospina* (Griffiths) L. Benson
Opuntia polyacantha Haw. var. *juniperina* (Engelm.) L. Benson
Opuntia polyacantha Haw. var. *rufispina* (Engelm.) L. Benson
Opuntia polyacantha Haw. var. *trichophora* (Engelm. & Bigel.) L. Benson
Opuntia pulchella Engelm.—Sand cholla
Opuntia ramosissima Engelm.—Diamond cholla
Opuntia santa-rita (Griffiths & Hare) Rose—Santa Rita prickly-pear
Syn.: *Opuntia violacea* Engelm. ex B. D. Jackson var. *santa-rita* (Griffiths & Hare) L. Benson
Opuntia spinosior (Engelm.) Toumey—Cane cholla
Opuntia versicolor Engelm.—Staghorn cholla
Opuntia vivipara Engelm.
Opuntia whipplei Engelm. & Bigel. var. *multigeniculata* (Clokey) L. Benson
Opuntia whipplei Engelm. & Bigel. var. *whipplei*—Whipple cholla
Opuntia wigginsii L. Benson
Pediocactus papyracanthus (Engelm.) L. Benson Grama grass cactus
Syn.: *Toumeyia papyracanthus* (Engelm.) Britt. & Rose
Pediocactus simpsonii (Engelm.) Britt. & Rose var. *simpsonii*
Peniocereus greggii (Engelm.) Britt. & Rose var. *greggii*—Night-blooming cereus
Syn.: *Cereus greggii* Engelm.
Peniocereus greggii (Engelm.) Britt. & Rose var. *transmontanus*—Queen-of-the-Night
Peniocereus striatus (Brandege) Buxbaum.
Syn.: *Neoevansia striata* (Brandege) Sanchez-Mejorada; *Cereus striatus* Brandege; *Wilcoxia diguetii* (Webber) Peebles
Sclerocactus parviflorus Clover & Jotter var. *intermedius* (Peebles) Woodruff & L. Benson
Syn.: *Sclerocactus intermedius* Peebles
Sclerocactus parviflorus Clover & Jotter var. *parviflorus*
Syn.: *Sclerocactus whipplei* (Engelm. & Bigel.) Britt. & Rose var. *roseus* (Clover) L. Benson
Sclerocactus pubispinus (Engelm.) L. Peebles
Sclerocactus spinosior (Engelm.) Woodruff & L. Benson
Syn.: *Sclerocactus pubispinus* (Engelm.) L. Benson var. *sileri* L. Benson
Sclerocactus whipplei (Engelm. & Bigel.) Britt. & Rose
Stenocereus thurberi (Engelm.) F. Buxbaum—Organ pipe cactus
Syn.: *Cereus thurberi* Engelm.; *Lemaurocereus thurberi* (Engelm.) Britt. & Rose
- CAMPANULACEAE** Bellflower Family
Lobelia cardinalis L. ssp. *graminea* (Lam.) McVaugh—Cardinal flower
Lobelia fenestralis Cav.—Leafy lobelia
Lobelia laxiflora H. B. K. var. *angustifolia* A. DC.
- CAPPARACEAE** Cappar Family [=Capparidaceae]
Cleome multicaulis DC.—Playa spiderflower
- CHENOPODIACEAE** Goosefoot Family
Atriplex hymenelytra (Torr.) Wats.
- CRASSULACEAE** Stonecrop Family
Dudleya arizonica (Nutt.) Britt. & Rose
Syn.: *Echeveria pulverulenta* Nutt. ssp. *arizonica* (Rose) Clokey
Dudleya saxosa (M.E. Jones) Britt. & Rose ssp. *collomiae* (Rose) Moran
Syn.: *Echeveria collomiae* (Rose) Kearney & Peebles
Graptopetalum bartramii Rose
Syn.: *Echeveria bartramii* (Rose) K. & P.
Graptopetalum bartramii Rose—Bartram’s stonecrop, Bartram’s live-forever
Syn.: *Echeveria bartramii* (Rose) Kearney & Peebles
Graptopetalum rusbyi (Greene) Rose
Syn.: *Echeveria rusbyi* (Greene) Nels. & Macbr.
Sedum cockerellii Britt.
Sedum griffithsii Rose
Sedum lanceolatum Torr.
Syn.: *Sedum stenopetalum* Pursh
Sedum rhodanthum Gray
Sedum stelliforme Wats.

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CROSSOSOMATACEAE Crossosoma Family

Apacheria chiricahuensis C. T. Mason—Chiricahua rock flower

CUCURBITACEAE Gourd Family

Tumamoca macdougalii Rose—Tumamoc globeberry

EUPHORBIACEAE Spurge Family

Euphorbia plummerae Wats.—Woodland spurge

Sapium biloculare (Wats.) Pax—Mexican jumping-bean

FABACEAE Pea Family [=Leguminosae]

Astragalus corbrensis Gray var. *maguirei* Kearney

Astragalus cremnophylax Barneby var. *myriorrhaphis* Barneby—Cliff milk-vetch

Astragalus hypoxylus Wats.—Huachuca milk-vetch

Astragalus nutriosensis Sanderson—Nutrioso milk-vetch

Astragalus xiphoides (Barneby) Barneby—Gladiator milk-vetch

Cercis occidentalis Torr.—California redbud

Errazurizia rotundata (Woot.) Barneby

Syn.: *Parryella rotundata* Woot.

Lysiloma microphylla Benth. var. *thornberi* (Britt. & Rose) Isely—Feather bush

Syn.: *Lysiloma thornberi* Britt. & Rose

~~*Parkinsonia aculeata* L.—Jerusalem Thorn~~

Phaseolus supinus Wiggins & Rollins

FOUQUIERIACEAE Ocotillo Family

Fouquieria splendens Engelm.—Ocotillo, coach-whip, monkey-tail

GENTIANACEAE Gentian Family

Gentianella wislizenii (Engelm.) J. Gillett

Syn.: *Gentiana wislizenii* Engelm.

LAMIACEAE Mint Family

Hedeoma diffusum Green—Flagstaff pennyroyal

Salvia dorrii ssp. *mearnsii*

Trichostema micranthum Gray

LILIACEAE Lily Family

Allium acuminatum Hook.

Allium bigelovii Wats.

Allium biseptum Wats. var. *palmeri* (Wats.) Cronq.

Syn.: *Allium palmeri* Wats.

Allium cernuum Roth. var. *neomexicanum* (Rydb.) Macbr.—Nodding onion

Allium cernuum Roth. var. *obtusum* Ckll.

Allium geyeri Wats. var. *geyeri*

Allium geyeri Wats. var. *tenerum* Jones

Allium kunthii Don

Allium macropetalum Rydb.

Allium nevadense Wats. var. *cristatum* (Wats.) Ownbey

Allium nevadense Wats. var. *nevadense*

Allium parishii Wats.

Allium plummerae Wats.

Allium rhizomatum Woot. & Standl. Incl.: *Allium glandulosum* Link & Otto *sensu* Kearney & Peebles

Androstephium breviflorum Wats.—Funnel-lily

Calochortus ambiguus (Jones) Ownbey

Calochortus aureus Wats.

Syn.: *Calochortus nuttallii* Torr. & Gray var. *aureus* (Wats.) Ownbey

Calochortus flexuosus Wats.—Stragglng mariposa

Calochortus gunnisonii Wats.

Calochortus kennedyi Porter var. *kennedyi*—Desert mariposa

Calochortus kennedyi Porter var. *munzii* Jeps.

Dichelostemma pulchellum (Salisbi) Heller var. *pauciflorum* (Torr.) Hoover

Disporum trachycarpum (Wats.) Benth. & Hook. var. *subglabrum* Kelso

Disporum trachycarpum (Wats.) Benth. & Hook. var. *trachycarpum*

Echeandia flavescens (Schultes & Schultes) Cruden

Syn.: *Anthericum torreyi* Baker

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Eremocrinum albomarginatum Jones
Fritillaria atropurpurea Nutt.
Hesperocallis undulata Gray–Ajo lily
Lilium parryi Wats.–Lemon lily
Lilium umbellatum Pursh
Maianthemum racemosum (L.) Link. ssp. *amplexicaule* (Nutt.) LaFrankie
Syn.: *Smilacina racemosa* (L.) Desf. var. *amplexicaulis* (Nutt.) Wats.
Maianthemum racemosum (L.) Link ssp. *racemosum*–False Solomon’s seal
Syn.: *Smilacina racemosa* (L.) Desf. var. *racemosa*; *Smilacina racemosa* (L.) Desf. var. *cylindrata* Fern.
Maianthemum stellatum (L.) Link
Syn.: *Smilacina stellata* (L.) Desf.–Starflower
Milla biflora Cav.–Mexican star
Nothoscordum texanum Jones
Polygonatum cobrense (Woot. & Standl.) Gates
Streptopus amplexifolius (L.) DC.–Twisted stalk
Triteleia lemmonae (Wats.) Greene
Triteleopsis palmeri (Wats.) Hoover
Veratrum californicum Durand.–False hellebore
Zephyranthes longifolia Hemsl.–Plains rain lily
Zigadenus elegans Pursh–White camas, alkali-grass
Zigadenus paniculatus (Nutt.) Wats.–Sand-corn
Zigadenus virescens (H. B. K.) Macbr.

MALVACEAE Mallow Family

Abutilon parishii Wats.–Tucson Indian mallow
Abutilon thurberi Gray–Baboquivari Indian mallow

ONAGRACEAE Evening Primrose Family

Camissonia exilis (Raven) Raven

ORCHIDACEAE Orchid Family

Calypso bulbosa (L.) Oakes var. *americana* (R. Br.) Luer
Coeloglossum viride (L.) Hartmann var. *virescens* (Muhl.) Luer
Syn.: *Habenaria viridis* (L.) R. Br. var. *bracteata* (Muhl.) Gray
Corallorhiza maculata Raf.–Spotted coral root
Corallorhiza striata Lindl.–Striped coral root
Corallorhiza wisteriana Conrad–Spring coral root
Epipactis gigantea Douglas ex Hook.–Giant helleborine
Goodyera oblongifolia Raf.
Goodyera repens (L.) R. Br.
Hexalectris spicata (Walt.) Barnhart–Crested coral root
Listera convallarioides (Swartz) Nutt.–Broad-leaved twayblade
Malaxis corymbosa (S. Wats.) Kuntze
Malaxis ehrenbergii (Reichb. f.) Kuntze
Malaxis macrostachya (Lexarza) Kuntze–Mountain malaxia
Syn.: *Malaxis soulei* L. O. Williams
Malaxis tenuis (S. Wats.) Ames
Platanthera hyperborea (L.) Lindley var. *gracilis* (Lindley) Luer
Syn.: *Habenaria sparsiflora* Wats. var. *laxiflora* (Rydb.) Correll
Platanthera hyperborea (L.) Lindley var. *hyperborea*–Northern green orchid
Syn.: *Habenaria hyperborea* (L.) R. Br.
Platanthera limosa Lindl.–Thurber’s bog orchid
Syn.: *Habenaria limosa* (Lindley) Hemsley
Platanthera sparsiflora (Wats.) Schlechter var. *ensifolia* (Rydb.) Luer
Platanthera sparsiflora (Wats.) var. *laxiflora* (Rydb.) Correll
Platanthera sparsiflora (Wats.) Schlechter var. *sparsiflora*–Sparsely-flowered bog orchid
Syn.: *Habenaria sparsiflora* Wats.
Platanthera stricta Lindl.–Slender bog orchid
Syn.: *Habenaria saccata* Greene; *Platanthera saccata* (Greene) Hulten
Platanthera viridis (L.) R. Br. var. *bracteata* (Muhl.) Gray–Long-bracted habenaria
Spiranthes michauxiana (La Llave & Lex.) Hemsl.
Spiranthes parasitica A. Rich. & Gal.

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Spiranthes romanzoffiana Cham.—Hooded ladies tresses

PAPAVERACEAE Poppy Family

Arctomecon californica Torr. & Frém.—Golden-bear poppy, Yellow-flowered desert poppy

PINACEAE Pine Family

Pinus aristata Engelm.—Bristlecone pine

POLYGONACEAE Buckwheat Family

Eriogonum apachense Reveal

Eriogonum capillare Small

Eriogonum mortonianum Reveal—Morton's buckwheat

Eriogonum ripleyi J. T. Howell—Ripley's wild buckwheat, Frazier's Well buckwheat

Eriogonum thompsonae Wats. var. *atwoodii* Reveal—Atwood's buckwheat

PORTULACAEAE Purslane Family

Talinum humile Greene—Pinos Altos flame flower

Talinum marginatum Greene

Talinum validulum Greene—Tusayan flame flower

PRIMULACEAE Primrose Family

Dodecatheon alpinum (Gray) Greene ssp. *majus* H. J. Thompson

Dodecatheon dentatum Hook. ssp. *ellisiae* (Standl.) H. J. Thompson

Dodecatheon pulchellum (Raf.) Merrill

Primula hunnewellii Fern.

Primula rusbyi Greene

Primula specuicola Rydb.

RANUNCULACEAE Buttercup Family

Aquilegia caerulea James ssp. *pinetorum* (Tidest.) Payson—Rocky Mountain Columbine

Aquilegia chrysantha Gray

Aquilegia desertorum (Jones) Ckll.—Desert columbine, Mogollon columbine

Aquilegia elegantula Greene

Aquilegia longissima Gray—Long Spur Columbine

Aquilegia micrantha Eastw.

Aquilegia triternata Payson

ROSACEAE Rose Family

Rosa stellata Woot.—ssp. *abyssa* A. Phillips Grand Canyon rose

Vauquelinia californica (Torr.) Sarg. ssp. *pauciflora* (Standl.) Hess & Henrickson—Few-flowered Arizona rosewood

SCROPHULARIACEAE Figwort Family

Castilleja mogollonica Pennell

Penstemon albomarginatus Jones

Penstemon bicolor (Brandeg.) Clokey & Keck ssp. *roseus* Clokey & Keck

Penstemon clutei A. Nels.

Penstemon distans N. Holmgren—Mt. Trumbull beardtongue

Penstemon linarioides spp. *maguirei*

SIMAROUBACEAE Simarouba Family

Castela emoryi (Gray) Moran & Felger—Crucifixion thorn

Syn.: *Holacantha emoryi* Gray

STERCULIACEAE Cacao Family

Fremontodendron californicum (Torr.) Coville—Flannel bush

C. Salvage Assessed Protected Native Plants

The following list includes those species of native plants that are not included in either the highly safeguarded or salvage restricted category but have a sufficient value if salvaged to support the cost of salvage.

BIGNONIACEAE Bignonia Family

Chilopsis linearis (Cav.) Sweet var. *arcuata* Fosberg—Desert-willow

Chilopsis linearis (Cav.) Sweet var. *glutinosa* (Engelm.) Fosberg

FABACEAE Pea Family [=Leguminosae]

Cercidium floridum Benth.—Blue palo verde

Cercidium microphyllum (Torr.) Rose & Johnst.—Foothill palo verde

Olneya tesota Gray—Desert ironwood

Prosopis glandulosa Torr. var. *glandulosa*—Honey mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *glandulosa* (Torr.) Ckll.

Prosopis glandulosa Torr. var. *torreyana* (Benson) M. C. Johnst.—Western honey mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *torreyana* Benson

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Prosopis pubescens Benth.—Screwbean mesquite

Prosopis velutina Woot.—Velvet mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *velutina* (Woot.) Sarg.

Psoralea argophylla (Gray) Barneby—Smoke tree.

Syn.: *Dalea spinosa* Gray

D. Harvest Restricted Protected Native Plants

The following list includes those species of native plants that are not included in the highly safeguarded category but are subject to excessive harvesting or overcutting because of their intrinsic value.

AGAVACEAE Agave Family (including Nolinaceae)

Nolina bigelovii (Torr.) Wats.—Bigelow's nolina

Nolina microcarpa Wats.—Beargrass, sacahuista

Nolina parryi Wats.—Parry's nolina

Nolina texana Wats. var. *compacta* (Trel.) Johnst.—Bunchgrass

Yucca baccata Torr. var. *baccata*—Banana yucca

Yucca schidigera Roezl.—Mohave yucca, Spanish dagger

FABACEAE Pea Family [=Leguminosae]

Olneya tesota Gray—Desert ironwood

Prosopis glandulosa Torr. var. *glandulosa*—Honey mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *glandulosa* (Torr.) Ckll.

Prosopis glandulosa Torr. var. *torreyana* (Benson) M. C. Johnst.—Western honey mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *torreyana* Benson

Prosopis pubescens Benth.—Screwbean mesquite

Prosopis velutina Woot.—Velvet mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *velutina* (Woot.) Sarg.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|--|--|
| R4-23-703 | Amend |
| <u>2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):</u> | |
| Authorizing statutes: A.R.S. § 32-1904(A)(1). | |
| Implementing statutes: A.R.S. § 32-1904(A)(1). | |
| <u>3. The effective date of the rules:</u> | |
| July 16, 1999 | |
| <u>4. A list of all previous notices appearing in the Register addressing the final rule:</u> | |
| Notice of Rulemaking Docket Opening: 1 A.A.R. 1157, July 21, 1995. | |
| Notice of Proposed Rulemaking: 5 A.A.R. 491, February 12, 1999. | |
| <u>5. The name and address of agency personnel with whom persons may communicate regarding the rule:</u> | |
| Name: | Dean Wright, Compliance Officer |
| Address: | Board of Pharmacy
5060 N. 19th Ave., Suite 101
Phoenix, AZ 85015 |
| Telephone: | (602) 255-5125, Ext. 131 |
| Fax: | (602) 255-5740 |
| <u>6. An explanation of the rule, including the agency's reasons for initiating the rule:</u> | |
| In June of 1995, the Board staff identified certain rules that were outdated or contained outdated language or citations. The sheltered care home rule (R4-23-703) meets those criteria. The rule has several citations to Department of | |

Health Services (DHS) rules that no longer exist and the rule heading (sheltered care homes) is no longer used by DHS. During the process of amending our rule, the Office of Health Care Licensure at DHS began rewriting their rules for residential care institutions. The term residential care institutions includes assisted living facilities which is the current term for sheltered care homes. The rule writing process at DHS was not finalized until the fall of 1998. Our assisted living facilities rule compliments the current DHS rules in A.A.C. Title 9, Chapter 10, Article 7. The rule addresses format and style changes necessary under the current administrative procedures act and other necessary language changes to provide a clear, concise, and understandable document.

The heading of R4-23-703 is amended to read "Assisted Living Facilities". The citations in subsection (A) are deleted and the subsection now states that assisted living facilities are licensed by DHS. The language in subsection (B) is updated and expanded to better clarify the requirements a pharmacy shall meet to service assisted living facility patients, including a new requirement to obtain and maintain a copy of an assisted living facility's DHS license. Subsection (C) is amended with more concise and understandable language, including a new requirement to put a beyond-use-date on the prescription label of assisted living facility patients. Subsections (D) through (F) are amended using more clear, concise, and understandable language. Subsection (G) is deleted because it is not necessary.

The Board believes that approval of the rule will benefit the public health and safety by establishing pharmacy practice standards specific to the servicing of assisted living facilities. The Board further believes that specific regulation and enforcement are necessary to protect the health and safety of patients in assisted living facilities.

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

None.

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

Not applicable.

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

Most of the changes to the rule involve format, style, and wording for conciseness and understandability. There are 2 substantive changes that establish additional labeling and record keeping requirements. Specifically, the beyond-use-date is required on the prescription label of assisted living facility patients and a pharmacy shall obtain and maintain a copy of an assisted living facility's current Department of Health Services license. These two requirements may involve additional cost to a pharmacy. These costs will be minimal. The majority of pharmacies that service assisted living facility patients already provide the beyond-use-date on the prescription label. Those pharmacies that do not provide the beyond-use-date can easily type in the information. The cost to obtain and maintain a copy of a facility's DHS license is also minimal. Again, the majority of pharmacies that service assisted living facilities already obtain and maintain a copy of the facility license. The rule benefits public health and safety by establishing practice standards intended to enhance drug delivery to assisted living facility patients and encourage pharmacist involvement in establishing drug control policies and procedures within assisted living facilities.

10. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

There are no changes between the proposed rules and the final rules.

11. **A summary of the principal comments and the agency response to them:**

No comments were received by the agency.

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

Not applicable.

13. **Incorporations by reference and their location in the rules:**

None.

14. **Was this rule previously approved as an emergency rule?**

No.

15. **The full text of the rules follows:**

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 7. NON-PHARMACY LICENSED OUTLETS - GENERAL PROVISIONS

Section

R4-23-703. Assisted Living Facilities Sheltered care homes

ARTICLE 7. NON-PHARMACY LICENSED OUTLETS - GENERAL PROVISIONS

R4-23-703. Assisted Living Facilities Sheltered care homes

- A. ~~Assisted living facilities Sheltered care homes are licensed by the state Department of Health Services. Sheltered care homes are licensed by state Department of Health Services and are subject to that Department's rules and regulations for licensing of sheltered care homes, Article 4, Part 5. Section 4-5-12 pertains to medical care, nursing and other services. Section 4-5-13 pertains to supervision and care of medication and patient records.~~
- B. A pharmacy shall:
1. Only dispense, sell, or deliver a prescription or nonprescription drug to an assisted living facility resident after receiving a prescription order for the drug from the resident's medical practitioner;
 2. Label, in accordance with A.R.S. §§ 32-1963.01 and 32-1968, all drugs dispensed, sold, or delivered to an assisted living facility resident;
 3. Obtain a copy of the current Arizona Department of Health Services license issued to an assisted living facility before dispensing drugs to that facility's resident; and
 4. Maintain, for inspection by a Board compliance officer, a file containing the license copy required in subsection (B)(3). Drugs in sheltered care home on prescription orders for individual patient, except for simple household medicines: Pharmacists shall not sell or deliver drugs to sheltered care homes, other than simple household medication, except on prescription order for the individual, dispensed, serially numbered and labeled for that individual.
- C. In addition to the labeling requirements of A.R.S. §§ 32-1963.01 and 32-1968, the label on a prescription medication for an assisted living facility resident shall include the name, strength, and quantity of the drug and a beyond-use-date. Label of prescription medication: The label on prescription medication for patients in sheltered care homes shall bear the name of drug, strength, and quantity in container, in addition to ordinarily required prescription order number, patient's name, date dispensed, medical practitioner's name, name and address of pharmacy and directions for use.
- D. If the label on an assisted living facility resident's drug container becomes damaged or soiled, a pharmacist employed by the pharmacy that dispensed the drug container, through the exercise of professional judgment, may relabel the drug container. Pharmacists required to relabel medication: Pharmacist, at their professional discretion, shall relabel medications with damaged or soiled labels in sheltered care homes. Only a pharmacist is permitted to label a drug container or alter the a label of a drug container.
- E. ~~Pharmacists should assist sheltered care homes in drug control: Pharmacists should assist sheltered care home personnel to develop written policies and procedures for the procurement, administration, storage, control, record keeping, and disposal of drugs in the facility in questions concerning the storage, record keeping, classification of drugs, security requirements, pharmaceutical action, drug interaction, dosage, laws, and provide other information concerning drugs that assisted living facilities nursing homes should have for safe and effective supervision of drug self-administration of drugs.~~ A pharmacist may help assisted living facility
- F. ~~No rebates to sheltered care homes: A~~ The pharmacist shall not pay any rebate to an assisted living facility a sheltered care home according to R4-23-404 and A.R.S. § 32-1932(B)(1).
- G. ~~Security of drugs: Pharmacists, when dispensing narcotics or dangerous drugs, shall alert sheltered care home personnel that laws governing such drugs require that the sheltered care home personnel keep them locked in a separate cabinet, and accurate records be kept of their administration or ultimate disposition.~~