

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 4. DEPARTMENT OF AGRICULTURE - PLANT SERVICES DIVISION

PREAMBLE

- 1. Sections Affected**

	<u>Rulemaking Action</u>
Article 1, Table 1	Amend
R3-4-708	Amend
R3-4-740	Amend
- 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. §§ 3-107(A)(1), 3-487, 3-527.02, and 41-1073

Implementing statute: A.R.S. § 3-487
- 3. A list of all previous notices appearing in the Register addressing the adopted rule:**

Notice of Rulemaking Docket Opening: 8 A.A.R. 492, February 1, 2002
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Sherry D. Blatner, Rules Specialist

Address: Arizona Department of Agriculture
1688 W. Adams, Room 235
Phoenix, AZ 85007

Telephone: (602) 542-0962

Fax: (602) 542-5420

E-mail: sherry.blatner@agric.state.az.us
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**

This rulemaking eliminates the use of standard sized containers for packing and shipping cantaloupe. It also results in the elimination of procedures related to experimental container permits. The demand for size specifications and container construction is now driven by the wholesale and retail food industry, in the past the transportation industry established shipping requirements. Producers, packers, and shippers need to be able to quickly respond to the demands of the wholesale and retail food markets in order to maintain market share. This rulemaking is proposed by the supervisor of standardization with the Director's approval to accommodate changing industry needs by providing freedom of choice regarding container size and/or construction. Additionally, the rulemaking amends the standardization time-frames.
- 6. 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

Arizona Administrative Register
Notices of Proposed Rulemaking

7. 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

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

A. *The Arizona Department of Agriculture.*

The Department will incur modest expenses related to training staff and educating the regulated community on the amendments.

B. *Political Subdivision.*

Other than the Department, no political subdivision is affected by this rulemaking.

C. *Businesses Directly Affected By the Rulemaking.*

The cantaloupe producers, packers, and shippers in Arizona have been permitted to use different size containers and returnable plastic containers (RPCs) under experimental container permits during the last three shipping seasons. The increased need to change container specifications has been driven by certain wholesale and retail customers.

The transportation industry is set up for hauling containers, standard or experimental, on their standard pallets used in shipping produce.

Some container manufacturing companies specialize in RPCs while others offer the full range of different sizes of fiberboard containers and also RPCs.

The intent of the rulemaking is not to eliminate fiberboard cartons, but to be able to utilize any size container or any container construction to meet the needs of the cantaloupe industry.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Sherry D. Blatner, Rules Specialist

Address: Arizona Department of Agriculture
1688 W. Adams, Room 235
Phoenix, AZ 85007

Telephone: (602) 542-0962

Fax: (602) 542-5420

E-mail: sherry.blatner@agric.state.az.us

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

The Department of Agriculture will schedule a public hearing if a written request for a public hearing is made to the person in item #4.

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

None

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

None

13. The full text of the rules follows:

Arizona Administrative Register
Notices of Proposed Rulemaking

TITLE 3. AGRICULTURE

CHAPTER 4. DEPARTMENT OF AGRICULTURE - PLANT SERVICES DIVISION

ARTICLE 1. GENERAL PROVISIONS

Section
 Table 1. Time-frames (Calendar Days)

ARTICLE 7. FRUIT AND VEGETABLE STANDARDIZATION

Section
 R3-4-708. Cantaloupe Standards, Containers, Packing Arrangements
 R3-4-740. Experimental Container, Pack, and Product Permits for Fruit and Vegetables

ARTICLE 1. GENERAL PROVISIONS

Table 1. Time-frames (Calendar Days)

License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time-frame
QUARANTINE						
Cotton Boll Weevil Pest	A.R.S. § 3-201.01 R3-4-218	14	14	30	30	44
Citrus Fruit Surface Pest	A.R.S. § 3-201.01 R3-4-219	14	14	60	30	74
Citrus Nursery Stock Pests	A.R.S. § 3-201.01 R3-4-220	14	14	30	30	44
Lettuce Mosaic Pest	A.R.S. § 3-201.01 R3-4-233	14	14	30	30	44
Noxious Weeds Regulated and Restricted Prohibited	A.R.S. § 3-201.01 R3-4-244 R3-4-245	14	14	30	30	44
Scale Insects Pests	A.R.S. § 3-201.01 R3-4-226	14	14	30	30	44
Plum Curculio Apple Maggot	A.R.S. § 3-201.01 R3-4-240	14	14	60	30	74
Colored Cotton	A.R.S. § 3-205.02 R3-4-501	14	0	0	0	14
NURSERY						
Ozonium Root Rot Inspection	A.R.S. § 3-201.01 A.R.S. § 3-217 R3-4-303					
• Method of Growing		7	14	30	14	37
• Indicator Crop Planted on Applicant's Property		7	14	4 yrs	14	4 yrs, 7 days
• Indicator Crop Planted in Surrounding Area		7	14	5 yrs	14	5 yrs, 7 days
Other Certification Inspections	A.R.S. § 3-201.01 A.R.S. § 3-217	30	14	1 yr	14	1 yr, 30 days
• Nursery Inspection						

Arizona Administrative Register
Notices of Proposed Rulemaking

License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time-frame
Phytosanitary Field Inspection	A.R.S. § 3-233(A)(7) R3-4-407	30	7	210	7	240
STANDARDIZATION						
Experimental Containers Pack and Product for Fruit and Vegetables	A.R.S. § 3-487 R3-4-740	7	07	27	07	914
Experimental Containers Pack and Product for Citrus Fruit	A.R.S. § 3-445 R3-4-814	7	07	27	07	914
Citrus Fruit Dealer, Packer or Shipper License	A.R.S. § 3-449	1014	14	1014	14	2028
Fruit and Vegetable Dealer, Packer, or Shipper License	A.R.S. § 3-492	1014	14	1014	14	2028
ARIZONA NATIVE PLANTS						
Notice of Intent Confirmation Notice of Intent	A.R.S. § 3-904 R3-4-602	7	14	7	14	14
• Qualifications for Salvage Assessed Native Plant Permits	A.R.S. § 3-906	5	14	5	14	10
• Salvage Restricted Native Plant Permits	R3-4-608	5	14	5	14	10
• Scientific Permits	R3-4-605	14	14	14	14	28
Movement Permits	A.R.S. § 3-906 R3-4-607	5	14	5	14	10
Qualifications for Annual Permits for Harvest-Restricted Native Plants	A.R.S. § 3-907 R3-4-608	5	14	5	14	10
SEED DEALERS AND LABELERS						
Seed Dealer	A.R.S. § 3-235 R3-4-408	14	14	14	14	28
Seed Labeler	A.R.S. § 3-235 R3-4-408	14	14	14	14	28

ARTICLE 7. FRUIT AND VEGETABLE STANDARDIZATION

R3-4-708. Cantaloupe Standards, ~~Containers~~, Packing Arrangements

A. Definitions.

- †. “Mature” means that a cantaloupe has reached the stage of development that ensures the completion of the normal ripening process, the arils that surround the seed during development of maturity are absorbed, and the juice of the edible portion contains not less than ~~9%~~ nine percent soluble solids as determined by the standard hand refractometer.
- a. ~~Soluble solids determination means selecting the least mature-looking cantaloupes and remove 2 1/2-inch diameter plugs from opposite sides of each melon, 1/2 the distance between the stem and blossom ends. Removing the outer 3/8 inch of the rind from the plugs; however, use all the rag on the inside of the plugs. Extract the juice from the plugs and determine the percentage of soluble solids by using a standard hand refractometer.~~

Arizona Administrative Register
Notices of Proposed Rulemaking

- b. Low sugar indicators means the cantaloupe has poor netting, dark spots, sunburn, dark green color, or is soft, and has been torn from the vine before reaching full slip.
- 2. "Lidded or closed" means:
 - a. The opening of corrugated fiberboard containers is completely covered, except for necessary ventilation openings. The container covering is made of material similar to that used in the construction of the sides and bottom of the container and is securely attached to the top.
 - b. Forty percent or more of nailed wooden, wirebound, or other container openings is covered with material similar to that used in the construction of the sides and bottoms of the container and is securely attached to the top.
- 3. "Serious damage" includes damage caused by bruises, sunburn, growth cracks, cuts sponginess, flabbiness, or wilting.

- B. Cantaloupes shall be mature but not overripe, fairly well-netted, and free from mold, decay, and insect damage which has penetrated or damaged the edible portion of the cantaloupe, and free from serious damage.
- C. If a preliminary inspection of the cantaloupes indicates that further testing is required, as prescribed in R3-4-739(A) and (B), the inspector shall randomly select the following number of melons for testing and average the results to determine the percent of soluble solids. The minimum number of cantaloupes selected from a container for maturity sampling is as follows:

Melons Per Container	Min. Melons Tested
9 or less	7
12	8
15	11
18	13
22	15
23	16
<u>24 or more</u>	<u>2/3 of the melons in the container, not to exceed 30 melons</u>

- D. Not more than ~~5%~~ five percent, by count, of the cantaloupes in any ~~1~~ one lot shall be allowed for any ~~1~~ one defect and not more than ~~10%~~ percent, by count, shall fail the total requirements prescribed in this Section.
- E. All cantaloupes in each container shall be of ~~1~~ one variety or of similar varietal characteristics.
- F. Cantaloupes packed in ~~the standard~~ containers shall be uniform in size and ~~shall packed in a compact arrangement, conform with the following:~~
 - 1. All containers of cantaloupes shall have the following information appearing in plain sight and in plain letters on 1 outside end:
 - a. The name of the person who 1st packed or authorized the packing of the cantaloupe, or the name under which the packer does business; and
 - b. The address of the person or business.
 - 2. Each container of cantaloupes shall be conspicuously marked in letters of not less than 1/2 inch in height, stating the exact number of melons packed within the container.
 - 3. All cantaloupes shall be packed in a regular compact arrangement in a closed standard container.
 - 4. Standard containers shall be in counts of 6, 9, 12, 15, 18, 22, 23, 30, or 36.
 - 5. Consumer containers or single-layer containers shall be in counts of 5, 6, 8, or 9.
- G. Standard and bulk containers shall conform to the following inside dimensions, in terms of inches:

Containers	Length	Width	Depth
Standard con- tainers and consumer packs	16-7/16"	13-9/16"	6"
	16"	12-13/16"	10-1/2"
	21-7/8"	12"	12"
	21-7/8" to 22-1/8"	13"	13" to 13-1/2"
	22-1/2"	13"	13-1/2"
	21-7/8" to 22"	13"	9" to 9-1/2"
	22" to 22-3/8"	13"	9" to 10"
	22"	13"	10-1/2"
	12-7/8"	12-7/8"	15-1/2" to 16"
	16-3/8" to 17"	12-3/8" to 13-1/4"	9-3/4" to 10-1/2"
	16-1/2"	13-5/8" to 14"	10-1/4"
	22-1/8"	16"	6-3/4" to 8-3/4"
	22-1/8"	14"	7-3/4"
	22-1/8"	14-1/2"	5-3/4"
	23-5/8"	15-3/4"	7-3/4"
	17"	15-1/4"	6-1/2"
Bulk containers	48"	38"	18", 24", 36", or 48"

Arizona Administrative Register
Notices of Proposed Rulemaking

R3-4-740. Experimental ~~Container, Pack,~~ and Product Permits for Fruit and Vegetables

- A. Applicants for a permit for the use of “~~experimental containers~~”, “~~experimental packs~~”, or “~~experimental products~~”, pursuant to A.R.S. § 3-487(B)(3), shall provide the following information on a form furnished by the Department:
1. The name, company name, address, and telephone number of the applicant;
 2. The name and description of the product packed in the container;
 3. The description of the arrangement of the product packed in the container; and
 4. ~~The number of experimental containers to be used;~~
 5. ~~The inside dimensions of the experimental container, expressed in inches;~~
 6. ~~The time period for use of the experimental container, pack, or product.~~
- B. All experimental products shall conform to the standards for unlisted fresh fruit and vegetables prescribed in R3-4-736.
- C. Upon completion of permit requirements, the supervisor may grant a permit which shall be valid for a period of ~~±~~ one year from the date of issuance.
- ~~D. Applicants shall maintain purchase and shipping documents and all records showing the number of containers used under the approved permit for a period of 2 years, including the year for which the application was approved.~~
- ~~E. D.~~ Applicants may request renewal of an experimental ~~container, pack,~~ or product permit. No person shall be granted a permit for the same experimental ~~container, pack,~~ or product for more than ~~3~~ three consecutive years unless the rulemaking process to standardize the experimental ~~container, pack,~~ or product has been initiated.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 28. STATE REAL ESTATE DEPARTMENT

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R4-28-104 | 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. § 32-2107(E)
- Implementing statutes: A.R.S. §§ 32-2124(E), (F), (G), and 32-2132
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
- Notice of Rulemaking Docket Opening: 8 A.A.R. 1976, April 26, 2002
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- Name: Cindy Wilkinson, Policy Officer
- Address: Arizona Real Estate Department
2910 N. 44th Street, Suite 100
Phoenix, AZ 85018
- Telephone: (602) 468-1414, ext. 345
- Fax: (602) 955-6284
- E-mail: cwilkinson@re.state.az.us
- 5. An explanation of the rule, including the agency’s reasons for initiating the rule:**
- Applicants for licensure as a real estate, cemetery, or membership camping salesperson or broker must pass a state license exam required by A.R.S. § 32-2124(E), (F), and (G). Pursuant to A.A.C. R4-28-403(A), the Department contracts with a third party for administration of these license examinations. The amount charged applicants is set by contract with the third party vendor and is within the range for the fees set in A.R.S. § 32-2132(A)(1), (2), (5), and (6). The maximum permissible amount under statute is \$225 for broker candidates and \$125 for salesperson candidates. The current cost for broker license candidates to apply for and take the license examination is \$110; a salesperson’s license candidate pays \$85, established in R4-28-104(A)(1) and (5).

The current contract, awarded to Experior Assessments, L.L.C., in November 1999 as a one-year contract with the option of four one-year renewals, allows for an annual adjustment to the fees with a limit of 6% over the base amount,

Arizona Administrative Register
Notices of Proposed Rulemaking

beginning the fourth year. The Department anticipates that Experior will increase the fees. Because of the current budget situation and the required balance of appropriation and revenue, the Department is amending the rule to pass a nominal increase of \$5 per exam to the consumer of the service—the candidate—to cover the anticipated increase by Experior.

Minor formatting changes were made to clarify the descriptions of other fees based on suggestions by the G.R.R.C. staff.

6. 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

7. 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

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

The economic impact affecting private or public employment and small businesses is expected to be negligible. The expected economic impact on consumers (license candidates) is minimal.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Cindy Wilkinson, Policy Officer

Address: Arizona Real Estate Department
2910 N. 44th Street, Suite 100
Phoenix, AZ 85018

Telephone: (602) 468-1414, ext. 345

Fax: (602) 955-6284

E-mail: cwilkinson@re.state.az.us

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

Date: Thursday, August 22, 2002

Time: 10:00 a.m.

Location: Arizona Department of Real Estate
2910 N. 44th Street, First Floor Conference Room
Phoenix, AZ 85018

Nature: Oral Proceeding

Written comments on the proposed rules or preliminary economic, small business, and consumer impact statement must be received by 5:00 p.m., Thursday August 22, 2002. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Department's coordinator, Dick Simmonds, Business Services Officer, at (602) 468-1414, ext. 160 (voice) or 1-800-367-3839 (TDD Relay). Requests should be made as early as possible to allow time to arrange the accommodation.

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

None

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

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 28. STATE REAL ESTATE DEPARTMENT

ARTICLE 1. GENERAL PROVISIONS

Section
R4-28-104. Fees

ARTICLE 1. GENERAL PROVISIONS

R4-28-104. Fees

A. Licensing Fees.

1. Broker's exam and examination application, ~~\$110.00~~ \$115.00;
2. Broker's license, \$125.00;
3. Broker's renewal (~~Timely~~), \$125.00;
4. ~~Broker Renewal~~ Broker's late renewal pursuant to A.R.S. 32-2130(C), additional \$20.00; (~~Additional~~ per month fee. Maximum \$120)
5. Salesperson's exam and examination application fee, ~~\$85.00~~ \$90.00;
6. Salesperson's license, \$60.00;
7. Salesperson's renewal (~~Timely~~), \$60.00;
8. Salesperson's late renewal pursuant to A.R.S. 32-2130(C), additional \$10.00; (~~Additional~~ per month fee. Maximum \$60)
9. Branch office license,
12 months or less, \$35.00;
13 to 24 months, \$50.00;
Renewal, \$50.00;
10. Change of name and address, \$10.00;
11. Temporary broker's license, \$50.00;
12. Temporary cemetery salesperson's license, \$50.00;
13. Membership camping ~~Certificate of Convenience~~ salesperson's certificate of convenience, \$50.00.

B. No change

C. No change

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 5. DEPARTMENT OF TRANSPORTATION

COMMERCIAL PROGRAMS

PREAMBLE

1. Sections Affected:

R17-5-408

Rulemaking Action:

New Section

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 28-366

Implementing statutes: A.R.S. §§ 28-4538 and 28-4554

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 7 A.A.R. 2176, May 17, 2002

Arizona Administrative Register
Notices of Proposed Rulemaking

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

Name: Troy A. Walters, Rules Analyst
Address: Arizona Department of Transportation
Administrative Rules Unit, Mail Drop 507M
3737 N. 7th Street, Suite 160
Phoenix, AZ 85014-5017
Telephone: (602) 712-6722
Fax: (602) 241-1624
E-mail: twalters@dot.state.az.us

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters, at www.dot.state.az.us/about/rules/index.htm.

5. An explanation of the rule, including the agency's reasons for initiating the rule:

This rule addresses suspensions for a dealer or manufacturer license plate, and temporary registration plate "TRP" issue authority suspensions upon notification of statutory violations as prescribed in A.R.S. §§ 28-4538 and 28-4554. The appeals process for these suspensions is provided as prescribed in 17 A.A.C. Chapter 1, Article 5. This rule will incorporate the requirements of both the Secretary of State and the Governor's Regulatory Review Council for language that is clear, concise, and understandable.

6. 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

7. 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

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

Suspensions, levied upon notification of a violation as prescribed under A.R.S. § 28-4538, limit dealer and manufacturer business objectives for three months. When there is a notification and suspension, as prescribed by A.R.S. § 28-4554, of a motor vehicle business's ability to issue a Temporary Registration Plate "TRP", there may be a potentially significant economic impact to the business.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Questions concerning the economic impact statement may be directed to the agency official listed in item #4.

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

An oral proceeding is not scheduled for this proposed rule. Two previous hearings were conducted on October 10, 2001 and November 5, 2001, and the rulemaking was terminated on April 26, 2002. Since the provisions remain substantially unchanged, the agency determined that no oral proceeding is necessary. Written, faxed, or internet comments may be made by contacting the rules analyst listed in item #4, between 8:00 a.m. and 4:30 p.m., Monday through Friday. The rulemaking's public record will close on August 9, 2002.

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

None

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

None

13. The full text of the rules follows:

Arizona Administrative Register
Notices of Proposed Rulemaking

TITLE 17. TRANSPORTATION

**CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS**

ARTICLE 4. DEALERS

Section

R17-5-408. Suspension. Dealer or Manufacturer Plate; Temporary Registration Plate “TRP” Issue Authority; Hearing

ARTICLE 4. DEALERS

R17-5-408. Suspension. Dealer or Manufacturer Plate; Temporary Registration Plate “TRP” Issue Authority; Hearing

A. Dealer or manufacturer license plate suspension.

1. After determining a violation of A.R.S. §§ 28-4532 through 28-4537, as prescribed in A.R.S. § 28-4538, the Division shall issue a notice to suspend any applicable dealer or manufacturer license plate for three months.
2. After determining a violation of A.R.S. §§ 28-4533, 28-4540, or 28-4544, the Division shall issue a notice to suspend a plate improperly used by a dealer or manufacturer.

B. TRP issue authority suspension. If a dealer fails to comply with the provisions of A.R.S. §§ 28-4546 through 28-4553, as prescribed in A.R.S. § 28-4554, the Division shall issue a notice to suspend the dealer’s authority to issue a TRP.

C. Hearing.

1. Within 30 days after receipt of the Division’s suspension notice issued under this Section, a dealer or manufacturer may submit a hearing request to the Division’s Executive Hearing Office.
2. The Executive Hearing Office shall conduct all hearings according to procedures prescribed under 17 A.A.C. 1, Article 5.

NOTICE OF PROPOSED RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

PREAMBLE

1. Sections Affected

R20-5-501
R20-5-502
R20-5-503
R20-5-504
R20-5-504
R20-5-505
R20-5-506
R20-5-507
R20-5-508
R20-5-509
R20-5-510
R20-5-511

Rulemaking Action

Repeal
Amend
Repeal
Repeal
New Section
Amend
Amend
Amend
Amend
Amend
Amend
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. § 23-491.04

Implementing statute: A.R.S. § 23-491.06

3. A list of all previous notices appearing in the register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 8 A.A.R. 1837, April 12, 2002

Arizona Administrative Register
Notices of Proposed Rulemaking

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

Name: Patrick Ryan, Assistant Director
Division of Occupational Safety and Health

Address: Industrial Commission of Arizona
800 W. Washington, Suite 203
Phoenix, AZ 85007

Telephone: (602) 542-1695

Fax: (602) 542-1614

E-mail: pat.ryan@osha.gov

5. An explanation of the rule, including the agency's reasons for initiating the rule:

The agency is amending these rules to make changes as outlined during the five-year review of these rules. Many of the rules no longer conformed to the current rulemaking format style and are being amended to reflect those formatting changes. Some of the rules incorporation by reference material will be updated to incorporate the latest available edition.

6. 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

7. 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

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

By adopting and enforcing the most current versions of the incorporated by reference material, the Industrial Commission of Arizona will require that elevators, escalators, and related equipment to operate in a safe and beneficial manner for which they were designed, manufactured, and installed. While there will be an initial period of instruction regarding the changes of this rule, these costs are expected to be minimal.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Patrick Ryan, Assistant Director
Division of Occupational Safety and Health

Address: Industrial Commission of Arizona
800 W. Washington, Suite 203
Phoenix, AZ 85007

Telephone: (602) 542-1695

Fax: (602) 542-1614

E-mail: pat.ryan@osha.gov

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

An oral proceeding has been scheduled as follows:

Date: August 13, 2002

Time: 1:00 p.m.

Location: Industrial Commission of Arizona
3rd Floor Conference Room
800 W. Washington Street
Phoenix, AZ 85007

Nature: A public hearing for the taking of oral or written testimony regarding the proposed rules.

Written comments may be submitted on or before 1:00 p.m., August 13, 2002.

Arizona Administrative Register
Notices of Proposed Rulemaking

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

Not applicable

12. Incorporation by reference and their location in the rules:

R20-5-504 - A.S.M.E. A18.1-1999 *Safety Standard for Platform Lifts and Stairway Chairlifts the American Society of Mechanical Engineers Three Park Avenue, New York, NY 10016-5990.*

R20-5-507 - ASME A17.1-1996 *Safety Code for Elevators, The American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990*

R20-5-508 - ASME A90.1-1997 *Safety Standards for Belt Manlifts, The American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990*

R20-5-509 - ANSI A 10.4-1990, *Safety Requirements for Personnel Hoists for Construction and Demolition Operations, The American National Standards Institute, 1819 L Street, NW, 6th floor, Washington DC 20036*

R20-5-511 - ASME A17.2-1996, *Inspectors' Manual for Electric Elevators, The American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990*

13. The full text of the rule follows:

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

ARTICLE 5. ELEVATOR SAFETY ADMINISTRATIVE REGULATIONS

Section

R20-5-501.	Applicability <u>Repealed</u>
R20-5-502.	Definitions
R20-5-503.	Issuance of a Certificate of Competency <u>Repealed</u>
R20-5-504.	Inspector's Qualifications <u>Safety Standards for Platform Lifts and Stairway Chairlifts</u>
R20-5-505.	Certificate of Inspection
R20-5-506.	Recordkeeping
R20-5-507.	Safety Code for Elevators, Escalators, Dumbwaiters, Moving Walks, Material Lifts, and Dumbwaiters with Automatic Transfer Devices, Wheelchair Lifts, and Stairway Chairlifts
R20-5-508.	<u>Safety Standards for Belt Manlifts.</u> The American National Standards Institute Safety Requirements for <u>Belt Manlifts</u> , A.N.S.I., A90.1- 1976 <u>1997</u>
R20-5-509.	The American National Standards Institute Safety Requirements for Personnel Hoists, A.N.S.I., A10.4-1981 <u>Safety Requirements for Personnel Hoists and Employee Elevators for Construction and Demolition Operations.</u>
R20-5-510.	The American National Standard Institute Safety Requirements for Material Hoists, A.N.S.I., A10.5-1981
R20-5-511.	The American National Standard Practice for the Inspection of Elevators, Escalators and Moving Walks, Inspectors' Manual, A.N.S.I. A17.2- 1979 <u>1996</u>

ARTICLE 5. ELEVATOR SAFETY ADMINISTRATIVE REGULATIONS

R20-5-501. Applicability Repealed

~~A.~~ These regulations shall apply to all elevators, dumbwaiters, escalators, moving walks, personnel hoists, material hoists, and manlifts, special purpose personnel elevators, stage and orchestra lifts, as each is defined in its respective standard or regulation.

~~B.~~ The term "elevator" as used hereinafter shall include all equipment specified in subsection (A) above.

R20-5-502. Definitions

~~In these regulations unless the context otherwise requires:~~

~~A.~~ "Certificate of Competency" means a certificate issued to a person by the Commission, pursuant to R20-5-503, after he has either (a) Passed an approved examination developed by the Elevator Advisory Subcommittee and conducted by the Elevator Section or (b) Met minimum background requirements as provided in R20-5-503.

~~B.~~ "Chief" means the chief inspector of the Elevator Safety Section of the Division of Occupational Safety and Health.

~~C.~~ "Inspection" means the official determination by an inspector of the condition of all parts of the equipment on which the safe operation of an elevator depends.

~~D.~~ "Enforcing authority" means the Industrial Commission of Arizona or its duly authorized representative.

Arizona Administrative Register
Notices of Proposed Rulemaking

E.D. “Elevator Section” means the Elevator Section of the Division of Occupational Safety and Health of the Industrial Commission of Arizona.

R20-5-503. Issuance of a Certificate of Competency Repealed

- A.** A Certificate of Competency for the inspection of elevators shall be issued to an applicant by the Commission after the person has passed an approved examination developed by the Elevator Advisory Subcommittee and given by the Elevator Section. Application shall be on a form furnished by the Elevator Section.
- B.** A Certificate of Competency shall be issued without such examination as required in subsection (A) to those persons who, at the time of application for such certificate, have a minimum of 10 years experience in 1 or a combination of the following areas: Elevator inspection, construction, installation, alteration, maintenance, and repair. After 1 year from the effective date of these regulations however, all persons making application for a Certificate of Competency shall be required to pass such an examination.

R20-5-504. Inspector’s Qualifications Safety Standards for Platform Lifts and Stairway Chairlifts

A person is not authorized to serve as an elevator inspector unless he possesses a Certificate of Competency or has been certified as competent by an approved National Elevator Safety Organization and has had a minimum of 5 years experience, within the last 10 years, in 1 or a combination of the following areas: Elevator inspection, construction, installation, alteration, maintenance and/or repair. Equivalent training or education may be substituted for the experience requirement, as determined by the Commission.

Every owner or operator pursuant to A.R.S. § 23-491.02 shall comply with the American Society of Mechanical Engineers Safety Standard for Platform Lifts and Stairway Chairlifts A.S.M.E. A18.1-1999, with amendments as of July 26, 1999, which are incorporated by reference and on file with the Office of the Secretary of State. A copy of this referenced material is also available for review at the Industrial Commission of Arizona and may be obtained from the American Society of Mechanical Engineers at International Three Park Avenue, New York, NY 10016-5990 or at <http://www.asme.org/>.

R20-5-505. Certificate of Inspection

- A.** Every elevator shall be inspected at least once during every fiscal year, effective July 1, 1973.
- B.** A certificate of inspection for every elevator operating within the state shall be issued by the enforcing authority at such time as the elevator has been inspected
- C.** Such certificate of inspection shall be posted in a place determined by the enforcing authority.
- The Industrial Commission’s Certificate of Inspection shall be kept at the same location as the elevator, dumbwaiter, escalator, moving walk, or related equipment and must be made available for inspection and copying upon request.

R20-5-506. Recordkeeping

- A.** Every elevator shall have an identification number, which shall be assigned by the Elevator Section, for recordkeeping purposes. Such number shall be on a tag, which shall be located ~~as to be available for inspection on the controller or main-line disconnect.~~
- B.** The enforcing authority shall be notified prior to any installations, relocation or major alteration of an elevator within the state. Such notification shall be made as required by the enforcing authority.
- C.** The enforcing authority shall be notified, by the building owner or manager or representative, immediately of every elevator accident involving personal injury or disabling damage to the elevator.

R20-5-507. Safety Code for Elevators, Escalators, Dumbwaiters, Moving Walks, Material Lifts, and Dumbwaiters with Automatic Transfer Devices, Wheelchair Lifts, and Stairway Chairlifts

- A.** Every owner or operator of an elevator, escalator, dumbwaiter, moving walk, material lift ~~and or dumbwaiter~~ dumbwaiters with an automatic transfer device ~~devices, wheelchair lift, or stairway chairlift~~ installed on or after the effective date of this Section shall comply with the ASME A17.1-~~1996~~ 2000 Safety Code for Elevators and Escalators, which is incorporated by reference and on file with the Office of the Secretary of State. This incorporation by reference does not include amendments or subsequent revisions to ASME A17.1 published after ~~December 31, 1996~~ March 23, 2001. A copy of this referenced material is also available for review at the Industrial Commission of Arizona and may be obtained from the American Society of Mechanical Engineers at International Three Park Avenue, New York, NY 10016-5990 or at <http://www.asme.org/>. Every owner or operator of an elevator, escalator, dumbwaiter, moving walk, material lift, or dumbwaiter with an automatic transfer device, ~~wheelchair lift, or stairway chairlift~~ installed prior to the effective date of this Section shall comply with the ASME A17.1 Safety Code for Elevators and Escalators in effect at the time of installation or, as an alternative, may comply with ASME A17.1-~~1996~~ 2000.
- B.** ~~Existing installations may have the in-car stop switch modified as per ASME/ANSI A17.1-1987, Rule 210.2v, with proper notification to the Industrial Commission, Elevator Section.~~

Arizona Administrative Register
Notices of Proposed Rulemaking

R20-5-508. Safety Standards for Belt Manlifts, The American National Standards Institute Safety Requirements for Belt Manlifts, A.N.S.I., A90.1-1976 1997

Every owner or operator pursuant to A.R.S. § 23-491.02 shall comply with the standards of the American National Standards Institute Safety Requirements for Belt Manlifts, A.N.S.I., A90.1-1976 ASME A90.1-1997, with amendments as of ~~May 31, 1979~~ February 28, 1997, which ~~are hereby adopted and is~~ incorporated by reference as if set forth fully herein and on file with the Office of the Secretary of State. This incorporation by reference does not include amendments or subsequent revisions to ASME A90.1 published after February 28, 1997. A copy of this referenced material is also available for review at the Industrial Commission of Arizona and may be obtained from the American Society of Mechanical Engineers at International Three Park Avenue, New York, NY 10016-5990 or at <http://www.asme.org/>.

R20-5-509. ~~The American National Standards Institute Safety Requirements for Personnel Hoists, A.N.S.I., A10.4-1981~~ Safety Requirements for Personnel Hoists and Employee Elevators for Construction and Demolition Operations.

Every owner or operator pursuant to A.R.S. § 23-491.02 shall comply with the standards of the American National Standards Institute Safety Requirements for Personnel Hoists and Employee Elevators for Construction and Demolition Operations, A.N.S.I., A10.4 1981 1990, which is ~~hereby adopted and~~ incorporated by reference as if set forth fully herein. ~~(Copy of this standard is on file with the Secretary of State.)~~ and on file with the Office of the Secretary of State. This incorporation by reference does not include amendments or subsequent revisions to ANSI A10.4 1990 published after December 7, 1990. A copy of this referenced material is also available for review at the Industrial Commission of Arizona and may be obtained from the American Society of Mechanical Engineers at International, Three Park Avenue, New York, NY 10016-5990 or at <http://www.asme.org/>.

R20-5-510. The American National Standards Institute Safety Requirements for Material Hoists, A.N.S.I., A10.5-1981

Every owner or operator pursuant to A.R.S. § 23-491.02 shall comply with the standards of the American National Standards Institute Safety Requirements for Material Hoists, A.N.S.I., A10.5-1981, which is ~~hereby adopted and~~ incorporated by reference, ~~as if set forth fully herein. (Copy of this standard is on file with the Secretary of State.)~~

R20-5-511. The American National Standard Practice for the Inspection of Elevators, Escalators and Moving Walks, Inspectors' Manual, A.N.S.I. A17.2-1979 1996

Every Elevator Inspector pursuant to A.R.S. § 23-491.05 shall use the American National Standard Practice for the Inspection of Elevators, Escalators and Moving Walks, Inspectors' Manual, A.N.S.I. A17.2-~~1979~~1996 ~~and its supplement A.N.S.I. A17.2a-1980~~ as a practical guide for the inspection and testing of conveyances which ~~is~~ are hereby adopted and incorporated by reference, ~~as if set forth fully herein. (Copies of these standards are on file with the Secretary of State.)~~