

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* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 4. DEPARTMENT OF AGRICULTURE PLANT SERVICES DIVISION

PREAMBLE

- 1. Section Affected** **Rulemaking Action**
R3-4-228 Amend
- 2. The specific statutory authority for the rulemaking, including both the authorizing statute (general) and implementing statute (specific):**
Authorizing statute: A.R.S. § 3-107(A)(1)
Implementing statutes: A.R.S. §§ 3-201.01 and 3-202
- 3. The effective date of the rule:**
October 2, 2004
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 10 A.A.R. 367, January 30, 2004
Notice of Proposed Rulemaking: 10 A.A.R. 1054, March 26, 2004
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Steven Zraick, Assistant Attorney General
Address: Department of Agriculture
1688 W. Adams, Room 235
Phoenix, AZ 85007
Telephone: (602) 542-1158
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E-mail: steven.zraick@agric.state.az.us
- 6. An explanation of the rule, including the agency's reasons for initiating the rulemaking:**
Subsection (A) provides definitions of terms used in the Section. Previously, a reference was made to the definitions in Article 1.
Subsection (B) modifies the list of areas under quarantine in the following states:
 1. Florida, ten counties are added;
 2. Louisiana, the quarantine on the entire state is reduced to 13 parishes;
 3. New Mexico, 7 counties are added; and
 4. Texas, 7 counties are added.Subsection (C) lists the regulated commodities, and moves exemptions to a new subsection, (E).
Subsection (D) is a rewrite of restrictions on imports from an area under quarantine and requires an attestation from a plant regulatory official of the state of origin that a regulated commodity was treated as prescribed in subsection (F).
Subsection (E), "Exemption," is a new subsection created to clearly state information formerly provided with the discussion of regulated commodities. It provides detail on obtaining an exemption from treatment, as required in subsection (F).
Subsection (F) specifies one approved treatment, methyl bromide (Q label) and allows the Director to approve other treatments.

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Subsection (G) restates disposition of a regulated commodity found not to be in compliance with this Section by reference back to the applicable statutes.

The Department committed to update these rules in the 1998 and 2003 five-year review reports presented by the Plant Services Division to the Governor's Regulatory Review Council.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, any analysis of each 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:

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.*

Out-of-state growers and shippers of corn or sorghum who ship a regulated commodity into Arizona will need to become familiar with the revised listing of areas under quarantine and the prescribed restrictions, exemptions, and treatments available to ship into the state of Arizona.

Arizona receivers of regulated commodities will need to become familiar with restrictions on commodity import from the amended list of areas under quarantine.

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

Minor technical and grammatical changes have been made to the rule based on suggestions from Department and G.R.R.C. staff.

11. A summary of the comments made regarding the rule and the agency response to them:

The Arizona Department of Agriculture's Advisory Council supported the rulemaking by motion during a meeting held on April 15, 2004. The Department thanks the Council for its support of this rulemaking.

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. Any material incorporated by reference and its location in the text:

None

14. Whether the rule was previously made as an emergency rule?

No

15. The full text of the rule follows:

TITLE 3. AGRICULTURE

CHAPTER 4. DEPARTMENT OF AGRICULTURE

PLANT SERVICES DIVISION

ARTICLE 2. QUARANTINE

Section

R3-4-228. ~~European corn borer, *Ostrinia nubilalis* (Hüb.)~~ Corn Borer

ARTICLE 2. QUARANTINE

R3-4-228. ~~European corn borer, *Ostrinia nubilalis* (Hüb.)~~ Corn Borer

A. ~~Areas under quarantine:~~

1. ~~New Mexico counties: Quay and Union.~~

2. ~~Texas counties: Carson, Dallam, Deaf Smith, Gray, Hansford, Hartley, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Robert and Sherman.~~

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3. ~~All other states and districts of the United States with these exceptions:~~
 - a. ~~Alaska;~~
 - b. ~~California;~~
 - e. ~~Florida;~~
 - d. ~~Hawaii;~~
 - e. ~~Idaho;~~
 - f. ~~Nevada;~~
 - g. ~~New Mexico counties not included in (A)(1);~~
 - h. ~~Oregon;~~
 - i. ~~Texas counties not listed in (A)(2);~~
 - j. ~~Utah;~~
 - k. ~~Washington.~~

B. ~~Commodities covered:~~

1. ~~Corn — Plants and all parts thereof including shelled corn, stalks, ears, cobs, fragments, or debris of the plant. “Shelled corn” means corn kernels separated from all other plant parts.~~
2. ~~Sorghum — Plants and all parts thereof including stalks, heads, fragments, or debris of the plant, EXCEPT combined grain and plant material which has passed through a grain combine.~~
3. ~~Those parts of corn and sorghum plants or fragments which are capable of harboring larva or European corn borers are any portion of a host plant of any shape or size which cannot be passed through a 1/2-inch square aperture, and any completely whole, round, unerushed section, portion or piece of cob, stalk, or stem of 1 inch or more in length and 3/16 inch or more in diameter.~~

C. ~~Restrictions:~~

1. ~~Certification required on all corn and sorghum from area under quarantine: Except as provided in subsection (C)(2), each lot or shipment of corn and sorghums grown in or shipped from the area under quarantine described in subsection (A), imported or brought into this state must be accompanied by an official certificate evidencing compliance with one of the following conditions:~~
 - a. ~~Certificates on shelled corn grown in or shipped from the quarantined area described in (A) above must either affirm that said grain has been passed through a 1/2-inch mesh screen or less or otherwise processed prior to loading and is believed to be free from stalks, cobs, stems, or portions of plants or fragments capable of harboring larva of the European corn borer, and, further, that the railroad car or truck was free from stalks, cobs, stems, or such portions of plants or fragments at time of loading, or affirm that said grain has been fumigated by a method and in a manner described by the State Entomologist, and setting forth the date of fumigation, dosage schedule and kind of fumigant used.~~
 - b. ~~All shipments of combined harvested sorghum grain from the area under quarantine must be visually inspected by an inspector or agent of the State Entomologist to determine if the sorghum grain has been properly processed through a combine harvester or the shipment is covered by a U.S. Grade Certificate of No. 3 or better. Any shipment that does not comply with the requirements of this rule shall be placed under quarantine and forwarded to destination subject to conditions prescribed by the inspector or agent.~~
 - e. ~~Any lot or shipment of shelled corn arriving in this state which is not accompanied by an official certificate as hereinbefore required, or which is certified on the basis of freedom from contamination with portions of plants or fragments capable of harboring larva of European corn borer as defined above, and which is found to be so contaminated, shall be deemed to be in violation of this rule and subject to disposal as provided in A.R.S. § 3-210.~~
 - d. ~~All certificates issued in compliance with subsection (C)(1)(a) must also set forth the kind and quantity of the commodity constituting the lot or shipment covered thereby, the initials and number of the railway car or license number in the case of truck, and the names and addresses of the shipper and consignee.~~
2. ~~Certain grain products conditionally exempt from certification: Certification requirements of subsection (C)(1) above are hereby waived on shelled popcorn, seed for planting, and on individual shipments or lots of 100 pounds or less of other clean shelled corn, or comprised of packages of less than 10 pounds, subject to inspection and freedom from portions of plants or fragments capable of harboring European corn borer.~~
3. ~~Stalks, ears, cobs, or other parts, fragments, or debris of corn and sorghums admitted under disinfection or treatment certificate: Stalks, ears, cobs, or other parts, fragments, or debris of corn and sorghums, grown in or shipped from the area under quarantine imported as such or as packing or otherwise, will be admitted into the state of Arizona only provided each lot or shipment is accompanied by an official certificate of the state from which shipped, affirming that all stalks, ears, cobs, or other parts, fragments, or debris of such plants accompanied thereby have been treated as listed under subsection (E) of this quarantine and setting forth the date and full particulars of treatment applied.~~
4. ~~Manufactured or processed products exempt from restriction: No restrictions are placed by this proclamation upon the movement of the restricted products herein defined which are processed or manufactured in such a manner as to eliminate all danger of carrying the pest herein quarantined against.~~

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D. Disposition of violations: 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 owners, his or their responsible agents, and under the direction of the State Entomologist or his inspectors.

E. Treatments: European corn borer approved treatments:

1. Ear corn (dry):

- a. Ears of corn to be heated in a chamber at an air temperature of not less than 168° F for a period of not less than two hours. Ears of corn to be spread out on slat or wire shelves, not more than one layer deep. Air temperatures shall be taken at three points in the chamber and the time of sterilization shall begin when all thermometers reach 168° F after corn has been placed in the chamber.
- b. Atmospheric fumigation in a gastight chamber using a dosage schedule of 2 lbs. of methyl bromide per 1,000 cu. ft. for a period of six hours at temperature of 70° F or above.
(CAUTION: Dosage schedules, temperatures, and time or exposure herein indicated should not be exceeded if corn is to be planted.)

2. Ear corn (green):

- a. Atmospheric fumigation in a gastight chamber using methyl bromide at the following rates for the period specified to be determined by the temperature of the product and interior of the fumigation chamber:

Temperature	Lbs. per 1,000 cu. ft.	Exposure (hrs.)
73° F & above	2	2.5
67-72° F	2.5	2.5
62-66° F	2.5	3
58-61° F	2.5	3.5
54-57° F	2.5	4
50-53° F	3	4
46-49° F	3	4.5
42-45° F	3.5	4.5
38-41° F	3.5	5

3. Freight car fumigation:

(CAUTION: All freight cars must be properly tested for leaks and made gastight for the duration of exposure.)

- a. Bulk ear corn: Atmospheric fumigation for a period of 16 hours using methyl bromide at the following rates to be determined by the temperature of the product and interior of the car during the period of exposure:

Temperature	Lbs. per 1,000 cu. ft.
60° F & above	3
50-59° F	3.5
40-49° F	4
30-39° F	4.5 (Hot gas method of application must be used at temperatures below 40° F.)
20-29° F	5

- b. Fumigation procedure for treating bulk shelled corn in loaded railway cars or van-type trucks as a basis for certification from European corn borer. Forced circulation required: The following described method shall be employed as a basis for issuing fumigation certificates on bulk shelled corn treated in railway cars and trucks to meet the requirements of the European corn borer quarantine.

- i. All metal cars and vans: Only all metal freight cars or all metal trucking vans shall be used as fumigation chambers. The doors must be single doors and not over seven feet in width. Doors and other apertures must be sealed in a manner to make them gastight.
- ii. Air circulation system:
 - (1) Each loaded railway car or trucking van shall be prepared so that air can be withdrawn from beneath grain and returned to the space above the load. This shall be provided by a system of probes inserted in the grain and connected by flexible tubing to a portable blower outside of the car which will return the air to the space above the load.
 - (2) The probe system (see diagram) shall consist of 10 probes 6 feet in length inserted equidistant in a line down the center of the car so that the perforated tips are near the floor level.
 - (3) The probes are to be connected by flexible tubing proportioned so that there is equal suction on each probe.
 - (4) One doorway shall be sealed with gastight laminated paper. The ducts shall lead through this paper seal

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to the portable blower.

- (5) The blower shall have a capacity of not less than 625 c.f.m. against 5-inch static pressure and shall be of a design that can be made gastight. The gas can be introduced as a spray or through a volatizer into the exhaust duct at any point between the blower and the car or van, or introduced directly into the space above the load.
- iii. Details of duct system:
- (1) The intake side of the blower unit is connected to the inside duct system by a 15-foot length of 6-inch neoprene-coated flexible tubing. Another 15-foot length of 8-inch tubing is attached to the exhaust side of the blower and the other end inserted into a metal collar inserted into the paper grain door above the load.
 - (2) The inside probe and duct system is constructed to neoprene-coated flexible tubing. Two similar systems extend from the center to each end of the car or van and are connected by a Y section to a 5-foot section of 6-inch tubing which extends toward the door. The end of this section is fitted with a 6-inch diameter sheet metal tubing that extends through the paper grain door for connection to the intake side of the blower. (See diagram.)
 - (3) A set of 10 probes 6 foot in length are required. Probes are made from 1-1/4 inch I.D. Hard drawn aluminum tubing. Each probe is fitted with a heavy sheet metal point having 4 slots 1/16 inch wide by 5 inches long through which air is taken into the duct system. Each probe is attached to the duct system by a section of 1-1/2 inch flexible tubing. (See diagram.)
- iv. Procedure:
- (1) Lay out the inside probe and duct system on top of the load. Insert probes down the center of the load at four foot intervals to a depth near the floor (both end probes to be placed two feet from the end of the car). Seal door of car through which intake and exhaust tubes from the blower will connect to the probe-duct system as follows:
 - (a) Heavy laminated paper is placed in the doorway on the outer side of the wooden grain door and sealed to the doorfacing and doorsill by Scotch masking tape. The top edge of this paper is lapped over and fastened to the top edge of the wooden grain door. The remainder of the door opening is covered by a paper grain door to the ceiling of the car.
 - (b) Loosen the wooden grain door and slip the bottom edge of the paper door down so as to overlap the paper on the wooden door. Then, re-nail the wooden grain door in place. Seal this lap of paper grain door to the paper covering the wooden door using Scotch masking tape. Nail a 1-inch by 4-inch plank across the top of the paper grain door inside of the car, leaving a sufficient edge of paper above the plank to seal it with masking tape or "bug" putty. (Available from fumigant supply companies, or can be made from 8 parts asbestos, 3 parts calcium chloride and 4 parts water.) Seal with the ends of the paper grain door to the inside wall of the car with masking tape. Cut holes in paper grain door (one 8 inch diameter, one 6 inch diameter). These holes should be cut just above the edge of the wooden grain door so that ducts will rest on the top of the wooden grain door. Seal an 8-inch collar inserted through the hole through which the exhaust duct may be inserted. Then insert the end of the inside duct system out through the 6 inch hole so as to protrude about 2 inches beyond the paper grain door and to which the intake duct from the blower may be attached. Close the opposite door and all other apertures in the car and seal with masking tape and "bug" putty so as to make the entire car gastight. Connect intake duct from blower to the end of the inside probe system extending through the paper car door. Insert the end of the exhaust duct through the 8-inch collar in the paper grain door and seal with masking tape or "bug" putty. Start blower and introduce the required amount of fumigant. Allow blower to operate continuously for at least 10 minutes after fumigant has been discharged. Disconnect intake and exhaust ducts, seal up openings, and close car door. Allow car to remain undisturbed for a period of 16 hours.
- v. Dosage schedule: Atmospheric fumigation for a period of 16 hours using methyl bromide at the following rates to be determined by the temperature of the product and interior of the car during the period of exposure:

Temperature	Lbs. per 1,000 cu. ft.
60° F & above	4
55-59° F	4.5
50-54° F	5
45-49° F	5.5
40-44° F	6

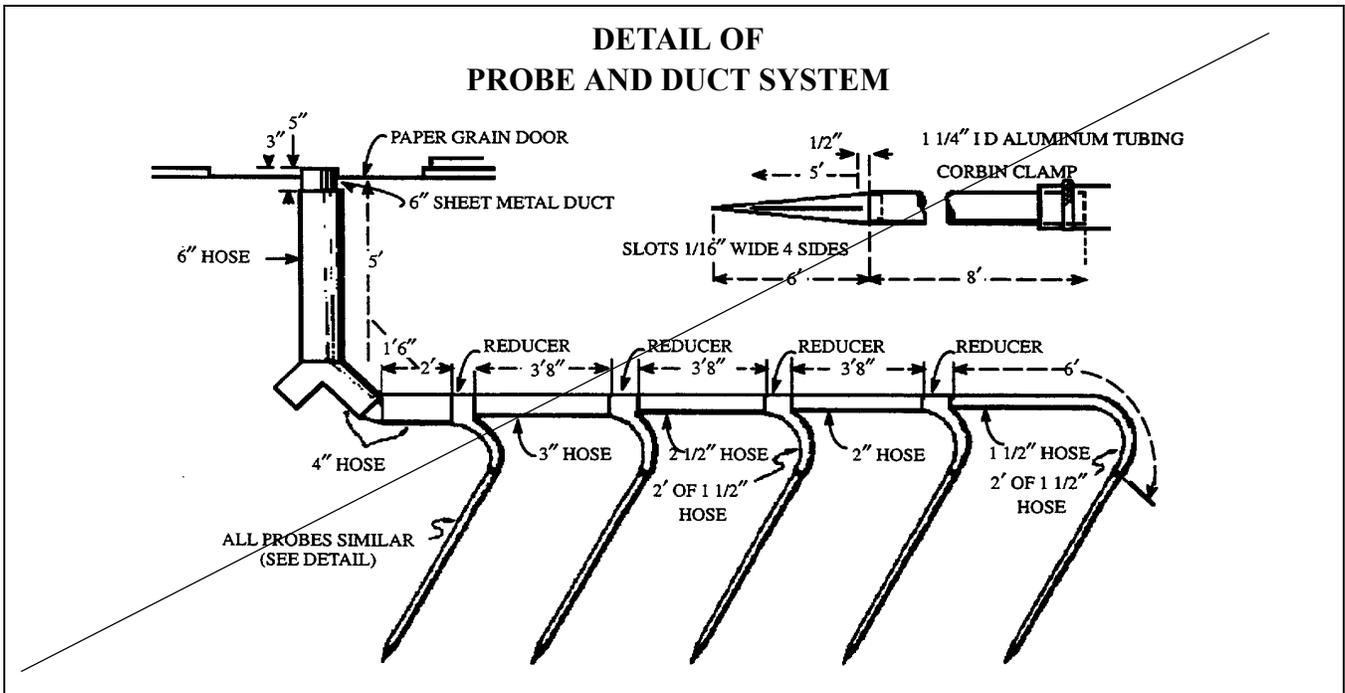
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35-39° F	6.5 (Hot gas method of application must be used at temperatures below 40° F.)
30-34° F	7
25-29° F	7.5
20-24° F (minimum)	8

- vi. Supervision: All fumigation treatments applied as a basis for certification to meet destination state European corn borer quarantines shall be under the direct supervision of the origin State Entomologist or his official inspector. The origin State Entomologist must also determine that all such fumigation equipment and materials used meet the standard established herein.
- vii. Certification: Certificates must affirm that the grain or seed accompanied thereby has been fumigated using the approved "Forced Circulation Method" and set forth the date of fumigation, dosage schedule, kind of fumigant used, period of exposure, and temperature. Each such certificate must also set forth the kind and quantity of the commodity, the initials and number of the railway car or license numbers of vans or trailers and the name and address of the shipper and consignee.

(CAUTION: Methyl bromide (CH₃Br) is a colorless, odorless, volatile liquid which when released at ordinary temperatures is a gas injurious to all forms of animal life. Proper precautions should be observed by all persons when handling it. For further information, consult the State Entomologist.)

- F. Sulphur treated corn shucks: It has been determined that the sulphuring process used in bleaching corn shucks intended for use in wrapping tamales, etc., will eliminate all danger of such shucks carrying live European corn borer larvae. Such shucks, therefore, are admissible without certificate from the area under quarantine.
- G. General rules: See "General Rules and Definitions, Article 1."



A. Definitions. The following terms apply in this Section:

“Corn” means *Zea spp.*

“Fragment” means a portion of a regulated commodity that cannot pass through a 1/2” aperture or a completely whole, round, and uncrushed piece of cob, stalk, or stem of at least 1” in length and 3/16” in diameter.

“Pest” means all life stages of the European corn borer, *Ostrinia nubilalis*.

“Shelled grain” means the seed or kernel of corn or sorghum that has been separated from every other plant part.

“Sorghum” means *Sorghum spp.*

B. Area under quarantine.

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1. The entire state of Alabama, Arkansas, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.
 2. The District of Columbia.
 3. In the state of Florida, the following counties: Calhoun, Escambia, Gadsden, Hamilton, Holmes, Jackson, Jefferson, Madison, Okaloosa, and Santa Rosa.
 4. In the state of Louisiana, the following parishes: Bossier, Caddo, Concordia, East Carroll, Franklin, Madison, Morehouse, Natchitoches, Ouachita, Red River, Richland, Tensas, and West Carroll.
 5. In the state of New Mexico, the following counties: Chaves, Curry, Quay, Roosevelt, San Juan, Santa Fe, Torrance, Union, and Valencia.
 6. In the state of Texas, the following counties: Bailey, Carson, Castro, Dallam, Deaf Smith, Floyd, Gray, Hale, Hansford, Hartley, Hutchinson, Lamb, Lipscomb, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, and Swisher.
- C.** Regulated commodities. The plants corn and sorghum and every plant part, including seed, shelled grain, stalks, ears, cobs, fragments, and debris are regulated commodities under this Section.
- D.** Restrictions. A person shall not ship into Arizona a regulated commodity from an area under quarantine unless each shipment is accompanied by an original certificate, issued by a plant regulatory official of the state of origin, attesting that the regulated commodity was treated by a method listed in subsection (F), under the official's supervision.
- E.** Exemptions.
1. Treatment prescribed in subsection (F) is waived for all of the following:
 - a. Shelled grain, if the grain is accompanied by an original certificate issued by a plant regulatory official of the state of origin attesting that:
 - i. The shelled grain was passed through a 1/2" or smaller-size mesh screen at the place of origin, and
 - ii. The shipment is free of plant fragments capable of harboring the larval life stage of the pest;
 - b. Commercially packaged shelled popcorn, planting seed, and grain for human consumption; or
 - c. A regulated commodity manufactured or processed by a method that eliminates the pest.
 2. The Director shall issue a permit to allow a regulated commodity from an area under quarantine, other than one exempt under subsection (E)(1), to enter Arizona without the treatment prescribed in subsection (F) if the regulated commodity originates from an area certified as pest free by a plant regulatory official of the state of origin.
- F.** Treatment.
1. Methyl bromide fumigation (Q label) applied at label rates.
 2. Any other treatment approved by the Director.
- G.** Disposition. If a person ships a regulated commodity into Arizona in violation of this Section the regulated commodity shall be destroyed, treated, or transported out-of-state as prescribed in A.R.S. Title 3, Chapter 2, Article 1.

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TITLE 3. AGRICULTURE

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

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R3-4-219 | Amend |
| R3-4-220 | Amend |
| R3-4-226 | Amend |
| R3-4-230 | Repeal |
- 2. The statutory 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(A)(1)
Implementing statute: A.R.S. §§ 3-201.01 and 3-202
- 3. The effective date of the rules:**
September 2, 2004

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

Notice of Rulemaking Docket Opening: 9 A.A.R. 1710, May 30, 2003
Notice of Proposed Rulemaking: 9 A.A.R. 4864, November 14, 2003
Notice of Supplemental Proposed Rulemaking: 10 A.A.R. 557, February 20, 2004
Notice of Supplemental Proposed Rulemaking: 10 A.A.R. 1121, March 26, 2004

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

Name: Steven Zraick, General Counsel
Address: Arizona Department of Agriculture
1688 W. Adams, Room 235
Phoenix, AZ 85007
Telephone: (602) 542-1158
Fax: (602) 542-5420
E-mail: steven.zraick@agric.state.az.us

6. An explanation of the rules, including the agency's reasons for initiating the rules:

This rulemaking updates the rules to the current rulewriting standards of the Office of the Secretary of State. Outdated references to the Commission of Agriculture and Horticulture are eliminated. Content is consolidated for greater clarity and where possible the substructure of the rules is standardized for consistency throughout the Article.

R3-4-219 contains an amended list of pests. The subsection on regulated commodities now includes the genera *Fortunella* and certain appliances. Conditions for commodity admission into Arizona have been rewritten and placed in subsection (D), "Restrictions." Subsection (E) is created to advise persons of an exemption from required treatment of commodities. Appendix A is deleted and the current acceptable treatments are included in subsection (F).

R3-4-220 contains an amended list of pests, separated into categories for viral diseases and arthropods. The subsection on commodities regulated now includes the genera *Eremocitrus* and *Microcitrus*. Conditions for commodity admission into Arizona have been rewritten and placed in subsection (D), "Restrictions." R3-4-220(D) adds a restriction allowing an out-of-state grower of citrus nursery stock in an area under quarantine for citrus tristeza virus to ship stock into Arizona under specified conditions. The attachment of a tag or label on each plant or plant part of a regulated commodity entering Arizona has been modified to allow the placement on the container instead of the plant. The subsection for treatments has been deleted and the current Department protocol is also listed within subsection (D).

R3-4-226 contains an amended list of pests. The area under quarantine is now consolidated into one listing, the entire state of Alabama is included, and is not separated by pest. The regulated commodity list is amended and consolidated into one list, regardless of pest. A new subsection (D), "Restrictions," replaces four previous subsections dealing with conditions of admission. Subsection (E), "Exemptions," is created to advise persons of the situations in which treatment may not be necessary. Subsection (F) is created to advise persons of currently acceptable commodity treatment, previously detailed in the various subsections dealing with conditions of admission.

R3-4-230 is repealed and the exemption provided for the Improved Meyer lemon plant and the restriction on the Meyer lemon plant is relocated to R3-4-220(D).

The Department committed to update these rules in the 1998 and 2003 Five-year-review Reports presented by the Plant Services Division to the Governor's Regulatory Review Council.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or justification for the rules or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

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

Not applicable

9. The 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.*

Out-of-state growers, shippers, and plant regulatory officials seeking to ship a regulated commodity from an area

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under quarantine will need to conform to the new regulations. Arizona receiving nurseries will need to become familiar with the revised lists of pests, areas under quarantine, regulated commodities, and restrictions. An out-of-state grower of citrus nursery stock in an area under quarantine for citrus tristeza virus may ship stock into Arizona under specified restrictions.

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

Proposed and first Notice of Supplemental Proposed Rulemaking:

R3-4-219(E)(2) was amended to remove the requirement that a plant regulatory official of the state of origin attest that regulated commodity from a quarantine area is free of exotic fruit flies belonging to the family *Tephritidae*.

R3-4-219(E)(3) was added to allow shipment of regulated commodity that is commercially packaged into the state of Arizona from a quarantine area if it will be redistributed out of state.

R3-4-226(F) was expanded to include additional treatments for scale insect pest.

Notice of Supplemental Proposed Rulemaking and second Notice of Supplemental Proposed Rulemaking:

R3-4-220(D) was amended to add a restriction allowing an out-of-state grower of citrus nursery stock in an area under an internal suppression or eradication program to ship stock into Arizona under specified conditions.

Second Notice of Supplemental Proposed Rulemaking and Notice of Final Rulemaking:

R3-4-220(D) was amended to add a restriction allowing an out-of-state grower of citrus nursery stock in an area under quarantine for citrus tristeza virus to ship stock into Arizona under specified restrictions.

Minor technical and grammatical changes have been made to the rule based on suggestions from Department and G.R.R.C. staff.

11. A summary of the comments made regarding the rule and the agency response to them:

Jerry Davidson, Director of Government Relations for Sunkist called to support the rulemaking on December 5, 2003. He was advised of the requests for revision by the state of Florida and the Yuma County Citrus Pest Control District, but stated that their issue would not impact Sunkist.

Richard Gaskalla, Director, Division of Plant Industry, Florida Department of Agriculture & Consumer Services wrote to the Department on December 1, 2003, and requested additional methods of treatment be allowed under R3-4-226(F). After consulting with scientists at the University of Arizona, the Department expanded the list of approved treatments.

The Yuma County Citrus Pest Control District submitted a letter dated November 10, 2003, requesting an amendment to R3-4-220 restricting importation of nursery stock from an area under quarantine for citrus tristeza virus. The enhanced restriction is included in subsection (D) of the final rule.

The Arizona Department of Agriculture's Advisory Council ("Council") supported the rulemaking by motion during a meeting held on November 18, 2003. As the Department later published two Notices of Supplemental Rulemaking, the rulemaking was again presented to the Council. The Council supported the rulemaking by motion during a meeting held on April 15, 2004. The Department thanks the Council for its support of this rulemaking.

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:

None

14. Was the rule previously made 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 2. QUARANTINE

Section

R3-4-219. Citrus Fruit Surface Pest
R3-4-220. Citrus Nursery Stock Pests

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- R3-4-226. Scale insect pest Insect Pest
R3-4-230. Fristeza or Quick Decline of Citrus Repealed

ARTICLE 2. QUARANTINE

R3-4-219. Citrus Fruit Surface Pest

A. Definitions.

1. "Certificate" means a document signed by an agent of the Department of Agriculture from the state of origin attesting to a pest treatment or absence of a pest.
2. "Commodities" means fruit of all varieties and species of the genera citrus, poncirus, and all hybrids, including appliances used in citrus groves or other areas in picking, packing or handling fruit which are capable of spreading the pests or diseases as defined in R3-4-102.
3. "Department of Agriculture" means an agent of the state of origin from which commodities, as defined in subsection (D), are shipped into Arizona.
4. "Director" means the Director of the Arizona Department of Agriculture.
5. "Inspector" means an inspector of the Arizona Department of Agriculture.
6. "Pests" means:
 - a. California Red Scale, *Aonidiella auranti*
 - b. Chaff scale, *Parlatoria pergandii*
 - c. Citrus Canker, *Xanthomonas campestris var. citri*
 - d. Citrus Rust Mite, *Phyllocoptruta oleivora*
 - e. Comstock Mealybug, *Pseudococcus comstockii*
 - f. Florida Red Scale, *Chrysomplalus aonidum*
 - g. Fullers Rose Weevil, *Pantomorus cervinos*
 - h. Glover scale, *Lepidosaphes gloverii*
 - i. Purple scale, *Lepidosaphes beckii*
 - j. Yellow scale, *Aonidiella citrina*
7. "Stamp" means a label or printed legend placed on cartons by the Department of Agriculture which identifies the contents as having been treated in a manner to prevent the transmission of pests into Arizona.
"Pest" means all life stages of the following:
Aonidiella aurantii, California red scale;
Aonidiella citrina, Yellow scale;
Asynonychus godmani, Fuller rose beetle;
Chrysomphalus aonidum, Florida red scale;
Cornuaspis beckii, Purple scale;
Lepidosaphes gloverii, Glover scale;
Maconellicoccus hirsutus, Pink hibiscus mealybug;
Parlatoria pergandii, Chaff scale;
Phyllocoptruta oleivora, Citrus rust mite; or
Pseudococcus comstocki, Comstock mealybug.

B. Quarantined areas. All areas outside the state of Arizona and all areas within the state of Arizona declared infested by the Director. Area under quarantine. All states, territories, and districts of the United States, except the state of Arizona.

C. Conditions for admission into Arizona:

1. Fruit which originates outside the state shall not be allowed entry until it has been treated by 1 of the methods listed in Appendix A of this Section and meets the following conditions:
 - a. Except for tangerines and lemons, the condition of fruit shall be free of stems, leaves, and plant parts. Tangerines and lemons may be admitted with stems which do not exceed 1/2 inch in length with no leaves attached.
 - b. A certificate shall accompany each shipment confirming that the treatment was done under state supervision and specifying the variety and quantity of fruit treated, the place, date, and method of treatment.
 - c. Before delivery to the retail sale outlet, every carton of treated fruit shall be identified by a stamp which states "PROCESSED IN ACCORDANCE WITH ARIZONA REQUIREMENTS".
2. The Director may issue a permit exempting shipments of fruit from treatment, which permits shall include the following:
 - a. Certification that the quarantined area or commodity involved is free of scale pests.
 - b. Certification that reports:
 - i. Origin of the fruit in each shipment.
 - ii. Fruit has been cleaned, packed, and handled in a commercial packing house in the usual manner of preparing fruit for interstate commerce and complies with the requirements of Appendix A of this Section.
 - iii. Name of consignee and consignor.
 - iv. Statement of quantity of fruit.

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v. Date of shipment.

3. Noncommercial quantities consisting of 20 pounds or less of fruit, originating from an area free of internal fruit pests, may be inspected by an inspector for surface pests. If found free of surface pests, it shall be admitted without meeting the requirements of subsection (F).

C. Regulated commodities and appliances.

1. Commodities. The fresh fruit of all species, varieties, and hybrids of the genera *Citrus*, *Fortunella*, and *Poncirus*.
2. Appliances. An appliance used in a citrus grove, citrus nursery, or other area to pick, pack, or handle a regulated commodity listed in subsection (C)(1).

D. Conditions for movement of fruit originating within Arizona.

1. Commodities found to be infested with any of the pests covered in subsection (A)(5) shall be held under quarantine at the place found or moved to a designated area for treatment as prescribed by the Director.
2. Quarantined fruit shall be released by the Director only under 1 of these conditions:
 - a. The shipment is immediately removed from the state under the supervision of an inspector, or
 - b. The shipment receives treatment immediately to kill the pests involved under the supervision of an inspector in accordance with treatments listed in Appendix A of this Section.

D. Restrictions.

1. A person who ships into Arizona a regulated commodity or appliance listed in subsection (C) shall ensure that the commodity or appliance is free of stems, leaves, and plant parts.
2. A person shall not ship into Arizona a regulated commodity or appliance from an area under quarantine unless each shipment is accompanied by an original certificate issued by a plant regulatory official of the state of origin attesting that the regulated commodity or appliance was treated by a method listed in subsection (F), under the official's supervision.

E. Citrus canker exclusion. No treatment is recognized effective for citrus canker bacterial infection. All shipments from canker infected areas or found to be infected with citrus canker shall immediately be shipped out of Arizona or destroyed at owner's expense.

E. Exemption. The Director shall issue a permit to allow a regulated commodity from an area under quarantine to enter Arizona without treatment as prescribed in subsection (F) if the applicant complies with all conditions of the permit and the regulated commodity:

1. Originates from an area that a plant regulatory official of the state of origin certifies as pest-free; or
2. Is shipped to an Arizona juicing facility located outside of Yuma County; or
3. Is commercially packaged and is shipped to an Arizona business that will redistribute the regulated commodity out-of-state.

F. Treatment methods. Required treatment for covered pests on fruit or appliances are listed in Appendix A of this Section.

1. Hydrogen cyanide fumigation. The regulated commodity shall be treated for one hour at the following rate:

<u>Pulp Temperature</u>	<u>Rate per 100 cu. ft.</u>
60° F to 85° F	25 cc HCN gas
2. Methyl bromide fumigation (Q label). The regulated commodity shall be treated for two hours at one of the following rates:

<u>Pulp Temperature</u>	<u>Rate per 1000 cu. ft.</u>
60° F to 79° F	3 lbs.
80° F or higher	2½ lbs.
3. Irradiation. The regulated commodity shall be treated at a rate approved by the Director.
4. Steam treatment. The regulated appliance shall be cleaned to remove all fruit, leaves, stems, and other debris and then steam-treated.
5. Other treatment. The regulated commodity or appliance shall be treated by any other method approved by the Director.

G. Violations. Commodities shipped into or moved within Arizona in violation of this rule shall, at the option of the Department of Agriculture, immediately be shipped out of the state, returned to the state of origin, or destroyed in accordance with A.R.S. § 3-210. Disposition of regulated commodity or appliance not in compliance. A regulated commodity or appliance shipped into Arizona in violation of this Section shall be destroyed, treated, or transported out of state as prescribed at A.R.S. Title 3, Chapter 2, Article 1.

Appendix A

A. General requirements for fumigation of fruit, using either cyanide or methyl bromide.

1. ~~Cartons shall be vented to allow adequate circulation of the fumigant and air.~~
2. ~~Cartons shall be arranged on pallets or in trucks with slatted bottoms to allow adequate fumigant and air circulation.~~
3. ~~A fan of sufficient power to circulate the entire air volume in the chamber every 5 minutes shall be used during the fumigation.~~
4. ~~Tarps used shall be gas tight and free of holes. Vans used shall be rendered gas tight by taping all openings around~~

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doors, drains and vents.

- 5. Fruit shall be free of surface moisture to avoid damage to fruit.
- 6. Temperatures required relate to the core fruit temperature.

B. Fruit or appliances shall be fumigated with cyanide at atmospheric pressure in a gas tight fumigation chamber of approved design for a period of 1 hour under the following conditions:

Pulp Temperature	Rate per 100 cu. ft.
60° F. to 85° F.	25cc HCN gas

Circulation must be maintained during the entire fumigation period.

C. Special requirements for methyl bromide fumigation. Fruit or appliances shall be fumigated at atmospheric pressure in a gas tight chamber of approved design using methyl bromide gas for a period of 2 hours under the following conditions:

Pulp Temperature	Rate per 1000 cu. ft.
No less than 60° F. to 79° F.	3 lbs.
80° F. or above	2 1/2 pounds

D. Oil dip for scale pests. The fruit shall be completely submersed for a period of not less than 5 minutes in a 3% concentration of an oil emulsion. The stock emulsion shall contain no less than 80% oil by volume of an oil that tests no less than 70 viscosity S.S. and no less than 90 unsulfonated residue. The apparatus used in this treatment shall be equipped with an agitator that will ensure a dipping medium of uniform consistency throughout. The temperature of the dipping emulsion shall be maintained at or above 50°F. during treatment. The dipping emulsion shall be prepared fresh daily or more often if the tank becomes fouled with debris. Used emulsion shall be disposed of as per label. The tank shall be thoroughly cleaned daily or more often if it becomes fouled with debris. If water used has a high mineral content, appropriate softener shall be added to the emulsion.

R3-4-220. Citrus Nursery Stock Pests

A. Jurisdiction. The entry of commodities covered into the state of Arizona shall be governed by the following rule.

B. Pests Covered-

- 1. Citrus bud mite *Eriophyes sheldoni*, Ewing.
- 2. Citrus red mite *Panonychus citri*, McGregor.
- 3. Citrus Rust mite *Phyllocoptura oleivora*, Ashm.
- 4. Comstock Mealybug *Pseudococcus comstocki*, Kuwana.
- 5. Quick Decline, Tristeza disease.

A. Definitions. "Pest" means any of the following viral diseases or arthropods:

- 1. Viral diseases:
Cachexia (CVd-II),
Citrus Exocortis Virus (CEVd),
Citrus Psorosis Virus (CPsV),
Citrus Tristeza Virus (CTV), or
Vein Enation, also known as Woody Gall, or
- 2. Arthropods. All life stages of:
Aceria sheldoni, Citrus bud mite;
Aleurothrixus floccosus, Woolly whitefly;
Aonidiella aurantii, California red scale;
Aonidiella citrina, Yellow scale;
Chrysomphalus aonidum, Florida red scale;
Dialeurodes citri, Citrus whitefly;
Dialeurodes citrifolii, Cloudy-winged whitefly;
Maconellicoccus hirsutus, Pink hibiscus mealybug;
Phyllocoptura oleivora, Citrus rust mite;
Pseudococcus comstocki, Comstock mealybug; or
Pulvinaria psidii, Green shield scale.

C. Area Under Quarantine. The quarantined area shall include all areas outside of the state of Arizona and any area found infested within the state of Arizona.

B. Area under quarantine. All states, territories, and districts of the United States, except the state of Arizona.

D.C. ~~Commodities Covered:~~ Regulated commodities and appliances.

- 1. All varieties and species of the genera *Citrus*, *Fortunella*, *Poncirus*, and all hybrids thereof, either among the same genera or with other genera, the tree, plants, and parts thereof, including seeds, leaves, buds, scions, cuttings, seedlings, and rootstock, and any other plant when found infested with any pest set forth in subsection (B) of this rule. Commodities. A plant or plant part, except seed or attached green fruit, of all species, varieties, or hybrids of the genera *Citrus*, *Eremocitrus*, *Fortunella*, *Poncirus*, and *Microcitrus*.
- 2. Any materials, appliances or vehicles used in citrus groves or any other area, in the picking, packing, or handling of citrus nursery stock, which by reason of exposure or contact would constitute a risk of spreading the insect pests as

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set forth in subsection (B) of this rule. Appliances. An appliance used in a citrus grove, citrus nursery, or other area to handle citrus nursery stock listed in subsection (C)(1).

3- Soil from citrus groves or nurseries.

E. Conditions for Admission:

1- Citrus nursery stock shall be admitted to the state only under permit issued by the Director of the Commission of Agriculture and Horticulture pursuant to this rule. The original permit shall accompany each and every shipment and applicable certification tags shall be attached to the commodities covered. Each shipment shall be subject to further inspection for insect pests and diseases and to the following requirements:

a- Each shipment of nursery stock or, in the case of buds, budwood, scions, and cuttings, the parent trees shall be certified by an Inspector of the state of origin, or by the U.S. Department of Agriculture, that it has been indexed and found free of Tristeza and other pathogens specified in the permit. In the event such certification cannot be obtained, the nursery stock shall be consigned, after prior arrangements, to the Citrus Experimental Station of the University of Arizona for immediate indexing and testing for Tristeza and other pathogens.

b- The certificate referred to in subsection (E) of this rule shall state that the nursery stock was grown on property which had been inspected at least once during the 12 months prior to the date of shipment. In addition, the certificate shall state that none of the pests listed by the Director of the Commission of Agriculture and Horticulture in the application for permit were found on the premises where the nursery stock was grown, or on any property within 1 mile of those premises. If 1 or more of the insect or mite pests listed are known to exist in the designated area of those premises, the nursery stock shall be given the appropriate treatment set forth in subsection (F) of this rule. The treatment given the nursery stock shall be listed on the certificate issued by the Inspector of the state of origin.

e- The certificate referred to in subsection (E)(1) of this rule shall state that the nursery stock was stored or held in an area where none of the pests listed in the application for permit are known to occur. The nursery stock shall have been inspected within 2 weeks prior to shipment by an Inspector of the state of origin and found free of dangerous insect pests and plant diseases.

2- Citrus Appliances. Any commodity listed in subsection (D)(2) of this rule shall be admitted to the state of Arizona only after it has been given 1 of the treatments specified in subsection (F) of this rule and if it is accompanied by a Certificate of Treatment signed by a plant quarantine official of the state or area of origin.

3- Intrastate Movement of Citrus Nursery Stock. Citrus nursery stock, including citrus trees, plants, buds and scions, which is infested or infected with any pest named in subsection (B) of this rule, shall be moved from 1 designated area to another within the state of Arizona only after it has been inspected by an Inspector and if it is accompanied by a Certificate of Inspection signed by an Inspector of the Commission.

D. Restrictions.

1. A person may ship a regulated commodity into Arizona from an area under quarantine if the regulated commodity is accompanied by an original certificate issued by a plant regulatory official of the state of origin attesting that:

a. The regulated commodity originated from an area:

i. Designated free from every disease listed in subsection (A)(1)(a); or

ii. Where a designated suppression or eradication program for the diseases listed in subsection (A)(1)(a) exists; and

b. The regulated commodity:

i. Originated from a source tree that was tested annually at a state-of-origin approved laboratory;

ii. Is free from every disease listed in subsection (A)(1)(a);

iii. Was propagated from a bud, cutting, or scion from a tested and disease-free source tree; and

iv. Is free from every arthropod listed in subsection (A)(1)(b), in accordance with a method approved by the Director.

2. A person shall not ship a Meyer lemon plant or plant part, except fruit, into Arizona. An exception is allowed for the selection Improved Meyer lemon plant or plant part, which may be shipped into Arizona in compliance with this Section.

3. A person shipping a regulated commodity into Arizona shall attach a single tag or label to each plant or plant part, or to each individual container containing a plant or plant part, that is intended for resale by an Arizona receiver. The tag or label shall contain the following information separately provided for each scion variety grafted to a single rootstock:

a. Name and address of the nursery that propagated the plant.

b. Scion variety name.

c. Scion variety registration number, and

d. Rootstock variety name.

F. Treatments:

1- Vacuum Cyanide Fumigation for Whiteflies, Mealybugs, or Mites. Citrus nursery stock shall be fumigated using a dosage of 1 ounce of sodium cyanide, or its equivalent, per 100 cubic feet of chamber space, at 27-inch mercurial

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vacuum. Fumigation shall cover a period of not less than 1 hour after the fumigator has been properly charged and the chamber has reached a 27-inch mercurial vacuum.

2. Methyl Bromide Fumigation for Mealybugs or Mites.
 - a. Pretreatment. Nursery stock shall be in good, healthy condition, turgid, and under as little shock as possible. When atmospheric temperature is below 80° Fahrenheit during the day, nursery stock shall be preheated for a period of 2 hours at 80° Fahrenheit.
 - b. Treatment.
 - i. Dosage. 2 1/2 pounds methyl bromide per 1,000 cubic feet of chamber space.
 - ii. Exposure. Two hours.
 - iii. Temperature. At least 80° Fahrenheit.
 - iv. Humidity. 75% or over.
 - v. Load Factor. Load chamber to permit free circulation of fumigant. Citrus trees shall not be double tiered. Load shall not exceed 400-500 trees per 1,000 cubic feet.
 - vi. Circulation and Chamber. Chamber shall be gastight, of the design approved by federal or state authority, and equipped with a fan or other circulating device. Circulation shall be maintained during the entire fumigation period.
 - e. Post treatment. Fumigated stock shall be kept away from sunlight and wind for 48 hours.
 3. Oil Dip—Citrus Nursery Stock for Mites.
 - a. Dip all nursery stock and citrus trees, using either 1 3/4% light medium emulsive oil, or 2% light medium emulsion, plus 1/4 pound actual chlorobenzilate per 100 gallons water. The apparatus used in the application of this treatment shall be constructed to permit complete submersion of all aboveground portions of the plants and shall be equipped with an agitator that will ensure a dipping medium of uniform consistency throughout.
 - b. The water temperature in the dipping tank shall not be allowed to drop below 50° Fahrenheit or rise above 100° Fahrenheit during the time of treatment. The dipping tank shall be completely drained and cleaned. A new batch of fresh ingredients shall be prepared and used at least daily, or more often if the ingredients become fouled with debris.
 4. Methyl Bromide Fumigation—Citrus Nursery Stock for Mites.
 - a. Pretreatment. The nursery stock shall be in good healthy condition, turgid, and under as little shock as possible. When the atmospheric temperature is below 80° Fahrenheit during the day, the nursery stock shall be preheated for a period of 2 hours at 80° Fahrenheit.
 - b. Treatment.
 - i. Dosage. 1 3/4 pounds of methyl bromide per 1,000 cubic feet of chamber space.
 - ii. Exposure. Two hours.
 - iii. Temperature. At least 80° Fahrenheit.
 - iv. Humidity. 75% or over.
 - v. Load Factor. Load chamber to permit free circulation of fumigant. Citrus trees shall not be double tiered. The load shall not exceed 400-500 trees per 1,000 cubic feet.
 - vi. Circulation and Chamber. The chamber shall be gastight, of the design approved and equipped with a fan or other circulating device. Circulation shall be maintained during the entire fumigation period.
 - e. Post treatment. Keep the fumigated stock from sunlight and wind for 48 hours.
 5. Chlorpyrifos Treatment for Mealybugs or Mites. Chlorpyrifos in a 4 pounds per gallon 4E formulation, registered for such use in an emulsion of narrow range spray oil, petroleum oil NR 415 emulsive.
 - a. Dip. Totally submerge the plant material for 2 minutes, remove for 1 minute, and submerge again for 1 minute in an agitated mixture; then remove the plant material and let dry.
 - b. Spray/Drench. Spray thoroughly the trunk, branches, leaf buds, and top and bottom surfaces of foliage to the point of run-off. The dip or spray/drench mixture shall be continuously agitated throughout the treatment procedure.
Treatment emulsion is prepared by adding 4.7 milliliters of Chlorpyrifos 4E to 19 milliliters of 415 oil in 1 gallon of water. For larger quantities, 16 ounces of Chlorpyrifos 4E is added to 64 ounces of 415 oil in 100 gallons of water.
- G.** Disposition of Violations. Commodities covered by this rule which are shipped into the state of Arizona or moved within the state of Arizona 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 of the Commission of Agriculture and Horticulture and supervision of an Inspector of the Commission.
- E.** Disposition of regulated commodity or appliance not in compliance. A regulated commodity or appliance shipped into Arizona in violation of this Section shall be destroyed, treated, or transported out of state as prescribed at A.R.S. Title 3, Chapter 2, Article 1.

R3-4-226. Scale insect pest Insect Pest

A. Pests covered: All scale insects belonging to the family *Diaspididae*. Definitions.

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“Pest” means all life stages of the following:

Aonidiella aurantii, California red scale;

Aonidiella citrine, Yellow scale;

Chrysomphalus aonidum, Florida red scale; or

Pulvinaria psidi, Green shield scale.

B. Area under quarantine: The entire state of Alabama, Arkansas, California, Florida, Georgia, Hawaii, Louisiana, Mississippi, and Texas, and the Commonwealth of Puerto Rico.

1. The areas under quarantine for California Red Scale, *Aonidiella aurantii* (Maskell) and Yellow Scale, *Aonidiella citrine* (Coquillett), are the entire commonwealth of Puerto Rico, the states of California, Florida, Georgia, Texas, and the counties of Dallas and Escambia in Alabama.

2. The areas under quarantine for Florida Red Scale, *Chrysomphalus aonidum* (Linnaeus), and Green Shield Scale, *Pulvinaria psidii* (Maskell), are the entire commonwealth of Puerto Rico, the states of Arkansas, Florida, Georgia, Hawaii, Louisiana, Mississippi, Texas, and the counties of Mobile, Macon, Lee, and Montgomery in Alabama.

C. Commodities covered: The covered commodities are the plants and plant parts, fruit, except seed, of those genera or species listed below which are hosts of the scale insect pests listed:

1. For California Red and Yellow Scales, the primary host plant is *Euonymus spp.*; the secondary host plants are *Rosa spp.* (rose), *Ilex spp.* (holly), *Camellia spp.*, *Cycas* (Sago Palm), and *Ligustrum japonicum* (Waxleaf Privet), and all species of the genera *Citrus*, *Fortunella*, *Poncirus* and all hybrids thereof.

2. For Florida Red Scale and Green Shield Scale, the host plants are *Chrysalidocarpus spp.* (Areca Palm), *Dracaena spp.*, and *Ficus spp.* (Weeping Fig; Fig):

Regulated commodities. Plants and all plant parts, except seed, of the genera listed below:

Camellia spp.

Chrysalidocarpus spp.

Citrus spp.

Cycas spp.

Dracaena spp.

Eremocitrus spp.

Euonymus spp.

Ficus spp.

Fortunella spp.

Ilex spp.

Ligustrum spp.

Microcitrus spp.

Poncirus spp., and

Rosa spp.

D. Conditions for admission for California Red and Yellow Scale: The covered commodities listed in R3-4-226(C)(1) are prohibited entry into Arizona from the area under quarantine in R3-4-226(B), unless they meet 1 of the following conditions:

1. Bare root roses: The shipment shall consist only of roses in a completely defoliated condition, free of California Red or Yellow Scale.

2. Miniature roses: Shipment shall be free of California Red or Yellow Scale.

3. Small lots of host plants, except *Euonymus*: The shipment shall consist only of 25 or fewer secondary host plants which are for private use and not for sale. All plants shall be free of scale insects.

4. Cut holly: The shipment shall consist only of holly cuttings for decorative purposes brought in between October 25 and January 1 and shall be found free of scale.

5. Host plants (except *Euonymus*) from scale-free area: The shipment shall be accompanied by a permit issued by the Arizona State Entomologist. The Arizona State Entomologist shall issue a permit to a shipping nursery if the following conditions are met:

a. An authorized agricultural official at origin annually files with the Arizona State Entomologist a report, based on extensive and continuous surveys, which defines an area of not less than 180 square miles where pests covered in R3-4-226(A) are not known to exist; and

b. All host plants shipped from the nursery shall be grown from seed or cuttings within the area or shall be grown within the area for a minimum of 2 years.

6. All other: The shipment shall be accompanied by a certificate issued by an authorized agricultural official stating the name and address of the shipper and consignee, the number and species of the plants to be shipped, the date issued, and that the commodity has been treated or inspected within 5 days of shipment in the appropriate manner listed below.

D. Restrictions. A person shall not ship into Arizona a regulated commodity from an area under quarantine unless each shipment is accompanied by an original certificate issued by a plant regulatory official of the state or commonwealth of origin

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attesting that the commodity was treated as prescribed in subsection (F).

E. Exemptions.

1. A bare root rose free of all soil and foliage is exempt from treatment if a regulatory official of the state or commonwealth of origin visually inspected the commodity and found it free from the pests in subsection (A).
2. A miniature rose is exempt from treatment if a regulatory official of the state or commonwealth of origin visually inspected the commodity and found it free from the pest.
3. The Director shall issue a permit to allow a regulated commodity from an area under quarantine to enter Arizona without treatment as prescribed in subsection (F) if:
 - a. A plant regulatory official of the state or commonwealth of origin attests that the area is free from the pests in subsection (A) based on a detection survey, and
 - b. The applicant complies with all conditions of the permit.

E. Conditions for admission for Euonymus: Euonymus shall be treated by 1 of the following methods:

1. ~~Methyl Bromide Fumigation: Fumigation at atmospheric pressure in a gas-tight enclosure of approved design using methyl bromide gas registered for such use, for a period of 2 hours with at least 75% humidity under the following conditions:~~
 - a. ~~Gas-tight tarpaulin used to cover and enclose commodity:~~

Fumigated	Rate per 1,000 cu. ft.
Temperature	
60°-69°F	3 1/2 pounds of gas
70°-85°F	3 pounds of gas
 - b. ~~Fumigation Chamber:~~

Fumigated	Rate per 1,000 cu. ft.
Temperature	
60°-69°F	3 pounds of gas
70°-85°F	2 1/2 pounds of gas
 - e. ~~All chambers and tarpaulin enclosures shall be equipped with a circulation fan and the fan shall be operated for a period of 20 minutes following complete introduction of the gas.~~
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 29.4C (85.3° F). See label for method of generating HCN gas from sodium cyanide. Circulation shall be maintained during entire fumigation period.~~

F. Conditions for admission for secondary hosts. All hosts except Euonymus shall be allowed entry if 1 of the following criteria is met:

1. ~~Treatment by 1 of the fumigation methods is listed in R3-4-226(E) Cycas and Camellia shall not be fumigated.~~
2. ~~Plants are inspected and no California Red or Yellow scale is found.~~

G. Conditions for admission by Special Permit: A compliance agreement shall be initiated between individual nurseries and the Commission. This agreement shall permit covered commodities to be shipped into Arizona from a nursery located in the quarantined area with the following restrictions:

1. ~~The nursery shall be inspected annually by an agricultural inspector of the state of origin. If the nursery is found apparently free of live California Red Scale, California Yellow Scale, Florida Red Scale and Green Shield Scale, a certificate attesting to that fact shall be issued and signed by that inspector.~~
2. ~~All host plants covered in R3-4-226(C)(1) and (2) shall be treated upon arrival at the permitted nursery using the Chlorpyrifos + oil method listed in R3-4-226(G)(6).~~
3. ~~Euonymus shall be treated again, no more than 15 days prior to shipment into Arizona, using 1 of the fumigation techniques listed in R3-4-226(E).~~
4. ~~All plants except Euonymus shall be treated again, no more than 15 days prior to shipment into Arizona, using the Chlorpyrifos + oil technique listed in R3-4-226(G)(6).~~
5. ~~If live scale is found at destination in Arizona, the shipment shall be rejected and the nursery's permit shall be revoked.~~
6. ~~Chlorpyrifos in a 4 lb. per gallon (4E) formulation registered for such use in an emulsion of narrow range spray-oil (Petroleum oil, NR 415, emulsive, EPA No. 464-448-AA):~~
 - a. ~~4.7 ml of Chlorpyrifos 4E plus 19 ml of narrow range 415 oil per gallon of water or~~
 - b. ~~16 fluid ounces of Chlorpyrifos 4E plus 64 ounces of narrow range 415 oil per 100 gallons of water.~~
 - e. ~~Methods of application:~~
 - i. ~~Dip: Totally submerge plant material for 2 minutes. Remove for 1 minute, and submerge again for 1 minute in an agitated mixture, then remove and let dry, or~~
 - ii. ~~Spray: Spray thoroughly the trunk, branches, leaf buds, and all surfaces of all foliage to the point of run-off. The dip or spray-drench mixture shall be continuously agitated throughout the treatment procedure.~~

H. Conditions for admission for Florida Red and Green Shield Scale: the covered commodities listed in subsection (C)(2) are

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prohibited entry into Arizona from the area under quarantine listed in subsection (B)(2), unless they meet 1 of the following criteria:

1. ~~Cuttings: The shipment shall consist only of unrooted cuttings for propagation which are inspected by an inspector of the Commission and found free of Florida Red Scale and Green Shield Scale. The shipment shall not contain more than 8 cubic feet of cuttings.~~
2. ~~Small lots: The shipment shall consist of only 25 or fewer host plants which are for private use, not for sale, and which are inspected by an inspector of the Commission and are found free of scale insects.~~
3. ~~Certificate of Inspection or Permit: The shipment shall be accompanied by a certificate issued by an authorized agricultural official of the shipping state or district, affirming that:
 - a. ~~Either the shipment has been inspected not more than 5 working days prior to shipment and no Florida Red Scale or Green Shield Scale was found; or~~
 - b. ~~The shipping nursery shall obtain a permit.
 - i. ~~Criteria for permit: All covered commodities shall originate from a nursery which has been inspected and found free of Florida Red Scale and Green Shield Scale on an annual basis by an authorized agricultural official. In the case that any covered pests are found in that nursery, the Department of Agriculture of the state of origin shall certify that the plants have been treated in accordance with the permit which has been issued by the Arizona State Entomologist.~~
 - ii. ~~Criteria for suspension or revocation of permit: If permitted nursery is found to be infested with live Florida Red Scale or live Green Shield Scale, permit shall be suspended until such time that the State Entomologist determines that the nursery qualifies for recertification.~~~~~~

F. Treatment. A foliar application of a narrow range oil and one of the following chemicals, applied at label rates:

1. Acephate.
2. Buprofezin.
3. Imidacloprid.
4. Pyriproxyfen, or
5. Thiamethoxam.

I. Disposition of violations: Any quarantined commodity found in violation of this rule or found to be infested with any of the scale insects listed in this rule shall immediately be sent out of state or destroyed at the option and expense of the owner or the owner's responsible agent and under the direction of the Arizona State Entomologist or his representative.

G. Disposition of regulated commodity not in compliance. A regulated commodity shipped into Arizona in violation of this Section shall be destroyed, treated, or transported out of state as prescribed at A.R.S. Title 3, Chapter 2, Article 1.

R3-4-230. ~~Tristeza or Quick Decline of Citrus Repealed~~

A. Notice of quarantine: It has been determined that Tristeza or Quick Decline of Citrus is a dangerous pest of citrus and many other plants and is not of common distribution in the state of Arizona; that this pest is a serious threat to the citrus industry and ornamental horticulture of the state of Arizona. In order to prevent the introduction of this serious pest into the state of Arizona, it is hereby ordered and declared that the entry of quarantined articles into the state of Arizona shall be governed by the following regulation:

B. Pests: A Virus Disease of Citrus, Tristeza or Quick Decline, or any strain of this disease.

C. Area under quarantine: The entire state of Arizona.

D. Commodities covered: Meyer lemon shall mean the variety of citrus called Meyer lemon and also known as Chinese lemon or Oriental lemon and shall include the trees, seedlings, budded trees, buds or grafts or Meyer lemon grown on any rootstalk but shall not include the fruit of the Meyer lemon.

E. Restrictions:

Meyer lemon, Chinese or Oriental lemon: It shall be unlawful for any person, firm, corporation, company or society to grow, allow to grow, propagate, bud, graft, to sell, give away, transport or allow to be sold, given away or transported, any trees, plants or propagative parts of the variety of citrus known as Meyer lemon, within the quarantined area except that, when the University of Arizona Agricultural Experiment Station shall have tested and approved a strain of Meyer lemon which is free of Tristeza, or Quick Decline Disease, such strain may be propagated, grown and sold under special permit from the State Entomologist of Arizona.

F. Disposition of violations:

1. Meyer lemon: Any plant or tree of the Meyer lemon propagated, planted, started, transported or sold in violation of this quarantine regulation shall immediately be placed under quarantine by the State Entomologist of Arizona or his inspectors and shall be removed from the quarantined zone or destroyed at the option and expense of the owner or owners.

2. Destruction of diseased trees: Any citrus trees or plants which shall be found by indexing or testing to be infected with the Tristeza, or Quick Decline Disease, shall immediately be removed and destroyed under the supervision of the State Entomologist or his inspectors. Upon determination that the tree or plant is infected with Tristeza, or Quick Decline Disease, the State Entomologist shall advise the owner or owners in writing that said tree is infected with the disease and that it shall be removed and destroyed under the supervision of an inspector of the Commission. If after 7

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~~days the owner or owners shall not have removed and destroyed the tree or plant, the State Entomologist or his inspector shall remove and destroy said plant.~~

~~G. General rules: See "General Rules and Regulations, Article 1".~~

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

PREAMBLE

1. Sections Affected

R4-23-110
R4-23-410
R4-23-670
R4-23-671
R4-23-675

Rulemaking Action

Amend
Amend
Amend
Amend
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. § 32-1904(A)(1) and (2) and (B)(3)

Implementing statutes: A.R.S. §§ 32-1901(7), 32-1929, 32-1930, 32-1931, and 32-1968(D)

3. The effective date of the rules:

September 2, 2004

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

Notice of Rulemaking Docket Opening: 9 A.A.R. 2217, June 27, 2003

Notice of Proposed Rulemaking: 10 A.A.R. 532, February 20, 2004

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

Name: Dean Wright, Compliance Officer

Address: Board of Pharmacy
4425 W. Olive Ave., Suite 140
Glendale, AZ 85302

Telephone: (623) 463-2727 ext. 131

Fax: (623) 934-0583

E-mail: rxcop@cox.net

6. An explanation of the rules, including the agency's reasons for initiating the rules:

The Board's 5-year rule review in September 2002 identified Section R4-23-410 for amendment. This Section deals with pharmacy compounding practices and was originally noticed on October 18, 2002 along with five other non-compounding-related rules. In January 2003, the Board appointed a committee to review sterile pharmaceuticals and compounding together. Section R4-23-410 was pulled out of its original docket and combined with the sterile pharmaceuticals docket which was noticed on April 26, 2002. Because no action was taken on the sterile pharmaceuticals docket, it expired on April 25, 2003. A new docket, noticed on June 27, 2003, includes the sterile pharmaceuticals and compounding rules. Section R4-23-410 will be amended to establish more specific recordkeeping requirements for compounding, improve clarity and conciseness, and reduce misunderstandings involving compliance. The Board's sterile pharmaceutical products pharmacy rule, R4-23-670, will be amended to incorporate the use of the limited-service pharmacy permit and increase the rule's clarity, conciseness, and understandability. Section R4-23-110 will be amended to include new definitions for "limited-service sterile pharmaceutical products pharmacy" and "pharmaceutical product" and amended definitions for "beyond-use-date" and "sterile pharmaceutical product." Section R4-23-670 will be amended to describe the requirements for preparing and dispensing sterile pharmaceuticals. Section R4-23-671 will receive minor changes for clarity, conciseness, and understandability. A new Section R4-23-675 Limited-service Sterile Pharmaceutical Products Pharmacy will describe specific requirements for a limited-service sterile pharmaceutical products pharmacy. The amended rules include necessary style, format, grammar, and punctuation changes to comply with the rules of the Secretary of State and Governor's Regulatory Review Council.

The Board believes that approval of these rules benefits the public and the pharmacy community by clearly establishing the standards for good compounding practice and sterile pharmaceutical products preparation and specific requirements for opening and operating a limited-service sterile pharmaceutical products pharmacy.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on in its evaluation of or

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justification for the rules or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

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

Not applicable

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

The amended rules will impact the Board, pharmacists, and pharmacies. The amended rules will have minimal economic impact on the Board. The impact on the Board will be usual rulemaking-related costs which are minimal. The amended rules will have minimal economic impact on pharmacists and pharmacies. The amended rules clarify and improve the labeling and recordkeeping requirements for compounding. The amended changes to the labeling and recordkeeping requirements will require minor changes to a pharmacy's labels. The cost of the label changes will be minimal and may be covered in a pharmacy's contract with their software provider. The amended rules will have no economic impact on the public.

The public, Board, pharmacists, and pharmacies benefit from rules that are clear, concise, and understandable. The amended rules benefit the public, the Board, and the pharmacy community by clearly establishing the standards for good compounding practice and sterile pharmaceutical products preparation and specific requirements for opening and operating a limited-service sterile pharmaceutical products pharmacy.

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

There are no substantive changes in the final rules from the proposed rules. The Board staff did notice an incorrect citation in R4-23-410(E)(1)(b). R4-23-410(E)(1)(b) requires compliance with the requirements of R4-23-604(C)(1) in relation to the compounding area of a pharmacy. However, R4-23-604(C)(1) states that before issuing a drug manufacturer permit, the Board shall receive and approve a completed permit application and has nothing to do with the compounding area of a pharmacy. To make the rule clear and consistent, the incorrect citation [R4-233-604(C)(1)] is removed in the final rule. There are minor changes to style, format, grammar, and punctuation requested by G.R.R.C. staff.

11. A summary of the comments made regarding the rules and the agency response to them:

One person representing the Arizona Pharmacy Association attended the public hearing and expressed the Arizona Pharmacy Association's support for the rules as noticed. The agency thanked the Association for their support.

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. Were these rules previously approved as emergency rules?

No

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 1. ADMINISTRATION

Section
R4-23-110. Definitions

ARTICLE 4. PROFESSIONAL PRACTICES

Section
R4-23-410. Current Good Compounding Practices

ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS

Section
R4-23-670. Sterile Pharmaceutical Products Pharmacy
R4-23-671. General Requirements for Limited-service Pharmacy

R4-23-675. ~~Reserved~~ Limited-service Sterile Pharmaceutical Products Pharmacy

ARTICLE 1. ADMINISTRATION

R4-23-110. Definitions

In addition to definitions in A.R.S. § 32-1901, the following definitions apply to 4 A.A.C. 23:

“Active ingredient” No change

“Alternate physician” No change

“Approved course in pharmacy law” No change

“Approved Provider” No change

“Authentication of product history” No change

“AZPLEX” No change

“Batch” No change

“Beyond-use date” means:

~~a~~ A date determined by a pharmacist and placed on a prescription label at the time of dispensing to indicate a time beyond which the contents of the prescription are not recommended to be used; or

A date determined by a pharmacist and placed on a compounded pharmaceutical product’s label at the time of preparation as specified in R4-23-410(B)(3)(d), (I)(6)(e), or (J)(1)(d) to indicate a time beyond which the compounded pharmaceutical product is not recommended to be used.

“Biological safety cabinet” No change

“Class 100 environment” No change

“Community pharmacy” No change

“Component” No change

“Compounding and dispensing counter” No change

“Computer system” No change

“Computer system audit” No change

“Contact hour” No change

“Container” No change

“Continuing education” No change

“Continuing education activity” No change

“Continuing education unit” or “CEU” No change

“Correctional facility” No change

“CRT” No change

“Current good compounding practices” No change

“Current good manufacturing practice” No change

“Cytotoxic” No change

“Day” No change

“DEA” No change

“Delinquent license” No change

“Dietary supplement” No change

“Dispensing pharmacist” No change

“Drug sample” No change

“Drug therapy management” No change

“Drug therapy management agreement” No change

“Extreme emergency” No change

“FDA” No change

“Immediate notice” No change

“Inactive ingredient” No change

“Internal test assessment” No change

“Limited-service correctional pharmacy” No change

“Limited-service long-term care pharmacy” No change

“Limited-service mail-order pharmacy” No change

“Limited-service nuclear pharmacy” No change

“Limited-service pharmacy permittee” No change

“Limited-service sterile pharmaceutical products pharmacy” means a limited-service pharmacy, as defined in A.R.S. § 32-1901, that holds a current Board permit under A.R.S. § 32-1931 and dispenses a majority of its prescription medication or prescription-only devices as sterile pharmaceutical products.

“Long-term care consultant pharmacist” No change

“Long-term care facility” or “LTCF” No change

“Lot” No change

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- “Lot number” or “control number” No change
- “Materials approval unit” No change
- “Mediated instruction” No change
- “MPJE” No change
- “NABP” No change
- “NABPLEX” No change
- “NAPLEX” No change
- “Other designated personnel” No change
- “Outpatient” No change
- “Outpatient setting” No change
- “Patient profile” No change
- “Pharmaceutical patient care services” No change
- “Pharmaceutical product” means a medicinal drug.
- “Pharmacy counter working area” No change
- “Pharmacy law continuing education” No change
- “Prepackaged drug” No change
- “Provider pharmacy” No change
- “Radiopharmaceutical” No change
- “Radiopharmaceutical quality assurance” No change
- “Radiopharmaceutical services” No change
- “Red C stamp” No change
- “Remodel” No change
- “Remote drug storage area” No change
- “Resident” No change
- “Responsible person” No change
- “Score transfer” No change
- “Sight-readable” No change
- “Single-drug audit” No change
- “Single-drug usage report” No change
- “Sterile pharmaceutical product” means a dosage form medicinal drug free from living ~~micro-organisms~~ biological organisms.
- “Strength” No change
- “Supervision” No change
- “Supervisory physician” No change
- “Supplying” No change
- “Support personnel” No change
- “Transfill” No change
- “Wholesale distribution” No change
- “Wholesale distributor” No change

ARTICLE 4. PROFESSIONAL PRACTICES

R4-23-410. Current Good Compounding Practices

- A. This rule establishes the current good compounding practices to be used by a pharmacist licensed by the Board, in a pharmacy permitted by the Board, and in compliance with applicable federal and state law governing the practice of pharmacy.
- B. A pharmacy permittee shall ensure compliance with the provisions in this subsection.
 - 1. All ~~drug~~ substances for compounding that are received, ~~sorted~~ stored, or used by the pharmacy permittee:
 - a. Meet official compendium requirements;
 - b. Are of high quality, such as Chemically Pure (CP), Analytical Reagent (AR), certified American Chemical Society (ACS), or Food Chemical Codex (FCC) grade; or
 - c. Are obtained from a source that, in the professional judgement of the pharmacist, is acceptable and reliable.
 - 2. ~~A pharmacist, employed by the pharmacy permittee, compounds a drug in limited quantity~~ Before compounding a pharmaceutical product in excess of the quantity dispensed in anticipation of receiving valid prescriptions for the drug pharmaceutical product, only after establishing a pharmacist, employed by the pharmacy permittee, shall establish a history of compounding valid prescriptions for the drug pharmaceutical product.
 - 3. Neither the pharmacy permittee nor a pharmacist employed by the pharmacy permittee provides a compounded ~~drug~~ pharmaceutical product to a pharmacy, medical practitioner, or other person for dispensing or distributing except that a compounded ~~drug~~ pharmaceutical product may be provided to a medical practitioner to administer to a patient of the medical practitioner- if each container is accompanied by the written list required in subsection (I)(5) and has a label that includes the following:

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- a. The pharmacy's name, address, and telephone number;
 - b. The pharmaceutical product's name and the information required in subsection (I)(4);
 - c. A lot or control number;
 - d. A beyond-use-date based upon the pharmacist's professional judgment, but not more than the maximum guidelines recommended in the Pharmacy Compounding Practices chapter of the official compendium unless there is published or unpublished stability test data that shows a longer period is appropriate;
 - e. The statement "Not For Dispensing;" and
 - f. The statement "For Office or Hospital Administration Only."
4. A pharmacy or pharmacist may advertise or otherwise promote the fact that the pharmacy or pharmacist provides prescription compounding services.
- C. A pharmacy permittee shall ensure compliance with the organization, training, and personnel issues in this subsection.
- 1. Before dispensing a compounded ~~drug~~ pharmaceutical product, a pharmacist:
 - a. Inspects and approves or rejects, or assumes responsibility for inspecting and approving or rejecting, components, ~~drug product~~ pharmaceutical product containers and closures, in-process materials, and labeling;
 - b. Prepares or assumes responsibility for preparing all compounding records;
 - c. Reviews all compounding records to ensure that no errors occur in the compounding process; ~~and~~
 - d. Ensures the proper use, cleanliness, and maintenance of all compounding equipment; ~~and~~
 - e. Documents by hand-written initials or signature in the compounding record the completion of the requirements of subsections (C)(1)(a), (b), (c), and (d).
 - 2. A pharmacist engaged in compounding:
 - a. Complies with the current good compounding practices and applicable state pharmacy laws;
 - b. Maintains compounding proficiency through current awareness, training, and continuing education; and
 - c. Ensures that personnel engaged in compounding wear:
 - i. Clean clothing appropriate to the work performed; and
 - ii. Protective apparel, such as coats, aprons, gowns, gloves or masks to protect the personnel from chemical exposure and prevent ~~drug~~ pharmaceutical product contamination.
- D. A pharmacy permittee shall ensure the security, safety, and quality of a compounded ~~drug~~ pharmaceutical product by conforming with the following standards:
- 1. Implement procedures to exclude from direct contact with components, ~~drug~~ pharmaceutical product containers and closures, in-process materials, labeling, and ~~drug-pharmaceutical~~ products, any person with an apparent illness or open lesion that may adversely affect the safety or quality of a compounded ~~drug~~ pharmaceutical product, until the illness or lesion, as determined by competent medical personnel, does not jeopardize the safety or quality of a compounded ~~drug~~ pharmaceutical product; and
 - 2. Require all personnel to inform a pharmacist of any health condition that may adversely affect a compounded ~~drug~~ pharmaceutical product.
- E. A pharmacy permittee shall provide compounding facilities that conform with the standards in this subsection.
- 1. In addition to the minimum area requirements of R4-23-609, R4-23-655, or R4-23-673, the compounding area:
 - a. Complies with the requirements in ~~R4-23-604(C)(1) and~~ R4-23-611; and
 - b. Has sufficient space to permit efficient pharmacy practice, free movement of personnel, and visual surveillance by a pharmacist.
 - 2. If sterile pharmaceutical product or radiopharmaceutical product compounding is performed, ~~provide a separate compounding area that complies with the rules governing sterile pharmaceuticals and radiopharmaceuticals~~ the compounding area complies with the requirements of R4-23-670, R4-23-681, and R4-23-682.
 - 3. A clean, dry, and temperature-controlled area and, if required, a refrigerated area, in which to store properly labeled containers of bulk drugs, chemicals, and materials used in compounding, that complies with state statutes and rules.
- F. To protect ~~drug~~ pharmaceutical product safety, identity, strength, quality, and purity, a pharmacy permittee shall ensure that equipment and utensils used in ~~drug~~ pharmaceutical product compounding ~~conform with the standards in this subsection. are:~~
- 1. ~~Are of~~ Of appropriate design, adequate size, and suitably located for proper operation, cleaning, and maintenance; ~~;~~
 - 2. ~~Are made~~ Made of material that is not reactive, additive, or absorptive when exposed to components, in-process materials, or ~~drug~~ pharmaceutical products; ~~;~~
 - 3. ~~Are cleaned and sanitized~~ Cleaned and protected from contamination before use; ~~;~~
 - 4. ~~If previously cleaned:~~
 - a. ~~Are protected from contamination before use; and~~
 - b. ~~Are inspected~~ Inspected and determined suitable for use, ~~by a pharmacist, immediately~~ before initiation of compounding operations; ~~and~~
 - 5. ~~Are routinely~~ Routinely inspected, calibrated, or checked to make proper performance certain.
- G. A pharmacy permittee shall ensure that the pharmacist-in-charge establishes and implements procedures to prevent cross-contamination when ~~drug~~ pharmaceutical products that require special precautions to prevent cross-contamination, such

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as penicillin, are used in a compounding procedure. The procedures shall include either the dedication of equipment or the meticulous cleaning of contaminated equipment before its use in compounding other ~~drugs~~ pharmaceutical products.

- H.** A pharmacy permittee shall ensure that the pharmacist-in-charge establishes and implements control procedures for components and drug pharmaceutical product containers and closures, either written or electronically stored with printable documentation, that conform with the standards in this subsection.
1. Components and drug pharmaceutical product containers and closures are:
 - a. Stored off the floor,
 - b. Handled and stored to prevent contamination, and
 - c. Rotated so the oldest approved stock is used first.
 2. Container closure systems comply with official compendium standards.
 3. Drug Pharmaceutical product containers and closures are clean and made of material that is not reactive, additive, or absorptive.
 4. ~~Drug product containers and closures used for compounded sterile pharmaceuticals and radiopharmaceuticals are handled, sterilized, and stored in compliance with R4-23-670, R4-23-681, and R4-23-682.~~
- I.** A pharmacy permittee shall ensure that the pharmacist-in-charge establishes and implements drug pharmaceutical product compounding controls that conform with the standards in this subsection.
1. Drug Pharmaceutical product compounding procedures are available in either written form or electronically stored with printable documentation:
 - a. To ensure that a finished drug pharmaceutical product has the identity, strength, quality, and purity it is purported or represented to possess, the procedures include, for each drug pharmaceutical product compounded, a description of:
 - i. The components, their manufacturer, lot number, expiration date, and amounts, the order of component addition, if applicable, and the compounding process;
 - ii. The ~~required~~ equipment and utensils used; and
 - iii. The drug pharmaceutical product container and closure system proper for the sterility and stability of the drug pharmaceutical product as it is intended to be used.
 - b. To test the pharmaceutical product being compounded, the procedures monitor the output and validate the performance of compounding processes that may cause variability in the final drug pharmaceutical product, including assessing:
 - i. Dosage form weight variation;
 - ii. Adequacy of mixing to ensure uniformity and homogeneity; and
 - iii. Clarity, completeness, and pH of solutions, if applicable.
 2. Components for drug pharmaceutical product compounding are accurately weighed, measured, or subdivided. To ensure that each weight, measure, or subdivision is correct as stated in the compounding procedures, a pharmacist:
 - a. ~~checks~~ Checks and rechecks, or assumes responsibility for checking and re-checking, the operations at each stage of the compounding process; and
 - b. Documents by hand-written initials or signature the completion and accuracy of the compounding process.
 3. Compounding equipment and utensils are properly cleaned and maintained.
 4. In addition to the labeling requirements of A.R.S. § 32-1968(D), the label contains:
 - a. A statement, symbol, designation, or abbreviation that the pharmaceutical product is a compounded pharmaceutical product, and
 - b. A beyond-use-date as specified in subsection (B)(3)(d).
 5. A written list of the compounded pharmaceutical product's active ingredients is given to the patient at the time of dispensing.
 - 3-6. When a component is removed from its original container and transferred to another container, the new container label contains, in full text or an abbreviated code system, the following:
 - a. The component name,
 - b. The manufacturer's or supplier's name.
 - ~~b-c.~~ The lot or control number,
 - ~~e-d.~~ The weight or measure,
 - ~~d-e.~~ The beyond-use-date as specified in subsection (B)(3)(d), and
 - ~~e-f.~~ The transfer date.
- J.** A pharmacy permittee shall ensure that the pharmacist-in-charge stores any quantity of compounded drug pharmaceutical product produced in excess of the quantity dispensed in accordance with subsection (B):
1. In an appropriate container with a label that contains:
 - a. A complete list of components or the ~~drug product~~ pharmaceutical product's name;
 - b. The preparation date;
 - c. The assigned lot or control number; and
 - d. A beyond-use-date ~~based upon the pharmacist's professional judgment, but not more than the maximum guide-~~

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- lines recommended in the Pharmacy Compounding Practices chapter of the official compendium unless there are published data based on testing that show a longer period is appropriate as specified in subsection (B)(3)(d); and
2. Under conditions, dictated by the drug's pharmaceutical product's composition and stability characteristics, that ensure its strength, quality, and purity.

- K. A pharmacy permittee shall ensure that the pharmacist-in-charge establishes and implements recordkeeping procedures that comply with this subsection:
1. ~~Drug~~ Pharmaceutical product compounding procedures and other records required by this Section are ~~retained in~~ maintained by the pharmacy for not less than ~~3~~ seven years, and
 2. ~~Drug~~ Pharmaceutical product compounding procedures and other records required by this Section are readily available for inspection by the Board or its designee.

ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS

R4-23-670. Sterile Pharmaceutical Products ~~Pharmacy~~

- A. ~~Prior to compounding sterile pharmaceutical products, the owner shall obtain a pharmacy permit in compliance with R4-23-606.~~

- B. In addition to the ~~space~~ minimum area requirement of R4-23-609(A) and R4-23-655(B) ~~and before compounding a sterile pharmaceutical product, there a pharmacy permittee, limited-service pharmacy permittee, or applicant shall be provide~~ a minimum 60 square feet of contiguous floor ~~space area that:~~

1. ~~Is~~ dedicated to the purpose of preparing and compounding sterile pharmaceutical products;
2. ~~The sterile compounding area shall be Is~~ isolated from other pharmacy functions;
3. ~~Have restricted~~ Restricts entry or access ~~and;~~
4. ~~Be Is~~ free from unnecessary disturbances in air flow; ~~and~~
5. ~~This area shall have Is made of~~ non-porous and cleanable floor, wall, and ceiling material surfaces. ~~The Board may also require more than the minimum area in instances where equipment, inventory, personnel, or other factors cause crowding to such a degree as to interfere with safe pharmacy practice.~~

- ~~C.B.~~ Equipment required to compound sterile products shall, in In addition to the equipment requirements in R4-23-611 and R4-23-612 ~~include or R4-23-656 and before compounding a sterile pharmaceutical product, a pharmacy permittee, limited-service pharmacy permittee, or applicant shall ensure that a pharmacist who compounds a sterile pharmaceutical product has the following equipment:~~

1. Environmental control devices capable of maintaining a compounding area environment equivalent to a "class 100 ~~conditions~~ environment" as ~~described in the Federal Standard 209 Clean Room and Work Station Requirements: Controlled Environment, publication FED-STD-209D, June 15, 1988 edition which includes January 28, 1991 changes, incorporated herein by reference and on file with the Office of the Secretary of State defined in R4-23-110.~~ Devices capable of meeting these standards include ~~but are not limited to:~~ laminar airflow hoods, hepa filtered zonal airflow devices, and biological safety cabinets;
2. Disposal containers designed for needles, syringes, and other material used in compounding sterile pharmaceutical products and if applicable, separate containers to dispose of cytotoxic, chemotherapeutic, and infectious waste products;
3. ~~Freezer/storage~~ Freezer storage units with thermostatic control and thermometer, ~~if applicable;~~
4. ~~temperature controlled~~ Packaging or delivery containers capable of maintaining official compendial drug storage conditions;
- 4-5. Infusion devices and accessories, if applicable; ~~and~~
- 5-6. ~~Reference library shall, in In~~ reference library requirements of R4-23-612, ~~include a current references~~ reference pertinent to the preparation of sterile pharmaceutical products.

- ~~D.C.~~ Prior to Before compounding a sterile pharmaceutical ~~products~~ product, the pharmacy permittee, limited-service pharmacy permittee, or pharmacist-in-charge shall:

1. ~~prepare and have~~ Prepare and implement policies and procedures for compounding and dispensing sterile pharmaceutical products,
2. Review biennially and if necessary revise the policies and procedures required under subsection (C)(1).
3. Document the review required under subsection (C)(2).
4. Assemble the policies and procedures as a written manual or by another method approved by the Board or its designee, and
5. Make the policies and procedures available in the pharmacy for employee reference and inspection by the Board or its designee a policy and procedure manual addressing the following subjects:

- D. The assembled policies and procedures shall include, where applicable, the following subjects:

1. Supervisory controls and verification procedures to ensure the quality and safety of sterile pharmaceutical products;
- 1-2. Clinical services and drug monitoring; procedures for:
 - a. Patient drug utilization reviews;
 - b. Inventory audits;

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- c. Patient outcome monitoring;
 - d. Drug information; and
 - e. Education of pharmacy and other health professionals;
 - ~~2-3.~~ Controlled substances;
 - ~~3-4.~~ Supervisory controls and verification procedures for:
 - a. Cytotoxics handling, storage, and disposal;
 - ~~4-b.~~ Disposal of unused supplies and ~~medications~~ pharmaceutical products; and
 - c. Handling and disposal of infectious wastes;
 - 5. ~~Drug~~ Pharmaceutical product administration, including guidelines for the first dosing of ~~the medication~~ a pharmaceutical product;
 - 6. ~~Drug product and component~~ procurement;
 - 7. ~~Drug~~ Pharmaceutical product compounding, dispensing, and storage;
 - 8. Duties and qualifications of professional and support staff;
 - 9. Equipment maintenance ~~and inventory;~~
 - ~~10.~~ Handling of infectious wastes;
 - ~~11-10.~~ Infusion devices and ~~drug~~ pharmaceutical product delivery systems;
 - ~~12-11.~~ Investigational drugs and their protocols;
 - ~~13-12.~~ Patient profiles;
 - ~~14-13.~~ Patient education and safety which includes, but is not limited to, provisions for the assessment of the living environment of patients receiving sterile products;
 - ~~15-14.~~ Quality assurance ~~management~~ procedures which in addition to the requirements set forth in R4 23 662, shall include for:
 - a. ~~Recall procedures~~ Adverse drug reactions;
 - b. ~~Storage and beyond use dating as defined in R4 23 110~~ Drug recalls;
 - c. ~~Educational procedures for professional staff, support staff and patient~~ Expired and beyond-use-date pharmaceutical products;
 - d. ~~Sterile procedures including a log of the temperature of the refrigerator/freezer, routine maintenance and record of hood certification~~ Temperature and other environmental controls;
 - e. ~~Sterility testing with documentation of end product and process testing~~ Documented process validation testing; and
 - f. Annual certification of the laminar air flow hood or other class 100 environment, including documentation of routine hood maintenance; and
 - ~~16.~~ Recordkeeping;
 - ~~17.~~ Sanitation;
 - ~~18.~~ Security;
 - ~~19-15.~~ Delivery of sterile products ~~Sterile pharmaceutical product delivery requirements for:~~
 - a. ~~Transportation~~ Shipment to the patient;
 - b. ~~Emergency provision.~~ Security; and
 - c. Maintaining official compendial storage conditions.
- E.** ~~The non-distributive roles of the pharmacist may include but are not limited to chart reviews, audits, drug therapy monitoring, committee participation, drug information, in-service training of pharmacy and other health professionals.~~

R4-23-671. General Requirements for Limited-Service Pharmacy

- A.** Before opening a limited-service pharmacy, a person shall obtain a permit in compliance with A.R.S. §§ 32-1929, 32-1930, 32-1931, and R4-23-606.
- B.** The limited-service pharmacy permittee shall secure the limited-service pharmacy by conforming with the following standards:
 - 1. Permit no one to be in the limited-service pharmacy unless the pharmacist-in-charge or a pharmacist authorized by the pharmacist-in-charge is present;
 - 2. Require the pharmacist-in-charge to designate in writing, by name, title, and specific area, those persons who will have access to particular areas of the limited-service pharmacy;
 - 3. Implement procedures to guard against theft or diversion of drugs, including controlled substances; and
 - 4. Require all persons working in the limited-service pharmacy to wear badges, with their names and titles, while on duty.
- C.** To obtain permission to deviate from the minimum area requirement set forth in R4-23-609, R4-23-673, or R4-23-682, a limited-service pharmacy permittee shall submit a written request to the Board and include documentation that the deviation will facilitate experimentation or technological advances in the practice of pharmacy as defined in A.R.S. § 32-1901. If the Board determines the requested deviation from the minimum area requirement will enhance the practice of pharmacy and benefit the public, the Board shall grant the requested deviation.
- D.** The Board shall require more than the minimum area in a limited-service pharmacy when the Board determines that

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equipment, personnel, or other factors in the limited-service pharmacy cause crowding that interferes with safe pharmacy practice.

- E. Before dispensing from a limited-service pharmacy, the limited-service pharmacy permittee or pharmacist-in-charge shall:
 - 1. Prepare and implement written policies and procedures for pharmacy operations and drug dispensing and distribution,
 - 2. Review biennially and if necessary revise the policies and procedures required under subsection (E)(1),
 - 3. Document the review required under subsection (E)(2),
 - 4. Assemble the policies and procedures as a written manual or by another method approved by the Board or its designee, and
 - 5. Make the policies and procedures available in the pharmacy for employee reference and inspection by the Board or its designee.

R4-23-675. ~~Reserved~~ Limited-service Sterile Pharmaceutical Products Pharmacy

- A. The limited-service pharmacy permittee or the pharmacist-in-charge shall ensure that the limited-service sterile pharmaceutical products pharmacy complies with the standards for area, personnel, security, sanitation, equipment, sterile pharmaceutical products, and limited-service pharmacies established in R4-23-608, R4-23-609, R4-23-610, R4-23-611, R4-23-612, R4-23-670, and R4-23-671.
- B. The pharmacist-in-charge of a limited-service sterile pharmaceutical products pharmacy shall authorize only pharmacists, interns, compliance officers, peace officers acting in their official capacities, pharmacy technicians, pharmacy technician trainees, support personnel, and other designated personnel to be in the limited-service sterile pharmaceutical products pharmacy.
- C. The pharmacist-in-charge of a limited-service sterile pharmaceutical products pharmacy shall ensure that prescription medication is delivered to the patient or locked in the dispensing area when a pharmacist is not present in the pharmacy.
- D. In addition to the delivery requirements of R4-23-402, the limited-service pharmacy permittee shall, during regular hours of operation, but not less than a minimum 40 hours per week, provide toll-free telephone service to facilitate communication between patients and a pharmacist who has access to patient records at the limited-service sterile pharmaceutical products pharmacy. The limited-service pharmacy permittee shall disclose this toll-free number on a label affixed to each container dispensed from the limited-service sterile pharmaceutical products pharmacy.
- E. The limited-service pharmacy permittee or the pharmacist-in-charge shall ensure development and implementation of policies and procedures for pharmacy operations, including pharmaceutical product compounding, dispensing, and distribution, that comply with R4-23-402, R4-23-410, R4-23-670, and R4-23-671.
- F. The non-dispensing roles of the pharmacist may include chart reviews, audits, drug therapy monitoring, committee participation, drug information, and in-service training of pharmacy and other health professionals.

NOTICE OF FINAL RULEMAKING

TITLE 17. TRANSPORTATION

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

PREAMBLE

- 1. Sections Affected:** **Rulemaking Action:**
R17-5-407 Amend
- 2. The statutory 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 statute: A.R.S. §§ 28-2053 and 28-2060(F)
- 3. The effective date of the rules:**
September 2, 2004
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 10 A.A.R. 1628, April 23, 2004
Notice of Proposed Rulemaking: 10 A.A.R. 1613, April 23, 2004
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Troy A. Walters, Rules Analyst
Address: Administrative Rules Unit

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Department of Transportation, Mail Drop 507M
3737 N. 7th St., Suite 160
Phoenix, AZ 85014-5079

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.

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

This rule defines motor vehicle repossession procedures, that is, the transfer of ownership by operation of law as defined in A.R.S. § 28-2060(F) and what is required of the lienholder when the vehicle is being sold prior to the lienholder obtaining a title in the lienholder's name. This rule applies to only Division requirements and does not include any additional statutory requirements that may exist for businesses engaged in commercial loan and lien transactions. The current rule is being amended to reflect statutory citation changes where needed and comply with the requirements of both G.R.R.C. and the Secretary of State.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The agency did not review any study for this rulemaking.

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:

The number of repossessions completed annually are not tracked by the Division and as such, are not readily-quantifiable. However, it is estimated that more than 1000 affidavits of repossession are submitted to the Division on an annual basis. The Division is impacted minimally for recordkeeping and maintenance, and ensuring lienholders comply with the statutory requirements when a motor vehicle is repossessed and reverts through operation of state law to the lienholder of record. Lienholders and chattel holders experience costs in the notification of vehicle owners of repossession; publication and posting of notices of repossession; the publication of notices for the re-sale of repossessed vehicles; and the costs incurred through repossession of motor vehicles where mortgagees are unwilling to voluntarily surrender vehicles.

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

Minor technical and grammatical changes were made.

11. A summary of the comments made regarding the rule and the agency response to them:

None

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:

None

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

No

15. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS

ARTICLE 4. DEALERS

Notices of Final Rulemaking

Section

R17-5-407. Motor vehicle repossession procedures Motor Vehicle Repossession

ARTICLE 4. DEALERS

R17-5-407. Motor vehicle repossession procedures Motor Vehicle Repossession

- A.** A.R.S. § 28-315 reads in part as follows: “When the title or interest of an owner in or to a registered vehicle passes to another through notice and sale under the conditions contained in a chattel mortgage, conditional sale or other evidence of lien ... the transferee may secure a transfer of registration to himself, and a new certificate of title, upon presenting satisfactory evidence to the vehicle division that the sale of the vehicle was fairly and lawfully conducted in conformity with all requirements of law after due notice to the former owner”.
1. The seller on a ~~CONDITIONAL SALES CONTRACT~~ properly filed with the Division, or the seller’s assignee, may upon retaking of a vehicle because of default in the performance of the terms in the contract, secure a transfer of ownership to the transferee by complying with the requirements as listed below, applicable to the then-existing fact situation:
 2. ~~WHEN THE BUYER HAS PAID AT LEAST 50% OF PURCHASE PRICE~~, A.R.S. § 44-319 provides for compulsory resale by seller if the buyer has paid at least 50% of the purchase price at the time of retaking. The applicant for a certificate of title to a vehicle sold under this Section must furnish the vehicle division with the following:
 - a. An affidavit by the seller or an assignee of the conditional seller covering but not limited to these items:
 - i. Name of purchaser and description of vehicle.
 - ii. Date and total amount of contract (must agree with similar information shown on title and lien filing receipt).
 - iii. Purchase price of vehicle as shown in contract.
 - iv. Amount paid on purchase price at time of retaking vehicle.
 - v. Statement that resale was made under provisions of A.R.S. § 44-319.
 - vi. Place and date seller retook possession.
 - vii. Statement that resale was held not more than thirty days after retaking.
 - viii. Statement that buyer was given not less than 10 days’ written notice of sale and whether personally or by registered mail directed to the buyer at his last known place of business or residence.
 - ix. Statement that notice of sale was posted in 3 different public places at least 5 days before the sale.
 - x. If, at the time of retaking, \$500.00 or more had been paid on the purchase price, statement that notice of sale was given at least 5 days before the sale by publication in a newspaper published or having general circulation in the filing district where the vehicle was sold.
 - b. Copy of notice of sale given to purchaser.
 - e. Publisher’s affidavit of publication of notice of sale, in the event \$500.00 or more paid on purchase price.
 - d. Bill of sale to buyer at resale, showing amount paid for vehicle.
- B.** Requirements when there is no resale:
1. When compulsory resale is not required and the seller wishes to retail the vehicle as his own property as provided for in A.R.S. § 44-323, the seller must furnish the vehicle division with an affidavit covering but not limited to these items:
 - a. Name of purchaser and description of vehicle.
 - b. Date and total amount of contract. (Must agree with similar information shown on title and lien filing receipt.)
 - e. Purchase price of vehicle as shown in contract.
 - d. Amount paid on purchase price at time of retaking vehicle, and statement that such amount was less than 50% of the purchase price.
 - e. If notice of intention to retake as provided for in A.R.S. § 44-317 was given, statement to that effect.
 - f. If seller did not give the notice of intention to take as described in A.R.S. § 44-317, a statement that the vehicle was retained for 10 days after retaking within the state in which the vehicle was located when retaken, during which period the buyer did not pay or tender payment of the amount due under the contract or meet the requirements necessary to redeem the vehicle as provided for in A.R.S. § 44-318.
 - g. Statement that the applicant (seller or his assignee) has complied with all the applicable provisions of Title 44, Chapter 3, Arizona Revised Statutes, and therefore is entitled to have a title issued in his name.
- C.** Resale at option of buyer or seller:
1. A.R.S. § 44-320 provides that:
 - a. “If the buyer has not paid at least 50% of the purchase price at the time of the retaking, the seller shall not be under a duty to resell the goods as prescribed in A.R.S. § 44-319, unless the buyer serves upon seller, within 10 days after retaking, a written notice demanding a resale, delivered personally or by registered mail. If such notice is served, the resale shall take place within thirty days after the service, in the manner, at the place and upon the notice prescribed in A.R.S. § 44-319. The seller may voluntarily resell the goods for account of the buyer on compliance with the same requirements.”

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- b. ~~If a resale was demanded by the purchaser under the provisions of A.R.S. § 44-320, the applicant for a certificate of title will be required to furnish the Division with the same items which the Division has indicated must be furnished in connection with a vehicle sold under the provisions of A.R.S. § 44-319.~~
- D.** Requirements in connection with foreclosure of mortgage by notice and sale as provided for in A.R.S. § 33-757.
 - 1. ~~he applicant for a Certificate of Title to a vehicle sold under the provision of A.R.S. § 33-757 must furnish the vehicle division with the following:~~
 - a. ~~An affidavit by the mortgagee covering but not limited to these items:~~
 - i. ~~statement that a mortgage against the vehicle was foreclosed by notice and sale as provided for in A.R.S. § 33-757.~~
 - ii. ~~statement giving the name of the mortgagee and the amount and date of the mortgage, which information must agree with like information shown on the title and lien filing receipt issued by the Division.~~
 - iii. ~~Statement that at least 10 days before the date set for sale, a notice of the sale was personally served upon the mortgagor or subsequent purchaser of whom the mortgagee has knowledge and upon all persons having junior recorded liens upon the vehicle or that service was made as provided for in subsection (D) of A.R.S. § 33-757; by mailing a copy of the notice of sale at least 10 days before the date set for the sale by registered mail addressed to the persons upon whom service or notice of sale is required, addressed to such persons at last known address.~~
 - iv. ~~A statement that, not less than 10 days prior to the date of sale, a notice of the sale was posted in 3 public places in the county in which the sale was held and that the notice was published once in a paper of general circulation in the county where the sale was held.~~
 - v. ~~Copy of notice of sale, which must contain a full description of the mortgaged property, the time, place and terms of sale.~~
 - vi. ~~Publisher's affidavit of publication of notice of sale.~~
 - vii. ~~Bill of sale to buyer showing amount paid for vehicle.~~
- E.** Small loans:
 - 1. ~~If a chattel mortgage taken by a licensed small loan company is in default and the mortgage contains power of sale, such sale may be made upon such notice and terms as therein agreed, without foreclosure proceedings.~~
 - 2. ~~The applicant for a certificate of title to a vehicle sold under the provisions of A.R.S. § 6-630 must furnish the Vehicle Division with the following:~~
 - a. ~~An affidavit made by the licensed small loan company covering but not limited to these items: Statement that sale of vehicle was made under provisions of A.R.S. § 6-630(C), and that such sale was made upon such notice and terms as agreed in the chattel mortgage.~~
 - b. ~~Copy of notice of sale given mortgagor.~~
 - c. ~~Bill of sale to purchaser (applicant) showing selling price.~~
 - d. ~~Copy of Chattel Mortgage.~~
- F.** Fees and application forms to be used. ~~On a transfer of ownership when the vehicle carries current year license plates, application for title will be made on Form 92 direct to the Motor Vehicle Division. The following fees must accompany the application:~~
 - 1. ~~\$1.00 Title Fee~~
 - ~~.25 Lien Clearance Fee~~
 - ~~.50 For transfer of Registration~~
 - ~~.50 For a Duplicate Registration Card, in the event the current Registration Card does not accompany application.~~
 - 2. ~~If the vehicle is not currently registered and license plates are not desired, the application will be made on Form 44-3153 direct to the Motor Vehicle Division, with a fee of \$1.25.~~
 - 3. ~~If the vehicle is not registered and license plates are desired, application will be made at the office of the County Assessor on Form 44-3153.~~
- A.** The Division shall not transfer a title when the ownership of a motor vehicle titled in this state or another state reverts through operation of state law to a lienholder of record through repossession unless the following conditions are met:
 - 1. The vehicle is physically located in this state;
 - 2. A notice of lien is filed with the Division;
 - 3. A completed affidavit from the lienholder is submitted to the Division stating that the vehicle is physically located in this state and was repossessed on default pursuant to the terms of the lien and applicable law and that this state, its agencies, employees, and agents shall not be held liable for relying on the contents of the affidavit; and
 - 4. In addition to the information required in subsection (A)(3), the affidavit contains the following information:
 - a. The Vehicle Identification Number (VIN).
 - b. The vehicle model year.
 - c. The vehicle make.
 - d. The registered owner's name.
 - e. The date of repossession.

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- f. The state in which the vehicle is titled.
- g. The lienholder company name.
- h. The lienholder agent or representative name.
- i. Lienholder signature, and
- j. Notary or Motor Vehicle Division agent signature.
- B.** The Division shall accept out-of-state affidavits of repossession that comply with the requirements in subsections (A)(3) and (4) and subsection (C) if all of the following apply:
 - 1. The affidavit is submitted by an Arizona licensed dealer, and
 - 2. The Arizona licensed dealer is transferring the title into the dealership's name.
- C.** A lienholder may sell a repossessed vehicle without transferring the title into the lienholder's name by completing a Bill of Sale for submission to the Division. The Bill of Sale may be combined with the affidavit of repossession and shall contain the following information:
 - 1. The buyer's name;
 - 2. The sale date;
 - 3. Buyer's street address, including the city, state, and zip code;
 - 4. Name of new lienholder, if applicable;
 - 5. New lien date, if applicable;
 - 6. Odometer certification statement, including odometer reading, and an area for the buyer's name and signature to acknowledge the odometer certification;
 - 7. A statement that the buyer is aware of the odometer certification made by the seller;
 - 8. The seller's name;
 - 9. The seller's notarized signature;
 - 10. The seller's address, including city, state, and zip code; and
- D.** A completed repossession affidavit as prescribed in this Section is proof of ownership, right of possession, and right of transfer.
- E.** Disclaimer. The Division has no responsibility relating to foreclosure on real property under A.R.S Title 33, Chapter 7.