

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE ANIMAL SERVICES DIVISION

Editor's Note: The following Notice of Exempt Rulemaking is exempt from Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 at 15 A.A.R. 1942, November 20, 2009.)

[R10-93]

PREAMBLE

- 1. Sections Affected**

R3-2-203	<u>Rulemaking Action</u>
R3-2-701	Amend
R3-2-810	Amend
	New Section
- 2. The specific statutory authority for the rulemaking including the authorizing statute (general), the implementing statute (specific), and the statute or session law authorizing the exemption:**

Authorizing statute: A.R.S. § 3-107(A)(1); Laws 2010, 7th Spec. Sess., Ch. 7, § 4; Laws 2010, 2nd Reg. Sess., Ch. 290

Implementing statute: Laws 2010, 7th Spec. Sess., Ch. 7, § 4; Laws 2010, 2nd Reg. Sess., Ch. 290; A.R.S. § 3-607; A.R.S. § 3-619(A); A.R.S. § 3-1337; A.R.S. § 3-2003; A.R.S. § 3-2081

Exemption: Laws 2010, 7th Spec. Sess., Ch. 7, § 4; Laws 2010, 2nd Reg. Sess., Ch. 290
- 3. The effective date of the rules:**

June 29, 2010
- 4. A list of all previous notices appearing in the Register addressing the exempt rule:**

None
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Dr. John Hunt, Associate Director
Address:	Arizona Department of Agriculture 1688 W. Adams St. Phoenix, AZ 85007
Telephone:	(602) 542-7186
Fax:	(602) 542-3244
E-mail:	jhunt@azda.gov
- 6. An explanation of the rule, including the agency's reasons for initiating the rulemaking:**

This rulemaking increases certain fees in fiscal year 2010-2011 for services provided in fiscal year 2010-2011 in order to make up for decreases in general fund appropriations. By increasing these fees, the Department anticipates it will be able to maintain and perhaps increase its current level of services pertaining to the animal services division for fiscal year 2010-2011. The Department also increased these same fees for fiscal years 2008-2009 and 2009-2010 under the authority of Laws 2008, Ch. 291, § 12 and Laws 2009, 4th Spec. Sess., Ch. 3, § 23. (The 2009-2010 fees remained at the 2008-2009 level, but were considered an increase since the 2008-2009 fees were only valid for that fiscal year.)

The service charge fee for livestock inspection under A.R.S. § 3-1337 will be \$10, which is the same fee charged for fiscal years 2008-2009 and 2009-2010.

Notices of Exempt Rulemaking

The license to slaughter fees under A.R.S. § 3-2003 are increasing beyond prior levels to \$250, \$300 and \$450. In fiscal year 2007-2008, these fees were \$5, \$15 and \$80, and in fiscal years 2008-2009 and 2009-2010, these fees were \$35, \$50 and \$150.

Meat licenses under A.R.S. § 3-2081 are increasing beyond prior levels as well. In fiscal year 2007-2008, all meat licenses were \$10. In fiscal years 2008-2009 and 2009-2010, processing licenses increased to \$80 and other meat licenses were \$75. For fiscal year 2010-2011, processing, pet food manufacturing, and meat transportation licenses will be \$300, broker, jobber, and meat storage licenses will be \$450, and distributor licenses will be \$500.

Dairy licenses under A.R.S. §§ 3-607 & 3-619 will generally stay at increased levels charged in fiscal years 2008-2009 and 2009-2010. Manufacturing milk processing plant and wholesale distributor licenses will be \$100 and milk sampler licenses and renewals will be \$50 and \$30 respectively. Distributing plant licenses will now cost \$300 plus \$2,500 for each of the facility's pasteurizers. Similarly, producer-distributor licenses for IMS (interstate milk shipper) listed facilities will now cost \$150 plus \$2,500 for each of the facility's pasteurizers. The license fee for non-IMS listed producer-distributors will only be \$150, the same rate as the prior two years. In fiscal year 2007-2008, the licensing fee for manufacturing milk processing plants and distributing plants was \$50, the fee for producer-distributor and wholesale distributor licenses was \$25, and the fees for a milk sampler license was \$5 and \$1.50 for renewal. The Department performs quarterly inspections on pasteurizers, which is why it determined to base fees on the number of pasteurizers.

The fee for a license to engage in the manufacture of dairy trade products is included in new rule R3-2-810, but will remain at the amount set out in A.R.S. § 3-665(B). This fee is included in the rule only for completeness.

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

The fee increases in this rulemaking are expected to maintain the increased revenue from the fee increases made in fiscal years 2008-2009 and 2009-2010 as well as to bring in additional revenue. The Department expects to receive \$30,000 to \$35,000 from the livestock inspection service charge increase, \$100,000 from the slaughter and meat license fee increases, and \$54,000 from the dairy license fee increases above what it would receive without these increases.

In fiscal year 2008-2009, the Department issued 39 licenses to slaughter and 48 meat licenses. The Department also issued licenses for nine milk distributing plants, 13 manufacturing milk processing plants, six producer-distributors, 56 wholesale sellers, and 338 dairy samplers. These licensees will be impacted by the fee increases, and most of these licensees are small businesses. The most significant fee increases will be borne by milk distributing plant licensees and producer-distributors that have an IMS listed facility.

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

Not applicable

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

Joe Sigg, representing the Arizona Farm Bureau, asked if the slaughter and meat license fee increases would affect the Auditor General's audit recommendation to move the state meat inspection program to USDA. Dr. Hunt of the Department explained the report is already completed and that the fee increase discussion began before the Auditor General's audit recommendation was proposed.

Mike Billotte, from the United Dairymen Association, said that with the fee increases, the dairy industry will be paying 19% of the Department's cost to run the dairy program. Mr. Billotte further commented that the Auditor General's Audit Report stated that in the states surveyed, most states' dairy industry pay between 5% and 18% of the states' program costs. The Department recognizes that the fee increases put the dairy industry at or near the top of other states with respect to percent paid by industry, but feels the increase is necessary to maintain services in light of the current government fiscal situation.

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

The Department of Agriculture Advisory Council voted in favor of adoption of the fee increases set out in this rulemaking on May 25, 2010. Public notice of the proposed fee increases was provided on the Department's web site and with the notice and agenda for the Advisory Council's May 25, 2010 meeting. Members of the public were given the opportunity to comment orally on the proposed fee increases at the May 25, 2010 meeting and to submit written comments to the Department for 30 days.

Notices of Exempt Rulemaking

The Department also submitted a specific fee plan for legislative consideration by April 1, 2010 pursuant to Laws 2010, 7th Spec. Sess., Ch. 7, § 4, paragraph B.

Laws 2010, 7th Spec. Sess., Ch. 7, § 4 and Laws 2010, 2nd Reg. Sess., Ch. 290, § 1 exempt the Department from the rulemaking requirements of A.R.S. Title 41, Chapter 6 for the purpose of establishing fees pursuant to these Sections until July 1, 2011 and allows the Department to do so notwithstanding any other law. Accordingly, this Notice of Exempt Rulemaking is exempt from Laws 2009, 3rd Spec. Sess., Ch. 7, § 28.

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

None

14. Whether the rules were previously made as an emergency rule and, if so, whether the text was changed between the making as an emergency and the making of the final rule:

No

15. The full text of the rule follows:

TITLE 3. AGRICULTURE

**CHAPTER 2. DEPARTMENT OF AGRICULTURE
ANIMAL SERVICES DIVISION**

ARTICLE 2. MEAT AND POULTRY INSPECTION

Section

R3-2-203. Licenses; Registration; Records

ARTICLE 7. LIVESTOCK INSPECTION

Section

R3-2-701. Department Livestock Inspection

ARTICLE 8. DAIRY AND DAIRY PRODUCTS CONTROL

Section

R3-2-810. License Fees

ARTICLE 2. MEAT AND POULTRY INSPECTION

R3-2-203. Licenses; Registration; Records

A. No change

1. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. No change

B. No change

1. No change
2. No change
3. No change

C. No change

D. During fiscal year 2011, the fee to obtain or renew a license to slaughter is:

1. For not to exceed 45 head of cattle, and not to exceed 55 head of sheep, goats or swine in one calendar year: \$250.
2. For more than 45 and not to exceed 150 head of cattle and more than 45 and not to exceed 160 head of sheep, goats or swine in one calendar year: \$300.
3. For more than 150 head of cattle and more than 160 head of sheep, goats or swine in any one calendar year: \$450.

Notices of Exempt Rulemaking

E. During fiscal year 2011, the fee to obtain or renew a meat license is:

1. For a broker, \$450.
2. For exempt processing, \$300.
3. For a distributor, \$500.
4. For a jobber, \$450.
5. For a pet food manufacturer, \$300.
6. For a processor, \$300.
7. For meat storage, \$450.
8. For transportation, \$300.

ARTICLE 7. LIVESTOCK INSPECTION

R3-2-701. Department Livestock Inspection

- A.** No change
1. No change
 2. No change
 3. No change
- B.** No change
- C.** No change
- D.** During fiscal year 2011, livestock officers and inspectors shall collect from the person in charge of cattle, dairy cattle, or sheep inspected a service charge of \$10 plus the per head inspection fee set out in A.R.S. § 3-1337 for making inspections for the transfer of ownership, sale, slaughter or transportation of the animals.

ARTICLE 8. DAIRY AND DAIRY PRODUCTS CONTROL

R3-2-810. License Fees

During fiscal year 2011, an applicant shall pay the following fee to obtain or renew a dairy license:

1. For a license to operate a milk distributing plant or business: \$300 plus \$2,500 per pasteurizer.
2. For a license to operate a manufacturing milk processing plant: \$100.
3. For a license to engage in the business of producer-distributor as an interstate milk shipper listed facility: \$150 plus \$2,500 per pasteurizer.
4. For a license to engage in the business of producer-distributor: \$150.
5. For a license to engage in the business of producer-manufacturer: \$25.
6. For a license to engage in the manufacture of trade products: \$100.
7. For a license to engage in the business of selling at wholesale milk or dairy products, or both: \$100.
8. For a license to sample milk or cream: an initial fee of \$50 and a renewal fee of \$30.

NOTICE OF EXEMPT RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 3. DEPARTMENT OF AGRICULTURE

ENVIRONMENTAL SERVICES DIVISION

Editor's Note: The following Notice of Exempt Rulemaking is exempt from Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 at 15 A.A.R. 1942, November 20, 2009.)

[R10-94]

PREAMBLE

1. Sections Affected

R3-3-702

Rulemaking Action

Amend

2. The specific statutory authority for the rulemaking including the authorizing statute (general), the implementing statute (specific), and the statute or session law authorizing the exemption:

Authorizing statute: A.R.S. § 3-107(A)(1); Laws 2010, 7th Spec. Sess., Ch. 7, § 4; Laws 2010, 2nd Reg. Sess., Ch. 290

Implementing statute: Laws 2010, 7th Spec. Sess., Ch. 7, § 4; Laws 2010, 2nd Reg. Sess., Ch. 290; A.R.S. § 3-351(D)

Exemption: Laws 2010, 7th Spec. Sess., Ch. 7, § 4 and Laws 2010, 2nd Reg. Sess., Ch. 290

Notices of Exempt Rulemaking

3. The effective date of the rules:

June 29, 2010

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

None

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

Name: Jack Peterson, Associate Director
Address: Arizona Department of Agriculture
1688 W. Adams St.
Phoenix, AZ 85007
Telephone: (602) 542-3575
Fax: (602) 542-0466
E-mail: jpeterson@azda.gov

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

This rulemaking increases the fee to register a pesticide from \$100 to \$110. The Department increased this same fee to \$110 in fiscal years 2008-2009 and 2009-2010 under the authority of Laws 2008, Ch. 291, § 12 and Laws 2009, 4th Spec. Sess., Ch. 3, § 23. Thus, this rulemaking keeps in effect the fee the Department has been charging for the last two fiscal years.

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

The fee increase in this rulemaking is expected to maintain the increased revenue from the fee increase made in fiscal years 2008-2009 and 2009-2010. The Department anticipates that the \$10 increase will raise approximately \$120,000 in fiscal year 2010-2011. The companies that sell pesticides in Arizona will bear the increased cost, which the Department believes will have a minimal effect on those companies.

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

Not applicable

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

Robert Shuler, representing Western Growers Association, asked how much additional revenue the fee increase would bring in. Jack Peterson of the Department responded the increase should bring in approximately \$120,000.

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

The Department of Agriculture Advisory Council voted in favor of adoption of the fee increase set out in this rulemaking on May 25, 2010. Public notice of the proposed fee increases was provided on the Department's web site and with the notice and agenda for the Advisory Council's May 25, 2010 meeting. Members of the public were given the opportunity to comment orally on the proposed fee increases at the May 25, 2010 meeting and to submit written comments to the Department for 30 days.

The Department also submitted a specific fee plan for legislative consideration by April 1, 2010 pursuant to Laws 2010, 7th Spec. Sess., Ch. 7, § 4, paragraph B.

Laws 2010, 7th Spec. Sess., Ch. 7, § 4 and Laws 2010, 2nd Reg. Sess., Ch. 290, § 1 exempt the Department from the rulemaking requirements of A.R.S. Title 41, Chapter 6 for the purpose of establishing fees pursuant to these Sections until July 1, 2011 and allows the Department to do so notwithstanding any other law. Accordingly, this Notice of Exempt Rulemaking is exempt from Laws 2009, 3rd Spec. Sess., Ch. 7, § 28.

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

None

14. Whether the rules were previously made as an emergency rule and, if so, whether the text was changed between the making as an emergency and the making of the final rule:

No

15. The full text of the rule follows:

Notices of Exempt Rulemaking

TITLE 3. AGRICULTURE

CHAPTER 3. DEPARTMENT OF AGRICULTURE
ENVIRONMENTAL SERVICES DIVISION

ARTICLE 7. PESTICIDE

Section
R3-3-702. Pesticide Registration; Fee

ARTICLE 7. PESTICIDE

R3-3-702. Pesticide Registration; Fee

- A. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change
 - 7. No change
 - 8. No change
 - 9. No change
 - 10. No change
 - 11. No change
 - 12. No change
- B. No change
- C. No change
- D. Notwithstanding subsection (A), during fiscal year 2011, a person registering a pesticide or renewing a pesticide registration shall pay a \$110 fee for each pesticide for each year of registration.

NOTICE OF EXEMPT RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 4. DEPARTMENT OF AGRICULTURE
PLANT SERVICES DIVISION

Editor's Note: The following Notice of Exempt Rulemaking is exempt from Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 at 15 A.A.R. 1942, November 20, 2009.)

[R10-95]

PREAMBLE

- | | |
|--|---------------------------------|
| 1. Sections Affected | <u>Rulemaking Action</u> |
| R3-4-301 | Amend |
| 2. <u>The specific statutory authority for the rulemaking including the authorizing statute (general), the implementing statute (specific), and the statute or session law authorizing the exemption:</u> | |
| Authorizing statute: A.R.S. § 3-107(A)(1); Laws 2010, 7th Spec. Sess., Ch. 7, § 4; Laws 2010, 2nd Reg. Sess., Ch. 290 | |
| Implementing statute: Laws 2010, 7th Spec. Sess., Ch. 7, § 4; Laws 2010, 2nd Reg. Sess., Ch. 290; A.R.S. § 3-201.01(A)(5); A.R.S. § 3-217 | |
| Exemption: Laws 2010, 7th Spec. Sess., Ch. 7, § 4; Laws 2010, 2nd Reg. Sess., Ch. 290 | |
| 3. <u>The effective date of the rules:</u> | |
| June 29, 2010 | |
| 4. <u>A list of all previous notices appearing in the Register addressing the exempt rule:</u> | |
| None | |

Notices of Exempt Rulemaking

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

Name: G. John Caravetta, Associate Director
Address: Arizona Department of Agriculture
1688 W. Adams St.
Phoenix, AZ 85007
Telephone: (602) 542-0996
Fax: (602) 542-0922
E-mail: jcaravetta@azda.gov

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

This rulemaking increases nursery certification fees in fiscal year 2010-2011 for services provided in fiscal year 2010-2011 in order to make up for decreases in general fund appropriations. By increasing these fees and fees related to phytosanitary certification generally, the Department anticipates it will be able to maintain its current level of services pertaining to the plant services division for fiscal year 2010-2011.

Presently, the Department charges \$50 for general nursery stock inspection certification and for single shipment nursery stock inspection certification (also known as state nursery stock phytosanitary certification). With this rulemaking, the Department is raising the fee for general nursery stock inspection certification to \$250 and the fee for single shipment certification to \$50 plus \$10 per additional lot.

The applicant informs the Department how many lots the applicant has, and the Department issues a separate certificate for each lot. Some applicants elect to artificially divide their nursery stock shipment into several small lots because if the state of import rejects part of a lot, the entire lot is rejected. By designating multiple lots, the shipper can reduce the risk of having its entire shipment rejected. However, shippers' practice of designating multiple lots for a single shipment creates extra work for the Department in issuing multiple certificates, which is another reason for raising this fee.

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

The Department expects to receive approximately \$14,000 in additional revenue from the general nursery stock inspection certification fee increase and hundreds of dollars from the single shipment certification fee increase in fiscal year 2010-2011. Those companies seeking certification will bear the cost of these fee increases. Because nursery stock certification is not required by Arizona, some companies that have requested certification in the past may not seek certification with the increased fees. Most, if not all, nursery companies are small businesses. In fiscal year 2008-2009, the Department issued over 120 general nursery stock inspection certifications.

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

Not applicable

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

None received.

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

The Department of Agriculture Advisory Council voted in favor of adoption of the fee increases set out in this rulemaking on May 25, 2010. Public notice of the proposed fee increases was provided on the Department's web site and with the notice and agenda for the Advisory Council's May 25, 2010 meeting. Members of the public were given the opportunity to comment orally on the proposed fee increases at the May 25, 2010 meeting and to submit written comments to the Department for 30 days.

The Department also submitted a specific fee plan for legislative consideration by April 1, 2010 pursuant to Laws 2010, 7th Spec. Sess., Ch. 7, § 4, paragraph B.

Laws 2010, 7th Spec. Sess., Ch. 7, § 4 and Laws 2010, 2nd Reg. Sess., Ch. 290, § 1 exempt the Department from the rulemaking requirements of A.R.S. Title 41, Chapter 6 for the purpose of establishing fees pursuant to these Sections until July 1, 2011 and allows the Department to do so notwithstanding any other law. Accordingly, this Notice of Exempt Rulemaking is exempt from Laws 2009, 3rd Spec. Sess., Ch. 7, § 28.

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

None

14. Whether the rules were previously made as an emergency rule and, if so, whether the text was changed between the making as an emergency and the making of the final rule:

No

15. The full text of the rule follows:

TITLE 3. AGRICULTURE

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

ARTICLE 3. NURSERY CERTIFICATION PROGRAM

Section

R3-4-301. Nursery Certification

ARTICLE 3. NURSERY CERTIFICATION PROGRAM

R3-4-301. Nursery Certification

A. No change

B. No change

1. No change

a. No change

b. No change

2. No change

3. No change

4. No change

5. No change

6. No change

7. No change

8. No change

9. No change

C. No change

1. No change

2. No change

3. No change

D. No change

1. No change

2. No change

3. No change

4. No change

E. No change

1. No change

2. No change

3. No change

4. No change

5. No change

6. No change

F. No change

1. No change

2. No change

3. No change

4. No change

G. Notwithstanding subsections (B) through (D), during fiscal year 2011, an applicant for nursery stock inspection certification shall pay the following fee:

1. For general certification, \$250.

2. For single shipment certification, \$50 for the first lot plus \$10 for each additional lot per Department site trip.

Notices of Exempt Rulemaking

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

The Department expects to receive approximately \$8,400 from the state phytosanitary certification fee increase and \$17,500 from the federal phytosanitary certification fee increase in fiscal year 2010-2011. Those companies seeking certification will bear the cost of these fee increases. Because phytosanitary certification is not required by Arizona, some companies that have requested certification in the past may not seek certification with the increased fees.

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

Not applicable

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

None received

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

The Department of Agriculture Advisory Council voted in favor of adoption of the fee increases set out in this rulemaking on May 25, 2010. Public notice of the proposed fee increases was provided on the Department's web site and with the notice and agenda for the Advisory Council's May 25, 2010 meeting. Members of the public were given the opportunity to comment orally on the proposed fee increases at the May 25, 2010 meeting and to submit written comments to the Department for 30 days.

The Department also submitted a specific fee plan for legislative consideration by April 1, 2010 pursuant to Laws 2010, 7th Spec. Sess., Ch. 7, § 4, paragraph B.

Laws 2010, 7th Spec. Sess., Ch. 7, § 4 and Laws 2010, 2nd Reg. Sess., Ch. 290, § 1 exempt the Department from the rulemaking requirements of A.R.S. Title 41, Chapter 6 for the purpose of establishing fees pursuant to these Sections until July 1, 2011 and allows the Department to do so notwithstanding any other law. Accordingly, this Notice of Exempt Rulemaking is exempt from Laws 2009, 3rd Spec. Sess., Ch. 7, § 28.

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

7 CFR 354.3(g)(3)(i), revised January 1, 2010, is incorporated in R3-6-102.

14. Whether the rules were previously made as an emergency rule and, if so, whether the text was changed between the making as an emergency and the making of the final rule:

No

15. The full text of the rule follows:

TITLE 3. AGRICULTURE

**CHAPTER 6. DEPARTMENT OF AGRICULTURE
OFFICE OF COMMODITY DEVELOPMENT AND PROMOTION**

ARTICLE 1. MARKETING

Section
R3-6-102. Phytosanitary Certification

ARTICLE 1. MARKETING

R3-6-102. Phytosanitary Certification

A. During fiscal year 2011, a person who applies to the Department for phytosanitary certification shall pay the following fee:

- 1. For state certification, \$50 for the first lot plus \$10 for each additional lot per Department site trip.**
- 2. For federal certification, \$56 plus the federal administrative user fee set out in 7 CFR 354.3(g)(3)(i), revised January 1, 2010, which is incorporated by reference and does not include any later amendments or editions. A copy of the incorporated material is available for inspection at the Department, 1688 W. Adams St., Phoenix, Arizona 85007 or may also be viewed at www.gpoaccess.gov/cfr/index.html or purchased from the U.S. Government Online Bookstore at bookstore.gpo.gov.**

B. This Section does not apply to phytosanitary certification under A.A.C. R3-4-301.