

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by 1st submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary.

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

NOTICE OF PROPOSED RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 1. DEPARTMENT OF ADMINISTRATION

PREAMBLE

1. **Sections Affected:**

	<u>Rulemaking Action</u>
R2-1-801	Amend
R2-1-802	Amend
R2-1-803	Amend
R2-1-804	Amend
R2-1-805	Amend
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 41-703

Implementing statute: A.R.S. § 41-786
3. **List of all previous notices appearing in the register addressing the proposed rule:**

Notice of Docket Opening: 5 A.A.R. 3090, September 10, 1999.
4. **Name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Kayelen Corley

Address: Arizona Department of Administration
1700 West Washington, Suite 420
Phoenix, Arizona 85007

Telephone: (602) 542-3632

Fax: (602) 542-3636
5. **An explanation of the rules, including the agency's reasons for initiating the rules:**

The rules allow the state to subsidize the commuting cost of eligible state employees using public transportation operated by an incorporated city or town or a regional public transportation authority. The rules also allow eligible state employees to pay certain public transportation expenses through a payroll deduction. This rulemaking amends the rules to allow the state to provide bus subsidies on behalf of eligible state employees commuting to work on private, commercially-owned buses. The change in the rules is necessary to conform with recent amendments to A.R.S. § 41-786 which allow for reimbursement of private bus transportation expenses. Laws 1999, Ch. 300 § 19.
6. **A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:**

None.

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

Not applicable.

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

The rules will allow bus subsidies to be paid on behalf of eligible state employees traveling to and from state offices on fixed route, commercial buses. The lowering of pollution from removing single occupancy vehicles from the road is significant. The need for parking at the state offices served, and the lower congestion on the state highways are additional benefits that accrue to the public.

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

Name: Kayelen Corley
Address: Arizona Department of Administration
1700 West Washington, Suite 420
Phoenix, Arizona 85007
Telephone: (602) 542-3632
Fax: (602) 542-3636

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

Written comments may be submitted through November 3, 1999, to the person identified in item #4. An oral proceeding on the proposed rule will be held:

Date: Wednesday, November 3, 1999
Time: 9 a.m.
Location: 1700 West Washington, Grand Canyon Room (basement)

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

None.

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

None.

13. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 1. DEPARTMENT OF ADMINISTRATION

ARTICLE 8. REIMBURSEMENT FOR PUBLIC OR PRIVATE TRANSPORTATION

Sections

- R2-1-801. Definitions
- R2-1-802. ~~Public~~ Transportation Program Reimbursement Subsidy Eligibility
- R2-1-803. ~~Public~~ Transportation Program Reimbursement Subsidy Amount
- R2-1-804. ~~Public~~ Transportation Program Reimbursement Subsidy Procedure
- R2-1-805. ~~Public~~ Transportation Program Reduced Cost Procedure

ARTICLE 8. REIMBURSEMENT FOR PUBLIC OR PRIVATE TRANSPORTATION

R2-1-801. Definitions

In this Article, unless otherwise specified, the following terms mean ~~the context otherwise requires:~~

1. "Bus" means a motor vehicle designed to carry 16 or more passengers including the driver.
- ~~2.~~ "Commute" means travel ~~traveling~~ to and from an employee's place of employment.
- ~~3.~~ "Director" means the director of the Department of Administration or the Director's designee.
- ~~4.~~ "Eligible employee" means an individual who is employed by the state of Arizona in a ~~paid work pay~~ status who lives or works in a vehicle emissions control area, as defined in A.R.S. § 49-541, except university employees and those employees subject to the provisions of A.R.S. § 23-981(01).

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45. ~~“Paid work Pay status” means the condition of an employee who is receiving pay for work or for compensated absence from the State of Arizona has the same meaning as in R2-5-101.36.~~
6. ~~“Private transportation” means the transportation of passengers, by a commercial enterprise, on scheduled routes by bus on an individual passenger fare-paying basis.~~
57. ~~“Public transportation” has the same meaning as in A.R.S. § 41-786 (B).~~
68. ~~“Public transportation Transportation card” means the evidence of an eligible employee’s participation in a public transportation program, that is issued to the employee by the regional transit authority or the Department of Administration.~~
79. ~~“Public transportation Transportation program” means a program for reimbursement or subsidy of public or private transportation expenses as contemplated by under A.R.S. § 41-786.~~
810. ~~“Reduced cost” means the an eligible employee’s share of the total cost of public or private transportation that remains after the reimbursement subsidy has been paid.~~
911. ~~“Reimbursement subsidy” means the portion of the total cost of public or private transportation that is paid to a regional transit authority through a contract with the state of Arizona on behalf of an eligible employee under A.R.S. § 41-786.~~
10. ~~“Regional transit authority” means an incorporated city or town, regional public transportation authority as defined in A.R.S. § 28-2502(A), or regional transportation authority as defined in A.R.S. § 28-2902(A) which that operates or licenses a public transportation system.~~

R2-1-802. Public Transportation Program Reimbursement Subsidy Eligibility

The Director shall pay a A reimbursement subsidy shall be paid to a regional transit authority on behalf of an eligible employee in a paid work status who:

1. commutes Commutes by public or private transportation; and
2. is Is enrolled in a public transportation program; and
3. has Has authorized payroll deductions therefore pursuant to under A.R.S. § 38-612 (B)(9).

R2-1-803. Public Transportation Program Reimbursement Subsidy Amount

A. The Director shall determine the The amount of reimbursement subsidy, of up to 100% of the actual cost of public or private transportation, shall be determined by the Director according to the following based upon:

1. the The number of eligible employees participating in the program; and
2. the The cost of public or private transportation; and
3. the The amount of state funds appropriated by the Legislature for reimbursement subsidy purposes.

B. The Director shall will notify an employees of:

1. the The initial percentage of subsidy prior to enrollment of the employee in into the program; and
2. of any Any change in that percentage not less than at least 30 days prior to the effective date of the change.

R2-1-804. Public Transportation Program Reimbursement Subsidy Procedure

Upon receipt, from the regional transit authority The provider of public or private transportation shall submit a monthly invoice to the Director of a detailed invoice that itemizes each public or private transportation ride taken by each eligible employee; The Director shall the Department of Administration will subtract from the total amount due the percentage of subsidy. The eligible employee shall pay the reduced cost remaining amount, considered the reduced cost, is the responsibility of the employee and will be paid through payroll deduction.

R2-1-805. Public Transportation Program Reduced Cost Procedure

A. An eligible employee seeking to pay a reduced cost shall complete, sign, and submit the an public transportation application and payroll deduction authorization form and submit it to the office designated by the Department of Administration personnel office within the agency compensating the employee. The application form shall contain the following:

1. The employee’s name and social security number; and
2. The name and mailing address of the state agency compensating the employee; and
3. For public transportation, the The type of public transportation card requested; and
4. The employee’s signature evidencing agreement to comply with the conditions contained in subsection (B).

B. As a condition of receiving a public transportation card, an eligible employee shall must agree to the following:

1. Not to The public transportation card is to be used only by the employee to whom it is issued. Improper use includes selling, loaning, or making the card available for allow anyone else to use the card; to anyone other than the employee to whom it was issued.
2. The employee’s To use of the public transportation card will be subsidized only for trips to and from work with a state agency, board, or commission; Additional trips may be taken with the public transportation card if unless the employee incurs the maximum monthly charge in commuting; to and from work.
3. The employee will be responsible To pay for charges incurred with the public transportation card;

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4. ~~The employee must~~ To notify the office designated by the Department of Administration if the ~~public~~ transportation card is lost or stolen.;
- 4.5. ~~An employee who applies~~ To pay \$5 on a payroll deduction to replace a lost, damaged, or stolen ~~public~~ transportation card; ~~will be charged \$5 on a payroll deduction.~~
- 5.6. To surrender the transportation card upon ~~Upon~~ termination of employment with the state; ~~and the employee must surrender the public transportation card.~~
- 6.7. ~~An employee's~~ That use of the ~~public~~ transportation card after receiving notice from the Department of Administration of change in the ~~public~~ transportation program policies constitutes the employee's agreement to the change. ~~Notice of change will be given by mail to each cardholder.~~

NOTICE OF PROPOSED RULEMAKING

TITLE 3. AGRICULTURE

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

PREAMBLE

1. **Sections Affected**

R3-4-105 R3-4-229 R3-4-231	<u>Rulemaking Action</u> Repeal Amend Amend
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2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 3-107
Implementing statute: A.R.S. § 3-201.01(A)
3. **A list of all previous notices appearing in the Register addressing the adopted rule:**

Notice of Rulemaking Docket Opening: 5 A.A.R. 27, January 4, 1999.
Notice of Rulemaking Docket Opening: 5 A.A.R. 396, January 29, 1999.
4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Shirley Conard, Rules Specialist
Address: Arizona Department of Agriculture
1688 West Adams, Room 235
Phoenix, Arizona 85007
Telephone: (602) 542-0962
Fax: (602) 542-5420
e-mail: shirley.conard@agric.state.az.us
5. **An explanation of the rule, including the agency's reasons for initiating the rule:**

This rulemaking updates Title 3 of the *Arizona Administrative Code* and establishes additional requirements for the nut tree pests and nut pests quarantine rules.

R3-4-105, Prohibition. This Section covers specific prohibitions and dispositions of violations already described in A.R.S. § 3-215.

R3-4-229, Nut Tree Pests. This Section establishes the quarantined and infested areas; commodities covered; treatment options; and restrictions for dealing with the pest. This rulemaking adds pecan firewood and used appliances, boxes and sacks to the list of commodities covered and requires that they must be fumigated before being brought into the state.

R3-4-231, Nut Pests. This Section establishes the areas under quarantine; commodities covered; treatment options; and restrictions for dealing with nut pests; and clarifies existing language, and updates the current format and structure to meet the guidelines of the Office of the Secretary of State. This rulemaking adds quarantine areas in New Mexico; requires that used appliances, boxes and sacks be fumigated before being brought into the state; and all nuts

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listed as a covered commodity originating in or shipped from any area under quarantine be dehulled.

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

None.

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

Not applicable.

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

A. The Arizona Department of Agriculture.

Consolidating information and adding new areas of quarantine will not create any additional costs to the Department, but will help employees and stakeholders better understand how to comply with the requirements.

Adding additional covered commodities and requiring dehulling of nuts will require the Department to inspect in these areas. These additional requirements add only a minimal economic change and will be carried out during regular inspections. The cost involved for inspecting a covered commodity far outweighs the cost of removing a pest from the State.

B. Political Subdivision.

Political subdivisions of this state are not directly affected by the implementation and enforcement of this rulemaking.

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

The cost for dehulling nuts or for treating used appliances, bags and sacks will depend upon the specific commodity and the location of the treatment. In any case, the benefits associated with treating covered commodities far outweigh the cost of removing a pest infestation from the State.

D. Private and public employment.

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

E. Consumers and the Public.

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

F. State Revenues.

This rulemaking will have no impact on state revenues.

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

Name: Shirley Conard
Address: Arizona Department of Agriculture
1688 West Adams, Room 235
Phoenix, Arizona 85007
Telephone: (602) 542-0962
Fax: (602) 542-5420
E-mail: shirley.conard@agric.state.az.us

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

Date: October 25, 1999
Time: 10:00 a.m.
Location: Arizona Department of Agriculture

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1688 West Adams, Room 206
Phoenix, Arizona 85007

Nature: Oral Proceeding

Written comments on the proposed rules or preliminary economic, small business and consumer impact statement must be received by 4:00 p.m., October 25, 1999. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the department's coordinator, Patrick Stevens, (602) 542-4316 (voice) or 1-800-367-3839 (TDD Relay). Requests should be made as early as possible to allow time to arrange the accommodation.

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

None.

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

None.

13. The full text of the rules follows:

TITLE 3. AGRICULTURE

CHAPTER 4. DEPARTMENT OF AGRICULTURE

PLANT SERVICES DIVISION

ARTICLE 1. GENERAL PROVISIONS

Sections

R3-4-105. ~~Prohibitions~~ Repeal

ARTICLE 2. QUARANTINE

Section

R3-4-229. Nut Tree Pests

R3-4-231. Nut Pests

ARTICLE 1. GENERAL PROVISIONS

R3-4-105. ~~Prohibitions~~ Repeal

~~Any person in the state of Arizona is prohibited from having possession of, transporting, selling, giving away, or otherwise disposing of any article found in violation of any rule.~~

ARTICLE 2. QUARANTINE

R3-4-229. Nut Tree Pests

A. Definition. In addition to the definitions provided in A.R.S. § 3-201 and A.A.C. R3-4-102, the following term applies to this Section:

“Pest” means any of the following:

1. Pecan leaf casebearer, *Acrobasis juglandis* (LeBaron);
2. Pecan nut casebearer, *Acrobasis nuxvorella* (Neunzig);
3. Pecan phylloxera, *Phylloxera devastatrix*;
4. The pathogen, mycoplasma like organism, that causes brooming disease of walnut.

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

C. Infested area.

1. For *Acrobasis* spp.: All states and districts east of and including the states of Montana, Wyoming, Colorado, Oklahoma, and Texas; in New Mexico, the counties of Chaves, ~~DeBaca~~, Lea, Roosevelt, Eddy, Dona Ana, Otero, and Quay.
2. For pecan phylloxera: Alabama, Arkansas, Louisiana, Mississippi, Oklahoma, and Texas.
3. For brooming disease of walnut: All states and districts east of and including Montana, Wyoming, Colorado, and New Mexico.

D. Commodities covered:

1. All species and varieties of the following trees and all plant parts capable of propagation, except the nuts. Plant parts include buds, scions, and rootstocks:

~~1-a.~~ Hickory and pecan (*Carya* spp.);

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~~2.b.~~ Walnut and butternut (*Juglans* spp.);

2. Pecan firewood;

3. Any used appliance, and any used box or sack used for growing, harvesting, handling, transporting, or storing nuts and hulls.

E. Restrictions:

1. The commodities listed in subsection (D)(1)(a) shall be admitted into Arizona:

a. From the infested area prescribed in subsections (C)(1) and (C)(2) if treated at origin, provided each lot or shipment is accompanied by a certificate issued by the origin state department of agriculture affirming the commodity has been treated in accordance with subsection (F);

b. From an area under quarantine outside the infested area, provided each lot or shipment is accompanied by a certificate issued by the origin state department of agriculture affirming that the commodities originated in a county not known to be infested with the pests listed in subsections (A)(1), (A)(2), and (A)(3).

2. The commodities listed in subsection ~~(D)(2)~~ (D)(1)(b) shall be:

a. Prohibited from entering Arizona from the infested area prescribed in subsection (C)(3);

b. Admitted into Arizona from an area under quarantine outside the infested area prescribed in subsection (C)(3), provided each lot or shipment is accompanied by a certificate issued by the origin state department of agriculture affirming:

i. ~~Brooming~~ brooming disease is unknown in the origin county; ~~and~~

ii. ~~The amount and kind of commodity in the shipment.~~

3. The commodities listed in subsections (D)(2) and (D)(3) are prohibited unless fumigated as prescribed in subsection (F)(1).

F. Treatment:

1. Methyl bromide fumigation at normal atmospheric pressure, with circulations maintained for 30 minutes, as follows:

2 lbs. per 1,000 cu.ft. for 4 hours at 70°F. or more,

3 lbs. per 1,000 cu.ft. for 4 hours at 60-69°F.

2. A hot water dip at 140° F. or more for a minimum of 30 seconds.

3. Appliances.

a. Steam cleaned, and inspected and certified free from debris by the origin state.

b. Cold treatment in an approved cold storage chamber at or below 0° F. for at least 7 days (168 hours).

~~3.4.~~ Any other treatment approved by the Associate Director.

~~**G.** Any commodity listed in subsection (D) arriving in Arizona in violation of this Section shall, under the direction of the Department, be immediately sent out of the state, treated, or destroyed at the expense of the owner or the owner's representative.~~

R3-4-231. Nut pests

~~**A.** Notice of quarantine: It has been determined that Pecan weevil, Butternut curculio, Black walnut curculio, and Hickory shuckworm are dangerous pests not known to occur in the state of Arizona but are a serious threat to the nut industry and native black walnut trees of the state of Arizona. In order to prevent the introduction of these serious pests 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 as provided in this rule.~~

~~**B.A.** Pests covered: Definition. In addition to the definitions provided in A.R.S. § 3-201 and A.A.C. R3-4-102, the following term applies to this Section:~~

~~"Pest" means any of the following:~~

~~1. Pecan weevil, *Curculio caryae* (Horn);~~

~~2. Butternut curculio, *Conotrachelus juglandis* LeC;~~

~~3. Black walnut curculio, *Conotrachelus retentus* Say;~~

~~4. Hickory shuckworm, *Laspeyresia caryana* (Fitch).~~

~~**B.B.** Area under quarantine: All states and districts of the United States except the states of California and New Mexico:~~

~~1. Pecan weevil: All states and districts of the United States except California and New Mexico.~~

~~2. Hickory shuckworm: The New Mexico counties of Lea, Eddy, and Dona Ana and all other states and districts of the United States except California.~~

~~3. Black walnut curculio and butternut curculio: All states and districts of the United States except California.~~

~~**D.C.** Commodities covered:~~

~~1. Nuts of all species and varieties of hickory, pecan (*Carya* spp.), walnut and butternut (*Juglans* spp.), except extracted nut meats.~~

~~2. Boxes, sacks, and other containers, equipment, appliances, machinery and vehicles used in connection with harvesting, hulling, dehydrating, shelling, transporting, or storing of any unhulled nuts or hulls. Any used appliance, and any used box or sack used for growing, harvesting, handling, transporting, or storing nuts and hulls.~~

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~~**E.D.** Restrictions: Commodities covered in R3-4-231(D), originating in or shipped from the quarantined area shall be refused admittance into the state of Arizona, unless each lot or shipment is accompanied by a certificate issued by an authorized representative of the Department of Agriculture of the state of origin, evidencing one of the treatments listed in R3-4-231(G) of this rule has been carried out under his supervision. In the case of small, noncommercial quantities of nuts with hulls, transported via mail or express, or as personal belongings, the Entomologist or inspector shall permit the removal and destruction of husks or hulls, under his supervision, at the risk and expense of the owner or receiver, after which the lot shall be released if no evidence of pecan weevil or other pests is found. (For the purpose of the rule, non-commercial quantities of nuts shall mean quantities of 50 pounds or less.)~~

~~1. Commodities listed in subsection (C)(1), originating in or shipped from the area under quarantine, shall be admitted into Arizona provided the commodity has been cleaned of husks, hulls, debris, and stick-tights and each lot or shipment is accompanied by a certificate issued by the origin state department of agriculture affirming the commodity has been treated in accordance with subsection (E).~~

~~2. Commodities listed in subsection (C)(2) shall be admitted into Arizona provided the commodity has been fumigated as prescribed in subsection (E)(3) and (E)(4).~~

~~**F.** Disposition of violations: Any quarantined commodity arriving in Arizona in violation of this quarantine regulation shall be immediately sent out of the state or destroyed (except as specified in subsection (E)) at the option and expense of the owner or the owner's responsible agents, and under the direction of the State Entomologist or his inspectors.~~

~~**G.E.** Treatment:~~

~~1. Cold treatment: The commodities shall be held in an approved cold storage chamber at or below 0°F. for a period of at least 7 days (168 hours). ~~For the purpose of certification, the~~ The treatment shall not start until the entire content of the lot of nuts has reached 0°F.~~

~~2. A hot water bath treatment at 140°F. for a minimum of 5 minutes. Water temperature shall be maintained at or above 140°F. during the entire treatment period.~~

~~3. Methyl bromide fumigation at normal atmospheric pressure, with circulations maintained for 30 minutes, as follows:~~

~~2 lbs. per 1,000 cu.ft. for 4 hours at least 70°F.,~~

~~3 lbs. per 1,000 cu.ft. for 4 hours at 60-69°F.~~

~~4. Appliances.~~

~~a. Steam cleaned, and inspected and certified free from debris by the origin state.~~

~~b. Cold treatment in an approved cold storage chamber at or below 0° F. for at least 7 days (168 hours).~~

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

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

PREAMBLE

1. Sections Affected

R4-23-415

Rulemaking Action

New Section

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

Authorizing statutes: A.R.S. § 32-1904(A)(8).

Implementing statutes: A.R.S. § 32-1932.01.

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

Notice of Rulemaking Docket Opening: 5 A.A.R. 2999, September 3, 1999.

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

Name: Dean Wright, Compliance Officer

Address: Board of Pharmacy
5060 N. 19th Ave., Suite 101
Phoenix, AZ 85015

Telephone: (602) 255-5125 Ext. 131

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Notices of Proposed Rulemaking

Fax: (602) 255-5740
E-mail: rxcop@uswest.net

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

During the 5-year rule review in 1997, the Board staff discovered that A.R.S. 32-1904(A)(8) requires the Board to adopt rules for the rehabilitation of pharmacists and pharmacy interns. The rules mentioned have never been written. This is not to say that a program for rehabilitation does not exist. The Board supports a nationally recognized program called Pharmacists Assisting Pharmacists of Arizona (PAPA). This program was developed based on A.R.S. 23-1932.01 which gives the Board the authority to establish a treatment and rehabilitation program. Because of the oversight involving the mandate at A.R.S. 32-1904(A)(8), we began drafting the proposed rule in February 1998.

The rule establishes a new Section, R4-23-415 Impaired Licenses - Treatment and Rehabilitation. The rule establishes the contract guidelines and duties and responsibilities of the Board, the program and its administrator, and the participants.

Board believes that making these rules will benefit the public health and safety by establishing clear standards governing treatment and rehabilitation programs for pharmacists and pharmacy interns.

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

Not applicable.

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

Not applicable.

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

The rule will have no economic impact except the cost to the Board of Pharmacy and the Secretary of State for writing and publishing the rule. The treatment and rehabilitation program has been in operation for many years. The rule is necessary to comply with statutory mandate. The rule does not impose any costs on small business or consumers.

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

Name: Dean Wright, Compliance Officer

Address: Board of Pharmacy
5060 N. 19th Ave., Suite 101
Phoenix, AZ 85015

Telephone: (602) 255-5125 Ext. 131

Fax: (602) 255-5740

E-Mail: rxcop@uswest.net

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

Comments may be written or presented orally. Written comments must be received by 5 p.m., Monday, October 25, 1999. An oral proceeding is scheduled for:

Date: October 25, 1999

Time: 10:00 a.m.

Location: 5060 N. 19th Ave., Suite 101
Phoenix, AZ 85015

A person may request information about the oral proceeding by contacting the person listed above.

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

Not applicable.

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

None.

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

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 4. PROFESSIONAL PRACTICES

Section

R4-23-415. Impaired Licensees - Treatment and Rehabilitation

ARTICLE 4. PROFESSIONAL PRACTICES

R4-23-415. Impaired Licensees - Treatment and Rehabilitation

- A.** The Board may contract with qualified organizations to operate a program for the treatment and rehabilitation of pharmacists and interns impaired as the result of alcohol or other drug abuse, pursuant to A.R.S. § 32-1932.01.
- B.** Participants in the program are either 'confidential' or 'known'. Confidential participants are self-referred and may remain unidentified to the Board subject to maintaining compliance with their program contract. Known participants are under Board Order to complete a minimum tenure in the program. After a known participant completes the minimum tenure, the Board may terminate the Board Order and reinstate the participant's license to practice pharmacy.
- C.** The program contract with a qualified organization shall include as a minimum the following:
1. Duties and responsibilities of each party.
 2. Duration, not to exceed two years, of contract and terms of compensation.
 3. Quarterly reports from the program administrator to the Board indicating:
 - a. Identity of participants:
 - i. By name, if a known participant; or
 - ii. By case number, if a confidential participant;
 - b. Status of each participant, including:
 - i. Clinical findings;
 - ii. Diagnosis and treatment recommendations;
 - iii. Program activities; and
 - iv. General recovery and rehabilitation program information.
 4. The program administrator shall report immediately to the Board the name of any impaired pharmacist or pharmacy intern who poses a danger to the public or others.
 5. The program administrator shall report to the Board, as soon as possible, the name of any impaired pharmacist or pharmacy intern:
 - a. Who refuses to submit to treatment;
 - b. Whose impairment is not substantially alleviated through treatment; or
 - c. Who violates the terms of their contract.
 6. The program administrator shall periodically provide informational programs to the profession including approved continuing education programs on the topic of drug and chemical impairment, treatment and rehabilitation.
- D.** Pursuant to A.R.S. § 32-1903(F), the Board may publish the names of participants under current Board Orders.
- E.** A majority of the Board may request the treatment records for any participant. The program administrator shall provide treatment records within 10 working days of receiving a written request from the Board for such records. Upon request of the program administrator or the Board, a program participant shall authorize a drug and alcohol treatment facility or program or a private practitioner or treatment program to release the participant's records to the program administrator or the Board.
- F.** On the recommendation of the program administrator or a Board member and by mutual consent, the program administrator, Board member, Board staff, and program participant may meet informally to discuss program compliance.