

NOTICES OF PROPOSED RULEMAKING

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

NOTICE OF PROPOSED RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 4. DEPARTMENT OF AGRICULTURE PLANT SERVICES DIVISION

[R06-375]

PREAMBLE

1. Sections Affected

R3-4-401
R3-4-402
R3-4-403
R3-4-404
R3-4-406
R3-4-408
R3-4-409

Rulemaking Action

Amend
Amend
Amend
Amend
Amend
Amend
New Section

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, 3-201.01

Implementing statute: A.R.S. §§ 3-232, 3-233, 3-237

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

Notice of Rulemaking Docket Opening: 12 A.A.R. 584, February 24, 2006

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

Name: Rebecca A. Nichols, Rules Analyst, Director of Marketing

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

Telephone: (602) 542-0962

Fax: (602) 542-5420

E-mail: rnichols@azda.gov

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

The purpose of these rules is to regulate the labeling, sale, and transportation for sale of agricultural, vegetable, flower, and tree and shrub seeds.

These rules are being updated at the request of the Arizona industry representatives to adopt language from The Recommended Uniform State Seed Law (RUSSL), a model code for state programs to help maintain a certain level of national uniformity to allow unimpeded interstate marketing, and to ensure the quality of commercial planting seed. RUSSL was developed by the Association of American Seed Control Officials (AASCO). Since the model code was developed in 2002, twenty one states have adopted or are planning to change their seed laws and/or regulations based upon the RUSSL model.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely

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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

7. 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

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

Seed dealers and labelers will face a modest increase in fees from this change, but it is unlikely to have any significant economic impact on small businesses 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: Rebecca A. Nichols, Rules Analyst, Director of Marketing

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

An oral proceeding is not scheduled for these proposed rules. To request an oral proceeding or to submit comments, please contact the rules analyst listed in item #4 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Arizona legal holidays.

The public record in this rulemaking will close at 4:30 on November 28, 2006.

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:

7 USC 1551-1611, April 1, 1998, ("The Federal Seed Act".)

This reference is found in the R3-4-401 at the end of the rule.

7 CFR 201.39 - 201.65, amended January 1, 2002, ("Federal Seed Act Regulations".)

This reference is found in R3-4-406 (A).

Rules for Testing Seeds, published by the Association of Official Seed Analysts, effective October 1, 2004.

This reference is found in R3-4-406 (A).

13. The full text of the rules follows:

TITLE 3. AGRICULTURE

CHAPTER 4. DEPARTMENT OF AGRICULTURE
PLANT SERVICES DIVISION

ARTICLE 4. SEEDS

Section

R3-4-401.	Definitions
R3-4-402.	Labeling
R3-4-403.	Noxious Weed Seeds
R3-4-404.	Vegetable Seed Germination Standards
R3-4-406.	Sampling and Analyzing Seed
R3-4-408.	Licenses: Seed Dealer and Seed Labeler; Fees
R3-4-409.	<u>Violations and Penalties</u>

ARTICLE 4. SEEDS

R3-4-401. Definitions

In addition to the definitions provided in A.R.S. § 3-231, the following shall apply to this Article:

1. ~~“Coated seed” means seed that has been covered with a substance which changes the size, shape, or weight of the original seed. Seeds coated with ingredients such as rhizobia, dyes, and pesticides are excluded.~~
2. ~~“Replacement date sticker” means a sticker for one-time use which displays a new test date confirming that the germination on the label has not changed and that there are no label violations.~~
3. ~~“Small container” means any container 16 ounces or less.~~
1. “Blend” means seed consisting of more than one variety of a kind, each in excess of five percent by weight of the whole.
2. “Brand” means a word, name, symbol, number, or design used to identify seed of one person to distinguish it from seed of another person.
3. “Certifying agency” means:
 - a. An agency authorized under the laws of Arizona to officially certify seed and which has standards and procedures approved by the U. S. Secretary of Agriculture to assure the varietal purity and identity of the seed certified, or
 - b. An agency of a foreign country determined by the U.S. Secretary of Agriculture to adhere to procedures and standards for seed Certification comparable to those adhered to generally by seed certifying agencies under subsection (B) of this definition.
4. “Coated seed” means seed that has been covered with a substance which changes the size, shape, or weight of the original seed. Seeds coated with ingredients such as rhizobia, dyes, and pesticides are excluded.
5. “Conditioning” means drying, cleaning, scarifying, and other operations which could change the purity or germination of the seed and require the seed lot to be retested to determine the label information.
6. “Dormant” means viable seed, excluding hard seed, which fail to germinate when provided the specified germination conditions for the kind of seed in question.
7. “Flower seeds” includes seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts, and commonly known and sold under the name of flower or wildflower seeds in Arizona.
8. “Germination” means the emergence and development from the seed embryo of those essential structures which, for the kind of seed in question, are indicative of the ability to produce a normal plant under favorable conditions.
9. “Hard seeds” means seeds which remain hard at the end of the prescribed test period because they have not absorbed water due to an impermeable seed coat.
10. “Inert matter” means all matter not seed, which includes broken seeds, sterile florets, chaff, fungus bodies and stones.
11. “Mixture”, “mix”, or “mixed” means seed consisting of more than one kind, each in excess of five percent by weight of the whole.
12. “Mulch” means a protective covering of any suitable substance placed with seed which acts to retain sufficient moisture to support seed germination and sustain early seedling growth and aid in the prevention of the evaporation of soil moisture, the control of weeds and the prevention of erosion.
13. “Origin” means the state the seed was grown, if not grown in the United States, the country where the seed was grown.
14. “Other crop seed” means seeds of plants grown as crops (other than the kind or variety included in the pure seed) as determined by methods defined in this rule.
15. “Pure live seed” means the product of the percent of germination plus hard or dormant seed multiplied by the percent of pure seed divided by 100. The result is expressed as a whole number.
16. “Pure seed” means seed exclusive of inert matter and all other seeds not of the seed being considered.
17. “Replacement date sticker” means a sticker on the label which displays a new test date.
18. “Retail” means sales which are not intended for agricultural use and are prepared for use by the consumer for personal use in home gardens or household plantings only and not for resale.
19. “Seed count” means the number of seeds per unit weight in the container so labeled.
20. “Seizure” means a legal process carried out by court order against a definite amount of seed.
21. “Undesirable Grass Seeds (UGS)” are seeds of grass species treated as restricted noxious weed seed when found in lawn and turf seed.
22. “Wholesale” means sales which are intended for agricultural use and are not prepared for use in home gardens or household plantings usually in quantities for resale (as by a retail merchant).
23. “Working sample means the number of seeds as required under the Federal Seed Act, 7 USC 1551-1611, April 1, 1998. (This material is incorporated by reference, and is on file with the Department. It does not include any later amendments or editions. It can also be found on the USDA web site: <http://www.ams.usda.gov/lsg/seed/fsa-98.pdf>.)

R3-4-402. Labeling

A. General requirements:

1. ~~A written statement containing the information prescribed by A.R.S. § 3-237 shall appear in legible print of not less~~

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than eight point type.

2. The name of a kind, variety, or type of seed as defined in A.R.S. § 3-231(10), (24), and (25) shall not include words or terms that may create a misleading impression concerning the history or quality of the seed, nor shall any other information in addition to that required by A.R.S. § 3-237 appear on a label that is misleading.
 3. Information required for labeling seed in the bulk shall appear in the invoice.
 - 4.1. Blank spaces or the words “free or none” mean “0” and “0.00%” for the purpose of applying the tolerances prescribed in the regulations by the State Seed Law Enforcement Officer Director.
 - 5.2. For labeling purposes, purity and germination entries shall not show higher results than actually found by test.
 - 6.3. The terms “foundation seed,” “registered seed,” and “certified seed” are authorized for use on seed certified by an Arizona-designated seed-certifying agency as delineated in R3-4-407.
 4. Relabeling. The following information shall appear on a label or a replacement date sticker for relabeling seeds in their original containers:
 - a. The germination, the calendar month and year the germination test was completed to determine such percentage and the sell-by date as required.
 - b. The same lot designation as on the original labels.
 - c. The identity of the labeling person if different from original labeler.
 5. Labeling of Seed Distributed to wholesalers. After seed has been conditioned, it must be labeled before distribution to any person including a wholesaler. Each bag or bulk lot must be completely labeled when supplied to a retailer or consumer. Labeling of seed supplied to a wholesaler, one whose predominant business is to supply seed to other distributors rather than to consumers of seed, may be by invoice if each bag or other container is clearly identified by a lot number stenciled on the container or if the seed is in bulk. Each bag or container that is not so identified must carry complete labeling.
 6. Seeds for Sprouting. The following information shall be indicated on all labels of seeds sold for sprouting for salad or culinary purposes.
 - a. Commonly accepted name of kind or kinds.
 - b. Lot number.
 - c. Percentage by weight of each pure seed component in excess of 5% of the whole, other crop seeds, inert matter and weed seeds if occurring.
 - d. Percentage of germination of each pure seed component.
 - e. Percentage of hard seed, if present.
 - f. The calendar month and year the germination test was completed to determine such percentages.
- B. Kind, variety, or type.**
1. The labels of ~~the following kinds~~ all agricultural seeds sold in Arizona, except as stated in subsection (B)(2) shall include the recognized variety name or type or the words “Variety not stated.” A brand is not a variety designation and may not be used in lieu of a variety name.

Alfalfa	Millet, pearl
Bahiagrass	Oat
Barley	Pea, field
Bean, field	Peanut
Beet, field	Rice
Brome, smooth	Rye
Broomecorn	Safflower
Clover, crimson	Sorghum
Clover, red	Sorghum sudangrass
Clover, white	Soybean
Corn, field	Sudangrass
Corn, pop	Sunflower
Cowpea	Tobacco
Crambe	Trefoil, birdsfoot
Fescue, tall	Triticale
Flax	Wheat, common
Lespedeza, striate	Wheat, durum

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Millet, foxtail	-
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2. The labels of all cotton planting seed sold, offered for sale, exposed for sale, or transported for planting purposes shall include both kind and variety.

~~C.~~ A replacement date sticker shall be accepted to bring outdated seed into compliance.

~~D.~~ Seed containers with an expired replacement date sticker shall be completely relabeled.

C. Each container of agricultural, vegetable, and flower seeds which is sold, offered for sale, or exposed for sale within Arizona for sowing purposes shall have a plainly written or printed label or tag in the English language. The required label information shall not be modified or denied in the labeling or on another label attached to the container. No information shall appear on the label that is misleading. The label shall include the following information:

1. For all agricultural, vegetable, and flower seeds that have been treated for which a separate label may be used:

- a. A word or statement indicating that the seed has been treated;
- b. The commonly-accepted chemical generic name of the applied substance or description of the process used;
- c. If the substance in the amount present with the seed is harmful to human or other animals, a caution statement such as "do not use for food, feed, or oil purposes". The caution for highly toxic substances shall be a poison statement and symbol;
- d. If the seed is treated with an inoculant, the date beyond which the inoculant is not to be considered effective (date of expiration).

2. For agricultural seeds, except for lawn and turf grass seed and mixtures thereof as provided in subsection (E)(3); for seed sold on a pure live seed basis as provided in subsection (E)(7); and for hybrids which contain less than 95% hybrid seed as provided in subsection (E)(8):

- a. The name of the kind and variety for each agricultural seed component in excess of 5 percent of the whole and the percentage by weight of each; provided, that if the variety of those kinds generally labeled as to variety as designated in the regulations is not stated, the label shall show the name of the kind and the words, "variety not stated". Hybrids shall be labeled as hybrids.
- b. Lot number or other lot identification.
- c. Origin (state or foreign country), of alfalfa, red clover and field corn (except hybrid corn). If the origin is unknown, the fact shall be stated.
- d. Percentage by weight of all weed seeds.
- e. The name and rate of occurrence per pound of each kind of restricted noxious weed seed present.
- f. Percentage by weight of agricultural seeds (which may be designated as "crop seeds") other than those required to be named on the label.
- g. Percentage by weight of inert matter.
- h. The sum total of weight identified in subsections (d), (f) and (g) above must equal 100 percent.
- i. For each named agricultural seed: percentage of germination, exclusive of hard seed; percentage of hard seeds, if present; and the calendar month and year the test was completed to determine such percentages. The statement "total germination and hard seed" may be stated where appropriate, if desired.
- j. Net weight or seed count.
- k. Name and address of the person who labeled said seed, or who sells, offers or exposes said seed for sale within Arizona.

3. For lawn and turf grasses and mixtures thereof:

- a. For single kinds, the name of the kind or kind and variety.
- b. For mixtures, the word "mix," "mixed", or "mixture" or "blend" shall be stated with the name of the mixture. The heading "pure seed" and "germination" or "germ" shall be used in the proper places; and commonly accepted name of each agricultural seed component in excess of five percent of the whole, and the percentage by weight of pure seed in order of its predominance and in columnar form.
- c. Percentage by weight of agricultural seed other than those required to be named on the label (which shall be designated as "crop seed").
- d. The percentage by weight of inert matter for lawn and turf grass shall not exceed 10%, except that 15% inert matter is permitted in Kentucky Bluegrass labeled without a variety name. Foreign material, other than material used for coating or pelleting, as in subsection (E)(4) or combination products, as in subsection (E)(9), to enhance the planting value, not common to grass seed, shall not be added.
- e. Percentage by weight of all weed seeds. Maximum weed seed content shall not exceed one-half of one percent (0.50%) by weight.
- f. The sum total for subsections (b), (c), (d) and (e) above must equal 100 percent.
- g. Noxious weeds and undesirable grass seed that are required to be labeled shall be listed under the heading "noxious weed seeds" or "undesirable grass seeds". Undesirable grass seeds shall not exceed 0.50% by weight.
- h. For each agricultural seed named under subsection (a) or (b) above:
 - i. Percentage of germination, exclusive of hard seed;

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- ii. Percentage of hard seed, if present;
 - iii. Calendar month and year the germination test was completed to determine such percentages;
 - iv. For seed sold for retail non-farm usage the statement “sell by (month/year)” which may be no more than 15 months from the date of test exclusive of the month of test.
 - i. Name and address of the person who labeled said seed, or who sells, offers or exposes said seed for sale within Arizona.
- 4. Agricultural, vegetable or flower seeds that are coated may be sold by seed count or by weight. If sold by weight, the label shall include:
 - a. Percentage by weight of pure seeds with coating material removed.
 - b. Percentage by weight of coating material.
 - c. Percentage by weight of inert material exclusive of coating material.
 - d. Percentage of germination is to be determined on 400 pellets with or without seeds.
 - e. In addition to the provisions of this Section, labeling of coated seed shall comply with all other applicable requirements in subsections (E)(1), (2) and (3).
- 5. For vegetable seeds in packets as prepared for use in home gardens or household plantings or vegetable seeds in pre-planted containers, mats, tapes, or other planting devices:
 - a. Name of kind and variety of seed.
 - b. Lot identification, such as by lot number or other means.
 - c. The calendar month and year the germination test was completed and the statement “Sell by (month/year)”, which may be no more than 12 months from the date of test exclusive of the month of test; or the year for which the seed was packaged for sale as “packed for (year)” and the statement “sell by (year)” which shall be for a calendar year; or the percentage germination and the calendar month and year the test was completed to determine such percentage provided that the germination test must have been completed within 12 months exclusive of the month of test.
 - d. Name and address of the person who labeled said seed or who sells, offers, or exposes said seed for sale within Arizona.
 - e. For seeds which germinate less than the standard established under R3-4-404(A), (B) and (C): percentage of germination, exclusive of hard seed; percentage of hard seed, if present; and the words “Below Standard” in not less than 8-point type.
 - f. For seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds from the medium, mat, tape or device, a statement to indicate the minimum number of seeds in the container.
- 6. For vegetable seeds in containers other than packets prepared for use in home gardens or household plantings and other than pre-planted containers, mats, tapes, or other planting devices.
 - a. The name of each kind and variety present in excess of 5 percent and the percentage by weight of each in order of its predominance.
 - b. Lot number or other lot identification.
 - c. For each named vegetable seed: Percentage germination exclusive of hard seed; percentage of hard seed, if present; and the calendar month and year the test was completed to determine such percentages. The phrase “total germination and hard seed” may be stated as such, if desired after the percent hard seed.
 - d. Name and address of the person who labeled said seed, or who sells, offers or exposes said seed for sale within Arizona.
 - e. The labeling requirements for vegetable seeds in containers of more than one pound shall be deemed to have been met if the seed is weighed from a properly labeled container in the presence of the purchaser.
- 7. For agricultural seeds sold on a pure live seed basis, each container must bear a label containing the information required by subsection (E)(2), except:
 - a. The label need not show: the percentage by weight of each agricultural seed component as required by subsection (2)(E)(a) of this Section; or the percentage by weight of inert matter as required by subsection (C)(2)(g) of this Section, and
 - b. The label must show for each named agricultural seed, instead of the information required by subsection (E)(2)(h) of this Section:
 - i. the percentage of pure live seed determined in accordance with rules and regulations; and
 - ii. the calendar month and year in which the test determining the percentage of live seed was completed.
- 8. For agricultural and vegetable hybrid seed which contain less than 95% hybrid seed:
 - a. Kind or variety must be labeled as “hybrid”.
 - b. The percent which is hybrid shall be labeled parenthetically in direct association following named variety; i.e. - comet (85% hybrid).
 - c. Varieties in which the pure seed contain less than 75% hybrid seed shall not be labeled hybrids.
- 9. For combination mulch, seed and fertilizer products.

- a. The word “combination” followed by the words “mulch - seed – fertilizer (if appropriate)” must appear on the upper 30% of the principal display panel. The word “combination” must be the largest and most conspicuous type on the container, equal to or larger than the product name. The words “mulch - seed - fertilizer” shall be no smaller than one-half the size of the word “combination” and in close proximity to the word “combination”. These products shall contain a minimum of 70% mulch.
- b. Analysis label - agricultural, lawn and turf seeds placed in a germination medium, mat, tape or other device or mixed with mulch shall be labeled as follows:
 - i. Product name.
 - ii. Lot number.
 - iii. Percentage by weight of pure seed of each kind and variety named which may be less than 5% of the whole.
 - iv. Percentage by weight of other crop seeds.
 - v. Percentage by weight of inert matter which shall not be less than 70%.
 - vi. Percentage by weight of weed seeds.
 - vii. The total of subsections (iii), (iv), (v) and (vi) must equal 100%.
 - viii. Name and number of noxious weed seeds per pound, if present.
 - ix. Percentage of germination (and hard seed if appropriate) of each kind or kind and variety named and date of test.
 - x. Name and address of the labeler.

D. Labeling Requirements: Flowers

1. For flower seeds in packets prepared for use in home gardens or household plantings or flower seeds in pre-planted containers, mats, tapes, or other planting devices:
 - a. For all kinds of flower seeds:
 - i. The name of the kind and variety or a statement of type and performance characteristics as prescribed in subsection (3).
 - ii. The calendar month and year the germination test was completed and the statement “Sell by (month/year)”, which may be no more than 15 months from the date of test exclusive of the month of test OR the year for which the seed was packed for sale as “Packed for (year)” and the statement “Sell by (year)” which shall be for a calendar year OR the percentage germination and the calendar month and year the test was completed to determine such percentage provided that the germination test must have been completed within 15 months exclusive of the month of test, and.
 - iii. The name and address of the person who labeled said seed, or who sells, offers, or exposes said seed for sale within Arizona.
 - b. For seeds of those kinds for which standard testing procedures are prescribed and which germinate less than the germination standard last established under the provisions R3-4-404(B):
 - i. Percentage of germination exclusive of hard seeds, and
 - ii. The words “Below Standard” in not less than 8-point type.
 - c. For seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds from the medium, mat, tape, or device, a statement to indicate the minimum number of seeds in the container.
2. For flower seeds in containers other than packets and other than pre-planted containers, mats, tapes, or other planting devices and not prepared for use in home flower gardens or household plantings:
 - a. The name of the kind and variety or a statement of type and performance characteristics, and for wildflowers, the genus and species and subspecies, if appropriate.
 - b. The lot number or other lot identification.
 - c. For wildflower seed only with a pure seed percentage of less than ninety percent:
 - i. The percentage, by weight, of each component listed in order of their predominance;
 - ii. The percentage by weight of weed seed if present; and
 - iii. The percentage by weight of inert matter.
 - d. For those kinds of seed for which standard testing procedures are prescribed:
 - i. Percentage germination exclusive of hard or dormant seed;
 - ii. Percentage of hard or dormant seed, if present; and
 - iii. The calendar month and year that the test was completed to determine such percentages.
 - e. For those kinds of seed for which standard testing procedures are not available, the year of production or collection.
 - f. The name and address of the person who labeled the seed or who sells, offers, or exposes the seed for sale within Arizona.
3. Requirements to label flower seeds with kind, variety, type and performance characteristics as prescribed in subsection (1)(a)(i) shall be met as follows:
 - a. For seeds of plants grown primarily for their blooms:

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- i. If the seeds are of a single name variety, the kind and variety shall be stated, for example - “Marigold, Butterball”.
 - ii. If the seeds are of a single type and color for which there is no specific variety name, the type of plant (if significant), and the type and color of bloom shall be indicated, for example, - “Scabiosa, Tall, Large Flowered, Double, Pink”.
 - iii. If the seeds consist of an assortment or mixture of colors or varieties of a single kind, the kind name, the type of plant (if significant) and the type or types of bloom shall be indicated. In addition, it shall be clearly indicated that the seed is mixed or assorted. An example of labeling such a mixture or assortment is -” Marigold, Dwarf Double French, Mixed Colors”.
 - iv. If the seeds consist of an assortment or mixture of kinds or kinds and varieties, it shall be clearly indicated that the seed is assorted or mixed and the specific use of the assortment or mixture shall be indicated, for example - “Cut Flower Mixture”, or “Rock Garden Mixture”. Such statements as “General Purpose Mixture”, “Wonder Mixture”, or any other statement which fails to indicate the specific use of the seed shall not be considered as meeting the requirements of this provision unless the specific use of the mixture is also stated. Containers with over 3 grams of seed shall list the kind or kind and variety names of each component present in excess of 5.0% of the whole in the order of their predominance giving the percentage by weight of each. Components of 5.0% or less shall be listed but need not be in order or predominance. A single percentage by weight shall be given for these components. If no component of a mixture exceeds 5% of the whole, the statement “No component in excess of 5%” may be used. Containers with 3 grams of seed or less shall list the components without giving percentage by weight and need not be in order of predominance.
 - b. For seeds of plants grown for ornamental purposes other than their blooms, the kind and variety shall be stated, or the kind shall be stated together with a descriptive statement concerning the ornamental part of the plant, for example - “Ornamental Gourds, Small Fruited, Mixed”.
- E.** Label Requirement For Tree And Shrub Seeds: Each container of tree and shrub seed which is sold, offered for sale, or exposed for sale within Arizona for sowing purposes shall have a plainly written or printed label or tag in the English language. The required label information shall not be modified or denied in the labeling or on another label attached to the container -- except that labeling of seed supplied under a contractual agreement may be by invoice accompanying the shipment or by an analysis tag attached to said invoice if each bag or other container is clearly identified by a lot number stenciled on the container or if the seed is in bulk. Each bag or container that is not so identified must carry complete labeling. The label shall include the following information:
- 1. For all tree and shrub seeds that have been treated for which a separate label may be used:
 - a. Word or statement indicating that the seed has been treated.
 - b. The commonly accepted coined, chemical or abbreviated chemical (generic) name of the applied substance or description of the process used.
 - c. If the substance in the amount present with the seed is harmful to human or other vertebrate animals a caution statement such as “do not use for food or feed or oil purposes”. The caution for highly toxic substances shall be a poison statement and symbol.
 - d. If the seed has been treated with an inoculant, the date beyond which the inoculant is not to be considered effective (date of expiration).
 - 2. For all tree and shrub seeds subject to these rules:
 - a. Common name of the species of seed (and subspecies, if appropriate).
 - b. The scientific name of the genus and species (and subspecies, if appropriate).
 - c. Lot number or other lot identification.
 - 3. Origin.
 - a. For seed collected from a predominantly indigenous stand, the area of collection given by latitude and longitude, or geographic description, or political subdivision such as state or county.
 - b. For seed collected from other than a predominantly indigenous stand, identify the area of collection and the origin of the stand or state “origin not indigenous”.
 - 4. The elevation or the upper and lower limits of elevations within which said seed was collected.
 - 5. Purity as a percentage of pure seed by weight.
 - 6. For those species for which standard germination testing procedures are prescribed by the Director, the following:
 - a. Percentage germination exclusive of hard seed.
 - b. Percentage of hard seed, if present.
 - c. The calendar month and year test was completed to determine such percentages.
 - 7. In lieu of subsections (a), (b) and (c) above the seed may be labeled “Test is in process, results will be supplied upon request”.
 - 8. For those species for which standard germination testing procedures have not been prescribed the calendar year in which the seed was collected.
 - 9. The name and address of the person who labeled said seed or who sells, offers, or exposes said seed for sale within

Arizona.

E. The following standards, requirements and conditions must be met before seed is considered to be hermetically-sealed under the provisions of this Act:

1. The seed was packaged within 9 months after harvest;
2. The container used does not allow water vapor penetration through any wall, including the seals, greater than 0.05 grams of water per 24 hours per 100 square inches of surface at 100°F. with a relative humidity on one side of 90 percent and on the other side 0 percent. Water vapor penetration or WVP is measured by the standards of the U.S. Bureau of Standards as: gm. H₂O/24 hr./100 sq. in./ 100°F. /90% RHV.0% RH;
3. The seed in the container does not exceed the percentage of moisture, on a wet weight basis, as listed below:

a. Agricultural Seeds

- Beet, Field: 7.5%
- Beet, Sugar: 7.5%
- Bluegrass, Kentucky: 6.0%
- Clover, Crimson: 8.0%
- Fescue, Red: 8.0%
- Ryegrass, Annual: 8.0%
- Ryegrass, Perennial: 8.0%
- All Others: 6.0%
- Mixture of Above: 8.0%

b. Vegetable Seeds

- Bean, Garden: 7.0%
- Bean, Lima: 7.0%
- Beet: 7.5%
- Broccoli: 5.0%
- Brussels Sprouts: 5.0%
- Cabbage: 5.0%
- Carrot: 7.0%
- Cauliflower: 5.0%
- Celeriac: 7.0%
- Celery: 7.0%
- Chard, Swiss: 7.5%
- Chinese Cabbage: 5.0%
- Chives: 6.5%
- Collards: 5.0%
- Corn, Sweet: 8.0%
- Cucumber: 6.0%
- Eggplant: 6.0%
- Kale: 5.0%
- Kohlrabi: 5.0%
- Leek: 6.5%
- Lettuce: 5.5%
- Muskmelon: 6.0%
- Mustard, India: 5.0%
- Onion: 6.5%
- Onion, Welsh: 6.5%
- Parsley: 6.5%
- Parsnip: 6.0%
- Pea: 7.0%
- Pepper: 4.5%
- Pumpkin: 6.0%
- Radish: 5.0%
- Rutabaga: 5.0%
- Spinach: 8.0%
- Squash: 6.0%
- Tomato: 5.5%
- Turnip: 5.0%
- Watermelon: 6.5%
- All others: 6.0%

4. The container is conspicuously labeled in not less than 8-point type to indicate:

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- a. That the container is hermetically-sealed;
- b. That the seed has been preconditioned as to moisture content;
- c. And the calendar month and year in which the germination test was completed.
- 5. The percentage of germination of seed at the time of packaging was equal to or above the standards specified elsewhere in this rule.

R3-4-403. Noxious Weed Seeds

A. The following noxious weed seeds are prohibited in planting seed:

- 1. *Acroptilon repens* (L.) DC. — Russian knapweed
- 2. *Aegilops cylindrica* Host. — Jointed goatgrass
- 3. *Agropyron Elytrigia repens* — Quackgrass
- 4. *Alhagi pseudalhagi* (Bieb.) Desv. — Camelthorn
- 5. *Cardaria draba* var. *repens*, *C. pubescens* — Hoary cress
- 6. *Centaurea solstitialis* L. — Yellow starthistle (St. Barnaby's thistle)
- 7. *Cirsium arvense* L. Scop. — Canada thistle
- 8. *Convolvulus arvensis* — Field bindweed
- 9. *Cyperus rotundus*, *C. esculentus* — Nutgrass
- 10. *Drymaria arenarioides* H.B.K. — Alfombrilla (Lightningweed)
- 11. *Euphorbia esula* L. — Leafy spurge
- 12. *Helianthus ciliaris* DC. — Texas blueweed
- 13. *Ipomoea* spp. — Morning glory. All species except *Ipomoea carnea*, Mexican bush morning glory, and *Ipomoea aborescens*, morning glory tree
- 14. *Solanum elaeagnifolium*, *S. carolinense* — Horsenettle
- 15. *Sonchus arvensis* L. — Perennial sowthistle
- 16. Sorghum species, perennial (such as Johnson grass, *Sorghum alnum*, and perennial sweet sudangrass)
- 1. *Acroptilon repens* (L.) DC. - Russian knapweed
- 2. *Aegilops cylindrica* Host. - Jointed goatgrass
- 3. *Alhagi maurorum* - Camelthorn
- 4. *Alternanthera philoxeroides* (Mart.) Griseb. - Alligator weed
- 5. *Cardaria pubescens* (C.A. Mey) Jarmolenko -Hairy whitetop
- 6. *Cardaria chalepensis* (L.) Hand-Muzz - Lens podded hoary cress
- 7. *Cardaria draba* (L.) Desv. - Globed-podded hoary cress (Whitetop)
- 8. *Carduus acanthoides* L. - Plumeless thistle
- 9. *Cenchrus echinatus* L. - Southern sandbur
- 10. *Cenchrus incertus* M.A. Curtis - Field sandbur
- 11. *Centaurea calcitrapa* L. - Purple starthistle
- 12. *Centaurea iberica* Trev. ex Spreng. - Iberian starthistle
- 13. *Centaurea squarrosa* Willd. - Squarrose knapweed
- 14. *Centaurea sulphurea* L. - Sicilian starthistle
- 15. *Centaurea solstitialis* L. - Yellow starthistle (St. Barnaby's thistle)
- 16. *Centaurea diffusa* L. - Diffuse knapweed
- 17. *Centaurea maculosa* L. - Spotted knapweed
- 18. *Chondrilla juncea* L. - Rush skeletonweed
- 19. *Cirsium arvense* L. Scop. - Canada thistle
- 20. *Convolvulus arvensis* L. - Field bindweed
- 21. *Coronopus squamatus* (Forskal) Ascherson - Creeping wartcress (Coronopus)
- 22. *Cucumis melo* L. var. *Dudaim* Naudin - Dudaim melon (Queen Anne's melon)
- 23. *Cuscuta* spp. - Dodder
- 24. *Cyperus rotundus* - Nutgrass
- 25. *Cyperus esculentus* - Nutgrass
- 26. *Drymaria arenarioides* H.B.K. - Alfombrilla (Lightningweed)
- 27. *Eichhornia azurea* (SW) Kunth. - Anchored waterhyacinth
- 28. *Elymus repens* - Quackgrass
- 29. *Euphorbia esula* L. - Leafy spurge
- 30. *Halogeton glomeratus* (M. Bieb.) C.A. Mey - Halogeton
- 31. *Helianthus ciliaris* DC. - Texas blueweed
- 32. *Hydrilla verticillata* Royale - Hydrilla (Florida-elodea)
- 33. *Ipomoea* spp. - Morning glory. All species except *Ipomoea carnea*, Mexican bush morning glory; *Ipomoea triloba*, three-lobed morning glory (which is considered a restricted pest); and *Ipomoea aborescens*, morning glory tree.

Ipomea batatas – sweetpotato

34. Isatis tinctoria L. - Dyers woad
35. Linaria genistifolia var. dalmatica - Dalmation toadflax
36. Lythrum salicaria L. - Purple loosestrife
37. Medicago polymorpha L. - Burclover
38. Nassella trichotoma (Nees.) Hack. - Serrated tussock
39. Onopordum acanthium L. - Scotch thistle
40. Orobancha ramosa L. - Branched broomrape
41. Panicum repens L. - Torpedo grass
42. Peganum harmala L. - African rue (Syrian rue)
43. Portulaca oleracea L. - Common purslane
44. Rorippa austriaca (Crantz.) Bess. - Austrian fieldcress
45. Salvinia molesta - Giant Salvinia
46. Senecio jacobaea L. - Tansy ragwort
47. Solanum carolinense - Carolina horsenettle
48. Solanum elaeagnifolium - Silverleaf Nightshade
49. Sonchus arvensis L. - Perennial sowthistle
50. Solanum viarum Dunal - Tropical Soda Apple
51. Sorghum species, perennial (Sorghum halepense, Johnson grass, Sorghum almum, and perennial sweet sudangrass.)
52. Stipa brachychaeta Godr. - Puna grass
53. Striga spp. - Witchweed
54. Trapa natans L. - Water-chestnut
55. Tribulus terrestris L. - Puncturevine

B. The following noxious weed seeds are restricted for in planting seed to no more than the numbers shown, in a working sample. The list shows the highest number of each restricted noxious weed seed permitted per pound of agricultural, vegetable, or ornamental plant seed:

1. Avena fatua – Wild oat: 5
2. Brassica spp. – Wild mustard: 30
3. Cenchrus pauciflorus – Sandbur: 10
4. Cuscuta spp. – Dodder: 10
5. Rumex crispus – Curly dock: 30
6. Salsola kali var. tenuifolia – Russian thistle: 30
7. Sida hederacea – Alkali mallow: 30
8. Tribulus terrestris L. – Puncturevine: 10
1. Avena fatua – Wild oat: 5
2. Brassica campestris – Bird Rape: 30
3. Brassica juncea – Indian mustard: 30
4. Brassica niger – Black mustard: 30
5. Brassica rapa – field mustard: 30
6. Cenchrus pauciflorus – Sandbur: 10
7. Eichhornia crassipes (Mart.) Solms – Floating waterhyacinth: 10
8. Euryops sunbucarnosus subsp. vulgaris – Sweet resinbush: 10
9. Ipomea triloba L. – Three-lobed morning glory: 10
10. Rumex crispus – Curly dock: 30
11. Salsola kali var. tenuifolia – Russian thistle: 30
12. Sinapis arvensis – Charlock or Wild Mustard: 30
13. Sida hederacea – Alkali mallow: 30

C. The sale of agricultural, vegetable, or ornamental planting seed containing prohibited noxious weed seed is prohibited.

D. The sale of agricultural planting seed containing a single type of restricted noxious weed seed in excess of the limitations set forth in subsection (B) or in combination in excess of 50 per pound working sample is prohibited.

R3-4-404. ~~Vegetable Seed~~ Germination Standards

The following list contains the minimum germination standards for vegetable seed, including hard seed, in containers of one pound or less:

A. The following minimum standards for the germination of vegetable seeds are hereby adopted as well as the germination standards found in the Federal Seed Act:

1. Artichoke: 60%
2. Asparagus: 70%
3. Asparagusbean: 75%

4. Bean, garden: 70%
5. Bean, Lima: 70%
6. Bean, runner: 75%
7. Beet: 65%
8. Broadbean: 75%
9. Broccoli: 75%
10. Brussels sprouts: 70%
11. Burdock, great: 60%
12. Cabbage: 75%
13. Cabbage, tronchuda: 70%
14. Cardoon: 60%
15. Carrot: 55%
16. Cauliflower: 75%
17. Celeriac: 55%
18. Celery: 55%
19. Chard, Swiss: 65%
20. Chicory: 65%
21. Chinese cabbage: 75%
22. Chives: 50%
23. Citron: 65%
24. Collards: 80%
25. Corn, sweet: 75%
26. Cornsalad: 70%
27. Cowpea: 75%
28. Cress, garden: 75%
29. Cress, upland: 60%
30. Cress, water: 40%
31. Cucumber: 80%
32. Dandelion: 60%
33. Dill: 60%
34. Eggplant: 60%
35. Endive: 70%
36. Kale: 75%
37. Kale, Chinese: 75%
38. Kale, Siberian: 75%
39. Kohlrabi: 75%
40. Leek: 60%
41. Lettuce: 80%
42. Melon: 75%
43. Mustard, India: 75%
44. Mustard, spinach: 75%
45. Okra: 50%
46. Onion: 70%
47. Onion, Welsh: 70%
48. Pak-choi: 75%
49. Parsley: 60%
50. Parsnip: 60%
51. Pea: 80%
52. Pepper: 55%
53. Pumpkin: 75%
54. Radish: 75%
55. Rhubarb: 60%
56. Rutabaga: 75%
57. Sage: 60%
58. Salsify: 75%
59. Savory, summer: 55%
60. Sorrel: 65%
61. Soybean: 75%
62. Spinach: 60%

63. Spinach, New Zealand: 40%
64. Squash: 75%
65. Tomato: 75%
66. Tomato, husk: 50%
67. Turnip: 80%
68. Watermelon: 70%
69. All Others: The germination standards for all other vegetable and herb seed, for which a standard has not been established, shall be 50%

B. Flower seeds subject to germination labeling requirement and germination standard for flower seed, listed below, are required to be labeled in accordance with the germination labeling provisions of R3-4-402. The percentage listed opposite each kind is the minimum germination standard for that kind. For the kinds marked with an asterisk, the percentage is the total of percentage germination and percentage hard seed. For other kinds, it is the percentage germination. A mixture of kinds of flower seeds will be considered to be below the standard if the germination of any kind or combination of kinds constituting 25 percent or more of the mixture by number is below standard for the kind or kinds involved.

1. Archillea (The Pearl) - *Achillea ptarmica*: 50%
2. African Daisy - *Dimorphotheca aurantiaca*: 55%
3. African Violet - *Saintpaulia* spp: 30%
4. Ageratum - *Ageratum mexicanum*: 60%
5. Agrostemma (rose campion) - *Agrostemma coronaria*: 65%
6. Alyssum - *Alyssum compactum*, *A. maritimum*, *A. procumbens*, *A. saxatile*: 60%
7. Amaranthus - *Amaranthus* spp: 65%
8. Anagalis (primpernel) - *Anagalis arvensis*, *Anagalis coerulea*, *Anagalis grandiflora*: 60%
9. Anemone - *Anemone coronaria*, *A. pulsatilla*: 55%
10. Angel's Trumpet - *Datura arborea*: 60%
11. Arabis - *Arabis alpine*: 60%
12. Arctotis (African lilac daisy) - *Arctotis grandis*: 45%
13. Armeria - *Armeria Formosa*: 55%
14. Asparagus, fern - *Asparagus plumosus*: 50%
15. Asparagus, sprenger, *Asparagus sprenger*: 55%
16. Aster, China - *Callistephus chinensis*; except Pompon, Powderpuff, and Princess types: 55%
17. Aster, China - *Callistephus chinensis*; Pompon, Powderpuff, and Princess types: 50%
18. Aubretia - *Aubretia deltoids*: 45%
19. Baby Smilax - *Aparagus asparagoides*: 25%
20. Balsam - *Impatiens balsamina*: 70%
21. Begonia - (*Begonia fibrous rooted*): 60%
22. Begonia - (*Begonia tuberous rooted*): 50%
23. Bells of Ireland - *Molucella laevis*: 60%
24. Brachycome (swan river daisy) - *Brachycome iberidifolia*: 60%
25. Browallia - *Browallia elata* and *B. speciosa*: 65%
26. Bupthalam (sunwheel) - *Bupthalam salicifolium*: 60%
27. Calceolaria - *Calceolaria* spp: 60%
28. Calendula - *Calendula officinalis*: 65%
29. California Poppy - *Eschscholtzia californica*: 60%
30. Calliopsis - *Coreopsis bicolor*, *C. drummondi*, *C. elegans*: 65%
31. Campanula:
 - a. Canterbury Bells - *Campanula medium*: 60%
 - b. Cup and Saucer Bellflower - *Campanula medium calycanthema*: 60%
 - c. Carpathian Bellflower - *Campanula carpatica*: 50%
 - d. Peach Bellflower - *Campanula persicifolia*: 50%
32. Candytuft, Annual - *Iberis amara*, *I. umbellate*: 65%
33. Candytuft, Perennial - *Iberis gibraltarica*, *I. sempervirens*: 55%
34. Castor Bean - *Ricinus communis*: 60%
35. Cathedral Bells - *Cobaea scandens*: 65%
36. Celosia argentea: 65%
37. Centaurea: Basket Flower - *Centaurea americana*, Cornflower - *C. cyanus*, Dusy Miller - *C. candidissima*, Royal Centaurea - *C. imperialis*, Sweet Sultan - *C. moschata*, Velvet Cantaura - *C. gymnocarpa*: 60%
38. *Cerastium* (snow-in-summer) *Cerastium biebersteini* and *C. tomentosum*: 65%
39. Chinese Forget-me-not - *Cynoglossum amabile*: 55%
40. Chrysanthemum, Annual - *Chrysanthemum carinatum*, *C. coronarium*, *C. Cineraria* - *Senecio cruentus*: 60%

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41. Clarkia - *Clarkia elegans*: 65%
42. Cleome - *Cleome gigantea*: 65%
43. Coleus - *Coleus blumei*: 65%
44. Columbine - *Aquilegia* spp.: 50%
45. Coral Bells - *Heuchera sanguinea*: 55%
46. Coreopsis, Perennial - *Coreopsis lanceolata*: 40 %
47. Corn, ornamental - *Zea mays*: 75%
48. Cosmos: Sensation, Mammoth and Crested types - *Cosmos bipinnatus*; Klondyke type - *C. sulphureau*: 65%
49. Crossandra - (*Crossandra infundibuliformis*): 50 %
50. Dahlia - *Dahlia* spp: 55 %
51. Daylily - *Hemerocallis* spp: 45%
52. Delphinium, Perennial - *Belladonna* and *Bellamosum* types; Cardinal Larkspur – *Delphinium cardinale*; *Chinensis* types; *Pacific Giant*, *Gold Medal* and other hybrids of *D. elatum*: 55%
53. Dianthus:
 - a. Carnation - *Dianthus caryophyllus*: 60%
 - b. China Pinks - *Dianthus chinensis*, *heddewigi*, *heddensis*: 70%
 - c. Grass Pinks - *Dianthus plumarius*: 60%
 - d. Maiden Pinks - *Dianthus deltoids*: 60%
 - e. Sweet William - *Dianthus barbatus*: 70%
 - f. Sweet Wivelsfield - *Dianthus allwoodi*: 60%
54. Didiscus - (blue lace flower) - *Didiscus coerulea*: 65%
55. Doronicum (leopard's bane) - *Doronicum caucasicum*: 60%
56. Dracaena – *Dracaena indivisa*: 55%
57. Dragon Tree - *Dracaena draco*: 40%
58. English Daisy - *Bellis perennis*: 55%
59. Flax - *Golden flax (Linum flavum)*; *Flowering flax L. randiflorum*; *Perennial flax, L. perenne*: 60%
60. Flowering Maple - *Abutilon* spp: 35%
61. Foxglove - *Digitalis* spp: 60%
62. Gaillardia, Annual - *Gaillardia pulchella*; *G. picta*; Perennial - *G. grandiflora*: 45 %
63. Gerbera (transvaal daisy) - *Gerbera jamesoni*: 60%
64. Geum - *Geum* spp: 55%
65. Gilia - *Gilia* spp: 65%
66. Glossiosa daisy (*rudbeckia*) - *Echinacea purpurea* and *Rudbeckia Hirta*: 60%
67. Gloxinia - (*Sinningia speciosa*): 40%
68. Godetia - *Godetia amoena*, *G. grandiflora*: 65%
69. Gourds: Yellow Flowered - *Cucurbita pepo*; White Flowered – *Lagenaria sisceraria*; Dishcloth - *Luffa cilindrica*: 70%
70. Gypsophila: Annual Baby's Breath - *Gypsophylla elegans*; Perennial Baby's Breath – *G. paniculata*, *G. pacifica* *G. repens*: 70%
71. Helenium - *Helenium autumnale*: 40%
72. Helichrysum - *Helichrysum monstrosum*: 60%
73. Heliopsis - *Heliopsis scabra*: 55%
74. Heliotrope - *Heliotropium* spp: 35%
75. Helipterum (Acroclinium) - *Helipterum roseum*: 60%
76. Hesperis (sweet rocket) - *Hesperis matronalis*: 65%
77. *Hollyhock - *Althea rosea*: 65%
78. Hunnemania (mexican tulip poppy) - *Hunnemania fumariaefolia*: 60%
79. Hyacinh bean - *Dolichos lablab*: 70%
80. Impatiens - *Impatiens hostii*, *I. sultani*: 55%
81. *Ipomea - Cypress Vine - *Ipomea quamoclit*; Moonflower – *I. noctiflora*; Morning Glories, Cardinal Climber, Hearts and Honey Vine - *Ipomea* spp: 75%
82. Jerusalem cross (maltese cross) – *Lychnis chalconica*: 70%
83. Job's Tears - *Coix lacrymajobi*: 70%
84. Kochia - *Kochia childsii*: 55%
85. Larkspur, Annual - *Delphinium ajacis*: 60%
86. Lantana - *Lantana camara*, *L. hybrida*: 35%
87. Lilium (regal lily) - *Lilium regale*: 50%
88. Linaria - *Linaria* spp: 65%
89. Lobelia, Annual - *Lobelia erinus*: 65%

90. Lunaria, Annual - *Lunaria annua*: 65%
91. *Lupine - *Lupinus* spp: 65%
92. Marigold - *Tagetes* spp: 65%
93. Marvel of Peru - *Mirabilis jalapa*: 60%
94. Matricaria (feverfew) - *Matricaria* spp: 60%
95. Mignonette - *Reseda odorata*: 55 %
96. Myosotis - *Myosotis alpestris*, *M. oblongata*, *M. palustris*: 50%
97. Nasturtium - *Tropaeolum* spp: 60%
98. Nemesia - *Nemesia* spp: 65%
99. Nemophila - *Nemophila insignis*: 70%
100. Nemophila, spotted - *Nemophila maculate*: 60%
101. Nicotiana - *Nicotiana affinis*, *N. sanderae*, *N. sylvestris*: 65%
102. Nierembergia - *Nierembergia* spp: 55%
103. Nigella - *Nigella damascena*: 55 %
104. Pansy - *Viola tricolor*: 60%
105. Penstemon - *Penstemon barbatus*, *P. grandiflorus*, *P. laevigatus*, *P. pubescens*: 60%
106. Petunia - *Petunia* spp: 45%
107. Phacelia - *Phacelia campanularia*, *P. minor*, *P. tanacetifolia*: 65%
108. Phox, Annual - *Phlox drummondii* all types and varieties: 55%
109. Physalis - *Physalis* spp: 60%
110. Platycodon (balloon flower) - *Platycodon grandiflorum*: 60%
111. Plumbago, cape - *Plumbago capensis*: 50%
112. Ponytail - *Beaucarnea recurvata*: 40%
113. Poppy: Shirley Poppy - *Papaver rhoeas*; Iceland Poppy - *P. nudicaule*; Oriental Poppy -*P. orientale*; Tulip Poppy – *P. glaucum*: 60%
114. Portulace - *Portulaca grandiflora* : 55%
115. Primula (primrose) - *Primula* spp: 50%
116. Pyrethrum (painted daisy) - *Pyrethrum coccineum*: 60%
117. Salpiglossis - *Salpiglossis gloxinaeflora*, *S. sinuata*: 60%
118. Salvia - Scarlet Sage - *Salvia splendens*; Mealycup Sage (blue bedder) – *Salvia farinacea*: 50%
119. Saponaria - *Saponaria ocymoides*, *S. vaccaria*: 60%
120. Scabiosa, Annual - *Scabiosa atropurpurea*: 50%
121. Scabiosa, Perennial - *Scabiosa caucasica*: 40%
122. Schizanthus - *Schizanthus* spp: 60%
123. *Sensitive pant (mimosa) - *Mimosa pudica*: 65%
124. Shasta Daisy - *Chrysanthemum maximum* C. *leucanthemum*: 65%
125. Silk Oak - *Grevillea robusta* : 25%
126. Snapdragon - *Antirrhinum* spp: 55%
127. Solanum - *Solanum* spp: 60%
128. Statice - *Statice sinuata*, *S. suworonii* (flower heads): 50%
129. Stocks: Common - *Mathiola incana*; Evening Scented – *Mathiola bicornis*: 65%
130. Sunflower - *Helianthus* spp: 70%
131. Sunrose - *Helianthemum* spp: 30%
132. *Sweet Pea, Annual and Perennial other than dwarf bush - *Lathyrus odoratus*, *L.latifolius*: 75%
133. *Sweet Pea, Dwarf Bush - *Lathyrus Odoratus*: 65%
134. Tahoka Daisy - *Machaeantha Tanacetifolia*: 60%
135. Thunbergia - *Thunbergia Alata*: 60%
136. Toren Flower - *Tithonia Speciosa*: 70%
137. Torenia (Wishbone Flower) - *Torenia Fournieri*: 70%
138. *Tritoma Kniphofia* Spp: 65%
139. Verbena, Annual - *Verbena Hybrida*: 35%
140. Vinca - *Vinca Rosea*: 60%
141. Viola - *Viola Cornuta*: 55%
142. Virginian Stocks - *Malcolmia Maritima*: 65%
143. Wallflower - *Cheiranthus Allioni*: 65%
144. Yucca (Adam's Needle) - *Yucca Filamentosa*: 50%
145. Zinna (Except *Linearis* And *Creeping*) – *Zinnia Angustifolia*, *Z. Elegans*, *Z. Grandiflora*, *Z. Gracillima*, *Z. Haegeana*, *Z. Multiflora*, *Z. Pumila*: 65%
146. Zinnia, *Linearis* And *Creeping* - *Zinnia Linearis*, *Sanvitalia Procumbens*: 50%

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147. All Other Kinds: 50%

C. The germination labeling provisions of R3-4-402 apply to the following tree and shrub species:

1. *Abies amabilis* (Dougl.) Forbes - Pacific Silver Fir
2. *Abies balsamea* (L.) Mill. - Balsam Fir
3. *Abies concolor* (Gord. Glend.) Lindl. - White Fir
4. *Abies fraseri* (Pursh.) Poir - Fraser Fir
5. *Abies grandis* (Dougl.) Lindl. - Grand Fir
6. *Abies homolepis* Sieb Zucc. - Nikko Fir
7. *Abies lasiocarpa* (Hook) Nutt. - Subalpine Fir
8. *Abies magnifica* A. Murr. - California Red Fir
9. *Abies magnifica* var. *shastensis* Lemm. - Shasta Red Fir
10. *Abies procera* Rehd. - Nobel Fir
11. *Abies veitchii* (Lindl.) - Veitch Fir
12. *Acer ginnala* Maxim. - Amur Maple
13. *Acer macrophyllum* Pursh. - Bigleaf Maple
14. *Acer negundo* L. - Boxelder
15. *Acer pensylvanicum* L. - Striped Maple
16. *Acer platanoides* L. - Norway Maple
17. *Acer pseudoplatanus* L. - Sycamore Maple
18. *Acer rubrum* L. - Red Maple
19. *Acer saccharinum* L. - Silver Maple
20. *Acer saccharum* Marsh. - Sugar Maple
21. *Acer spicatum* Lam. - Mountain Maple
22. *Aesculus pavia* L. - Red Buckeye
23. *Ailanthus altissima* (Mill.) Swingle - Tree of Heaven, Ailanthus
24. *Berberis thunbergii* DC. - Japanese Barberry
25. *Berberis vulgaris* L. European Barberry
26. *Betula lenta* L. - Sweet Birch
27. *Betula alleghaniensis* Britton - Yellow Birch
28. *Betula nigra* L. - River Birch
29. *Betula papyrifera* Marsh. - Paper Birch
30. *Betula pendula* Roth. - European White Birch
31. *Betula populifolia* Marsh. - Gray Birch
32. *Carya illinoensis* (Wang.) K. Koch - Pecan
33. *Carya ovata* (Mill) K. Koch - Shagbark hickory
34. *Casuarina* spp. - Beefwood
35. *Catalpa bignonioides* Walt. - Southern Catalpa
36. *Catalpa speciosa* Warder. - Northern Catalpa
37. *Cedrus atlantica* Manetti - Atlas Cedar
38. *Cedrus deodara* (Roxb.) Loud. - Deodar Cedar
39. *Cedrus libani* (Loud.) - Cedar of Lebanon
40. *Clastrus scandens* L. - American Bittersweet
41. *Celastrus orbiculata* Thunb. - Oriental Bittersweet
42. *Chamaecyparis lawsoniana* (A. Murr.) Parl - Port Oxford Cedar
43. *Chamaecyparis nootkatensis* (D. Don.) Spach. - Alaska Cedar
44. *Cornus florida* L. - Flowering dogwood
45. *Cornus stolonifera* Michx. - Red-osier dogwood
46. *Crataegus mollis* - Downy hawthorn
47. *Cupressus arizonica* Greene - Arizona Cypress
48. *Eucalyptus deglupta*
49. *Eucalyptus gradis*
51. *Fraxinus americana* L. - White Ash
52. *Fraxinus excelsior* L. - European Ash
53. *Fraxinus latifolia* Benth. - Oregon Ash
54. *Fraxinus nigra* Marsh. - Black Ash
55. *Fraxinus pensylvanica* Marsh. - Green Ash
56. *Fraxinus pensylvanica* var. *lanceolata* (Borkh.) Sarg. - Green Ash
57. *Gleditsia triacanthos* L. - Honey Locust
58. *Grevillea robusta* - Silk-oak

59. *Larix decidua* Mill. - European Larch
60. *Larix eurolepis* Henry - Dunkfeld Larch
61. *Larix leptolepis* (Sieb. Zucc.) Gord. - Japanese Larch
62. *Larix occidentalis* Nutt. - Western Larch
63. *Larix sibirica* Ledeb. - Siberian Larch
64. *Libocedrus decurrens* - incense-cedar
65. *Liquidambar styraciflua* L. - Sweetgum
66. *Liriodendron tulipifera* L. - yellow-poplar
67. *Magnolia grandiflora* - Southern magnolia
68. *Malus* spp. - Apple
69. *Malus* spp. - Crabapple
70. *Nyssa aquatica* L. - Water tupelo
71. *Nyssa sylvatica* var. *sylvatica* - Black tupelo
72. *Picea abies* (L.) Karst. - Norway Spruce
73. *Picea engelmanni* Parry - Engelmann Spruce
74. *Picea glauca* (Moench.) Voss - White Spruce
75. *Picea glauca* var. *albertiana* (S. Brown) Sarg. - Western White Spruce, Alberta White Spruce
76. *Picea glehnii* (Fr. Schmidt) Mast. - Sakhalin Spruce
77. *Picea jezoensis* (Sieb. Zucc.) Carr - Yeddo Spruce
78. *Picea koyamai* Shiras. - Koyama Spruce
79. *Picea mariana* (Mill.) B.S.P. - Black Spruce
80. *Picea omorika* (Pancic.) Purkyne - Serbian Spruce
81. *Picea orientalis* (L.) Link. - Oriental Spruce
82. *Picea polita* (Sieb. Zucc.) Carr - Tigertail Spruce
83. *Picea pungens* Engelm. - Blue Spruce, Colorado Spruce
84. *Picea pungens* var. *glauca* Reg. - Colorado Blue Spruce
85. *Picea rubens* Sarg. - Red Spruce
86. *Picea sitchensis* (Bong.) Carr - Sitka Spruce
87. *Pinus albicaulis* Engelm. - Whitebark Pine
88. *Pinus aristata* Engelm. - Bristlecone Pine
89. *Pinus banksiana* Lamb. - Jack Pine
90. *Pinus canariensis* C. Smith - Canary Pine
91. *Pinus caribaea* - Caribbean Pine
92. *Pinus cembroides* Zucc. - Mexican Pinyon Pine
93. *Pinus clausa* - Sand Pine
94. *Pinus conorta* Dougl. - Lodgepole Pine
95. *Pinus contorta* var. *latifolia* Engelm. - Lodgepole Pine
96. *Pinus coulteri* D. Don. - Coulter Pine, Bigcone Pine
97. *Pinus densiflora* Sieb. Zucc. - Japanese Red Pine
98. *Pinus echinata* Mill. - Shortleaf Pine
99. *Pinus elliottii* Engelm. - Slash Pine
100. *Pinus flexilis* James - Limber Pine
101. *Pinus glabra* Walt. - Spruce Pine
102. *Pinus griffithi* McClelland - Himalayan Pine
103. *Pinus halepensis* Mill. - Aleppo Pine
104. *Pinus jeffreyi* Grex. Balf. - Jeffrey Pine
105. *Pinus khasya* Royle - Khasia Pine
106. *Pinus lambertiana* Dougl. - Sugar Pine
107. *Pinus heldreichii* var. *leucodermis* (Ant.) Markgraf ex Fitschen - Balkan Pine, Bosnian Pine
108. *Pinus markusii* DeVriese - Markus Pine
109. *Pinus monticola* Dougl. - Western White Pine
110. *Pinus mugo* Turra. - Mountain Pine
111. *Pinus mugo* var. *mughus* (Scop.) Zenari - Mugo Swiss Mountain Pine
112. *Pinus muricata* D. Don. - Bishoppine
113. *Pinus nigra* Arnold - Austrian Pine
114. *Pinus nigra poiretiana* (Ant.) Aschers Graebn. - Corsican Pine
115. *Pinus palustris* Mill. - Longleaf Pine
116. *Pinus parviflora* Sieb. Zucc. - Japanese White Pine
117. *Pinus patula* Schl. Cham. - Jelescote Pine

- 118. *Pinus pinaster* Sol. - Cluster Pine
- 119. *Pinus pinea* L. - Italian Stone Pine
- 120. *Pinus ponderosa* Laws. - Ponderosa Pine, Western Yellow Pine
- 121. *Pinus radiata* D. Don. - Monterey Pine
- 122. *Pinus resinosa* Ait. - Red Pine, Norway Pine
- 123. *Pinus rigida* Mill. - Pitch Pine
- 124. *Pinus serotina* Michx. - Pond Pine
- 125. *Pinus strobus* L. - Eastern White Pine
- 126. *Pinus sylvestris* L. - Scotch Pine
- 127. *Pinus taeda* L. - Loblolly Pine
- 128. *Pinus taiwanensis* Hayata - Formosa Pine
- 129. *Pinus thunbergii* Parl. - Japanese Black Pine
- 130. *Pinus virginiana* Mill. - Virginia Pine, Scrub Pine
- 131. *Platanus occidentalis* L. - American Sycamore
- 132. *Populus* spp. - Poplars
- 133. *Prunus armeriaca* L. - Apricot
- 134. *Prunus avium* (L.) L. - Cherry
- 135. *Prunus domestica* L. - Plum, Prune
- 136. *Prunus persica* Batsch. - Peach
- 137. *Pseudotsuga menziesii* var. *glauca* (Beissn.) Franco - Blue Douglas Fir
- 138. *Pseudotsuga menziesii* var. *caesia* (Beissn.) Franco - Gray Douglas Fir
- 139. *Pseudotsuga menziesii* var. *viridis* - Green Douglas Fir
- 140. *Pyrus communis* L. - Pear
- 141. *Quercus* spp. - (Red or black oak group)
- 142. *Quercus alba* L. - White oak
- 143. *Quercus muehlenbergii* Engelm. - Chinkapin oak
- 144. *Quercus virginiana* Mill. - Live Oak
- 145. *Rhododendron* spp. - Rhododendron
- 146. *Robinia pseudoacacia* L. - Black Locust
- 147. *Rosa multiflora* Thunb. - Japanese Rose
- 148. *Sequoia gigantea* (Lindl.) Decne. - Giant Sequoia
- 149. *Sequoia sempervirens* (D. Don.) Engl. - Redwood
- 150. *Syringa vulgaris* L. - Common Lilac
- 151. *Thuja occidentalis* L. - Northern White Cedar, Eastern Arborvitae
- 152. *Thuja orientalis* L. - Oriental Arborvitae, Chinese Arborvitae
- 153. *Thuja plicata* Donn. - Western Red Cedar - Giant Arborvitae
- 154. *Tsuga canadensis* (L.) Carr. - Eastern Hemlock, Canada Hemlock
- 155. *Tsuga heterophylla* (Raf.) Sarg. - Western Hemlock, Pacific Hemlock
- 156. *Ulmus americana* L. - American Elm
- 157. *Ulmus parvifolia* Jacq. - Chinese Elm
- 158. *Ulmus pumila* L. - Siberian Elm
- 159. *Vitis vulpina* L. - Riverbank Grape

D. Tolerances shall not be used to show higher quality on the label than is indicated.

R3-4-406. Sampling and Analyzing Seed

- A.** The methods of taking, handling, analyzing, and testing samples of seed and the tolerances and methods of determination are prescribed in the *Federal Seed Act Regulations*, 7 CFR 201.39 through 201.65, amended January 1, 2002, and in the *Rules for Testing Seeds*, published by the Association of Official Seed Analysts, effective October 1, ~~2001~~ 2004. This material is incorporated by reference, and is on file with the Department. It can also be accessed through the web site: <http://www.aosaseed.com>, and the Office of the Secretary of State, and It does not include any later amendments or editions. The CFR may be ordered from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA, 15250-7954 and the Rules for Testing Seeds may be ordered from the AOSA Management Office, PMB 411, 1763 E. University Blvd., Suite A, Las Cruces, NM, 88001. If there is a conflict between the two documents, the requirements in CFR will prevail.
- B.** A dealer ~~labeler~~ offering a seed for sale shall pay the cost of original germination and purity tests on each lot of seed offered for sale, and a dealer or labeler shall pay the cost of any subsequent germination test required by A.R.S. § 3-237. The Department shall pay the cost of testing seed samples drawn by a seed inspector from lots bearing valid labels. The dealer or labeler shall pay the cost of the test if such test result is used in subsequent re-labeling.

R3-4-408. Licenses: Seed Dealer and Seed Labeler; Fees

Notices of Proposed Rulemaking

- A. An applicant for a seed dealer or seed labeler license shall provide the following information to the Department:
1. The year for which the applicant wishes to be licensed;
 2. The applicant's name, company name, address, and telephone number, fax and e-mail, as applicable;
 3. The current registration license number, if applicable;
 4. ~~The number of business locations being licensed~~ Verification of seed dealer or labeler license and number or numbers;
 5. The mailing and physical address of each business location being licensed;
 6. ~~The applicant's check number and the check amount~~ Company Tax ID number or if not a legally-recognized business entity the applicants social security number;
 7. The date of the application; and
 8. The signature ~~and title~~ of the applicant.
- B. Seed dealer and seed labeler licenses are not transferable and shall be valid for one year, or period thereof, expiring on June 30 unless otherwise provided in A.R.S. § 3-233(A)(6).
- C. Completed applications shall be submitted to the Department and shall be accompanied by a nonrefundable fee of:
1. Seed dealers, ~~\$25.00~~ \$50.00 per location;
 2. Seed labelers, ~~\$40.00~~ \$100.00.

R3-4-409. Violations and Penalties

- A. It shall be a violation for which the following penalties may be assessed against the dealer or labeler for each customer affected by the violation: \$50 on the first offense, \$150 on the second offense and \$300 for each subsequent offense within a 3 year period.
1. To not have completed the germination requirements on agricultural, vegetable or flower seed intended for wholesale or agricultural use within 9 months prior to sale, exclusive of the month in which the test was completed, this does not apply to (2) or (3) following.
 2. To not have completed the germination requirements for agricultural vegetable and flower seed intended for retail purchase within the past 15 months, exclusive of the month in which the test was completed.
 3. To not have completed the germination requirements for hermetically sealed containers of agricultural or vegetable seeds within 36 months prior to sale, exclusive of the month in which the test was completed. If seeds in hermetically-sealed containers are sold, exposed for sale, or offered for sale or transportation more than 36 months after the last day of the month in which they were tested prior to packaging, they must have been retested within a 9-month period, exclusive of the calendar month in which the retest was completed, immediately prior to sale, exposure for sale, or offering for sale or transportation.
 4. To not be labeled in accordance with the provisions of this Section.
 5. To not have obtained any license that is required by this Article.
 6. To consist of or to contain prohibited noxious weed seeds, subject to recognized tolerances.
 7. To consist of or to contain restricted noxious weed seeds per pound in excess of the number prescribed in R3-4-403(B), or in excess of the number declared or in excess of the maximum percentage allowed (0.50%) for UGS on the label attached to the container of the seed or associated with seed.
 8. To contain more than 2 1/2 percent by weight of all weed seeds.
 9. To detach, alter, deface, or destroy any label provided for in this Section, or to alter or substitute seed in a manner that may defeat the purpose of this Section.
 10. To use relabeling stickers without having both the calendar month and year the germination test was completed, the sell by date as required, and the lot number that matches the existing, original lot number and identity of the labeling person if different from the original labeler.
- B. It shall be a violation for which the following penalties may be assessed against the dealer or labeler: \$500 on the first offense, \$1250 on the second offense and \$2500 for each subsequent offense within a 3 year period.
1. To label, advertise, or represent seed subject to this Article represents the seed to be certified seed or any class thereof unless:
 - a. It has been determined by a seed certifying agency that such seed conformed to standards of purity and identification as to kind, species (and subspecies, if appropriate), or variety; and,
 - b. The seed bears an official label issued for such seed by a seed certifying agency certifying that the seed is of a specified class and a specified kind, species (and subspecies, if appropriate) or variety.
 2. To disseminate any false or misleading advertisements concerning seeds subject to this Article in any manner or by any means.
 3. To hinder or obstruct in any way, any authorized person in the performance of their duties under this Article.
 4. To fail to comply with a "cease and desist" order or to move or otherwise handle or dispose of any lot of seed held under a "cease and desist" order or tags attached thereto, except with express permission of the enforcing officer, and for purpose specified thereby.
 5. To alter or falsify any seed label(s), seed tests), laboratory report(s), record(s), or other document(s) to create a mis-

Notices of Proposed Rulemaking

- leading impression as to kind, kind of variety, history, quality or origin of seed.
- 6. To have seed treated without proper labeling.
- 7. To have seed that has false or misleading labeling.
- 8. To provide false information to any authorized person in the performance of their duties under this Article.
- 9. To use the word "trace" or the phrase "contains > .01%" as a substitute for any statement which is required.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 20. BOARD OF DISPENSING OPTICIANS

[R06-381]

PREAMBLE

1. **Sections Affected** **Rulemaking Action**
R4-20-117 Amend
2. **The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule are implementing (specific):**
Authorizing statute: A.R.S. § 32-1673.
Implementing statute: A.R.S. §§ 32-1671, 32-1672, 32-1673, 32-1674, 32-1681, 32-1682, 32-1683, 32-1684, 32-1684.01, 32-1685, 32-1686, 32-1687, 32-1691, 32-1691.01, 32-1693, 32-1694, 32-1695, 32-1695, 32-1696, 32-1697, 32-1698, 32-1699
3. **Register citation and date for the original Notice of Proposed Rulemaking:**
Notice of Rulemaking Docket Opening: 12 A.A.R. 1033, March 31, 2006
4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Lori D. Scott, Executive Director
Address: 1400 W. Washington, Rm 230
Phoenix, AZ 85007
Telephone: (602) 542-3095
Fax: (602) 542-3093
e-mail: director@asbdo.state.az.us
5. **An explanation of the rule, including the agency's reasons for initiating the rule:**
The proposed rule change provides detailed licensing and regulatory information and procedural instructions. The Board is amending the proposed rule for clarification of dispensing contact lenses.
6. **A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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
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:**
The proposed amendments do not diminish a previous grant of authority of a political subdivision of this state.
8. **The preliminary summary of the economic, small business, and consumer impact:**
This rulemaking will have minimal to no impact on small business. The Board anticipates this to be a minimal impact on applicants and licensees.
9. **The name and address of agency personnel with who persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**
Name: Lori D. Scott, Executive Director
Address: 1400 W. Washington, Rm 230
Phoenix, AZ 85007
Telephone: (602) 542-3095
Fax: (602) 542-3093

E-mail: director@asbdo.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:

No oral proceedings are scheduled.

Written comments will be accepted by the Board office, Monday through Friday 8:00 am – 5:00 pm no later than 5:00 pm November 30, 2006

The public record on the proposed rulemaking will close at 5:00 pm on November 30, 2006.

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 rule follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 20. BOARD OF DISPENSING OPTICIANS

ARTICLE 1. GENERAL

Section

R4-20-117. Scope of Practice

ARTICLE 1. GENERAL

R4-20-117. Scope of Practice

A. The scope of practice of a dispensing optician means the activities described in A.R.S. § 32-1671(3) and

B. The dispensing optician shall fill a refill of a contact lens prescription prior to its expiration date with no more than the sufficient quantity of replacement contact lenses needed through the expiration date.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 30. BOARD OF TECHNICAL REGISTRATION

[R06-377]

PREAMBLE

1. Sections Affected

R4-30-304

Rulemaking Action

Amend

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

Authorizing statute: A.R.S. § 32-106 (A)(1), (3) and (4)

Implementing statute: A.R.S. § 32-122.01(A)(2) and (3), (B)(2) and (3)

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

Notice of Rulemaking Docket Opening: 12 A.A.R. 3904, October 20, 2006 (*in this issue*)

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

Name: Julie Ruff

Address: Arizona State Board of Technical Registration
1110 W. Washington Street, Suite 240
Phoenix, AZ 85007

Notices of Proposed Rulemaking

Telephone: (602) 364-4940
Fax: (602) 364-4931
E-mail: julie.ruff@azbtr.gov

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

The Board has determined that clarification of this rule is necessary to assist registrants with determining what is or is not a professional document, recognizing where, when, and how professional documents must be sealed, and the requirements for sealing electronically stored professional documents.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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:

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:

There are no significant economic impacts for registrants.

There are no significant economic impacts on other government agencies.

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: Julie Ruff
Address: Arizona State Board of Technical Registration
1110 W. Washington Street, Suite 240
Phoenix, AZ 85007
Telephone: (602) 364-4940
Fax: (602) 364-4931
E-mail: julie.ruff@btr.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:

Written or oral comments will be accepted from 8:00 a.m. to 5:00 p.m., Monday through Friday, by mail at 1110 W. Washington Street, Suite 240, Phoenix, AZ 85007, facsimile at (602) 364-4931, or by e-mail at julie.ruff@azbtr.gov for thirty (30) days from the date it is published in the Secretary of State's Register.

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

None

13. The full text of the rule follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 30. BOARD OF TECHNICAL REGISTRATION

ARTICLE 3. REGULATORY PROVISIONS

Section
R4-30-304. Use of Seals

ARTICLE 3. REGULATORY PROVISIONS

R4-30-304. Use of Seals

A. A registrant shall place a permanently legible imprint of the registrant's seal and signature ~~shall appear~~ on the following:

1. Each sheet of drawings or maps;
2. Each of the master sheets when reproduced into a single set of finished drawings or maps;
3. Either the cover, title, index page, or table of contents page, or first sheet of each set of project specifications;
4. Either the cover, index page, or first sheet of each addenda or change orders order to specifications;
5. Either the cover, index page, or first sheet of bound details when prepared to supplement project drawings or maps;
6. Either the cover, title, index, or table of contents page, or first sheet of ~~reports, specifications, and any report, specification,~~ or other professional documents document prepared by a registrant or the registrant's bona fide employee; and
7. The signature line of any letter or other professional document prepared by a registrant, or the registrant's bona fide employee; and
- 7-8. Shop drawings ~~requiring that require~~ professional services or work as described in the Act. Examples of shop drawings ~~not requiring seals are those showing only: that do not require a seal include drawings that show only:~~
 - a. Sizing and dimensioning information for fabrication purposes;
 - b. Construction techniques or sequences;
 - c. Components with previous approvals or designed by the registrant of record; or
 - d. Modifications to existing installations ~~not affecting that do not affect~~ the original design parameters and ~~which~~ do not require additional computations.
- B. A registrant shall apply a label describing that describes the name of the project and an original imprint of the registrant's seal and signature ~~shall be applied to on~~ all video cassettes ~~containing that contain~~ copies of professional documents.
- C. ~~If a professional document is stored, filed, or provided to a client, regulatory body or any other person for any reason by computer disk, tape, cd, or any other electronic form, the registrant shall mark each professional document "electronic copy of final document, original sealed document with" and identify the registrant's name and registration number.~~
- C. In the event that a professional document is provided to a client, regulatory body, or any other person for any reason by computer disk, tape, CD or any other electronic form, and the document does not comply with the requirements of subsection (D), the registrant shall mark the professional document: "Electronic copy of final document; sealed original document is with (identify the registrant's name and registration number)."
- D. A registrant shall sign, date, and seal a professional document:
 1. Before the document is submitted to a client, contractor, any regulatory or review body, or any other person, unless the document is marked "preliminary," "draft," or "not for construction" except when the document is work product intended for use by other members of a design team; and
 2. In all cases, if the document is prepared for the purpose of dispute resolution, litigation, arbitration, or mediation.
- E. For purposes of subsection (A), all original documents shall include:
 1. An original seal imprint or a computer-generated seal that matches the seal on file at the Board's office;
 2. An original signature that does not obscure either the registrant's printed name or registration number; and
 3. The date the document was sealed.
- F. Methods of transferring a seal other than an original seal imprint or a computer-generated seal are not acceptable.
- G. An electronic signature, as an option to a permanently legible signature, in accordance with A.R.S. Title 41 and Title 44, is acceptable for all professional documents. The registrant shall provide adequate security regarding the use of the seal and signature.

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 5. DEPARTMENT OF TRANSPORTATION COMMERCIAL PROGRAMS

[R06-373]

PREAMBLE

1. Sections Affected
R17-5-209
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. §§ 28-5204 and 28-5235
3. A list of all previous notices appearing in the Register addressing the proposed rule:
Notice of Rulemaking Docket Opening: 12 A.A.R., 191, January 20, 2006

Notices of Proposed Rulemaking

Notice of Proposed Rulemaking: 12 A.A.R., 170, January 20, 2006

Notice of Rulemaking Docket Opening: 12 A.A.R., 3245, September 8, 2006

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

Name: Celeste M. Cook, Administrative Rules Unit
Address: Department of Transportation, Motor Vehicle Division
1801 W. Jefferson St., Mail Drop 530M
Phoenix, AZ 85007
Telephone: (602) 712-7624
Fax: (602) 712-3081
E-mail: ccook@azdot.gov

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at <http://mvd.azdot.gov/mvd/MVDRules/rules.asp>.

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

The Division engages in this rulemaking to incorporate sections of the 2005 edition of the 49 CFR by reference into Arizona Motor Carrier Safety administrative rules. Changes are also made to ensure conformity to Arizona Administrative Procedures Act, Secretary of State, and Governor's Regulatory Review Council rulemaking format and style requirements.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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.

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

Not applicable

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

The economic impact of this rule is negligible. The rulemaking does not make any substantial changes to the rule. The only estimated impact to the Division as a result of these rules will be the resources necessary for rulemaking.

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: Celeste M. Cook, Administrative Rules Unit
Address: Department of Transportation, Motor Vehicle Division
1801 W. Jefferson St., Mail Drop 530M
Phoenix, AZ 85007
Telephone: (602) 712-7624
Fax: (602) 712-3081
E-mail: ccook@azdot.gov

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at <http://mvd.azdot.gov/mvd/MVDRules/rules.asp>.

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

An oral proceeding is not scheduled for these proposed rules. To request an oral proceeding or to submit a written faxed or e-mail comments, please contact the Administrative Rule Analyst listed in #4 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except legal holidays. If no request for an oral proceeding is made, the public record will close on November 28, 2006 at 5:00 p.m.

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:

In R17-5-202(A):

49 CFR Parts 40, 382, 390, 391, 392, 393, 395, 396, 397, and 399, published October 1, 2005

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS

ARTICLE 2. MOTOR CARRIERS

Section
R17-5-209. Hazardous Materials Transportation

ARTICLE 2. MOTOR CARRIERS

R17-5-209. Hazardous Materials Transportation

A. Incorporation of federal regulations.

1. The Motor Vehicle Division incorporates the following portions of the Federal Hazardous Materials Regulations by reference. Materials incorporated by reference are on file in the Secretary of State's Office. The incorporated Hazardous Materials Regulations are published in 49 CFR, Transportation, Subtitle B - Other Regulations Relating to Transportation, Chapter I - Research and Special Programs Administration, Department of Transportation:
 - a. Subchapter A - Hazardous Materials and Oil Transportation; Part 107 - Hazardous materials program procedures; and
 - b. Subchapter C - Hazardous Materials Regulations; Parts:
 - i. 171 - General information, regulations, and definitions;
 - ii. 172 - Hazardous materials table, special provisions, hazardous materials communications, emergency response information, and training requirements;
 - iii. 173 - Shippers - general requirements for shipments and packagings;
 - iv. 177 - Carriage by public highway;
 - v. 178 - Specifications for packagings; and
 - vi. 180 - Continuing qualification and maintenance of packagings.
2. These parts are incorporated as printed in the October 1, ~~2002~~ 2005 edition, and those sections of the October 1, 1991 edition authorized for use under the transitional provisions of Section 171.14 of the October 1, ~~2002~~ 2005 edition and no later amendments or editions, as amended by R17-5-209. The incorporated material is available from the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-0001, and is on file with the Division.

B. Application and exceptions.

1. Application.
 - a. Regulations incorporated in subsection (A) apply as amended by subsection (C) to motor carriers, shippers, and manufacturers as defined ~~in~~ under A.R.S. § 28-5201.
 - b. Regulations incorporated in subsection (A) also apply to any vehicle owned or operated by the state, a political subdivision, or a state public authority, used to transport a hazardous material, including hazardous substances and hazardous waste.
2. Exceptions. An authorized emergency vehicle, as defined ~~in~~ under A.R.S. § 28-101, is excepted from the provisions of this Section.

C. Amendments.

1. The following sections of the Federal Hazardous Materials Regulations, incorporated under subsection (A), are amended as follows:
 - ~~1-a.~~ Part 171. General information, regulations, and definitions.
 - ~~a-i.~~ Section 171.1. Purpose and scope. Paragraph (a) is amended to read: "The transportation of hazardous materials by and their offering to: (1) interstate, intrastate, and foreign motor carriers; and (2) vehicles owned or operated by the state, a political subdivision or a state public authority, which are used to transport hazardous material."
 - ~~b-ii.~~ Section 171.8. Definitions and abbreviations. Section 171.8 is amended by revising the definitions for "Carrier," "Hazmat employer," and "Person," and adding a definition for "Highway" as follows:
"Carrier" means a person engaged in the transportation of passengers or property by highway as a common, contract, or private carrier and also includes the state, a political subdivision, and a state public authority engaged in the transportation of hazardous material."
"Hazmat employer" means a person who uses one or more of its employees in connection with: transporting hazardous material; causing hazardous material to be transported or shipped; or representing, marking, certifying, selling, offering, reconditioning, testing, repairing, or modifying containers, drums, or packagings as qualified for use in the transportation of hazardous material. This term includes motor carriers, shippers, and manufacturers defined ~~in~~ under A.R.S. § 28-5201 and includes the state, political subdivisions, and state

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public authorities.”

“‘Highway’ means a public highway defined in under A.R.S. § 28-5201.”

“‘Person’ has the same meaning as in defined under A.R.S. § 28-5201.”

2-b. Part 172 - Hazardous materials table, special provisions, hazardous materials communications, emergency response information, and training requirements. Section 172.3. Applicability. Paragraph (a)(2) is amended to read: “Each motor carrier that transports hazardous materials, and each state agency, political subdivision, and state public authority that transports hazardous material by highway.”

3-c. Part 177. Carriage by public highway.

a. Section 177.800. Purpose and scope of this part and responsibility for compliance and training. In paragraph (a), the phrase “by private, common, or contract carriers by motor vehicle” is amended to read, “by a motor carrier operating in Arizona, a state agency, a political subdivision, or a state public authority that transports hazardous material by highway.”

b.2. Section 177.802. Inspection. Section 177.802 is amended to read: “Records, equipment, packagings, and containers under the control of a motor carrier or other persons subject to this part, affecting safety in transportation of hazardous material by motor vehicle, must be made available for examination and inspection by an authorized representative of the Department as prescribed in under A.R.S. §§ 28-5204 and 28-5231.”

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS

[R06-387]

PREAMBLE

1. Sections Affected

- R17-5-502
- R17-5-503
- Article 8
- R17-5-801
- R17-5-802
- R17-5-803
- R17-5-804
- R17-5-805
- R17-5-806
- R17-5-807
- R17-5-808
- R17-5-809
- R17-5-810
- R17-5-811

Rulemaking Action

- Repeal
- Repeal
- New Article
- New Section
- New Section
- New Section
- New Section
- New Section
- New Section
- New Section
- New Section
- New Section
- New Section
- New Section

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. §§ 20-237, 28-4002, 28-4007, 28-4033, 28-4076, 28-4084, 28-4135, and 28-4148

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

Notice of Rulemaking Docket Opening: 12 A.A.R. 1565, May 12, 2006

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

Name: John Lindley, Administrative Rules Analyst

Address: Administrative Rules Unit

Department of Transportation, Motor Vehicle Division
1801 W. Jefferson St., Mail Drop 530M
Phoenix, AZ 85007

Telephone: (602) 712-8804

Fax: (602) 712-3081

E-mail: jlindley@azdot.gov

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at www.azdot.gov/mvd/mvdrules/rules.asp.

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

The Arizona Department of Transportation, Motor Vehicle Division, proposes to repeal Sections R17-5-502 and R17-5-503, which currently contain antiquated electronic reporting guidelines and processes for insurance companies authorized to conduct business in Arizona. The Division proposes to create a new Article within Chapter 5; Article 8, Mandatory Insurance and Financial Responsibility. This new Article will incorporate updated electronic reporting guidelines, and other mandatory insurance and financial responsibility rules not limited to any specific process or vehicle type, that reflect current business practices and are more clear, concise, and understandable. This action complies with recommendations made in the Division's five-year-review report approved by the Governor's Regulatory Review Council on August 2, 2005.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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

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 Division anticipates, as a result of this rulemaking, a minimal economic impact to qualified persons and business entities seeking to self-insure under A.R.S. § 28-4076. Costs may include additional administrative expenses for preparing the application and providing the Division with the annual update documentation required to maintain a current self-insurance certificate. However, the Division anticipates a benefit of substantial savings for self-insuring entities in standard financial responsibility coverage of fleet vehicles.

The Division anticipates a substantial economic impact to insurance companies for the initial programming and implementation of electronic SR22 and SR26 reporting. However, the insurance companies and their customers will benefit from the proposed rules, since the SR22 and SR26 electronic reporting system will be the same system currently used by the insurance companies to electronically report liability insurance information to the Division. Their customers will receive a significant benefit, since the insurance information on file with the Division will be immediately updated. The proposed rules also provide an exemption from the electronic reporting of SR22s and SR26s for companies issuing less than 1000 SR22s, which the Division anticipates may benefit small businesses.

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: John Lindley, Administrative Rules Analyst
Address: Administrative Rules Unit
Department of Transportation, Motor Vehicle Division
1801 W. Jefferson St., Mail Drop 530M
Phoenix, AZ 85007
Telephone: (602) 712-8804
Fax: (602) 712-3081
E-mail: jlindley@azdot.gov

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: November 28, 2006
Time: 1:00 p.m.
Location: 1801 W. Jefferson, Rm. 403
Phoenix, AZ 85007
Nature: Oral Proceeding/Public Hearing

The public record in this rulemaking will close at 5:00 p.m. on November 28, 2006.

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 17. TRANSPORTATION

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

ARTICLE 5. MOTOR CARRIER FINANCIAL RESPONSIBILITY

Section

R17-5-502. Insurance Company Reporting Requirements Repealed

R17-5-503. Reporting Formats, Cartridge Tape Specifications, and Required Information for Manual Reporting Repealed

ARTICLE 8. MANDATORY INSURANCE AND FINANCIAL RESPONSIBILITY

Section

R17-5-801. Definitions

R17-5-802. Insurance Company Electronic Reporting Requirement; Applicability

R17-5-803. Insurance Company Reportable Activity

R17-5-804. Record Matching Criteria for a Vehicle-specific Policy

R17-5-805. Record Matching Criteria for a Non-vehicle-specific Commercial Policy

R17-5-806. Division-authorized EDI Reporting Methods; Reporting Schedule

R17-5-807. X12 Data Format for Policy Receipt and Error Return

R17-5-808. Insurance Company Reporting Errors; Resolution; Noncompliance

R17-5-809. Insurance Company Failure to Submit Required Data; Request for Hearing

R17-5-810. Self-insurance as Alternate Proof of Financial Responsibility; Provisions; Applicability

R17-5-811. Certificate of Deposit as Alternate Proof of Financial Responsibility; Applicability

ARTICLE 5. MOTOR CARRIER FINANCIAL RESPONSIBILITY

R17-5-502. Insurance Company Reporting Requirements Repealed

A. Definitions. In this Section and in R17-5-503, unless the context otherwise requires:

1. "Business week" means Monday through Friday, except holidays.
2. "Cartridge tape" means a data delivery medium that conforms to the cartridge tape specifications stated at R17-5-503(C).
3. "Cartridge tape reporting" means weekly delivery from a company to the Division of data placed on cartridge tape.
4. "Company" means an insurance or indemnity company authorized to write motor vehicle liability coverage in Arizona.
5. "Division" means the Arizona Department of Transportation, Motor Vehicle Division.
6. "Electronic data interchange" or "EDI" means the transmission of data in a standardized format from one computer to another computer without magnetic tape.
7. "EDI reporting" means weekly computer to computer transmission of data from a company to the Division, followed by error return from the Division to the company.
8. "File transfer protocol" means EDI reporting transmitted to the Division over the Internet.
9. "Information exchange" means EDI reporting where:
 - a. A company or a service provider transmits a report to the Division through a connection to a private information network, and
 - b. The private information network bases the charges for the connection to the network on the number of characters and messages transmitted.
10. "Manual reporting" means weekly delivery from a company to the Division of:
 - a. A report typed on company letterhead, or
 - b. An e-mail report.
11. "Motor vehicle liability policy" has the meaning prescribed in A.R.S. § 28-4001(4).
12. "Network job entry" means EDI reporting where:
 - a. A company or service provider transmits a report to the Division through a connection to a private information network, and
 - b. The private information network bases the charges for the connection to the network on the installation and lease

of a dedicated communications line.

13. "Private information network" means a group of interconnected computers, including the hardware and software used to connect them.
 14. "Reportable activity" means:
 - a. A policy cancellation;
 - b. A policy nonrenewal;
 - c. A new policy issue;
 - d. A vehicle added to a policy;
 - e. A vehicle deleted from a policy; or
 - f. A policy reinstatement.
 15. "Service provider" means a person or entity that provides:
 - a. A connection to a private information network for EDI reporting; or
 - b. Cartridge tape reporting for a company.
 16. "X12 811" means the standard format for delivering or transmitting insurance data.
- B.** Reporting schedule. At least once each business week, a company shall submit to the Division:
1. All reportable activities, not previously reported, processed by the company seven or fewer days before the reporting date; or
 2. If no reportable activities occurred by the reporting date, a statement of inactivity:
 - a. Typed on company letterhead;
 - b. Transmitted by e-mail; or
 - c. Transmitted by EDI.
- C.** EDI and X12 conversion schedule. By February 1, 2001, a company that submits cartridge tape reporting or manual reporting and does not qualify for an exception under subsection (F), shall establish a schedule under subsection (D)(1) or subsection (D)(2) and the main provision of subsection (E) by contacting the Division as follows:
1. Arizona Department of Transportation, Motor Vehicle Division, Mail Drop 532M, 1801 West Jefferson, Phoenix, Arizona 85007; or
 2. Telephone number (602) 712 8308.
- D.** EDI types. Beginning August 1, 2001, a company shall submit the information required under subsection (B)(1) by EDI reporting, unless qualified for an exception under subsection (F).
1. For EDI reporting by information exchange or network job entry, a company shall:
 - a. Obtain:
 - i. A connection to a private information network; or
 - ii. A service provider;
 - b. Obtain any necessary software;
 - c. Obtain the Division's service provider account number; and
 - d. Arrange for and conduct an initial transmission of data to the Division.
 2. For EDI reporting by file transfer protocol, a company shall:
 - a. Obtain:
 - i. An on-line connection to the Internet; or
 - ii. A service provider;
 - b. Obtain the Division's Internet address; and
 - c. Arrange for and conduct an initial transmission of data to the Division.
- E.** Reporting formats. Beginning August 1, 2001, a company shall submit the information required under subsection (B)(1) in the format titled Arizona Adaptation of X12 (TS811) for Policy Receipt, incorporated by reference at R17-5-503(A), unless qualified for an exception under subsection (F).
1. If qualified for an exception under subsection (F)(1), a company shall submit cartridge tape reporting:
 - a. On a cartridge tape that meets the specifications of R17-5-503(C), and
 - b. In the format located at R17-5-503(D).
 2. If qualified for an exception under subsection (F)(2), a company shall submit manual reporting with all the information listed in column 1 of the format located at R17-5-503(D).
- F.** EDI and X12 exceptions. A company shall submit weekly EDI reporting in the format titled Arizona Adaptation of X12 (TS811) for Policy Receipt unless qualified for an exception under this subsection.
1. For cartridge tape reporting after July 31, 2001, a company shall affirm in writing by February 1, 2001, and by February 1 of each following year, that:
 - a. The company had fewer than 10,000 motor vehicle liability policies in place in Arizona on January 1 of the year;
 - b. The company does not submit EDI reporting to any other state; and
 - c. The company will sustain a financial burden from EDI reporting.
 2. For manual reporting after July 31, 2001, a company shall affirm in writing by February 1, 2001, and by February 1 of each following year, that:

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- a. The company had fewer than 100 motor vehicle liability policies in place in Arizona on January 1 of the year;
- b. The company does not submit EDI reporting or cartridge tape reporting to any other state; and
- e. The company will sustain a financial burden from either EDI reporting or cartridge tape reporting.
- 3. ~~An officer or director of a company shall sign a written affirmation made under subsection (F)(1) or subsection (F)(2).~~
- 4. ~~A company shall submit the signed affirmation to the Arizona Department of Transportation, Motor Vehicle Division, Mail Drop 532M, 1801 West Jefferson, Phoenix, Arizona 85007.~~
- 5. ~~A company that qualifies for an exception to EDI reporting under subsection (F)(2) shall obtain the Division's approval of the type of manual reporting used by the company.~~
- G.** ~~Error return. The Division shall return reporting errors to a company as follows:~~
 - 1. ~~If a company uses the Arizona Adaptation of X12 (TS811) for Policy Receipt, the Division shall use the Arizona Adaptation of X12 (TS811) for Policy Error Return, incorporated by reference at R17-5-503(B), to return reporting errors to the company after submission of the information required under subsection (B)(1); or~~
 - 2. ~~If a company qualifies for an exception under subsection (F), the Division shall instruct the company to correct cartridge tape reporting errors or manual reporting errors that affect the Division's processing of the information required under subsection (B)(1).~~
- H.** ~~Noncompliance procedures. If a company fails to submit the information required under subsection (B)(1), the Division shall:~~
 - 1. ~~Send a dated written notice to the company that:~~
 - a. ~~Identifies the business week when the company did not submit the information required under subsection (B)(1);~~
 - b. ~~Instructs the company to submit the information for the identified business week by seven days after the date of the notice; and~~
 - e. ~~Warns the company to comply with the notice or the Division will proceed under A.R.S. § 20-237; and~~
 - 2. ~~If the company does not comply with the notice sent under subsection (H)(1), proceed under A.R.S. § 20-237.~~

R17-5-503. Reporting Formats, Cartridge Tape Specifications, and Required Information for Manual Reporting Repealed

- A.** ~~X-12 reporting format. Beginning August 1, 2001, a company not qualifying for an exception under R17-5-502(F) shall submit EDI reporting in the format titled Arizona Adaptation of X12 (TS811) for Policy Receipt, September 24, 1999, incorporated by reference and on file with the Division and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.~~
- B.** ~~X-12 error return format. To return errors to a company using the format specified at subsection (A), the Division shall use the format titled Arizona Adaptation of X12 (TS811) for Policy Error Return, September 24, 1999, incorporated by reference and on file with the Division and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.~~
- C.** ~~Cartridge tape specifications. A cartridge tape used for reporting by a company to the Division shall meet the following specifications:~~

Record Length	197 Bytes
Blocking Factor	1970 (10 records per block)
Tape Medium	Standard IBM 3480 Cartridge
Tape Density	Standard 3480, Not Compressed
Tape Internal Label	NL (Nonlabeled tapes)

- D.** ~~Cartridge tape format. A company may use the following reporting format only through July 31, 2001, unless the company qualifies for an exception under R17-5-502(F)(1):~~

Information Required	Bytes	Field Type	Field Description
VIN [except as provided in A.R.S. § 28-4148(D)]	25	Alpha/Numeric	Complete VIN, left justified
Make	5	Alpha	
Year	2	Numeric	

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Cancel Date	6	Numeric	MMDDYY (all zeroes new issues; no future dates for cancellations)
Policy Number	30	Alpha/ Numeric	Left Justified
Insurance Code	4	Numeric	
Name (Last, First)	40	Alpha/ Numeric	Left Justified
Address	40	Alpha/ Numeric	Left Justified
City	25	Alpha/ Numeric	Left Justified
State	2	Alpha	
Zip Code	9	Numeric	Left Justified
Driver's License Number	9	Alpha/ Numeric	Left Justified, optional

E. Manual reporting requirements. A company that qualifies for an exception under R17-5-502(F)(2) shall provide all the information listed in column 1 of the format located at subsection (D).

ARTICLE 8. MANDATORY INSURANCE AND FINANCIAL RESPONSIBILITY

R17-5-801. Definitions

In addition to the definitions under A.R.S. §§ 28-101 and 28-4001, in this Chapter, unless otherwise specified:

“Company” means an insurance or indemnity company authorized to write motor vehicle liability coverage in Arizona.

“Division” means the Arizona Department of Transportation’s Motor Vehicle Division.

“EDI” means electronic data interchange, which is the transmission of data in a standardized format from one computer to another without the use of magnetic tape.

“EDI reporting” means the weekly computer-to-computer transmission of data from a company to the Division.

“Error return” means the immediate computer-to-computer transmission, from the Division to a company, of all data reporting errors received during EDI reporting.

“FEIN” means the federal employer identification number or federal tax identification number used to identify a business entity.

“FTP” means file transfer protocol, which is a common protocol used by the Division for exchanging files over any network that supports EDI reporting transmitted through the Internet or Intranet.

“Information exchange” means EDI reporting where a company or service provider transmits a report to the Division through a connection to a private information network.

“MVD” means the Arizona Department of Transportation’s Motor Vehicle Division.

“NAIC” means the National Association of Insurance Commissioners.

“Private information network” means the value-added network used by a company or service provider to facilitate EDI transmissions to the Division and to provide other network services where fees are charged for the network connection based on the number of characters and messages transmitted.

“Reportable activity” means the information required to be transmitted to the Division under A.R.S. § 28-4148 and this Article.

“Self-insurer” means a person or entity that has met the qualifications, completed the application process, and received a certificate of self-insurance issued by the Division under Section R17-5-810.

“Service provider” means a person or entity that provides the connection to a private information network for EDI reporting.

“SR22” means a certification filed, by a company duly authorized to transact business in this state, as proof of financial responsibility for the future, which guarantees that the insured owner or operator has in effect at least the minimum motor vehicle liability insurance coverage required under A.R.S. Title 28, Chapter 9, Article 3.

“SR26” means a certification filed by a company duly authorized to transact business in this state, which notifies the Division that an insured owner or operator required to maintain proof of financial responsibility for the future, under A.R.S. Title 28, Chapter 9, Article 3, is no longer covered under a previously reported SR22.

“Value-added Network” means a private network provider that is hired by a company to facilitate EDI or provide other network services.

“X12” means the American National Standards Institute, Accredited Standards Committee, uniform standards for the inter-industry electronic exchange of business transactions by EDI.

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“X12 (TS811)” means X12 Transaction Set 811, Consolidated Service Invoice – Statement, version 3050, which is the specific set of EDI transactions developed for the insurance industry in the X12 standard format for automobile liability insurance reporting.

R17-5-802. Insurance Company Electronic Reporting Requirement; Applicability

- A.** A company that provides motor vehicle liability insurance coverage for an Arizona vehicle shall electronically transmit to the Division all reportable activity under A.R.S. § 28-4148 and R17-5-803 using one of the authorized EDI reporting methods identified in R17-5-806. Each transmission shall include all of the record matching criteria prescribed under R17-5-804 or R17-5-805, as applicable.
- B.** On and after May 1, 2007, a company that issues 1,000 or more SR22 policies per calendar year shall electronically transmit to the Division all SR22 and SR26 activity using one of the Division-authorized EDI reporting methods identified in R17-5-806. Each transmission shall include all of the record matching criteria prescribed under R17-5-804 or R17-5-805, as applicable.
- C.** The Division shall not accept or record an out-of-state motor vehicle liability insurance policy for a passenger vehicle, even if written by a company authorized to transact business in this state.

R17-5-803. Insurance Company Reportable Activity

- A.** A company shall transmit to the Division:
 - 1. All reportable activity, not previously reported, that was processed by the company seven or fewer days before each reporting date; or
 - 2. A statement of inactivity, if no reportable activity occurred by the reporting date.
- B.** For the purpose of this Article, reportable activity shall include:
 - 1. A policy cancellation;
 - 2. A policy non-renewal;
 - 3. A new policy issuance;
 - 4. A vehicle added to a policy;
 - 5. A vehicle deleted from a policy;
 - 6. A policy reinstatement; and
 - 7. Effective May 1, 2007, all SR22 and SR26 filings by insurance companies issuing 1,000 or more SR22 policies per calendar year.
- C.** Reportable activity does not include the addition or deletion of a vehicle to or from a non-vehicle-specific commercial policy.

R17-5-804. Record Matching Criteria for a Vehicle-specific Policy

For each vehicle-specific policy transmitted to the Division, a company shall include all of the following information to assist with the matching of policies to MVD customers:

- 1. The complete and valid vehicle identification number.
- 2. The policy number, and
- 3. The NAIC number of the reporting company.

R17-5-805. Record Matching Criteria for a Non-vehicle-specific Commercial Policy

- A.** For each non-vehicle-specific commercial policy transmitted to the Division, a company shall include all of the following information to assist with the matching of policies to MVD customers:
 - 1. The MVD Customer number of the insured:
 - a. If a policy covers all vehicles registered in the name of a business or organization, the Customer number is the FEIN of the business or organization; or
 - b. If a policy covers all vehicles registered in the name of a private individual, the Customer number is the Arizona Driver License number of the private individual;
 - 2. The policy number; and
 - 3. The NAIC number of the reporting company.
- B.** If the MVD Customer number required under subsection (A)(1) is not available to a company, the company may provide the complete and valid vehicle identification number of each vehicle covered under the policy in-lieu of the MVD Customer number.

R17-5-806. Division-authorized EDI Reporting Methods; Reporting Schedule

- A.** A company shall transmit to the Division all reportable activity listed in R17-5-803 using one of the following Division-authorized EDI reporting methods:
 - 1. EDI reporting by information exchange; or
 - 2. EDI reporting by encrypted FTP.
- B.** A company shall transmit all reportable activity to the Division at least once every seven days.

R17-5-807. X12 Data Format for Policy Receipt and Error Return

- A.** Reporting format. A company shall transmit to the Division all reportable activity using the format prescribed in section 5.1 of the Arizona Mandatory Insurance Reporting System Guide for Insurance Companies provided by the Division online at www.azdot.gov/mvd/documents/x12_insurance.pdf.
- B.** Error return format. The Division shall return to a company all reporting errors received during a transmission of reportable activity using the format prescribed in section 5.2 of the Arizona Mandatory Insurance Reporting System Guide for Insurance Companies provided by the Division as referenced in subsection (A).

R17-5-808. Insurance Company Reporting Errors; Resolution; Noncompliance

- A.** The Division shall:
1. Return to a company, using the X12 Error Return format provided in R17-5-807(B), all reporting errors received during a transmission; and
 2. Instruct the company to correct all reporting errors affecting the Division's processing of the required data.
- B.** All companies reporting electronic policy information shall notify the Division prior to making changes to any reporting systems, or previously established policy reporting formats, that may affect the Division's ability to match and process the information received.

R17-5-809. Insurance Company Failure to Submit Required Data; Request for Hearing

If a company fails to submit the data under A.R.S. § 28-4148, and this Article, the Division shall:

1. Send to the company, a dated written notice, which:
 - a. Identifies the business week or reporting period in which the company did not submit the required information;
 - b. Instructs the company to submit the information for the identified business week or reporting period within seven days of the date of the notice;
 - c. Informs the company that a failure to respond to the Division's request within the allotted time-frame, shall result in a referral of the matter to the Arizona Department of Insurance, under A.R.S. § 20-237, which may result in a civil penalty of up to \$250 per day for each violation; and
 - d. Provides notice of the company's right to request a hearing under A.R.S. § 20-237, in accordance with the procedures prescribed under 17 A.A.C. 1, Article 5.
2. Advise the Arizona Department of Insurance, based on the findings of the hearing, if the company fails to comply with the Division's written request provided under this Section.

R17-5-810. Self-insurance as Alternate Proof of Financial Responsibility; Provisions; Applicability

- A.** Self-insurance applicant qualification. A person or entity may apply for self-insurance under this Section if the applicant:
1. Owns the minimum number of vehicles prescribed under A.R.S. § 28-4007(A) with current Arizona registration;
 2. Demonstrates minimum assets of \$1 million on documentation required under subsections (C) and (D);
 3. Meets any additional financial responsibility requirements under A.R.S. § 28-4033(A), according to the insured vehicle's weight and/or intended use; and
 4. Provides a business office contact for the company with a current phone number and mailing information.
- B.** A self-insurance applicant shall provide, on a self-insurance application form provided by the Division, the following information:
1. Applicant's name;
 2. Business name, if applicable;
 3. Mailing address, city, state, and ZIP code;
 4. A selection of coverage type:
 - a. Public liability only; or
 - b. Public liability and property damage;
 5. Number of vehicles in the applicant's fleet;
 6. A selection list that describes the nature of the applicant's business;
 7. A description of any hazardous materials transported by type, class, and weight;
 8. A report of all accidents in the prior 39-month period before the application date;
 9. The applicant's signature and official business title to certify that all information is true and correct; and
 10. Acknowledgment by a notary public or by the signature of an authorized Motor Vehicle Division agent.
- C.** Supplementary documentation. In addition to a completed self-insurance application form, the applicant shall submit a profit and loss statement certified by a Certified Public Accountant for the 12-month period before the application date. The profit and loss statement shall include one of the following:
1. A balance sheet; or
 2. An annual financial report.
- D.** On approval of an application, the Division shall issue a certificate of self-insurance that is continuously valid but shall require the self-insurer to submit a 12-month update of supplementary documentation prescribed under subsection (C) on or before July 1 of each successive year.

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- E. An initial self-insurance applicant or a self-insurer making an annual update shall submit documentation required under subsections (B) through (D) to the following address:
Motor Vehicle Division
Financial Responsibility Unit
P.O. Box 2100, Mail Drop 535M
Phoenix, AZ 85001-2100
- F. A self-insurer shall keep a copy of the self-insurance certificate in each covered vehicle at all times.
- G. A self-insurer shall submit written notification to the Division of each vehicle to be added or removed from self-insurance coverage. The written notification shall include the VIN of each vehicle.
- H. A self-insurer that terminates self-insurance shall provide new evidence of financial responsibility as required under A.R.S. § 28-4135 for each vehicle previously covered under a self-insurance certificate.
- I. In addition to a self-insurer's failure to pay a default judgment as prescribed under A.R.S. § 28-4007(C), the following also constitutes reasonable grounds for cancellation of a self-insurance certificate by the Division:
 - 1. A self-insurer fails to comply with provisions of the Division's annual update requirement under subsection (D), or
 - 2. A self-insurer no longer owns the covered business or fleet.
- J. For the purpose of A.R.S. § 28-4007(C) and this Section, the Division shall conduct a self-insurance cancellation hearing according to provisions prescribed under R17-1-501 through R17-1-513.

R17-5-811. Certificate of Deposit as Alternate Proof of Financial Responsibility; Applicability

For the purpose of A.R.S. §§ 28-4076(2) and 28-4084, a person depositing a \$40,000 certificate of deposit with the state treasurer as alternate proof of financial responsibility may apply the certificate to a maximum of 25 non-commercial vehicles registered in the person's name.

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

**CHAPTER 6. DEPARTMENT OF TRANSPORTATION
OVERDIMENSIONAL PERMITS**

[R06-388]

PREAMBLE

- 1. Sections affected**

R17-6-101	<u>Rulemaking Action</u>
R17-6-113	Amend
R17-6-305	New Section
	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. §§ 28-601, 28-1091, 28-1103, 28-1110, 28-1142, 28-1145, 28-1150, as amended by Laws 2006, Ch. 219, §§ 1, 3, 4, 5, and 6
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 12 A.A.R. 3814, October 13, 2006
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	John Lindley, Administrative Rules Analyst
Address:	Administrative Rules Unit Department of Transportation, Motor Vehicle Division 1801 W. Jefferson St., Mail Drop 530M Phoenix, AZ 85007
Telephone:	(602) 712-8804
Fax:	(602) 712-3081
E-mail:	jlindley@azdot.gov

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at www.azdot.gov/mvd/mvdrules/rules.asp.

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

The Arizona Department of Transportation, Motor Vehicle Division, and the Overdimensional Permit Council propose to amend existing rules and create additional rules to incorporate recent legislative changes provided under Laws 2006, Ch. 219, §§ 1, 3, 4, 5, and 6. The proposed rules will provide further clarification on the new escort vehicle operator requirements and prescribe the electronic format that all affected local authorities shall use to provide the Division with all current local ordinances and rules relating to overdimensional permitting. Additionally, minor changes were made to update related citations, provide modernization in the rule drafting style, and to improve the clarity, conciseness, and understandability of the rules.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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

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 proposed rules prescribe the most effective process for the Department to ensure all current ordinances and rules of a local authority relating to excess size and weight special permits are made available to the public in an electronic format as required by Laws 2006, Chapter 219.

Since many local authorities currently maintain a web site with public access to their ordinances and rules, the Department anticipates only a minimal economic impact, which may affect the remaining local authorities that currently do not provide electronic public access to their ordinances and rules. Anticipated costs involve, the resources necessary to develop and maintain an Internet web site capable of providing appropriate public access to the local authority's ordinances and rules, and any administrative resources needed to facilitate the linking of each web site to the Department's web site.

A minimal impact to the Department is anticipated, which involves costs related to: the resources necessary for rulemaking; the development of a workable web page to house all web links submitted by local authorities for linking to the Department's web site; and the routine maintenance of the web page after its inception.

The proposed rules will have an un-quantifiable, but highly significant, benefit to the purchasers of excess size and weight special permits in terms of the immediate availability of all information necessary for the permittee to appropriately plan and successfully move oversize and overweight vehicles and loads in the best interest of public safety.

Other amendments in the proposed rules were made to reflect modernization in rule drafting style, update related citations, and improve the clarity, conciseness, and understandability of the rules.

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: John Lindley, Administrative Rules Analyst
Address: Administrative Rules Unit
Department of Transportation, Motor Vehicle Division
1801 W. Jefferson St., Mail Drop 530M
Phoenix, AZ 85007
Telephone: (602) 712-8804
Fax: (602) 712-3081
E-mail: jlindley@azdot.gov

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:

No oral proceeding is scheduled for this rulemaking action. A request for an oral proceeding may be made to the agency official listed in item #4. If no request for an oral proceeding is made, the public record in this rulemaking will close at 5:00 p.m. on November 20, 2006.

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:

Notices of Proposed Rulemaking

TITLE 17. TRANSPORTATION

CHAPTER 6. DEPARTMENT OF TRANSPORTATION
OVERDIMENSIONAL PERMITS

ARTICLE 1. GENERAL PROVISIONS

Section

- R17-6-101. General Provision; Definitions; Time of Day
R17-6-113. Electronic Access to Local Permit Ordinances and Rules

ARTICLE 3. SAFETY REQUIREMENTS

Section

- R17-6-305. Escort Vehicles

ARTICLE 1. GENERAL PROVISIONS

R17-6-101. General Provision; Definitions; Time of Day

- A. General Provision. The Division Director of the Arizona Department of Transportation, Motor Vehicle Division, in cooperation with the Intermodal Transportation Division, shall issue and regulate overdimensional permits under this Chapter. The ~~agency~~ Department implements these Sections under the general authority of A.R.S. § 28-1103(B), ~~and~~ in collaboration with the Overdimensional Permit ~~Advisory~~ Council as prescribed ~~under~~ in A.R.S. § 28-1150(C)(3).
- B. Definitions. ~~The following definitions apply to this Chapter~~ In addition to the definitions prescribed in A.R.S. § 28-601, the following terms apply to this Chapter:
- ~~1-~~ "AASHTO" means the American Association of State Highway Transportation Officials.
 - ~~2-~~ "ADOT" ~~or "Department"~~ means the Arizona Department of Transportation.
 - ~~3-~~ "Appurtenance" means any not readily removable manufacturer- or dealer-installed fixture attached to a vehicle or load that increases a peripheral dimension of the vehicle or load.
 - ~~4-~~ "Arizona Central Commercial Permits" means the statewide ADOT-MVD ~~headquarters~~ office for overdimensional permit applications and information:
14370 West Van Buren
Goodyear, Arizona 85338
Voice line: (623) 932-2247
Facsimile: (623) 932-2441
Internet: ~~www.dot.state.az.us/mvd/centralpermits/index.htm~~ www.azdot.gov/mvd/index.asp
 - ~~5-~~ "Articulated vehicle" ~~or "combination vehicle"~~ means any combination of a truck or truck tractor and one or more trailers or semitrailers that operates so that two or more frames are connected by couplings, but does not include a manufactured or mobile home has the same meaning as combination vehicle.
"Combination vehicle" has the same meaning as prescribed in A.R.S. § 28-101, combination of vehicles, but does not include a manufactured or mobile home.
 - ~~6-~~ "Continuous travel" means to operate a vehicle continuously throughout any 24-hour period.
"Department" means the Arizona Department of Transportation.
 - ~~7-~~ "Director" means:
 - ~~a- The Division Director of the Arizona Department of Transportation, Motor Vehicle Division; or~~
 - ~~b- The Division Director's designee.~~"Director" means the Division Director of the Arizona Department of Transportation's Motor Vehicle Division, or the Division Director's designee.
 - ~~8-~~ "Division" ~~or "MVD"~~ means the Arizona Department of ~~Transportation,~~ Transportation's Motor Vehicle Division.
 - ~~9-~~ "Envelope" ~~is~~ has the same meaning as prescribed in A.R.S. § 28-1141, and encompasses the ~~outmost~~ outermost dimensions of a load or vehicle that does not:
 - ~~a-~~ Exceed 120 feet in length;
 - ~~b-~~ Exceed 16 feet in height;
 - ~~c-~~ Exceed 14 feet in width;
 - ~~d-~~ Exceed 250,000 pounds gross weight, ~~and does not exceed or the maximum permitted weight computations for~~ overweight axle group weight distribution as prescribed ~~under~~ in R17-6-411, Table 3.01 through Table 3.09; ~~and~~ or
 - ~~e-~~ Have fewer than four axles.
 - ~~10-~~ "Envelope permit" has the same meaning as prescribed ~~under~~ in A.R.S. § ~~28-1141(2)~~ 28-1141, ~~and~~ which:
 - ~~a-~~ ~~is restricted~~ Restricts the load to non-reducible loads only,

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- b. Allows unlimited trips within the permit's validity period,
 - e. Allows the permitted carrier unlimited load changes,
 - d. Requires a transported load to meet envelope dimensional criteria, ~~and~~
 - e. Restricts operation to certain routes; and
Excludes the transporting of a manufactured or mobile home.
11. "Established place of business" means a permanent site or location where the business of an overdimensional permit holder is conducted.
12. "Fixed load," "non-reducible load," "non-divisible load," or "non-divisible vehicle" have the meaning prescribed under 23 CFR 658.5 April 2001, and means an overdimensional load or vehicle that if separated into smaller components would:
- a. Destroy load or vehicle value;
 - b. Render a load or vehicle unusable for its intended purpose; or
 - e. Require more than eight hours to dismantle using appropriate equipment with the burden of proof on the permit applicant as to the number of dismantle hours necessary.
13. "Highway feature" means a roadway, structure, traffic control device, right-of-way, or any item connected with highway travel.
14. "ITD" means the Arizona Department of Transportation's Intermodal Transportation Division.
"Law enforcement escort" means law enforcement personnel escorting an overdimensional permitted vehicle in the conduct of normal duties, under contract to a governmental entity, or as required by the Department under this Chapter.
15. "LCV" or "longer combination vehicle" means ~~any combination of a truck or truck tractor and one or more trailers or semitrailers that operates at a gross vehicle weight exceeding 80,000 pounds~~ means longer combination vehicle, which has the same meaning as prescribed in 23 CFR 658.5.
16. "Maintenance Permits Services" means ~~Arizona Department of Transportation Intermodal Transportation Division headquarters~~ the statewide ADOT-MVD office for class C overdimensional permit approval and technical information:
206 South 17th Avenue, Mail Drop 004R 1225 North 25th Avenue, Mail Drop 524M
Phoenix, Arizona 85007 85009
Voice line: (602) 712-8280 or 712-8176
Facsimile: (602) 712-3380
17. "Manufactured home" has the same meaning as prescribed under in A.R.S. § 41-2142(2) and (24) 41-2142.
18. "Metropolitan Phoenix" means linear distance on a state highway between post markers as designated:

Highway type	Highway number	Post marker and street name coordinate range
Interstate	10	133 – SR101 Ave to 161 – Chandler Boulevard
Interstate	17	210 – SR101 to 150A – I-10 junction at 24th Street
State route	51	All
US route	60	188 – Power Road to 172 – I-10 junction
State route	143	All
State route	153	All
State route	202	All

"Metropolitan Phoenix" means the linear distances between all of the following state highway milepost markers:

- Interstate 10: from milepost 133 - SR101, to milepost 161 - Chandler Boulevard;
- Interstate 17: from milepost 210 - SR101, to exit 150A - I-10 junction at 24th Street;
- State Route 51: All;
- US Route 60: from milepost 188 - Power Road, to milepost 172 - I-10 junction;
- State Route 143: All;
- State Route 153: All; and
- State Route 202: All.

19. "Metropolitan Tucson" means linear distance on a state highway between post markers as designated:

Highway type	Highway number	Post marker and street name coordinate range
Interstate	10	242.5 – Cortaro Road to 268 – Craycroft Road
Interstate	19	95 – Valencia to I-10 junction

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State route	77	82 - Tangerine Road to I-10 junction
State route	86	166.5 - Kinney Road to I-19B junction

“Metropolitan Tucson” means the linear distances between all of the following state highway milepost markers:

Interstate 10: from milepost 242.5 - Cortaro Road, to milepost 268 - Craycroft Road;

Interstate 19: from milepost 59 (kilometer post 95) - Valencia, to I-10 junction;

State Route 77: from milepost 82 - Tangerine Road, to I-10 junction; and

State Route 86: from milepost 166.5 - Kinney Road, to I-19B junction.

20- “Mobile home” has the same meaning as prescribed ~~under~~ in A.R.S. § 28-2001(B)(1) and as more specifically prescribed in A.R.S. § 41-2142.

21- “M.S.T.” or “Mountain Standard Time” means the standard time in Arizona as prescribed ~~under~~ 49 CFR 71.2(b) in 49 CFR 71 and A.R.S. § ~~1-242(A)~~ 1-242.

“MVD” means the Arizona Department of Transportation’s Motor Vehicle Division.

“Non-reducible load or vehicle” has the same meaning as prescribed in 23 CFR 658.5, nondivisible load or vehicle.

22- “Overdimensional” means any size or weight measurement exceeding a measurement prescribed ~~under~~ in R17-6-102, Table 1.

23- ~~“Permit supervisor” means a managing official of Arizona Central Commercial Permits or an MVD Enforcement Services port of entry daily officer in charge.~~

24- “Permittee” means a person or entity authorized, under a permit issued by the Department, to transport an overdimensional vehicle or load.

25- “Power unit” has the same meaning as prescribed in A.R.S. § ~~28-1141(3)~~ 28-1141.

26- “Specified load” means any item or series of items transported throughout an entire permit period with no alteration except for exact dimensional duplicate item substitution.

27- “Sunrise” and “sunset” have the same meaning and daily calculation as prescribed by the United States Naval Observatory (USNO), ~~that~~ which:

a- The Department uses to determine normal permit transport start and stop times as prescribed ~~under~~ R17-6-401(A) in R17-6-401; and

b- An interested person may ~~obtain~~ access over the Internet from the USNO ~~internet address: at~~ http://aa.usno.navy.mil, or in hardcopy format from the ~~Department~~ Arizona Central Commercial Permits office ~~prescribed under R17-6-101(B)(4).~~

28- “Tandem axle” has the same meaning as prescribed in A.R.S. § 28-1100(B).

29- “Tare weight” means a vehicle’s empty or starting weight.

30- ~~“Vehicle combination” has the meaning prescribed under A.R.S. § 28-101(10).~~

C. Time of Day. In ~~any Section~~ of this Chapter, a time of day prescribed is Mountain Standard Time (~~M.S.T.~~) as defined in subsection (B)(~~21~~) except where a state highway traverses a tribal nation that adopts ~~daylight saving time~~ Daylight Saving Time under 49 CFR 71.2.

R17-6-113. Electronic Access to Local Permit Ordinances and Rules

A. A local authority that issues excess size and weight special permits under A.R.S. § 28-1103 and this Chapter, shall make available, to the Arizona Central Commercial Permits office, an Internet web link to where the local authority’s current ordinances and rules relating to the excess size and weight special permits can be electronically accessed.

B. The Arizona Central Commercial Permits office shall immediately post, to the Arizona Central Commercial Permits web page at www.azdot.gov/mvd/index.asp, each Internet web link provided by a local authority under subsection (A) and A.R.S. § 28-1103.

ARTICLE 3. SAFETY REQUIREMENTS

R17-6-305. Escort Vehicles

A. Service requirement.

1. If required by the Department, a permittee of an ~~overdimensional vehicle or load~~ shall have an escort vehicle while transporting an overdimensional vehicle or load on a highway ~~prescribed restricted~~ under R17-6-412, Table 4.
2. The Department shall determine ~~if an overdimensional permitted vehicle must be accompanied by one or more escort vehicles~~ whether one or more escort vehicles must accompany an overdimensional permitted vehicle by considering the following:
 - a. Proposed transport route:
 - i. Highway width, height, road dynamics;
 - ii. Surface condition; ~~and~~
 - iii. Grade;
 - b. ~~Load size~~ Overall vehicle and load dimensions;
 - c. Need for frequent stops; ~~or~~
 - d. Concern for public safety; ~~and~~
 - e. Time of movement.
3. According to the criteria applicable under subsection (A)(2), the Department shall require two or more overdimensional permitted vehicles traveling together to be accompanied by at least one escort vehicle per load.

B. Vehicle ~~qualification~~ and operator qualifications and equipment requirements.

1. A vehicle qualifies as an escort vehicle if it:
 - a. Is a passenger car or two-axle truck ~~not exceeding 20,000 pounds, and operating as a single unit,~~
 - b. Is currently registered, and
 - c. Meets insurance requirements as provided by law.
2. An escort vehicle operator, except for a law enforcement escort, shall meet all requirements under A.R.S. § 28-1110, and maintain certification through a program that meets the escort vehicle operator training and certification standards of the Commercial Vehicle Safety Alliance or an equivalent program, whether in this state or another state, that meets the same objectives.
3. Effective September 21, 2006, an escort vehicle operator is in compliance with subsection (B)(2), if the escort vehicle operator:
 - a. Files an application with a program that meets the escort vehicle operator training and certification standards of the Commercial Vehicle Safety Alliance or an equivalent program that meets the same objectives, whether in this state or another state; and
 - b. Completes the training and certification program within 120 days of the date of application.
- 2-4. An escort vehicle operator shall possess all of the following equipment:
 - a. Warning flags as prescribed ~~under in~~ R17-6-302, when accompanying an overdimensional permitted vehicle ~~or load~~;
 - b. Warning lights as prescribed ~~under in~~ A.R.S. § 28-947(D);
 - c. An "OVERSIZE LOAD" sign:
 - i. Constructed as prescribed ~~under in~~ R17-6-303(C),
 - ii. Mounted above the vehicle's roofline,
 - iii. Displayed as prescribed ~~under in~~ R17-6-303(D), ~~and~~
 - iv. ~~Not visible when not in use; Accompanied by two flags, one mounted on each side of the oversize load sign, and~~
 - v. Not visible when not in use;
 - d. A two-way radio:
 - i. Capable of transmitting and receiving a minimum of one-half mile, and
 - ii. Compatible with each two-way radio in an accompanying escort vehicle and each escorted ~~overdimensionally permitted overdimensional permitted~~ vehicle; ~~and~~
 - e. Emergency equipment ~~as follows to include:~~
 - i. At least eight flares emergency warning devices; ~~and~~
 - ii. Two emergency staff-mounted warning flags manufactured to the specifications prescribed under in R17-6-302(A).

C. Operation.

1. Lighting requirement. While in service, an escort vehicle operator shall maintain continuous illumination of headlights and overhead warning lights.
2. Lead- and follow-distance.
 - a. On an open highway, except when visual contact cannot be maintained, an escort vehicle operator shall maintain a lead- or follow-distance not exceeding to exceed 1,500 feet from the escorted vehicle.

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- b. In an urban setting, an escort vehicle operator shall maintain a lead- or follow-distance not ~~exceeding~~ to exceed 250 feet from the escorted vehicle.
- 3. Stop provisions at a traffic signal-controlled intersection.
 - a. When ~~a load-bearing~~ an oversized permitted vehicle is required to stop, the lead-escort vehicle operator shall ~~stop safely on the right-hand roadside after proceeding~~ proceed through the intersection and stop safely, off of the roadway as much as is safely possible. The lead-escort vehicle operator shall resume normal lead distance ~~after the load-bearing vehicle clears the intersection~~ as soon as is safely possible.
 - b. When a following-escort vehicle is required to stop, the operator of ~~a load-bearing~~ an oversized permitted vehicle shall proceed without stopping. The following-escort vehicle operator shall resume its normal distance behind the ~~load-bearing oversized permitted~~ oversized permitted vehicle as soon as is safely possible after clearing an intersection.

NOTICE OF PROPOSED RULEMAKING

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

[R06-386]

PREAMBLE

- 1. Sections Affected**

R20-5-601	Amend
R20-5-602	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. § 23-405(4)
Implementing statute: A.R.S. § 23-410
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 12 A.A.R. 3571, September 29, 2006
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: William M. Wright, Assistant Director
Address: Division of Occupational Safety and Health
Industrial Commission of Arizona
800 W. Washington Street, Suite 203
Phoenix, AZ 85007
Telephone: (602) 542-1695
Fax: (602) 542-1614
E-mail: wright.william.m@dol.gov
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**

In order to conform to the Federal Occupational Safety and Health Standards as required by Section 18(c) of the Federal Occupational Safety and Health Act of 1970 requiring State administered occupational safety and health programs to adopt standards that are at least as effective as those adopted by the U.S. Department of Labor, The Industrial Commission is amending R20-5-601 and R20-5-602 by adopting amendments to Subpart D, Occupational Health and Environmental Controls, Subpart Z, Toxic and Hazardous Substances of § 1926, and Subpart I, Personal Protective Equipment, Subpart Z, Toxic and Hazardous Substances of § 1910, as published in 71 FR 50122 - 50192, August 24, 2006. These rules revise the existing Respiratory Protection Standard to add definition and requirements for Assigned Protection Factors (APF) and Maximum Use Concentrations (MUCs). The final APFs provide employees with critical information to use when selecting respirators for employees exposed to atmospheric contaminants found in general industry and construction workplaces. Proper respirator selection using APFs is a necessary component of an effective respiratory protection program.
- 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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

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 Federal Occupational Safety and Health Administration has determined that these amendments will have little financial impact for general industry and construction sector and has determined the amendments to be economically feasible for all industries including small business. Cost and benefit analysis of these amendments is available for inspection, review, and copying at the Industrial Commission of Arizona, Division of Occupational Safety and Health, 800 Wet6 Washington Street, Phoenix, Arizona 85007.

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: William M. Wright, Assistant Director
Address: Industrial Commission of Arizona
Division of Occupational Safety and Health
800 W. Washington Street, Suite 203
Phoenix, AZ 85007
Telephone: (602) 542-1695
Fax: (602) 542-1614
E-mail: wright.william.m@dol.gov

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

An oral proceeding has been scheduled as follows:

Date: November 29, 2006
Time: 9:00 a.m.
Location: Hearing Room A, first floor
Industrial Commission of Arizona
800 W. Washington Street
Phoenix, AZ 85007

Written comments may be submitted on or before 9:00a.m. November 29, 2006

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:

29 CFR 1926 The Federal Occupational Safety and Health Standards for Construction and 29 CFR 1910 The Federal Safety and Health Standards for General Industry, with amendments as of August 24, 2006. This incorporation by reference will appear in R20-5-601 and R20-5-602.

13. The full text of the rules follows:

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Section

R20-5-601. The Federal Occupational Safety and Health Standards for Construction, 29 CFR 1926
R20-5-602. The Federal Occupational Safety and Health Standards for General Industry, 29 CFR 1910

ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH STANDARDS

R20-5-601. The Federal Occupational Safety and Health Standards for Construction, 29 CFR 1926

Each employer shall comply with the standards in the Federal Occupational Safety and Health Standards for Construction,

published in 29 CFR 1926 with amendments as of ~~September 12, 2002~~, August 24, 2006, incorporated by reference ~~and on file with the Office of the Secretary of State~~. Copies of these reference materials are available for review at the Industrial Commission of Arizona and may be obtained from the United States Government Printing Office, Superintendent of Documents, Washington, D.C. 20402. These standards shall apply to all conditions and practices related to construction activity by all employers, both public and private, in the state of Arizona. This incorporation by reference does not include amendments or editions to 29 CFR 1926 published after ~~September 12, 2002~~, August 24, 2006.

R20-5-602. The Federal Occupational Safety and Health Standards for General Industry, 29 CFR 1910

Each employer shall comply with the standards in Subparts B through Z inclusive of the Federal Occupational Safety and Health Standards for General Industry, as published in 29 CFR 1910, with amendments as of ~~February 17, 2004~~, August 24, 2006, incorporated by reference. Copies of these reference materials are available for review at the Industrial Commission of Arizona and may be obtained from the United States Government Printing Office, Superintendent of Documents, Washington, D.C. 20402. These standards shall apply to all conditions and practices related to general industry activity by all employers, both public and private, in the state of Arizona; provided that this rule shall not apply to those conditions and practices which are the subject of rule R20-5-601. This incorporation by reference does not include amendments or editions to 29 CFR 1910 published after ~~February 17, 2004~~, August 24, 2006.