



# Arizona Administrative REGISTER

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~ Administrative Register Contents ~

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**Information** ..... 792

**Rulemaking Guide** ..... 793

**RULES AND RULEMAKING**

**Proposed Rulemaking, Notices of**

        3 A.A.C. 4 Department of Agriculture - Plant Services Division ..... 795

**Final Rulemaking, Notices of**

        11 A.A.C. 3 State Mine Inspector - Aggregate Mined Land Reclamation ..... 828

**Final Expedited Rulemaking, Notices of**

        13 A.A.C. 3 Department of Public Safety - Tow Trucks ..... 844

**OTHER AGENCY NOTICES**

**Docket Opening, Notices of Rulemaking**

        3 A.A.C. 4 Department of Agriculture - Plant Services Division ..... 849

**Public Information, Notices of**

        Department of Gaming - Division of Racing, Boxing and Mixed Martial Arts Commission ..... 850

**Substantive Policy Statement, Notices of Agency**

        Department of Gaming - Division of Racing, Boxing and Mixed Martial Arts Commission ..... 851

        Department of Gaming - Division of Racing, Boxing and Mixed Martial Arts Commission ..... 852

**Ombudsman, Notices of Agency**

        Department of Public Safety ..... 854

**GOVERNOR'S OFFICE**

**Governor's Executive Order 2019-01**

        Moratorium on Rulemaking to Promote Job Creation and Customer-Service-Oriented Agencies; Protecting Consumers Against Fraudulent Activities ..... 855

**INDEXES**

    Register Index Ledger ..... 857

    Rulemaking Action, Cumulative Index for 2019 ..... 858

    Other Notices and Public Records, Cumulative Index for 2019 ..... 861

**CALENDAR/DEADLINES**

    Rules Effective Dates Calendar ..... 862

    Register Publishing Deadlines ..... 864

**GOVERNOR'S REGULATORY REVIEW COUNCIL**

    Governor's Regulatory Review Council Deadlines ..... 865

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# From the Publisher

## ABOUT THIS PUBLICATION

The paper copy of the *Administrative Register* (A.A.R.) is the official publication for rules and rulemaking activity in the state of Arizona.

Rulemaking is defined in Arizona Revised Statutes known as the Arizona Administrative Procedure Act (APA), A.R.S. Title 41, Chapter 6, Articles 1 through 10.

The Office of the Secretary of State does not interpret or enforce rules published in the *Arizona Administrative Register* or *Code*. Questions should be directed to the state agency responsible for the promulgation of the rule as provided in its published filing.

The *Register* is cited by volume and page number. Volumes are published by calendar year with issues published weekly. Page numbering continues in each weekly issue.

In addition, the *Register* contains the full text of the Governor's Executive Orders and Proclamations of general applicability, summaries of Attorney General opinions, notices of rules terminated by the agency, and the Governor's appointments of state officials and members of state boards and commissions.

## ABOUT RULES

Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number). Rules activity published in the *Register* includes: proposed, final, emergency, expedited, and exempt rules as defined in the APA.

Rulemakings initiated under the APA as effective on and after January 1, 1995, include the full text of the rule in the *Register*. New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.

## WHERE IS A "CLEAN" COPY OF THE FINAL OR EXEMPT RULE PUBLISHED IN THE REGISTER?

The *Arizona Administrative Code* (A.A.C.) contains the codified text of rules. The A.A.C. contains rules promulgated and filed by state agencies that have been approved by the Attorney General or the Governor's Regulatory Review Council. The *Code* also contains rules exempt from the rulemaking process.

The printed *Code* is the official publication of a rule in the A.A.C., and is prima facie evidence of the making, amendment, or repeal of that rule as provided by A.R.S. § 41-1012. Paper copies of rules are available by full Chapter or by subscription. The *Code* is posted online for free.

## LEGAL CITATIONS AND FILING NUMBERS

On the cover: Each agency is assigned a Chapter in the *Arizona Administrative Code* under a specific Title. Titles represent broad subject areas. The Title number is listed first; with the acronym A.A.C., which stands for the *Arizona Administrative Code*; following the Chapter number and Agency name, then program name. For example, the Secretary of State has rules on rulemaking in Title 1, Chapter 1 of the *Arizona Administrative Code*. The citation for this chapter is 1 A.A.C. 1, Secretary of State, Rules and Rulemaking

Every document filed in the office is assigned a file number. This number, enclosed in brackets, is located at the top right of the published documents in the *Register*. The original filed document is available for 10 cents a page.

# Arizona Administrative REGISTER

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**ADMINISTRATIVE REGISTER**  
This publication is available online for free at [www.azsos.gov](http://www.azsos.gov).

**ADMINISTRATIVE CODE**  
A price list for the *Arizona Administrative Code* is available online. You may also request a paper price list by mail. To purchase a paper Chapter, contact us at (602) 364-3223.

**PUBLICATION DEADLINES**  
Publication dates are published in the back of the *Register*. These dates include file submittal dates with a three-week turnaround from filing to published document.

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# Participate in the Process

## Look for the Agency Notice

Review (inspect) notices published in the *Arizona Administrative Register*. Many agencies maintain stakeholder lists and would be glad to inform you when they proposed changes to rules. Check an agency's website and its newsletters for news about notices and meetings.

Feel like a change should be made to a rule and an agency has not proposed changes? You can petition an agency to make, amend, or repeal a rule. The agency must respond to the petition. (See A.R.S. § 41-1033)

## Attend a public hearing/meeting

Attend a public meeting that is being conducted by the agency on a Notice of Proposed Rulemaking. Public meetings may be listed in the Preamble of a Notice of Proposed Rulemaking or they may be published separately in the *Register*. Be prepared to speak, attend the meeting, and make an oral comment.

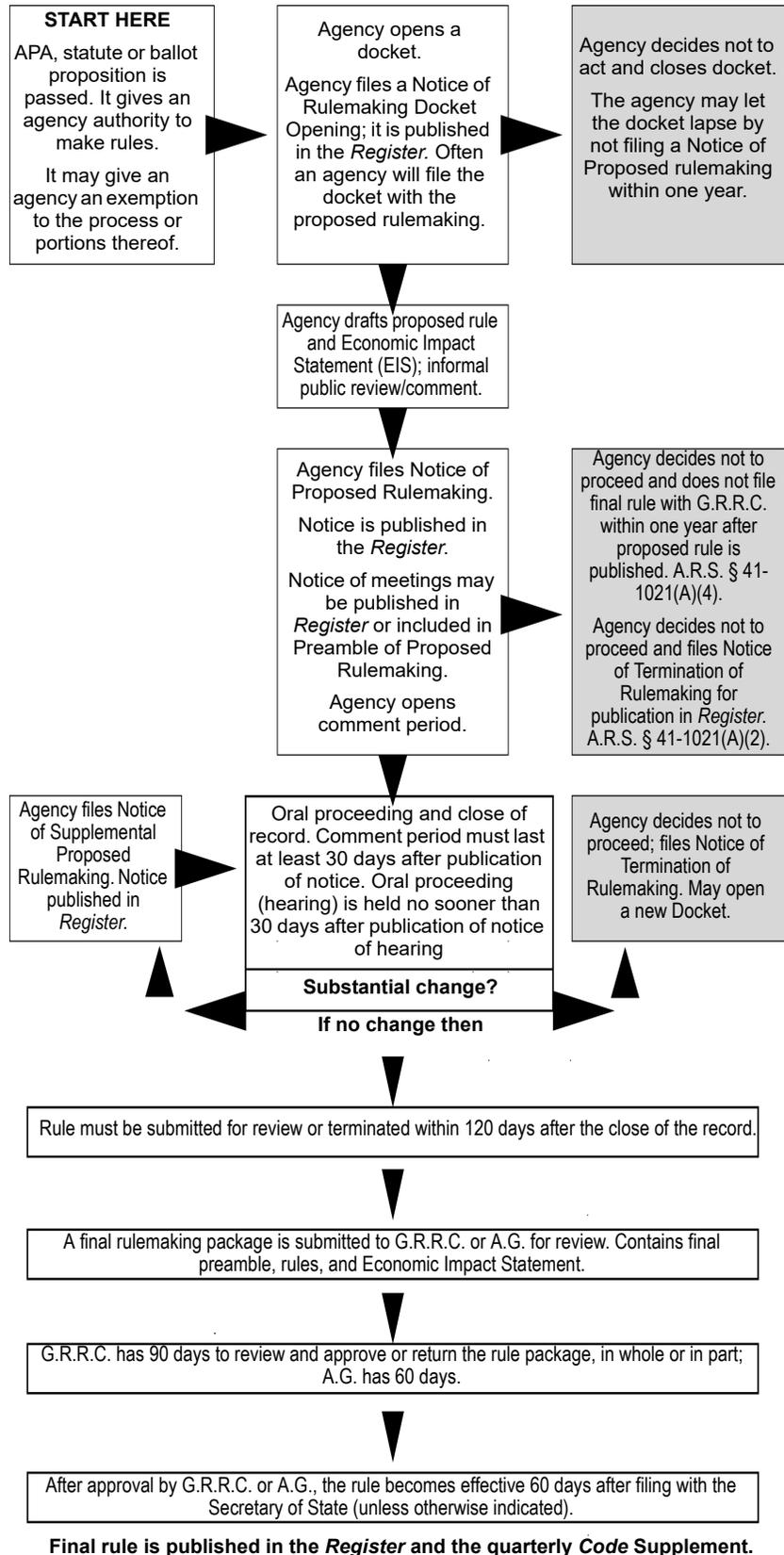
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

## Write the agency

Put your comments in writing to the agency. In order for the agency to consider your comments, the agency must receive them by the close of record. The comment must be received within the 30-day comment timeframe following the *Register* publication of the Notice of Proposed Rulemaking.

You can also submit to the Governor's Regulatory Review Council written comments that are relevant to the Council's power to review a given rule (A.R.S. § 41-1052). The Council reviews the rule at the end of the rulemaking process and before the rules are filed with the Secretary of State.

# Arizona Regular Rulemaking Process



## Definitions

**Arizona Administrative Code (A.A.C.):** Official rules codified and published by the Secretary of State's Office. Available online at [www.azsos.gov](http://www.azsos.gov).

**Arizona Administrative Register (A.A.R.):** The official publication that includes filed documents pertaining to Arizona rulemaking. Available online at [www.azsos.gov](http://www.azsos.gov).

**Administrative Procedure Act (APA):** A.R.S. Title 41, Chapter 6, Articles 1 through 10. Available online at [www.azleg.gov](http://www.azleg.gov).

**Arizona Revised Statutes (A.R.S.):** The statutes are made by the Arizona State Legislature during a legislative session. They are compiled by Legislative Council, with the official publication codified by Thomson West. Citations to statutes include Titles which represent broad subject areas. The Title number is followed by the Section number. For example, A.R.S. § 41-1001 is the definitions Section of Title 41 of the Arizona Administrative Procedures Act. The "§" symbol simply means "section." Available online at [www.azleg.gov](http://www.azleg.gov).

**Chapter:** A division in the codification of the *Code* designating a state agency or, for a large agency, a major program.

**Close of Record:** The close of the public record for a proposed rulemaking is the date an agency chooses as the last date it will accept public comments, either written or oral.

**Code of Federal Regulations (CFR):** The *Code of Federal Regulations* is a codification of the general and permanent rules published in the *Federal Register* by the executive departments and agencies of the federal government.

**Docket:** A public file for each rulemaking containing materials related to the proceedings of that rulemaking. The docket file is established and maintained by an agency from the time it begins to consider making a rule until the rulemaking is finished. The agency provides public notice of the docket by filing a Notice of Rulemaking Docket Opening with the Office for publication in the *Register*.

**Economic, Small Business, and Consumer Impact Statement (EIS):** The EIS identifies the impact of the rule on private and public employment, on small businesses, and on consumers. It includes an analysis of the probable costs and benefits of the rule. An agency includes a brief summary of the EIS in its preamble. The EIS is not published in the *Register* but is available from the agency promulgating the rule. The EIS is also filed with the rulemaking package.

**Governor's Regulatory Review (G.R.R.C.):** Reviews and approves rules to ensure that they are necessary and to avoid unnecessary duplication and adverse impact on the public. G.R.R.C. also assesses whether the rules are clear, concise, understandable, legal, consistent with legislative intent, and whether the benefits of a rule outweigh the cost.

**Incorporated by Reference:** An agency may incorporate by reference standards or other publications. These standards are available from the state agency with references on where to order the standard or review it online.

**Federal Register (FR):** The *Federal Register* is a legal newspaper published every business day by the National Archives and Records Administration (NARA). It contains federal agency regulations; proposed rules and notices; and executive orders, proclamations, and other presidential documents.

**Session Laws or "Laws":** When an agency references a law that has not yet been codified into the Arizona Revised Statutes, use the word "Laws" is followed by the year the law was passed by the Legislature, followed by the Chapter number using the abbreviation "Ch.," and the specific Section number using the Section symbol (§). For example, Laws 1995, Ch. 6, § 2. Session laws are available at [www.azleg.gov](http://www.azleg.gov).

**United States Code (U.S.C.):** The Code is a consolidation and codification by subject matter of the general and permanent laws of the United States. The Code does not include regulations issued by executive branch agencies, decisions of the federal courts, treaties, or laws enacted by state or local governments.

## Acronyms

A.A.C. – *Arizona Administrative Code*

A.A.R. – *Arizona Administrative Register*

APA – *Administrative Procedure Act*

A.R.S. – *Arizona Revised Statutes*

CFR – *Code of Federal Regulations*

EIS – *Economic, Small Business, and Consumer Impact Statement*

FR – *Federal Register*

G.R.R.C. – *Governor's Regulatory Review Council*

U.S.C. – *United States Code*

## About Preambles

The Preamble is the part of a rulemaking package that contains information about the rulemaking and provides agency justification and regulatory intent.

It includes reference to the specific statutes authorizing the agency to make the rule, an explanation of the rule, reasons for proposing the rule, and the preliminary Economic Impact Statement.

The information in the Preamble differs between rulemaking notices used and the stage of the rulemaking.



**NOTICES OF PROPOSED RULEMAKING**

This section of the *Arizona Administrative Register* contains Notices of Proposed Rulemaking.

A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same *Register* issue.

When an agency files a Notice of Proposed Rulemaking under the *Administrative Procedure Act* (APA), the notice is published in the *Register* within three weeks of filing. See the publication schedule in the back of each issue of the *Register* for more information.

Under the APA, 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 oral proceedings for making, amending, or repealing any rule (A.R.S. §§ 41-1013 and 41-1022).

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency that promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

**NOTICE OF PROPOSED RULEMAKING  
TITLE 3. AGRICULTURE  
CHAPTER 4. DEPARTMENT OF AGRICULTURE  
PLANT SERVICES DIVISION**

[R19-44]

**PREAMBLE**

<b><u>1. Article, Part, or Section Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
R3-4-101	Amend
Table 1	Amend
R3-4-201	Amend
R3-4-202	Amend
R3-4-203	New Section
Table 2	New Section
Table 3	New Section
R3-4-204	Amend
R3-4-218	Amend
R3-4-219	Repeal
R3-4-220	Amend
R3-4-226	Repeal
R3-4-228	Repeal
R3-4-229	Amend
R3-4-231	Amend
R3-4-234	Repeal
R3-4-238	Repeal
R3-4-239	Amend
R3-4-240	Repeal
R3-4-241	Amend
R3-4-242	Repeal
R3-4-244	Repeal
R3-4-245	Amend
Table 4	New Section
Table 5	New Section
Table 6	New Section
R3-4-246	Repeal
R3-4-248	Amend
R3-4-501	Amend
R3-4-901	Amend

**2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**  
 Authorizing statute: A.R.S. §§ 3-107(A) and 3-208(B)  
 Implementing statute: A.R.S. §§ 3-201.01(A) and 3-208(B)



**3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**

Notice of Rulemaking Docket Opening: 25 A.A.R. 849, April 5, 2019 (in this issue)

**4. The agency's contact person who can answer questions about the rulemaking:**

Name: Jamie Legg  
Address: Department of Agriculture  
Plant Services Division  
1688 W. Adams St.  
Phoenix, AZ 85007  
Telephone: (602) 542-0992  
Fax: (602) 542-1004  
E-mail: jlegg@azda.gov

**5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

The Department is updating the rules to address outdated and inconsistent information written in the rules. Additionally, the Department has conducted a review of rules with interested stakeholders and is streamlining rules to reduce the regulatory burden, provide consistency with current operating practices, and make the rules more clear and concise.

**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 rulemaking is necessary to promote a statewide interest if the rulemaking 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 changes to the rules make the language and provisions more consistent with current Department practices and industry needs, make the rules more easily understandable and alleviate some regulatory burden while continuing to provide adequate safeguards to agriculture and horticulture from dangerous plant pests and diseases.

**9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:**

Name: Jamie Legg  
Address: Department of Agriculture  
Plant Services Division  
1688 W. Adams St.  
Phoenix, AZ 85007  
Telephone: (602) 542-0992  
Fax: (602) 542-1004  
E-mail: jlegg@azda.gov

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber 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 regarding the proposed rules will be held as follows:

Date: May 15, 2019  
Time: 10:00 a.m.  
Location: Department of Agriculture, Conference Room 206  
1688 W. Adams St.  
Phoenix, AZ 85007

**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

An ad hoc advisory committees was established as authorized in A.R.S. § 3-106 to provide feedback and recommendations to the changes in Article 2. The ad hoc committees had final approval of the recommended changes by November 19, 2018. A.R.S. § 3-104(F) requires the Arizona Department of Agriculture Advisory Council to assist the director of the department on all rulemaking activities. The council shall review, advise and make recommendations before they are adopted by the director. The required consultation and council approval was achieved on November 19, 2018.

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

Compliance agreements, Origin Inspection Agreements, Master Permits, and Limited Permits are all forms of special permits where special specific conditions must be met prior to issuance. A general permit does not fit the needs of the application requirements.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

Federal Law applies to sections R3-4-220, R3-4-239, and R3-4-248 but are not more stringent.

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitive-**



**ness of business in this state to the impact on business in other states:**

No analysis was submitted

**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

- Definitions in R3-4-201 of “Processed product” as defined in 7 CFR § 52.2; and USDA-APHIS-PPQ Treatment Manual, T301-Cotton and Cotton Products, revised May 2017
- Disposition authority, A.R.S. § 3-210 in R3-4-202, 203, and 220
- USDA-APHIS-PPQ Treatment Manual, Heat Treatment Schedule: T314-a in R3-4-203
- Imported Fire Ant Quarantine 7 CFR § 301.81, 75 FR 4240, revised January 26, 2010 in R3-4-239
- Japanese Beetle Harmonization Plan, revised June 20, 2016

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

**TITLE 3. AGRICULTURE  
CHAPTER 4. DEPARTMENT OF AGRICULTURE  
PLANT SERVICES DIVISION**

**ARTICLE 1. GENERAL PROVISIONS**

- Section R3-4-101. Definitions
- Table 1. Time-frames (Calendar Days)

**ARTICLE 2. QUARANTINE**

- Section R3-4-201. Definitions
- R3-4-202. ~~Transportation and Packaging Domestic Importation~~
- R3-4-203. ~~Repealed~~ Plant and Crop Safeguards, Inspection, and Certification
- Table 2. Actionable Arthropod Pests
- Table 3. Actionable Nematode Pests
- R3-4-204. ~~Boll Weevil and Pink Bollworm Pests~~ Cotton Pest Management: Interior-Quarantine
- R3-4-218. ~~Boll Weevil and Pink Bollworm Pests~~ Pest: Exterior Quarantine
- R3-4-219. ~~Citrus Fruit Surface Pests~~ Repealed
- R3-4-220. Citrus Nursery Stock Pests
- R3-4-226. ~~Scale Insect Pests~~ Repealed
- R3-4-228. ~~European Corn Borer~~ Repealed
- R3-4-229. Nut Tree Pests
- R3-4-231. Nut Pests
- R3-4-234. ~~Nematode Pests~~ Repealed
- R3-4-238. ~~Whitefly Pests~~ Repealed
- R3-4-239. Imported Fire Ants
- R3-4-240. ~~Apple Maggot and Plum Curculio~~ Repealed
- R3-4-241. ~~Lethal Yellowing of Palms~~ Palm Tree Pests
- R3-4-242. ~~Brown Citrus Aphid~~ Repealed
- R3-4-244. ~~Regulated and Restricted Noxious Weeds~~ Repealed
- R3-4-245. ~~Prohibited~~ Noxious Weeds
- Table 4. Class A Noxious Weeds
- Table 5. Class B Noxious Weeds
- Table 6. Class C Noxious Weeds
- R3-4-246. ~~Caribbean Fruit Fly~~ Repealed
- R3 4 248. Japanese beetle

**ARTICLE 5. COLORED COTTON**

- Section R3-4-501. Colored Cotton Production and Processing

**ARTICLE 9. BIOTECHNOLOGY**

- Section R3-4-901. Genetically Engineered Organisms and Products

**ARTICLE 1. GENERAL PROVISIONS**

**R3-4-101. Definitions**

In addition to the definitions provided in A.R.S. §§ 3-201, 3-231, 3-441, and 3-481, the following ~~definitions~~ terms apply to this Chapter:

“Appliance” means any box, tray, container, ladder, tent, vehicle, implement, or any article or thing that is or may be used in growing, harvesting, handling, packing, or transporting any agricultural commodity.

“Aquatic” means ~~living or growing in or on water.~~



- ~~“Bulk container” means a container used solely for transporting a commodity in bulk quantities.~~
- “Carrier” means any plant or thing that can transport or harbor a plant pest.
- “Certificate” means an original document issued by the Department, the United States Department of Agriculture, or authorized officer of the state of origin, stating name, quantity, and nature of the regulated commodity, and the compliance information required by a specific regulation.
- “Commodity” means any plant, produce, soil, material, or thing that may be subject to federal and state laws and rules.
- “Container” means any box, crate, lug, chest, basket, carton, barrel, keg, drum, can, sack, or other receptacle for a commodity.
- ~~“Cotton lint” means the remnant produced when cottonseed is processed in a gin.~~
- “Cotton plant” means all parts of *Gossypium* spp. ~~whether wild or domesticated~~, except manufactured cotton products.
- “Cotton products” include seed cotton, cotton lint, cotton linters, motes, cotton waste, gin trash, cottonseed, and cotton hulls.
- “Cotton stubble” means the basal part of a cotton plant that remains attached to the soil after harvest.
- ~~“Cotton waste” includes all waste products from the processing of cotton at gins and cottonseed oil mills, in any form or under any trade designation.~~
- ~~“Defoliate” means to remove the leaves from a plant.~~
- “Diseased” means an abnormal condition of a plant resulting from an infection.
- “Equipment” means any vehicle, device, implement, ladder, tent, or any article or thing that is or may be used in growing, harvesting, handling, packing, or transporting any agricultural commodity.
- “Gin trash” means organic waste or materials resulting from ginning cotton.
- ~~“Head leaves” means all leaves that enfold the compact portion of a head of lettuce or cabbage.~~
- “Host” means a plant on or in which a pest can live or reproduce, or both.
- “Husk” means the membranous outer envelope of many seeds and fruit, such as an ear of corn or a nut.
- “Infested” means (i) any plant or other material on or in which a pest is found, or (ii) a geographical area where a pest is known to occur.
- “Inspector” means an employee of the Department or other governmental agency who enforces any law or rule of the Department.
- ~~“Label” means all tags and other written, printed, or graphic representations in any form, accompanying or pertaining to a plant or other commodity.~~
- “Lot” means any one group of plants or things, whether or not containerized that is set apart or is separate from any other group.
- “Nursery” means *real property or other premises on or in which nursery stock is propagated, grown, or cultivated or from which source nursery stock is offered for distribution or sale.* (A.R.S. § 3-201(5))
- “Permit” means an official document authorizing the movement of a host plant and carrier.
- “Person” means an individual, partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any character, or another agency.
- “Pests” includes all noxious weeds, insects, diseases, mites, spiders, nematodes and other animal or plant organisms found injurious, or likely to become injurious, to any domesticated, cultivated, native or wild plant, or to the product of any such plant. (A.R.S. § 3-201(7))
- “Phytosanitary certificate” means a certificate issued by a plant regulatory official for the purpose of certifying a commodity or appliance as pest free.
- “Plant” or “crop” includes every kind of vegetation, wild or domesticated, and any part thereof, as well as seed, fruit or other natural product of such vegetation. (A.R.S. § 3-201(8))
- ~~“Reshipment” means the shipment of a commodity after receipt from another shipping point.~~
- “Processed product” means any fruit, vegetable, or other food product covered under the regulations in this part which has been preserved by any recognized commercial process, including, but not limited to canning, freezing, dehydrating, drying, the addition of chemical substances, or by fermentation. (7 CFR § 52.2)
- “Sell” means to exchange for money or its equivalent including to offer, expose, or possess a commodity for sale or to otherwise exchange, barter, or trade.
- ~~“Serious damage” means any injury or defect rising from any circumstance, natural or mechanical, that affects the appearance or the edible or shipping quality of a commodity, or lot.~~
- “Soil” means any non-liquid combination of organic, or organic and inorganic material in which plants can grow.
- ~~“Stub or soca cotton” means cotton stalks of a previous crop that begin to show signs of growth.~~
- “Subcontainer” means any container being used within another container.
- “Transport” means moving an article from one point to another.
- “Treatment” means an application of a substance as either a spray, mist, dust, granule, or fumigant; or a process in which a substance or procedure is used to control or eradicate a plant pest.
- “Vector” means an organism (usually an insect) that may carry a pathogen from one host plant to another.
- “Vehicle” means an automotive device, such as a car, bus, truck, or private or recreational vehicle.
- ~~“Volunteer cotton” means a sprout from seed of a previous crop.~~
- ~~“Wrapper leaves” means all leaves that do not closely enfold the compact portion of the head of lettuce or cabbage.~~



**Table 1. Time-frames (Calendar Days)**

License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time-frame
<b>QUARANTINE</b>						
<u>Plant and Crop Safe-guards, Inspection, and Certification</u>	R3-4-203	14	14	30	30	44
Boll Weevil and Pink Boll-worm	R3-4-204(D)	14	14	30	30	44
Small-Grain Crop Approval	R3-4-204(E)(4)(b)	14	14	30	30	44
Boll Weevil and Pink Boll-worm	R3-4-218	14	14	30	30	44
<del>Citrus Fruit Surface Pest</del>	<del>R3-4-219</del>	14	14	<del>60</del>	<del>30</del>	74
<del>European Corn Borer</del>	<del>R3-4-228</del>	14	14	<del>30</del>	<del>30</del>	44
Lettuce Mosaic	R3-4-233	14	14	30	30	44
Noxious Weeds <del>Regulated and Restricted-Prohibited</del>	<del>R3-4-244</del> <del>R3-4-245</del>	14	14	30	30	44
<del>Plum Curculio and Apple-Maggot</del>	<del>R3-4-240</del>	14	14	<del>60</del>	<del>30</del>	74
Colored Cotton	A.R.S. § 3-205.02 R3-4-501	14	0	0	0	14
<b>NURSERY</b>						
General Nursery Stock Inspection	R3-4-301(B)	30	14	1 yr	14	1 yr, 30 days
Special Nursery Stock Inspection: Ozonium Root Rot	R3-4-301(C)					
• Method of Growing New Renewal		7 7 7	14 14 14	60 30 4 yrs	14 14 14	67 37 4 yrs, 7 days
• Indicator Crop Planted on Applicant's Property						
Special Nursery Stock Inspection: Rose Mosaic	R3-4-301(C)	7	14	180	14	187
Special Nursery Stock Inspection: Brown Garden Snail	R3-4-301(C)	7	14	30	14	37
Special Nursery Stock Inspection: Other	R3-4-301(C)	7	14	30	14	37
Phytosanitary Field Inspection	A.R.S. § 3-233(A)(7) R3-4-407	30	7	210	7	240
<b>STANDARDIZATION</b>						
Experimental Pack and Product for Fruit and Vegetables	A.R.S. § 3-487 R3-4-740	7	7	7	7	14
Experimental Pack and Product for Citrus Fruit	A.R.S. § 3-445 R3-4-814	7	7	7	7	14
Citrus Fruit Dealer, Packer, or Shipper License	A.R.S. § 3-449	14	14	14	14	28



Fruit and Vegetable Dealer, Packer, or Shipper License	A.R.S. § 3-492	14	14	14	14	28
<b>SEED DEALERS AND LABELERS</b>						
Seed Dealer	A.R.S. § 3-235 R3-4-408	14	14	14	14	28
Seed Labeler	A.R.S. § 3-235 R3-4-408	14	14	14	14	28

**ARTICLE 2. QUARANTINE**

**R3-4-201. Definitions**

In addition to the definitions provided in A.R.S. §§ 3-201, 3-231, 3-441, 3-481, and A.A.C. R3-4-101, the following definitions terms apply to this Article:

- “Associate Director” means the Associate Director of the Plant Services Division.
- “Common carrier” means any person transporting a commodity or appliance equipment for compensation or commercial purpose.
- “Compliance agreement” means a written agreement or permit between a person and the Department for the purpose of allowing the movement or production of a regulated commodity or appliance used equipment from a quarantined area of this state and containing demonstrated safeguarding measures to ensure compliance with the purposes of A.R.S. Title 3, Chapter 2, Article 1.
- ~~“Consumer container” means a container that is produced or distributed for retail sale or for consumption by an individual.~~
- “Cotton harvesting machine” means any machine used to pick or harvest raw cotton in a field.
- ~~“Designated treatment area” means an area temporarily approved by the Department for the holding and treatment of a commodity or appliance for a pest in cases where a quarantine holding area does not exist.~~
- ~~“Epiphytically” means the function of a plant growing on another plant or object but that does not require the other plant or object as a source of nutrients.~~
- “Firewood” means wood that has been cut, sawn, or chopped into a shape and size commonly used for fuel, or other wood intended for fuel.
- “Fumigate” means to apply a gaseous substance to a commodity or appliance used equipment in a closed area to eradicate a pest.
- “Green lumber” means freshly sawn, unseasoned wood.
- “Hull” means the dry outer covering of a seed or nut.
- “Infected” means any plant or other material on or in which a disease is found.
- “Label” means all tags and other written, printed, or graphic representations in any form, accompanying or pertaining to a plant or other commodity.
- “Limited permit” means a permit issued by the Department to a common carrier or responsible party to transport a commodity or appliance used equipment that would otherwise be restricted.
- “Master permit” means a permit issued by the Department to another state department of agriculture that gives that other state authority to certify, in accordance with the terms of the permit, that a regulated commodity or appliance used equipment may enter Arizona without a quarantine compliance certificate.
- “Origin inspection agreement” means a permit issued by the Department to a person that specifies terms to ship or transport a regulated commodity or appliance used equipment into Arizona, which importation would otherwise be prohibited by this Article, and that the ~~origin state department of agriculture~~ State Plant Regulatory Official agrees with.
- “Package” means (i) any container, box, bag, or envelope used for the shipment of a commodity or appliance used equipment through postal and parcel services or (ii) individual packets of seeds for planting.
- “Pest free” means apparently free from all regulated plant pests, as determined by an inspection.
- “Pest Management Program” means any state or federally recognized program designed for the prevention, monitoring, and control of a pest or disease. Based on a targeted management (Integrated Pest Management) or holistic approach (Total Systems Approach Program) that incorporates best management practices, monitoring, cultivation practices, cultural controls, treatment programs and/or pest resistant plant varieties, cultivars or hybrids for the control or effective management of any live life stages of a pest or disease.
- ~~“Phytosanitary certificate” means a certificate issued by a regulatory official for the purpose of certifying a commodity or appliance as pest free.~~
- ~~“Private carrier” means any person transporting a commodity or appliance for a noncommercial purpose.~~
- “Quarantine compliance certificate” means a certificate issued by a plant regulatory official of the originating state that establishes that a commodity or appliance used equipment has been treated or inspected to comply with Arizona quarantine rules and orders and includes a certificate of inspection.
- “Receiver” means any person or place of business listed on a bill of lading, manifest, or freight bill as a consignee or destination for a commodity or appliance used equipment.
- “Regulated plant pest” means all live life stages of an arthropod, disease, plant, nematode, or snail that is regulated or considered under quarantine by a state or federal law, rule or order enforced by the Department.
- “Responsible party” means a common carrier, person, or place of business that is legally responsible for the possession of a commodity or appliance used equipment.
- “Stub or soca cotton” means cotton stalks of a previous crop that begin to show signs of growth.



“Treatment Manual” means the USDA-APHIS-PPQ Treatment Manual, T301—Cotton and Cotton Products, revised ~~March 2013~~ May 2017. The Treatment Manual is incorporated by reference, does not include any later amendments or editions, and is available from the Department and online at [http://www.aphis.usda.gov/import\\_export/plants/manuals/ports/downloads/treatment.pdf](http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/treatment.pdf).

**R3-4-202. ~~Transportation and Packaging~~ Domestic Importation**

- A.** Any commodity shipped or transported into the state shall be ~~inspected~~ made available for inspection if required to determine whether the commodity is free of all live pests subject to federal and state laws and rules.
- B.** ~~Each commodity shipped or transported into the state shall display the following information on a bill of lading, manifest, freight bill, or on the outside of the carton;~~
- ~~1. The name and address of the shipper and receiver;~~
  - ~~2. A certificate of inspection for nursery stock, if applicable;~~
  - ~~3. The botanical or common name of the commodity;~~
  - ~~4. The quantity of each type of commodity;~~
  - ~~5. The state or foreign country where each commodity originated;~~
  - ~~6. Any other certificate required by this Article.~~
- C.** ~~Packaging.~~
- ~~1. Any commodity shipped or transported into the state shall be packaged or wrapped in a manner to allow inspection by an inspector.~~
  - ~~2. The following and other similar types of packages are prohibited:~~
    - ~~a. Packages that cannot be opened without destroying either the package or its contents;~~
    - ~~b. Packages that cannot, once opened, be resealed after inspection without the inspector supplying additional packing material to protect the contents;~~
    - ~~c. Commodities that are packaged or sealed with wire or seals that cannot be opened and resealed without special tools or equipment;~~
    - ~~d. Clear or colored waxes applied to a commodity that prevent inspection.~~
- D.** ~~Restrictions.~~
- ~~1. Nursery stock shipments shall not enter Arizona between 8:00 a.m. Friday and 12:01 a.m. Monday, or during a legal holiday. Prior to or upon delivery, a shipper, consignor, or broker of a commodity, regulated or otherwise, (excluding processed products) which is shipped into the state must provide the receiver with a bill of lading, manifest, or other similar documentation that indicates:~~
    - ~~a. The contact information of the consignor and consignee;~~
    - ~~b. The contents of the shipment; and~~
    - ~~c. The origin of the commodity.~~
  - ~~2. A shipper, consignor, or broker must provide common carriers documentation prior to shipment containing the following additional information for any commodity that is shipped or transported into the state that is regulated by this article or other state or federal law, rule or order enforced by the Department:~~
    - ~~a. The name and physical address of the shipper and receiver;~~
    - ~~b. A certificate of inspection for nursery stock, if applicable;~~
    - ~~c. The botanical or common name of the commodity, if applicable;~~
    - ~~d. The trade or descriptive name of the used container or used equipment, if applicable;~~
    - ~~e. The quantity of each type of commodity;~~
    - ~~f. The county and state or foreign country where each commodity originated;~~
    - ~~g. Any other certificate or permit required by this Article or other state or federal law, rule or order enforced by the Department.~~
  - ~~3. Common and private carriers: A carrier shall declare all commodities at a port of entry, shall provide the receiver of a commodity regulated by this article or other state or federal law, rule or order enforced by the Department, with the documentation required under subsection (B)(2) at the time the regulated commodity is delivered to the receiver.~~
    - ~~a. All carriers shall hold a commodity until it is inspected by an inspector and a Certificate of Release, under A.R.S. § 3-209, is issued. The Director may authorize a carrier to deliver a commodity to a consignee before the inspection.~~
      - ~~i. If the commodity requiring inspection cannot be adequately inspected, the inspector may place the commodity under a “Warning Hold for Agricultural Inspection.”~~
      - ~~ii. The inspector may seal the truck to prevent the likelihood of spreading harmful pests.~~
    - ~~b. When a carrier enters the state at a port of entry where agriculture inspections are performed, the driver shall:~~
      - ~~i. Provide the inspector with the bill of lading, manifest, or a short form manifest signed by the company’s authorized agent responsible for supervising the loading of the contents in the shipment;~~
      - ~~ii. Open the vehicle and expose the contents for inspection; and~~
      - ~~iii. Assist the inspector in gaining access to the contents.~~
    - ~~e. When a carrier enters the state at a port of entry where no agricultural inspections are performed, the carrier shall follow procedures specified in subsection (D)(2)(b), proceed to destination for inspection, and provide the following information on a Load Report form:~~
      - ~~i. The name, address, and telephone number of the shipper;~~
      - ~~ii. The name, address, and telephone number of the primary receiver;~~
      - ~~iii. The name and address of the carrier;~~
      - ~~iv. The tractor unit number and trailer license number; and~~
      - ~~v. The name and address of additional receivers, if any.~~



- 3. Bulk mail facility. All commodities entering a bulk mail facility shall be held for inspection. The commodity shall not be released until an inspector inspects the commodity and issues a Certificate of Release.
  - 4. Railroad. Any commodity shipped by railroad shall be inspected at destination. The responsible party shall notify the Director in advance of the shipment to schedule an inspection of the commodity.
  - 5. Out of state destination. If a commodity requiring inspection is shipped to a point outside the state, and is confirmed by a short form manifest, freight bill, or bill of lading, the inspector shall give the driver a notice in writing, or by transit stamp, that the shipment is under quarantine while in the state, and it is unlawful to dispose of the shipment in any way unless the shipment is inspected and released by an inspector.
  - 6.4. Certificate of Release. Any person receiving a regulated commodity from a post office, United Parcel Service package transportation and delivery terminal, or any carrier without a Certificate of Release shall immediately notify the Department and request an inspection.
- E. Disposition of commodity. When a common carrier is in possession of, or responsible for, a commodity that has been inspected by an inspector and found in violation of Arizona quarantine laws, this article or other state or federal law, rule or order enforced by the Department, and elects to ship the commodity out-of-state, A.R.S. § 3-210:
- 1. The inspector shall issue a "Warning Hold for Agricultural Inspection" notice to the carrier. The carrier shall hold the notice until the commodity is removed from the state through a port of entry designated by the inspector and the removal is noted on the notice notify the shipper, consignor or broker that the commodity is being shipped out-of-state.
  - 2. The common carrier shall surrender the "Warning Hold for Agricultural Inspection" notice (driver's copy) at the port of entry specified on the notice follow the directions provided by the inspector on moving the commodity out-of-state.
- F. Violations.
- 1. The inspector shall place any commodities not meeting the requirements of subsections (C)(1) and (C)(2) under quarantine and notify the shipper in writing of the following options:
    - a. Reship the commodity out of state;
    - b. Provide the necessary labor and material to open the package and reseal it after inspection; or
    - e. Under the supervision of an inspector, destroy the shipment.
  - 2. Any person who violates any of the following provisions shall submit the load for complete inspection at a port of entry, or where apprehended;
    - a. Fails to comply with requirements on the "Warning Hold for Agricultural Inspection" notice;
    - b. Fails to comply with the inspector's instructions;
    - e. Breaks the seals of a sealed vehicle; or
    - d. Delivers a product under quarantine before it is released by an inspector, or authorized by the Director.

**R3-4-203. Repealed Plant and Crop Safeguards, Inspection, and Certification**

- A.** Definitions. In addition to the definitions provided in A.R.S. § 3-201, A.A.C. R3-4-101 and R3-4-201, the following terms apply to this Section:
- 1. "Actionable arthropod pest" means any arthropod pest that the Associate Director has determined to be an imminent threat to agriculture and horticulture within the state. Table 2 includes, but is not limited to, arthropod pests that would require immediate action and are prohibited from entry into the state.
  - 2. "Actionable nematode pest" means any nematode pest that the Associate Director has determined to be an imminent threat to agriculture and horticulture within the state. Table 3 includes, but is not limited to, nematode pests that would require immediate action and are prohibited from entry into the state.
  - 3. "Pest Management Program" means any state or federally recognized program designed for the prevention, monitoring, and control of an actionable arthropod pest or actionable nematode pest. Based on a targeted management (Integrated Pest Management) or holistic approach (Total Systems Approach Program) that incorporates best management practices, monitoring, cultivation practices, cultural controls, treatment programs and/or pest resistant plant varieties, cultivars or hybrids for the control of any live life stages of an actionable arthropod pest or actionable nematode pest associated with the commodity, with a zero pest presence tolerance.
- B.** Regulated area. Unless otherwise indicated, all states, districts, and territories of the United States.
- C.** Commodities covered.
- 1. All plants and plant products for propagation, including nursery stock (bareroot or potted), budwood, seed for planting, cuttings, stolons, and tissue culture shipped or transported into the state that is a known host for an actionable arthropod pest or actionable nematode pest from the place of origin. Additionally, all agricultural, ornamental, and vegetable seed shall comply with the laws and regulations in Article 4 of this Chapter and any other law, order or Federal regulation enforced by the Department.
  - 2. All commercially harvested bulk shipments of a plant or crop, excluding processed products, which are shipped or transported into the state that may harbor an actionable arthropod pest.
  - 3. All domestic soil shipped or transported into the state that is:
    - a. not authorized under a permit or compliance agreement issued by the U.S. Department of Agriculture;
    - b. not sterilized and not packaged for retail sale;
    - c. attached to a plant for the purpose of propagation; or
    - d. used for the purpose of landscaping or grading.
  - 4. All firewood and green lumber with attached bark.
  - 5. All used equipment utilized for the propagation, harvesting, transport, and/or maintenance of a commodity listed in subsection (C)(1), (2), (3), or (4).
- D.** Restrictions.
- 1. For commodities listed in subsection (C) that are not accompanied by proof of compliance with this section as indicated in the remainder of subsection (D); or are found infested with, or exposed to, an actionable arthropod pest or actionable nematode pest may be placed under quarantine until a disposition is determined by an inspector. A.R.S. § 3-203.
  - 2. In addition to the requirements under any other Section in this Article, law, order, or Federal law enforced by the Department, the commodities listed in subsection (C)(1), are authorized for shipment or transport into the state provided a plant regulatory official at the place of origin issues a certificate of origin and statement of compliance with this section by one of the following:



- a. For an actionable arthropod pest known to occur at origin:
    - i. The commodities in the shipment(s) are inspected and a plant regulatory official provides a certificate attesting that the commodity is apparently free of any live life stages of an actionable arthropod pest;
    - ii. The Associate Director and State Plant Regulatory Official of the origin state has placed the producer under a compliance agreement, authorizing a Pest Management Program for actionable arthropod pests, and has provided certification of compliance to the producer if all provisions of a Pest Management Program are met; or
    - iii. A certificate attesting to treatment for actionable arthropod pests known to occur in the origin location is issued by a plant regulatory official.
  - b. For an actionable nematode pest known to occur at origin:
    - i. The origin state determined through an annual survey conducted within the 12-month period immediately before shipment that the actionable nematode pests do not exist on the property or in the facility used to grow the commodity.
    - ii. The commodity in the shipment was sampled two weeks before shipment, and found free of actionable nematode pests.
    - iii. The commodity was protected from infestation of the actionable nematode pests by implementing all of the following steps:
      - (a) Propagated from clean seed or from cuttings taken 12 inches or higher above ground level;
      - (b) Planted in sterilized soil or other media prepared or treated to ensure freedom from actionable nematode pests;
      - (c) Retained in a sterilized container or bed;
      - (d) Placed on a sterilized bench or sterilized support 18 inches or higher from the ground or floor level; and
      - (e) Found pest-free using a sampling method approved by the Associate Director.
3. In addition to the requirements under any other Section in this Article, law, order, or Federal law enforced by the Department, the commodities listed in subsection (C)(2), are authorized for shipment or transport into the state provided a plant regulatory official at the place of origin issues a certificate of origin and statement of compliance with this section by one of the following:
    - a. Authorize and validate compliance for an area-wide control program for actionable arthropod pests known to occur at the origin location;
    - b. Inspect bulk shipments of commodities by standard risk-based sampling rates to achieve a 95% confidence level that the shipment is apparently free of any live life stages of an actionable arthropod pest known to occur at origin; or
    - c. Require treatment for actionable arthropod pests known to occur in the origin location by a method known to control the pest and verify effectiveness of treatment.
  4. In addition to the requirements under any other Section in this Article, law, order, or Federal law enforced by the Department, the commodities listed in subsection (C)(3), are authorized for shipment or transport into the state provided a plant regulatory official at the place of origin issues a certificate of origin and statement of compliance with this section by one of the following:
    - a. Authorize and validate a Pest Management Program or an area-wide control program for actionable arthropod pests; or
    - b. Require treatment for actionable arthropod pests known to occur in the origin location by a method known to control the pest.
  5. In addition to the requirements under any other Section in this Article, law, order, or Federal law enforced by the Department, the commodities listed in subsection (C)(4), are authorized for shipment or transport into the state provided a plant regulatory official at the place of origin issues a certificate of origin and statement of compliance with this section by one of the following:
    - a. Heat treatment as indicated in the USDA Treatment Manual, Heat Treatment Schedule: T314-a; and accompanied by a treatment certificate issued by a certified heat-treatment facility, or a state or federal regulatory official; or
    - b. Any other method approved by the Associate Director that eliminates all live life stages of an actionable arthropod pest.
  6. In addition to the requirements under any other Section in this Article, law, order, or Federal law enforced by the Department, a plant regulatory official shall ensure that the commodity listed in subsection (C)(5) is accompanied by a certificate issued by the origin state attesting that the commodity is reasonably free of all soil and extraneous plant material that could harbor a live life stage of an actionable arthropod pest.
- E. Exemptions.**
1. The Associate Director may issue an exemption to a restriction in this Section at the request of a State Plant Regulatory Official on an area-wide or county-wide basis, under the following conditions:
    - a. For an area-wide or county-wide exemption of a commodity (Master Permit):
      - i. The State Plant Regulatory Official agrees to comply with the conditions of a Master Permit that indicates the necessary safeguarding measures including monitoring, inspection, treatment, alternate treatment, and/or certification of the commodity.
      - ii. The Department may suspend or revoke a Master Permit if one or more shipments of a commodity are not in compliance with the conditions of the authorized Master Permit or live life stages of an actionable arthropod pest or actionable nematode pest are found.
    - b. For an exemption provided to a shipper of a commodity (Origin Inspection Agreement):
      - i. The State Plant Regulatory Official and the shipper agree to comply with the conditions of an Origin Inspection Agreement that indicates the necessary safeguarding measures including monitoring, inspection, treatment, alternate treatment, and/or certification of the commodity.
      - ii. The Department may suspend or revoke an Origin Inspection Agreement if one or more shipments of a commodity are not in compliance with the conditions of the Origin Inspection Agreement or live life stages of an actionable arthropod or actionable nematode pest are found.
  2. Notwithstanding any other restriction, the Associate Director may declare a State, or an area within a state, exempt to a condition in this Section if it is demonstrated by a State Plant Regulatory Official that an actionable arthropod pest or actionable nematode pest is known not to occur in the origin state and that the actionable arthropod pest or actionable nematode pest is part of a State or Federal authorized pest monitoring program that justifies the “free from” status.



- E. Violations.** Any shipper of a commodity listed in subsection (C) that is not in compliance with the restrictions indicated in subsection (D), or an actionable arthropod pest or actionable nematode pest are found on the shipment, the shipper may be temporarily suspended from shipping or transporting commodities listed in subsection (C) into the state under the following guidelines:
- The shipper will be notified of the violations and corrective measures will be provided;
  - The origin State Plant Regulatory Official will be notified of the violation and suspension;
  - The shipper will be required to contact the origin State Plant Regulatory Official to confirm completion of corrective measures;
  - The origin State Plant Regulatory Official will contact the Department to request approval to retract the suspension upon successful completion of the corrective measures; and
  - The Associate Director may retract the suspension upon satisfactory completion of the corrective measures.

**Table 2. Actionable Arthropod Pests**

<b>Common Name</b>	<b>Scientific Name</b>
Alfalfa plant bug	<i>Adelphocoris lineolatus</i>
American palm cixiid	<i>Myndus crudus</i>
Apple maggot	<i>Rhagoletis pomonella</i>
Apple mealybug	<i>Phenacoccus aceris</i>
Apple skinworm	<i>Tortrix franciscana</i>
Asian Longhorned beetle	<i>Anoplophora glabripennis</i>
Asiatic garden beetle	<i>Maladera castanea</i>
Asparagus beetle	<i>Crioceris asparagi</i>
Avocado whitefly	<i>Trialeurodes floridensis</i>
Bagworm	<i>Thyridopteryx ephemeraeformis</i>
Bean leaf beetle	<i>Cerotoma trifurcata</i>
Bifasciculate scale	<i>Chrysomphalus bifasciculatus</i>
Black cherry fruit fly	<i>Rhagoletis fausta</i>
Black orangeworm	<i>Holococera iceryaeella</i>
Black thread scale	<i>Ischnaspis longirostris</i>
Black walnut curculio	<i>Conotrachelus retentus</i>
Blueberry maggot	<i>Rhagoletis mendax</i>
Boxwood leafminer	<i>Monarthropalpus buxi</i>
Brown citrus aphid	<i>Toxoptera citricida</i>
Brown Marmorated Stink Bug	<i>Halyomorpha halys</i>
Browntail moth	<i>Nygmia phaeorrhoea</i>
Butternut curculio	<i>Conotrachelus juglandis</i>
Cactus moth	<i>Cactoblastis cactorum</i>
Cactus weevil	<i>Gerstaeckeria nobilis</i>
California red scale	<i>Aonidiella aurantii</i>
Camphor scale	<i>Pseudaonidia duplex</i>
Caribbean fruit fly	<i>Anastrepha suspensa</i>
Carob moth	<i>Ectomyelois ceratoniae</i>
Cereal leaf beetle	<i>Oulema melanopus</i>
Chaff scale	<i>Parlatoria pergandii</i>
Chestnut moth	<i>Cydia splendana</i>



<u>Chilli thrips</u>	<u><i>Scirtothrips dorsalis</i></u>
<u>Chinch bug</u>	<u><i>Blissus leucopterus</i></u>
<u>Citrus blackfly</u>	<u><i>Aleurocanthus woglumi</i></u>
<u>Citrus snow scale</u>	<u><i>Unaspis citri</i></u>
<u>Citrus whitefly</u>	<u><i>Dialeurodes citri</i></u>
<u>Cloudy-winged whitefly</u>	<u><i>Singhiella citrifolii</i></u>
<u>Clover root borer</u>	<u><i>Hylastinus obscurus</i></u>
<u>Coconut scale</u>	<u><i>Aspidiotus destructor</i></u>
<u>Coffee bean weevil</u>	<u><i>Araecerus fasciculatus</i></u>
<u>Comstock mealybug</u>	<u><i>Pseudococcus comstocki</i></u>
<u>Conifer Auger Beetle</u>	<u><i>Sinoxylon unidentatum</i></u>
<u>Corn stem weevil</u>	<u><i>Hyperodes humilis</i></u>
<u>Cottony grape scale</u>	<u><i>Pulvinaria vitis</i></u>
<u>Cowpea curculio</u>	<u><i>Chalcodermus aeneus</i></u>
<u>Croton soft scale</u>	<u><i>Phalacrocooccus howertoni</i></u>
<u>Cycad aulacaspis scale</u>	<u><i>Aulacaspis yasumatsui</i></u>
<u>Date palm mite</u>	<u><i>Oligonychus afrasiaticus</i></u>
<u>Dogwood borer</u>	<u><i>Synanthedon scitula</i></u>
<u>Eggplant pinworm</u>	<u><i>Keiferia peniculo</i></u>
<u>Emerald ash borer</u>	<u><i>Agrilus plannipennis</i></u>
<u>Euonymus scale</u>	<u><i>Unaspis euonymi</i></u>
<u>European chafer</u>	<u><i>Amphimallon majalis</i></u>
<u>European corn borer</u>	<u><i>Ostrinia nubilalis</i></u>
<u>European cranefly</u>	<u><i>Tipula paludosa</i></u>
<u>European peach scale</u>	<u><i>Parthenolecanium persicae</i></u>
<u>European pine shoot moth</u>	<u><i>Rhyacionia bouliana</i></u>
<u>Eyespotted bud moth</u>	<u><i>Spilonota ocellana</i></u>
<u>False parlatoria scale</u>	<u><i>Pseudoparlatoria parlatorioides</i></u>
<u>Florida carpenter ant</u>	<u><i>Camponotus floridanus</i></u>
<u>Florida red scale</u>	<u><i>Chrysomphalus aonidum</i></u>
<u>Florida wax scale</u>	<u><i>Ceroplastes floridensis</i></u>
<u>Glacial whitefly</u>	<u><i>Trialeurodes glacialis</i></u>
<u>Glover scale</u>	<u><i>Lepidosaphes gloverii</i></u>
<u>Grape thrips</u>	<u><i>Drepanothrips reuteri</i></u>
<u>Gray sugarcane mealybug</u>	<u><i>Dysmicoccus boninsis</i></u>
<u>Green cloverworm</u>	<u><i>Plathypena scabra</i></u>
<u>Ground mealybug</u>	<u><i>Ripersiella hibisci</i></u>
<u>Hessian fly</u>	<u><i>Mayetiola destructor</i></u>
<u>Holly leafminer</u>	<u><i>Phytomyza ilicis</i></u>
<u>Indian wax scale</u>	<u><i>Ceroplastes ceriferus</i></u>
<u>Jack Beardsley mealybug</u>	<u><i>Pseudococcus jackbeardsleyi</i></u>
<u>Juniper scale</u>	<u><i>Carulaspis juniperi</i></u>
<u>Kirkaldy whitefly</u>	<u><i>Dialeurodes kirkaldyi</i></u>



<u>Kondo ground mealybug</u>	<u>Ripersiella kondonis</u>
<u>Lantana mealybug</u>	<u>Phenacoccus parvus</u>
<u>Lesser clover leaf weevil</u>	<u>Hypera nigrirostris</u>
<u>Lesser snow scale</u>	<u>Pinnaspis strachani</u>
<u>Light brown apple moth</u>	<u>Epiphyas postvittana</u>
<u>Little fire ant</u>	<u>Wasmannia auropunctata</u>
<u>Lobate lac scale</u>	<u>Paratachardina pseudolobata</u>
<u>Maskell scale</u>	<u>Lepidosaphes pallida</u>
<u>Mealybug</u>	<u>Delottococcus confusus</u>
<u>Mealybug</u>	<u>Hypogeococcus pungens</u>
<u>Melon worm</u>	<u>Diaphania hyalinata</u>
<u>Mimosa webworm</u>	<u>Homadaula anisocentra</u>
<u>Mining scale</u>	<u>Howardia biclavis</u>
<u>Minute cypress scale</u>	<u>Carulaspis minima</u>
<u>Myrmicine ant</u>	<u>Monomorium destructor</u>
<u>Myrmicine ant</u>	<u>Monomorium floricola</u>
<u>Northern citrus root weevil</u>	<u>Pachnaeus opalus</u>
<u>Obscure scale</u>	<u>Melanaspis obscura</u>
<u>Old house borer</u>	<u>Hylotrupes bajulus</u>
<u>Oleander pit scale</u>	<u>Russellaspis pustulans</u>
<u>Oriental fruit moth</u>	<u>Grapholita molesta</u>
<u>Oriental scale</u>	<u>Aonidiella orientalis</u>
<u>Palm fiorinia scale</u>	<u>Fiorinia fioriniae</u>
<u>Palm thrips</u>	<u>Thrips palmi</u>
<u>Papaya fruit fly</u>	<u>Toxotrypana curvicauda</u>
<u>Pepper flower bud moth</u>	<u>Gnorimoschema gudmannella</u>
<u>Pepper maggot</u>	<u>Zonosemata electa</u>
<u>Pepper tree psyllid</u>	<u>Calophya schini</u>
<u>Persimmon borer</u>	<u>Sannina uroceriformis</u>
<u>Pickleworm</u>	<u>Diaphania nitidalis</u>
<u>Pink hibiscus mealybug</u>	<u>Maconellicoccus hirsutus</u>
<u>Pitmaking pittosporum scale</u>	<u>Planchonia arabisdis</u>
<u>Plum curculio</u>	<u>Conotrachelus nenuphar</u>
<u>Plum fruit moth</u>	<u>Cydia funebrana</u>
<u>Plumeria whitefly</u>	<u>Paraleyrodes perseae</u>
<u>Potato stalk borer</u>	<u>Trichobaris trinotata</u>
<u>Proteus scale</u>	<u>Parlatoria proteus</u>
<u>Purple scale</u>	<u>Lepidosaphes beckii</u>
<u>Pyriform scale</u>	<u>Protospulvinaria pyriformis</u>
<u>Red palm mite</u>	<u>Raoiella indica</u>
<u>Red-banded thrips</u>	<u>Selenothrips rubrocinctus</u>
<u>Rednecked cane borer</u>	<u>Agrilus ruficollis</u>
<u>Rose chafer</u>	<u>Macroductylus subspinosus</u>
<u>Royal palm bug</u>	<u>Xylastodoris luteolus</u>



<u>Rufous scale</u>	<u><i>Selenaspidus articulatus</i></u>
<u>Saddleback caterpillar</u>	<u><i>Acharia stimulea</i></u>
<u>Satin moth</u>	<u><i>Leucoma salicis</i></u>
<u>Sirex woodboring wasp</u>	<u><i>Sirex noctilo</i></u>
<u>South African pit scale</u>	<u><i>Planchonia stentae</i></u>
<u>South American fruit fly</u>	<u><i>Anastrepha fraterculus</i></u>
<u>South American palm weevil</u>	<u><i>Rhynchophorus palmarum</i></u>
<u>Southeastern Boll Weevil Biotype</u>	<u><i>Anthonomus grandis</i></u>
<u>Southern chinch bug</u>	<u><i>Blissus insularis</i></u>
<u>Southern citrus root weevil</u>	<u><i>Pachnaeus litus</i></u>
<u>Southern green stink bug</u>	<u><i>Nezara viridula</i></u>
<u>Stalk borer</u>	<u><i>Papaipema nebris</i></u>
<u>Strawberry root weevil</u>	<u><i>Otiiorhynchus ovatus</i></u>
<u>Subtropical pine tip moth</u>	<u><i>Rhyacionia subtropica</i></u>
<u>Sugarcane root borer</u>	<u><i>Diaprepes abbreviatus</i></u>
<u>Sweetpotato weevil</u>	<u><i>Cylas formicarius</i></u>
<u>Tawny mole cricket</u>	<u><i>Neoscapteriscus vicinus</i></u>
<u>Tea parlatoria scale</u>	<u><i>Parlatoria theae</i></u>
<u>Tea scale</u>	<u><i>Fiorinia theae</i></u>
<u>Tropical fire ant</u>	<u><i>Solenopsis geminata</i></u>
<u>Tropical palm scale</u>	<u><i>Hemiberlesia palmae</i></u>
<u>Weevil</u>	<u><i>Artipus floridanus</i></u>
<u>West Indian Sweet potato weevil</u>	<u><i>Euscepes postfaciatus</i></u>
<u>Wheat strawworm</u>	<u><i>Harmolita grandis</i></u>
<u>White peach scale</u>	<u><i>Pseudaulacaspis pentagona</i></u>
<u>White waxy scale</u>	<u><i>Ceroplastes destructor</i></u>
<u>White-footed ant</u>	<u><i>Technomyrmex difficilis</i></u>
<u>Yellow scale</u>	<u><i>Aonidiella citrina</i></u>
<u>Yellow margined leaf beetle</u>	<u><i>Microtheca ochroloma</i></u>

**Table 3. Actionable Nematode Pests**

<b>Common Name</b>	<b>Scientific Name</b>
<u>Burrowing nematode</u>	<u><i>Radopholus similis</i></u>
<u>Golden nematode</u>	<u><i>Globodera rostochiensis</i></u>
<u>Oat cyst nematode</u>	<u><i>Heterodera avenae</i></u>
<u>Reniform nematode</u>	<u><i>Rotylenchulus reniformis</i></u>
<u>Sheath nematode</u>	<u><i>Hemicycliophora arenaria</i></u>
<u>Soybean cyst nematode</u>	<u><i>Heterodera glycines</i></u>
<u>Sting nematode</u>	<u><i>Belonolaimus longicaudatus</i></u>
<u>White cyst potato nematode</u>	<u><i>Globodera pallida</i></u>

**R3-4-204. ~~Boll Weevil and Pink Bollworm Pests~~ Cotton Pest Management: Interior Quarantine**

- A. Definitions. The following terms apply to this Section:
1. "Crop remnant" means the stalks, leaves, bolls, lint, pods, and seeds of cotton;
  2. "Pests" means any of the following:
    - a. Pink bollworm, *Pectinophora gossypiella* (Saunders); or
    - b. Boll weevil complex, *Anthonomus grandis* (Boheman) complex.
  2. "Stub cotton" means cotton stalks of a previous crop that begin to show signs of growth;



- 3. “Volunteer cotton” means a sprout from seed of a previous crop.
- B.** Regulated commodities and appliances.
  - 1. Cotton, all parts;
  - 2. Cotton gin trash;
  - 3. Used cotton harvesting machines; and
  - 4. Other materials, products, and equipment that are means of disseminating or proliferating the pests.
- C.** Cotton gin trash. Any person operating an Arizona cotton gin shall daily destroy cotton gin trash by using a method prescribed in the Treatment Manual.
- D.** Restrictions.
  - 1. A person shall not ship or transport a regulated commodity or appliance from an area infested with pests except pursuant to a limited permit issued by or a compliance agreement with the Department.
  - 2. Any person intending to ship or transport a regulated commodity pursuant to a limited permit or compliance agreement shall provide the Department with the following information before the date of movement or shipment:
    - a. The quantity of the regulated commodity or appliance to be moved;
    - b. The location of the commodity or appliance;
    - c. The names and addresses of the consignee and consignor;
    - d. The method of shipment; and
    - e. The scheduled date of the shipment.
  - 3. The shipper shall attach all permits and compliance agreements to the manifest, waybill, or bill of lading which shall accompany the shipment.
  - 4. Permits and compliance agreements shall specify the manner of handling or treating a regulated commodity or appliance. Pink bollworm and boll weevil treatment shall be under official supervision and applied as prescribed in the Treatment Manual.
- E.C.** Cultural practices.
  - 1. Arizona’s cultural zones are:
    - a. Zone “A” -- Yuma County west of a line extended directly north and directly south of Avenue 58E.
    - b. Zone “B” -- Cochise County, Graham County, and Greenlee County.
    - c. Zone “C” -- Mohave County and La Paz County, except for the following: T6N, R11W, 12W, 13W; T5N, R12W, 13W; T4N, R12W, 14W, 15W; T3N, R10W, 11W; and T2N, R11W.
    - d. Zone “D” -- Pima County; the following portions of Pinal County: T10S, R10E, sections 34-36; T10S, R11E, section 31; T7S, R16E; T6S, R16E; T5S, R15E; T5S, R16E and T4S, R14E; and the following portions of the Aguila area: T6N, R8W; T7N, R8W, 9W, 10W; T7N, R11W, other than sections 24, 25 and 36; and T8N, R9W, sections 31-36.
    - e. ~~Zone~~ Zone “E” -- All portions of the state not included in zones “A”, “B”, “C”, and “D.”
  - 2. No stub, ~~soea~~, or volunteer cotton shall be grown in or allowed to grow in the state. The landowner or grower shall be responsible for eliminating stub, ~~soea~~, or volunteer cotton.
  - 3. Tillage deadline. Except as provided in subsection (E.C)(4), a grower shall ensure that a crop remnant of a host plant remaining in the field after harvest is shredded and the land tilled to destroy the host plant and its root system so no stalks remain attached to the soil before the following dates or before planting another crop, whichever occurs earlier: Zone “A”, January 15; Zone “B”, March 1; Zone “C”, February 15; Zone “D”, March 1; Zone “E”, February 15.
  - 4. Rotational crop following cotton harvest.
    - a. If a grower elects to plant a small-grain crop following a cotton harvest, the grower may, after the host plant is shredded, irrigate and plant with wheat, barley, or oats (or other similar small-grain crops approved in writing by the Associate Director before planting) instead of tilling as prescribed in subsection (E.C)(3). The small-grain crop shall be planted before the tillage deadline for the zone.
    - b. The Associate Director shall approve small-grain crops other than wheat, barley, and oats, if the planting, growth, and harvest cycles of the small-grain crop prevents the maturation of stub, ~~soea~~, or volunteer cotton. A grower shall submit a written request for approval of a small-grain crop, other than wheat, barley, or oats, at least 15 days before the tillage deadline for the zone. The written request shall include the scientific and common name of the proposed small-grain crop and the estimated date of harvest.
    - c. If a grower elects to plant a crop other than an approved small-grain crop following a cotton harvest, the requirements specified in subsection (E.C)(3) apply.
  - 5. Planting dates.
    - a. A grower who meets the tillage deadline specified in subsection (E.C)(3) for the preceding cotton crop year shall not plant cotton earlier than 15 days after the tillage deadline for the zone.
    - b. A grower who does not meet the tillage deadline specified in subsection (E.C)(3) for the preceding cotton crop year shall not plant cotton on a farm until 15 days after the grower ensures that all crop remnants of a host plant remaining in the fields after harvest are shredded and the land tilled to destroy the host plant and its root system so no stalks remain attached to the soil.
  - 6. Dry planting. Any grower who meets the tillage deadline for the zone may dry plant cotton five days after the tillage deadline for that zone, but shall not water until 15 days after the tillage deadline for that zone.
  - 7. An inspector shall give written notice to any owner or person in charge or control of the nuisance found in violation of subsection (E.C). The processes established in subsections (E.C)(3) and (E.C)(4) shall be repeated, as necessary, to destroy the pests.
- F.** Advisory Committee. The Director, as necessary, shall appoint an advisory committee composed of the nominated representatives of the Arizona Cotton Growers Association and the Arizona Cotton Research and Protection Council and such other individuals as may be necessary to make recommendations to the Department on amendments to this Section.

**R3-4-218. Boll Weevil and Pink Bollworm Pests: Exterior Quarantine**

- A.** Definitions. In addition to the definitions provided in A.R.S. § 3-201, R3-4-101 and R3-4-201, the following terms apply to this Section:
1. "Cotton appliance" means a container used in handling cotton, including sacks, bags, tarps, boxes, crates, and machinery used in planting, harvesting and transporting cotton.
  2. "Cotton lint" means the remnant produced when cottonseed is processed in a gin.
  23. "Cottonseed" means a seed derived from cotton plants which is destined for propagation or other use.
  34. "Fumigation certificate" means a quarantine compliance certificate that specifies the fumigation chemical used, the treatment schedule, and the commodity treated.
  45. "Hibiscus" means all parts of *Hibiscus* spp.
  56. "Pest" means ~~any of the following, notwithstanding the definition in A.R.S. § 3-201:~~
    - a. Boll weevil, *Anthonomus grandis* (Boheman); ~~or,~~
    - b. Pink bollworm, *Pectinophora gossypiella* (Saunders);
  67. "Spanish moss" means all parts of *Tillandsia usneoides*.
- B.** Area under quarantine.
1. ~~Boll weevil.~~ In the state of Texas, the following counties: Anderson, Angelina, Aransas, Atascosa, Austin, Bastrop, Bee, Bell, Bexar, Blanco, Bosque, Bowie, Brazoria, Brazos, Brooks, Burleson, Burnett, Caldwell, Calhoun, Cameron, Camp, Cass, Chambers, Cherokee, Collin, Colorado, Comal, Cooke, Coryell, Dallas, Delta, Denton, De Witt, Dimmit, Duval, Ellis, Falls, Fannin, Fayette, Fort Bend, Franklin, Freestone, Frio, Galveston, Gillespie, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hamilton, Hardin, Harris, Harrison, Hays, Henderson, Hidalgo, Hill, Hood, Hopkins, Houston, Hunt, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Karnes, Kaufman, Kendall, Kenedy, Kinney, Kleberg, Lamar, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Llano, Madison, Marion, Matagorda, Maverick, McLennan, McMullen, Medina, Milam, Mills, Montague, Montgomery, Morris, Nacogdoches, Navarro, Newton, Nueces, Orange, Panola, Parker, Polk, Rains, Red River, Refugio, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Shelby, Smith, Somervell, Starr, Tarrant, Titus, Travis, Trinity, Tyler, Upshur, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Willacy, Williamson, Wilson, Wise, Wood, Zapata, and Zavala.
  2. ~~Pink bollworm. New Mexico, Texas, and the following counties of California: Fresno, Imperial, Inyo, Kern, Kings, Los Angeles, Madera, Merced, Orange, Riverside, San Bernardino, San Benito, San Diego, and Tulare.~~
- C.** Regulated commodities ~~and appliances.~~
1. Gin trash,
  2. Cotton lint,
  3. Cottonseed,
  4. Used cotton appliances or equipment that have any cotton plants attached or contained therein,
  5. Cotton plants,
  6. Spanish moss, and
  7. Hibiscus plants.
- D.** Restrictions. A person shall not ship or transport into Arizona from an area under quarantine:
1. ~~For the pink bollworm, any regulated commodity or appliance that is not accompanied by a permit or certificate required by 7 CFR 301.52 et seq., revised January 1, 2013. This incorporation by reference does not include any later amendments or editions and is available from the Department and online at <http://www.gpo.gov/fdsys/>.~~
  2. ~~For the boll weevil,~~
    - a1. Gin trash, cotton lint, cottonseed, or used cotton appliances or equipment that have any cotton plants attached or contained therein unless the commodity or appliance is accompanied by an original fumigation certificate attesting the commodity or appliance has been fumigated as prescribed in the Treatment Manual.
    - b2. Cotton plants or hibiscus plants unless the commodity is accompanied by an original quarantine compliance certificate attesting the commodity was treated with a chemical to kill the pest and was visually inspected and found free of all live life stages of the pest within five days of shipment.
    - e3. Spanish moss, unless the commodity is accompanied by an original quarantine compliance certificate attesting the commodity was treated by one of the following methods:
      - ia. Commercial drying; or
      - ib. Chemical treatment using a pesticide registered and labeled for use on the commodity to kill all live life stages of the pest.

**R3-4-219. Citrus Fruit Surface Pest Repealed****A.** Definitions.

- "Pest" means all life stages of the following:
- Aonidiella aurantii*, California red scale;
  - Aonidiella citrina*, Yellow scale;
  - Asynonychus godmani*, Fuller rose beetle;
  - Chrysomphalus aonidum*, Florida red scale;
  - Cormiaspis beekii*, Purple scale;
  - Lepidosaphes gloverii*, Glover scale;
  - Maconellicoccus hirsutus*, Pink hibiscus mealybug;
  - Parlatoria pergandii*, Chaff scale;
  - Phyllocoptruta oleivora*, Citrus rust mite; or
  - Pseudococcus comstocki*, Comstock mealybug.

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

**C.** Regulated commodities and appliances.



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

**D. Restrictions.**

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

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

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

**F. Treatment.**

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

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

- 2. ~~Methyl bromide fumigation (Q label). The regulated commodity shall be treated for two hours at one of the following rates:~~

Pulp Temperature	Rate per 1000 cu. ft.
60° F to 79° F	3 lbs.
80° F or higher	2 1/2 lbs.

- 3. ~~Irradiation. The regulated commodity shall be treated at a rate approved by the Director.~~
- 4. ~~Steam treatment. The regulated appliance shall be cleaned to remove all fruit, leaves, stems, and other debris and then steam treated.~~
- 5. ~~Other treatment. The regulated commodity or appliance shall be treated by any other method approved by the Director.~~

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

**R3-4-220. Citrus Nursery Stock Pests**

**A. Definitions. "Pest" means any of the following viral diseases or arthropods: In addition to the definitions provided in A.R.S. § 3-201, A.A.C. R3-4-101 and R3-4-201, the following terms apply to this Section:**

- 1. Viral diseases: "Diseases" means any of the following diseases, notwithstanding the definition in A.R.S. § 3-201:
  - a. Citrus Cachexia (CvD-H)(CCaVd),
  - b. Citrus Exocortis Virus (CEVd),
  - c. Citrus Psorosis Virus (CPsV), or
  - d. Citrus Tristeza Virus (CTV), or
  - e. Citrus greening disease (HLB), Candidatus *Liberibacter asiaticus*.
- 2. Arthropods. All life stages of:  
*Aceria sheldoni*, Citrus bud mite;  
*Maconellicoccus hirsutus*, Pink hibiscus mealybug;  
*Phyllocoptruta oleivora*, Citrus rust mite; or  
*Pseudococcus comstocki*, Comstock mealybug.
- 2. "Shoot-tip-grafting" means a treatment method that employs micro-grafting to eliminate the chances of transmitting a disease.
- 3. "Thermotherapy" means a treatment method for propagative material that employs high temperatures to eliminate the presence of a disease.

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

**C. Regulated commodities and appliances.**

- 1. Commodities. A plant or plant part, Citrus nursery stock. All plants or plant parts, except seed or attached green fruit, of all species, varieties, or hybrids of the genera *Citrus*, *Eremocitrus*, *Fortunella*, *Poncirus*, and *Microcitrus*.
- 2. Appliances. An appliance used in a citrus grove, citrus nursery, or other area to handle citrus nursery stock listed in subsection (C)(1).

**D. Restrictions.**

- 1. A person may ship a regulated commodity into Arizona from an area under quarantine if the regulated commodity is accompanied by a certificate issued by a plant regulatory official from the origin state, attesting that the commodity:
  - a. Originates from an area not under quarantine for citrus tristeza virus, and
  - b. Originates from a source tree that is:
    - i. Tested for Cachexia, citrus exocortis virus, and citrus psorosis virus; or
    - ii. From budwood tested for Cachexia, citrus exocortis virus, and citrus psorosis virus; and
    - iii. Tested annually for citrus tristeza virus; and



- e. Was treated within five days before shipment with a chemical to kill the arthropod pests listed in subsection (A)(2), and that the commodity is free of all live life stages of the arthropod pests listed in subsection (A)(2).
- 2. A person shall not ship a Meyer lemon plant or plant part, except fruit, into Arizona. An exception is allowed for the selection Improved Meyer lemon plant or plant part, which may be shipped into Arizona in compliance with this Section.
- 1. The commodity listed in subsection (C) is prohibited from entry into the state from the area under quarantine unless one of the following conditions are met prior to shipment:
  - a. The regulated commodity is permitted under a USDA-APHIS approved program for the interstate movement of citrus nursery stock;
  - b. A regulated commodity that is not subject to the restrictions for the interstate movement of citrus nursery stock may be certified under an origin state department of agriculture authorized program or National Clean Plant Network program that ensures the regulated commodity is foundation or source material, or has been propagated from a foundation or source tree that has been:
    - i. Tested and found free of the diseases listed in subsection (A)(1)(a),(b),(c), and (d) within the previous thirty-six months;
    - ii. Tested and found free of the disease listed in subsection (A)(1)(e) within the previous twelve months;
    - iii. Treated by thermotherapy or shoot-tip-grafting;
    - iv. Assigned and tagged with an index number; and
    - v. Released from the origin state or federal quarantine.
  - c. The regulated commodity is safeguarded and certified by an alternative method approved by the Associate Director.
- 3.2. A person shipping a regulated commodity into Arizona shall attach a single tag or label to each plant or plant part, or to each individual container containing a plant or plant part, that is intended for resale by an Arizona receiver. The tag or label shall contain the following information separately provided for each scion variety grafted to a single rootstock:
  - a. Name and address of the nursery that propagated the plant,
  - b. Scion variety name,
  - c. Scion variety registration number, and
  - d. Rootstock variety name.
- 4. ~~A person shipping a regulated commodity into Arizona shall ensure the commodity complies with the entry requirements prescribed in R3-4-226 and R3-4-238.~~
- 5. ~~A person may ship a regulated appliance into Arizona if the appliance is accompanied by a certificate issued by a plant regulatory official from the origin state. The certificate shall state that the appliance was treated within five days before shipment with a chemical to kill the arthropod pests listed in subsection (A)(2), and that the appliance is free of all live life stages of the arthropod pests listed in subsection (A)(2).~~
- E. ~~Disposition of regulated commodity or appliance not in compliance. A regulated commodity or appliance shipped into Arizona in violation of this Section shall be destroyed, treated, or transported out-of-state as prescribed at A.R.S. Title 3, Chapter 2, Article 4(A.R.S. § 3-210).~~

### R3-4-226. ~~Scale Insect Pests~~ **Repealed**

#### **A.** Definitions:

"Pest" means all life stages of the following:

*Aonidiella aurantii*, California red scale;

*Aonidiella citrine*, Yellow scale;

*Chrysomphalus aonidum*, Florida red scale; or

*Pulvinaria psidi*, Green shield scale.

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

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

*Camellia*;

*Chrysalidocarpus*;

*Citrus*;

*Cycas*;

*Dracaena*;

*Eremocitrus*;

*Euonymus*;

*Ficus*;

*Fortunella*;

*Hex*;

*Ligustrum*;

*Microcitrus*;

*Poncirus*, and

*Rosa*

**D.** Restrictions. A person may ship a regulated commodity to Arizona from an area under quarantine if each shipment is accompanied by a certificate issued by a plant regulatory official of the origin state within five days before shipment attesting that one of the following is true:

1. A regulated commodity of the genera *Citrus*, *Eremocitrus*, *Fortunella*, *Microcitrus*, and *Poncirus* was treated with a chemical to kill the pests listed in subsection (A) and was visually inspected and found free of all live life stages of the pests listed in subsection (A);

2. A regulated commodity not listed in subsection (D)(1):



- a. Was treated with a chemical to kill the pests listed in subsection (A) and was visually inspected and found free of all live life stages of the pests listed in subsection (A); or
  - b. Originated from a nursery with a pest management program recognized and monitored by the origin state to control the pests listed in subsection (A), and was visually inspected and found free of all live life stages of the pests listed in subsection (A).
- E.** Disposition of regulated commodity not in compliance. A regulated commodity shipped into Arizona in violation of this Section shall be destroyed, treated, or transported out of state as prescribed at A.R.S. Title 3, Chapter 2, Article 1.

**R3-4-228. European Corn Borer Repealed**

- A.** Definitions. The following terms apply in this Section:
- “Corn” means *Zea* spp.
  - “Fragment” means a portion of a regulated commodity that cannot pass through a 1/2” aperture or a completely whole, round, and unerushed piece of cob, stalk, or stem of at least 1” in length and 3/16” in diameter.
  - “Pest” means all life stages of the European corn borer, *Ostrinia nubilalis*.
  - “Shelled grain” means the seed or kernel of corn or sorghum that has been separated from every other plant part.
  - “Sorghum” means *Sorghum* spp.
- B.** Area under quarantine.
1. The entire states of Alabama, Arkansas, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.
  2. The District of Columbia.
  3. In the state of Florida, the following counties: Calhoun, Escambia, Gadsden, Hamilton, Holmes, Jackson, Jefferson, Madison, Okaloosa, and Santa Rosa.
  4. In the state of Louisiana, the following parishes: Bossier, Caddo, Concordia, East Carroll, Franklin, Madison, Morehouse, Natchitoches, Ouachita, Red River, Richland, Tensas, and West Carroll.
  5. In the state of New Mexico, the following counties: Chaves, Curry, Quay, Roosevelt, San Juan, Santa Fe, Torrance, Union, and Valencia.
  6. In the state of Texas, the following counties: Bailey, Carson, Castro, Dallam, Deaf Smith, Floyd, Gray, Hale, Hansford, Hartley, Hutchinson, Lamb, Lipscomb, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, and Swisher.
- C.** Regulated commodities. The plants corn and sorghum and every plant part, including seed, shelled grain, stalks, ears, cobs, fragments, and debris are regulated commodities under this Section.
- D.** Restrictions. A person shall not ship into Arizona a regulated commodity from an area under quarantine unless each shipment is accompanied by a certificate, issued by a plant regulatory official of the state of origin, attesting that the regulated commodity was treated by a method listed in subsection (F), under the official’s supervision.
- E.** Exemptions.
1. Treatment prescribed in subsection (F) is waived for all of the following:
    - a. Shelled grain, if the grain is accompanied by an original certificate issued by a plant regulatory official of the state of origin attesting that:
      - i. The shelled grain was passed through a 1/2” or smaller size mesh screen at the place of origin, and
      - ii. The shipment is free of plant fragments capable of harboring the larval life stage of the pest;
    - b. Commercially packaged shelled popcorn, planting seed, and grain for human consumption; or
    - e. A regulated commodity manufactured or processed by a method that eliminates the pest.
  2. The Director shall issue a permit to allow a regulated commodity from an area under quarantine, other than one exempt under subsection (E)(1), to enter Arizona without the treatment prescribed in subsection (F) if the regulated commodity originates from an area certified as pest free by a plant regulatory official of the state of origin.
- F.** Treatment.
1. Methyl bromide fumigation (Q label) applied at label rates.
  2. Any other treatment approved by the Director.
- G.** Disposition. If a person ships a regulated commodity into Arizona in violation of this Section, the regulated commodity shall be destroyed, treated, or transported out of state as prescribed in A.R.S. Title 3, Chapter 2, Article 1.

**R3-4-229. Nut Tree Pests**

- A.** Definitions. In addition to the definitions provided in A.R.S. § 3-201 and R3-4-102, A.A.C. R3-4-101 and R3-4-201, the following terms apply to this Section:
1. “Brooming” means a virus-like phytoplasma disease that drastically reduces nut production and sometimes causes death of the host tree.
  2. “Pest” means any of the following, notwithstanding the definition in A.R.S. § 3-201:
    - a. Pecan leaf casebearer, *Acrobasis juglandis* (~~Le Baron~~);
    - b. Pecan nut casebearer, *Acrobasis nuxvorella* (~~Neunzig~~);
    - c. Pecan phylloxera, *Phylloxera devastatrix* *Phylloxera notabilis*; and
    - d. The pathogen phytoplasma disease that causes brooming disease of walnut.
- B.** Area under quarantine: All states, districts, and territories of the United States except California.
- C.** Infested area.
1. For *Acrobasis* spp. the pests in subsection (A)(2)(a) and (b): All states and districts east of and including the states of Montana, Wyoming, Colorado, Oklahoma, and Texas; in New Mexico, the counties of Chaves, Lea, Roosevelt, Eddy, Dona Ana, Otero, and Quay and New Mexico.



2. For ~~pecan phylloxera~~ the pest in subsection (A)(2)(c): Alabama, Arkansas, Louisiana, Mississippi, Oklahoma, and Texas.
  3. For ~~brooming disease of walnut~~ the pest in subsection (A)(2)(d): All states and districts east of and including Montana, Wyoming, Colorado, and New Mexico.
- D. Commodities covered:
1. All species and varieties of the following trees and all plant parts capable of propagation, except the nuts. Plant parts include buds, scions, and rootstocks:
    - a. Hickory and pecan (*Carya* spp.);
    - b. Walnut and butternut (*Juglans* spp.);
  2. ~~All by-products of pruning, harvesting and/or processing, including Pecan firewood;~~ of a commodity listed in subsection (D)(1).
  3. ~~Any used appliance, used box, or sack used equipment used during the growing, harvesting, handling, transporting, or storing nuts and hulls care, or maintenance of a commodity listed in subsection (D)(1);~~
  4. ~~Any used container, used in the handling, storage, or transport of a commodity listed in subsection (D)(1).~~
- E. Restrictions:
1. ~~The commodities listed in subsection (D)(1), that are potted in any growing media shall be prohibited from the area under quarantine, unless otherwise exempted by the Associate Director.~~
  2. The commodities listed in subsection (D)(1), ~~that are not potted in any growing media,~~ shall be admitted into Arizona:
    - a. From the infested area prescribed in subsections (C)(1) and (C)(2) if treated at origin and each lot or shipment is accompanied by a certificate issued by ~~the origin state department of agriculture~~ a plant regulatory official affirming the commodity has been treated in accordance with a selected method prescribed in subsection (F)(1), (2), or (5);
    - b. From an area under quarantine outside the infested area, if each lot or shipment is accompanied by a certificate issued by ~~the origin state department of agriculture~~ a plant regulatory official affirming that the commodities originated in a county not known to be infested with the pests listed in subsections (A)(2)(a), (b), and (c).
  3. The commodities listed in subsection (D)(1)(b) shall be:
    - a. Prohibited from entering Arizona from the infested area prescribed in subsection (C)(3);
    - b. Admitted into Arizona from an area under quarantine outside the infested area prescribed in subsection (C)(3), if each lot or shipment is accompanied by a certificate issued by ~~the origin state department of agriculture~~ a plant regulatory official affirming ~~brooming the pest listed in subsection (A)(2)(d) is unknown in the origin county.~~
  4. The commodities listed in subsections (D)(2) and (D)(3) are prohibited from entering the state unless ~~fumigated as prescribed~~ treated by a method prescribed in subsection (F)(1), (3), or (5).
  5. ~~The commodities listed in subsections (D)(3) and (4) are prohibited from entering the state unless treated by a method indicated in subsection (F)(1),(4) or (5).~~
- F. Treatments:
1. Methyl bromide fumigation at ~~normal atmospheric pressure, with circulations maintained for 30 minutes, as follows:~~ manufacturers recommended rates.
    - a. ~~2 lbs. per 1,000 cu.ft. for four hours at 70° F or more,~~
    - b. ~~3 lbs. per 1,000 cu.ft. for four hours at 60-69° F.~~
  2. A hot-water dip at 140° F or more for a minimum of 30 continuous seconds.
  3. ~~Heat treated to an internal temperature of 160° F at the center of the commodity for at least 75 minutes.~~
  4. ~~Appliances-Used equipment and containers.~~
    - a. Steam-cleaned, inspected, and certified free from debris by the origin state, or
    - b. Cold treatment in a cold storage chamber at or below 0° F for at least seven consecutive days (168 hours).
  5. Any other treatment approved by the Associate Director.

### R3-4-231. Nut Pests

- A. ~~Definition~~ Definitions. In addition to the definitions provided in A.R.S. § 3-201 and ~~R3-4-102~~R3-4-101 and R3-4-201, the following term applies to this Section:
- “Pest” means any of the following, notwithstanding the definition in A.R.S. § 3-201:
1. Pecan weevil, *Curculio caryae* (Horn);
  2. Butternut curculio, *Conotrachelus juglandis* LeC;
  3. Black walnut curculio, *Conotrachelus retentus* Say; and
  4. Hickory shuckworm, *Laspeyresia caryana* (Fitch) *Cydia caryana*.
  5. “Sticktight” means the remnant husks and/or debris that remain on an in-shell nut after the cleaning process.
- B. Area under quarantine:
1. ~~Pecan weevil: All~~ For the pest under subsection (A)(1): ~~The New Mexico counties of Chaves, Curry, Eddy, and Lea and all other states and districts of the United States except California and New Mexico.~~
  2. ~~Hickory shuckworm: For the pest under subsection (A)(2):~~ The New Mexico counties of Lea, Eddy, and Dona Ana, and all other states and districts of the United States except California.
  3. ~~Black walnut curculio and butternut curculio: For the pests under subsection (A)(3) and (4):~~ All states and districts of the United States except California.
- C. Commodities covered:
1. Nuts of all species and varieties of hickory, pecan (*Carya* spp.), walnut and butternut (*Juglans* spp.), except extracted nut meats.
  2. ~~Any used appliance, used box or sack used equipment used during growing, harvesting, handling, transporting, or storing nuts and hulls care, or maintenance of a commodity listed in subsection (C)(1).~~
  3. ~~Any used container, used in the handling, storage, or transport of a commodity listed in subsection (C)(1).~~
- D. Restrictions:
1. A commodity listed in subsection (C)(1), originating in or shipped from the area under quarantine, shall be admitted into Arizona if the commodity has been cleaned of husks, hulls, debris, and sticktights and each lot or shipment is accompanied by a cer-



tificate issued by the origin state department of agriculture a plant regulatory official affirming the commodity has been treated in accordance with by a method prescribed in subsection (E) (1), (2), (3), or (5).

2. A commodity listed in subsections (C)(2) and (3) shall be admitted into Arizona if the commodity has been fumigated as treated by a method prescribed in subsections (E)(3) and (E)(4) (E)(3), (4), or (5).

**E. Treatment:**

1. Cold treatment: The commodities shall be held in a cold storage chamber at or below 0° F for at least seven consecutive days (168 hours). The treatment shall not start until the entire content of the lot of nuts has reached 0° F
2. A hot-water bath treatment at 140° F for a minimum of five continuous minutes. Water temperature shall be maintained at or above 140° F during the entire treatment period.
3. Methyl bromide fumigation at normal atmospheric pressure, with circulations maintained for 30 continuous minutes, as follows: manufacturers recommended rates.
  - a. 2 lbs. per 1,000 cu. ft. for four hours at least 70° F, or
  - b. 3 lbs. per 1,000 cu. ft. for four hours at 60-69° F.
4. Appliances Used equipment and containers.
  - a. Steam-cleaned, inspected, and certified free from debris by the origin state,
  - b. Cold treatment in a cold storage chamber at or below 0° F for at least seven consecutive days (168 hours).
5. Any other treatment approved by the Associate Director.

**R3-4-234. Nematode Pests Repealed**

**A. Definition:**

“Pest” means the reniform nematode, *Rotylenchulus reniformis*, and the burrowing nematode, *Radopholus similis* (Cobb).

**B. Areas under quarantine:**

1. Reniform nematode:

- a. The entire states of Florida and Hawaii.
- b. The Commonwealth of Puerto Rico.
- c. In the state of Alabama, the counties of, Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Dale, Dallas, DeKalb, Elmore, Escambia, Etowah, Fayette, Franklin, Geneva, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Saint Clair, Shelby, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, and Winston.
- d. In the state of Arkansas, the counties of Ashley, Jefferson, Lonoke, and Monroe.
- e. In the state of Georgia, the counties of, Baker, Banks, Barrow, Bartow, Ben Hill, Berrien, Bleckley, Brooks, Bulloch, Burke, Calhoun, Candler, Catoosa, Charlton, Clarke, Clay, Coffee, Colquitt, Cook, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Elbert, Emanuel, Franklin, Gordon, Grady, Hall, Hart, Houston, Jeff Davis, Jefferson, Jenkins, Johnson, Laurens, Lee, Macon, Marion, Miller, Mitchell, Montgomery, Morgan, Newton, Oconee, Peach, Pierce, Pulaski, Randolph, Richmond, Schley, Screven, Seminole, Stewart, Sumter, Tattnell, Taylor, Terrell, Thomas, Tift, Tombs, Turner, Twiggs, Walker, Walton, Warren, Washington, Wayne, Webster, Wheeler, Wilcox, and Worth.
- f. In the state of Louisiana, the parishes of, Acadia, Ascension, Assumption, Avoyelles, Beauregard, Bossier, Caddo, Calcasieu, Caldwell, Catahoula, Concordia, East Baton Rouge, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberia, Iberville, Jefferson, Lafayette, Lafourche, Madison, Morehouse, Natchitoches, Orleans, Ouachita, Plaquemines, Pointe Coupee, Rapides, Red River, Richland, Sabine, Saint Bernard, Saint Charles, Saint Helena, Saint John the Baptist, Saint Landry, Saint Tammany, Tangipahoa, Tensas, Terrebonne, West Baton Rouge, West Carroll, and Winn.
- g. In the state of Mississippi, the counties of, Adams, Alcorn, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Coahoma, Copiah, Covington, DeSoto, Forrest, George, Greene, Grenada, Hancock, Harrison, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jackson, Jones, Lafayette, Lee, Leflore, Lowndes, Madison, Marion, Marshall, Monroe, Noxubee, Oktibbeha, Panola, Perry, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Sunflower, Tallahatchie, Tippah, Tunica, Union, Warren, Washington, Yalobusha, and Yazoo.
- h. In the state of North Carolina, the counties of, Cumberland, Harnett, Hoke, Johnston, Richmond, Robeson, Sampson, and Scotland.
- i. In the state of South Carolina, the counties of, Calhoun, Clarendon, Darlington, Dillon, Florence, Kershaw, Lee, Marlboro, Orangeburg, Sumter, and Williamsburg.
- j. In the state of Texas, the counties of, Brazos, Burleson, Cameron, Fort Bend, Hidalgo, Lynn, Robertson, Starr, Terry, Wharton, and Willacy.

2. Burrowing nematode:

- a. The entire states of Florida and Hawaii.
- b. In the state of Texas, the counties of, Cameron and Hildago.
- c. The Commonwealth of Puerto Rico.

**C. Regulated Commodities:**

1. Soil;
2. All plants with roots, including bulbs, corms, tubers, rhizomes, and stolons; and
3. All plant cuttings for propagation.

**D. Exceptions to regulated commodities:**

1. Industrial sand and clay;
2. Orchids and plants produced epiphytically, if growing exclusively in or on soil-free material such as osmunda fiber, tree fern trunk, or bark;
3. Aquatic plants, including species normally growing in, on, or under water;
4. Dormant bulbs, corms, tubers, rhizomes, and stolons for propagation, if free from roots and soil; and



5. All fleshy roots, corms, tubers, and rhizomes for edible or medicinal purposes, if free of soil.

**E. Quarantine Restrictions.**

1. The Associate Director shall deny entry of a regulated commodity from an area under quarantine, whether moved directly from the area or by diversion or reconsignment, unless the regulated commodity is accompanied by an original certificate from the state of origin. The certificate shall state that the regulated commodity contained in the shipment is pest-free by one of the following methods:
  - a. The origin state determined through an annual survey conducted within the 12-month period immediately before shipment, that the pests do not exist on the property or in the facility used to grow the regulated commodity.
  - b. The regulated commodity in the shipment was sampled two weeks before shipment, and found pest-free.
  - e. The regulated commodity was protected from infestation of the pests by implementing all of the following steps:
    - i. Propagated from clean seed or from cuttings taken 12 inches or higher above ground level;
    - ii. Planted in sterilized soil or other material prepared or treated to ensure freedom from the pests;
    - iii. Retained in a sterilized container or bed;
    - iv. Placed on a sterilized bench or sterilized support 18 inches or higher from the ground or floor level, and
    - v. Found pest-free using a sampling method approved by the Associate Director.
2. All regulated commodities entering Arizona shall be unloaded at destination into a quarantine holding area and held undisturbed for at least five calendar days until the Department confirms the regulated commodities are pest-free.
3. An Arizona receiver of a regulated commodity shall establish a quarantine holding area approved by the Department that satisfies the following conditions:
  - a. The floor of the holding area shall be composed of a permeable surface, such as sand or soil, and shall be free from debris, grass, and weeds;
  - b. An outdoor quarantine holding area shall be at least 15 ft. from all masonry walls, property boundaries, and non-quarantined plants;
  - e. The quarantine holding area shall be isolated from public access, and surrounded by a fence or other barrier; and
  - d. The integrity and security of the holding area shall be maintained at all times.
4. A cutting or bare-root regulated commodity may be placed in a container during the quarantine holding period. If the Associate Director determines that the regulated commodity is infested with a pest, the regulated commodity, container, and soil shall be transported out of state or destroyed by a method approved by the Associate Director.
5. Pesticides and other chemicals shall not be applied to a regulated commodity in a quarantine holding area except under the direction and supervision of a Department inspector.

**F. Disposition of violations.**

If laboratory testing indicates a regulated commodity is infested with a pest, the regulated commodity shall be destroyed or transported out of state.

**R3-4-238. Whitefly Pests Repealed**

**A. Definition.**

“Pest” means:

1. Citrus whitefly, *Dialeurodes citri* (Ashm.);
2. Cloudy-winged whitefly, *Dialeurodes citrifolii* (Morgan);
3. Woolly whitefly, *Aleurothrixus floecosus* (Maskell).

**B. Area under quarantine.** Alabama, Arkansas, California, Florida, Georgia, Hawaii, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia.

**C. Commodities covered.** Plants and all plant parts, except fruit and seed, of the following genera and species:

*Ailanthus*,  
*Amplopsi*,  
*Bignonia capreolata*,  
*Choisya ternata*,  
*Citrus*,  
*Diospyros*,  
*Eremocitrus*,  
*Feijoa*,  
*Ficus macrophyll*,  
*Fortunella*,  
*Gardenia*,  
*Hex*,  
*Jasminum*,  
*Lagerstroemia*,  
*Ligustrum*,  
*Maclura pomifera*,  
*Melia*,  
*Microcitrus*,  
*Musa*,  
*Osmanthus*,  
*Plumaria*,  
*Poncirus*,  
*Prunus caroliniana*,  
*Psidium*,



*Punica granatum,*  
*Pyrus communis,*  
*Sapindus mukorossi,*  
*Smilax,*  
*Syringa vulgaris,* and  
*Viburnum*

- D. Restrictions.** A person may ship a regulated commodity to Arizona from an area under quarantine if the shipment is accompanied by a certificate issued by a plant regulatory official of the origin state attesting that within five days before shipment:
  1. A regulated commodity of the genera *Citrus*, *Eremocitrus*, *Fortunella*, *Microcitrus*, and *Poncirus* was treated with a chemical to kill the pests listed in subsection (A), and was visually inspected and found free of all live life stages of the pests listed in subsection (A);
  2. A regulated commodity not listed in subsection (D)(1):
    - a. Was treated with a chemical to kill the pests listed in subsection (A) and was visually inspected and found free of all live life stages of the pests listed in subsection (A); or
    - b. Originated from a nursery with a pest management program recognized and monitored by the origin state and to control the pests listed in subsection (A), and was visually inspected and found free of all live life stages of the pests listed in subsection (A); or
    - c. The regulated commodity is completely devoid of foliage and is exempt from treatment for the pests listed in subsection (A);
- E. Disposition of regulated commodity not in compliance.** A regulated commodity shipped into Arizona in violation of this Section shall be destroyed, treated, or transported out of state as prescribed at A.R.S. Title 3, Chapter 2, Article 1.

**R3-4-239. Imported Fire Ants**

- A. Definitions.**

“Pest” means any species of imported fire ants, including *Solenopsis invicta* and *Solenopsis richteri*, notwithstanding the definition in A.R.S. § 3-201.
- B. Area under quarantine.** A state or portion of a state listed in 7 CFR 301.81-3, ~~68 FR 5794, February 5, 2003, 57 FR 57327, December 4, 1992, Federal Domestic Order DA-2018-11, April 17, 2018,~~ and any area a state declares infested. This material is incorporated by reference, on file with the Department and the Office of the Secretary State, and does not include any later amendments or editions.
- C. Regulated commodities.**
  1. Soil, separately or with other articles, except potting soil shipped in an original container in which the potting soil is packaged after commercial preparation; and
  2. All plants associated with soil, except:
    - a. Plants that are maintained indoors year-round, and are not for sale; and
    - b. Plants shipped bare-root and free of soil.
- D. Restrictions.**
  1. ~~A shipper of a regulated commodity shall unload a regulated commodity at destination into an approved quarantine holding area as prescribed in subsection (D)(2). The Department shall inspect and quarantine the regulated commodity as follows:~~
    - a. ~~Soil and plants associated with soil from an area under quarantine in subsection (B) shall be held at least three consecutive days, and~~
    - b. ~~Soil and plants associated with soil from an area under quarantine for nematodes under R3-4-234(B) shall be held at least five consecutive days.~~
  2. ~~An Arizona receiver of a regulated commodity shall establish a Department approved quarantine holding area that meets the following specifications:~~
    - a. ~~The floor is of a permeable surface, such as sand or soil, and free from debris, grass, or weeds;~~
    - b. ~~The area is isolated from public access, surrounded by a fence or other barrier;~~
    - c. ~~The integrity and security of the area is maintained at all times; and~~
    - d. ~~If outdoors, the area is at least 15 feet from any masonry wall, property boundary, or non-quarantine plant.~~
  1. An Arizona receiver of a regulated commodity shall establish a Department-approved quarantine holding area that meets the following specifications:
    - a. The floor is of a permeable surface, such as sand or soil, and free from debris, grass, or weeds;
    - b. The area is isolated from public access, surrounded by a fence or other barrier;
    - c. The integrity and security of the area is maintained at all times; and
    - d. If outdoors, the area is at least 15 feet from any masonry wall, property boundary, or non-quarantine plant.
  2. A shipper or receiver shall unload a regulated commodity at destination into an approved quarantine holding area as prescribed in subsection (D)(1). The Department may inspect the regulated commodity as follows:
    - a. A regulated commodity from an area under quarantine in subsection (B) shall be held at least three consecutive days, unless otherwise released by an inspector.
    - b. A regulated commodity may be inspected to determine compliance with this section.
    - c. A disposition shall be provided by an inspector upon completion of an inspection.
    - d. If an inspection to determine compliance with this section is not conducted, an inspector shall release the regulated commodity.
  3. A receiver shall only apply a pesticide or other chemical to a regulated commodity located in a quarantine holding area only when directed and supervised by a Department inspector as authorized by the Associate Director.
- E. Exemptions.** Soil samples of no more than fifteen (15) pounds that comply with the interstate movement requirements of 7 CFR §§ 301.81 et seq., 75 FR 4240, January 26, 2010, Federal Domestic Order DA-2018-11, April 17, 2018, are exempt from the requirements of this Section.



~~E.F.~~ Disposition of commodity not in compliance. A regulated commodity shipped into Arizona in violation of this Section ~~shall~~ may be destroyed, treated, destroyed, or transported out-of-state by the owner and at the owner's expense as authorized by the Associate Director.

**R3-4-240. Apple Maggot and Plum Curculio Repealed**

~~A.~~ Definitions. The following term applies to this Section:

~~"Pest" means:~~

- ~~1. Apple maggot, *Rhagoletis pomonella* (Walsh); or~~
- ~~2. Plum curculio, *Conotrachelus nenuphar*.~~

~~B.~~ Area under quarantine. All states, territories, and districts of the United States.

~~C.~~ Regulated commodities. The fresh fruit of the following plants:

- ~~*Chaenomeles* spp. (Quince);  
*Crataegus* spp. (Hawthorne);  
*Malus* spp. (Apple);  
*Prunus* spp. (Apricot, Cherry, Nectarine, Peach, Plum, and Prune), and  
*Pyrus communis* spp. (Pear).~~

~~D.~~ Restrictions:

- ~~1. A person shall not ship into Arizona a regulated commodity that is produced in or shipped from an area under quarantine unless each lot or shipment is accompanied by a certificate issued by an official of the state of origin, attesting that the regulated commodity was:
 
  - ~~a. Held in an approved controlled atmosphere storage facility for a minimum of 90 continuous days at a maximum temperature of 38° F; or~~
  - ~~b. Held in an approved cold storage facility for a minimum of 40 continuous days at a maximum temperature of 32° F.~~~~
- ~~2. The Director may issue a permit to allow a regulated commodity from an area under quarantine to enter Arizona without treatment as prescribed in subsection (D)(1) if the commodity originates from an area:
 
  - ~~a. That is certified to be pest free; or~~
  - ~~b. That is infested, but where an on-going pest eradication program exists that is acceptable to the Director of the Arizona Department of Agriculture.~~~~

~~E.~~ Disposition of commodity not in compliance. A regulated commodity shipped into Arizona in violation of this Section shall be destroyed or transported out of state by the owner and at the owner's expense.

**R3-4-241. Lethal Yellowing of Palms Palm Pests**

~~A.~~ Definitions. The In addition to the definitions provided in A.R.S. § 3-201, A.A.C. R3-4-101 and R3-4-01, the following term applies to this Section:

"Pest" means, notwithstanding the definition in A.R.S. § 3-201:

1. A pathogen, a non-cultivable mollicute, causing lethal yellowing of palms; or
  1. *Candidatus Phytoplasma palmarum* subgroup 16SrIV, strain A (Lethal yellowing);
  2. *Candidatus Phytoplasma* 16SrIV-D (Texas Phoenix palm decline);
  3. *Fusarium oxysporum* f. sp. *palmarum* (Fusarium wilt of queen and Mexican fan palm); or
  - ~~2.4. *Myndus crudus*, a planthopper that vectors the pathogen pest defined in (A)(1) and (2).~~

~~B.~~ Area under quarantine. For the pest in subsection (A)(1):

1. In the state of Florida, the following counties: Broward, Collier, Hendry, Lee, Martin, Miami-Dade, Monroe, and Palm Beach.
2. In the state of Texas, the following counties: Cameron, Hidalgo, and Willacy.
3. For the pest in subsection (A)(2):
  - a. In the state of Florida, the following counties: Alachua, Desoto, Duval, Hardee, Highlands, Hillsborough, Indian River, Lake, Manatee, Miami-Dade, Orange, Polk, Sarasota, and Volusia.
  - b. In the state of Louisiana, the following parish: Orleans
  - c. In the state of Texas, the following counties: Bexar, Cameron, Hidalgo, Klebrg, Nueces, Tarrant, and Willacy
4. For the pest in subsection (A)(3):
  - a. The state of Florida
  - b. In Texas, the following county: Houston
5. For the pest in subsection (A)(4):
  - a. The state of Florida
  - b. In Texas, the following counties: Houston

~~C.~~ Regulated commodities. All propagative parts of the following plants, except seed:

- ~~*Aiphanes lindeniana*,  
*Allagoptera arendria*,  
*Andropogon virginicus* (Broomsedge),  
*Arenga engleri*,  
*Borassus flabellifer* (Palmyra Palm),  
*Caryota mitis* (Cluster Fishtail Palm),  
*Caryota rumphiana* (Giant Fishtail Palm),  
*Chelyocarpus chuco*,  
*Chrysalidocarpus cabadae*, syn. *Dypsis cabadae* (Cabada Palm),  
*Cocos nucifera* (Coconut Palm),  
*Corypha elata* (Buri Palm),  
*Cynodon dactylon* (Bermuda Grass),~~



- Cyperus* spp. (Sedges),
- Dictyosperma album* (Princess Palm),
- Eremochloa ophiuroides* (Centipede Grass),
- Goussia attenuata* (Puerto Rican Palm),
- Howea belmoreana* (Belmore Sentry Palm),
- Latania* spp. (Latan Palm),
- Livistona chinensis* (Chinese Fan Palm),
- Livistona rotundifolia* (Javanese Fan Palm),
- Mascarena verschaffeltii* (Spindle Palm),
- Nannorrhops ritchiana* (Mazari Palm),
- Neodypsis decaryi*, syn. *Dypsis decaryi* (Triangle Palm),
- Pandanus utilis* (Screw Pine),
- Panicum purpurascens* (Para Grass),
- Panicum bartowense*,
- Paspalum notatum* (Bahia Grass),
- Phoenix canariensis* (Canary Island Date Palm),
- Phoenix dactylifera* (Date Palm),
- Phoenix reclinata* (Sengal Date Palm),
- Phoenix roebelenii* (Pigmy Date Palm),
- Phoenix rupicola* (Cliff Date Palm),
- Phoenix sylvestris* (Wild Date Palm),
- Phoenix zeylanica* (Ceylon Date Palm),
- Polyandrococos caudescens*,
- Pritchardia* spp.,
- Pseudopheoenix sargentii* (Florida Cherry Palm),
- Ravenea hildebrandtii*,
- Sabal mexicana* (Rio Grande Palmetto),
- Sabal palmetto* (Cabbage Palmetto),
- Stenotaphrum secundatum* (St. Augustine Grass),
- Syngarus romanzoffiana* (Queen palm),
- Syngarus schizophylla*
- Thrinax radiata* (Florida Thatch Palm),
- Trachycarpus fortunei* (Windmill Palm),
- Veitchia* spp., and
- Washingtonia robusta* (Mexican Fan Palm), and
- Zoysia* spp. (Zoysia Grass).

- D.** ~~Restrictions. A person shall not ship into Arizona a regulated commodity that is produced in or shipped from an area under quarantine. The commodities in subsection (C) are prohibited from the area under quarantine unless the following conditions are met prior to shipment:~~
- ~~1. The plant regulatory official issues a certificate or certifies an ongoing Pest Management Program attesting that the conditions in (D)(2), (3), (4), and (5) were met prior to shipment;~~
  - ~~2. No field grown plants are included in the shipment;~~
  - ~~3. The commodity was inspected prior to shipment and no symptoms of any pest (A)(1), (2), or (3) were observed;~~
  - ~~4. The commodity was treated with a labeled product to eliminate all live life stages of the pest (A)(4); and~~
  - ~~5. The commodity originates from an outdoor facility no closer than one-half mile from a known infested area of a pest indicated in (A)(1), (2), or (3).~~
- E.** Disposition of commodity not in compliance. A regulated commodity shipped into Arizona in violation of this Section shall be destroyed or transported out-of-state by the owner and at the owner's expense.

**R3-4-242. ~~Brown Citrus Aphid~~ Repealed**

- ~~**A.** Area Under Quarantine: Hawaii and any county in Florida that, by notification from the Florida Department of Agriculture and Consumer Services, is infested with the brown citrus aphid.~~
- ~~**B.** Commodities covered: All plants, except seed and fruit.~~
- ~~**C.** Restrictions:~~
- ~~1. The species, subspecies, varieties, ornamental forms, and any hybrid having at least one ancestor of the following genera are prohibited from entering the state:
 
    - ~~a. *Citrus*;~~
    - ~~b. *Fortunella*; and~~
    - ~~c. *Poncirus*;~~~~
  - ~~2. All other covered commodities, whether moved directly from the area under quarantine or by diversion or reconsignment from any other point, are prohibited from entering Arizona unless the following requirements are met:
 
    - ~~a. Aquatic plants are accompanied by an original certificate affirming that the commodity was inspected and found free of the pest within five days before shipment.~~
    - ~~b. Terrestrial plants are accompanied by an original certificate affirming that the commodity was treated, as prescribed in subsection (E), within five days before shipment.~~
    - ~~c. The certificate shall indicate:
 
      - ~~i. The common chemical name of the product's active ingredient;~~~~~~



- ii. The rate at which the product was applied, and
  - iii. The treatment date.
- D:** The Director may issue a permit admitting a covered commodity subject to specific limitations, conditions, and provisions that eliminate the risk of the pest.
- E:** Treatment.
- 1. An application of a pesticide labeled for the treatment of aphids applied according to label instructions, or
  - 2. Any other treatment approved by the Director.

**R3-4-244. Regulated and Restricted Noxious Weeds ~~Repealed~~**

- A:** Definitions. In addition to the definitions provided in A.R.S. § 3-201, the following terms apply to this Section:
- 1. "Habitat" means any terrestrial or aquatic area within Arizona that is capable of sustaining plant growth.
  - 2. "Infested area" means each individual container in which a pest is found or the specific area that harbors a pest.
  - 3. "Regulated pest" means any of the following plant species, including viable plant parts (stolons, rhizomes, cuttings and seed, except agricultural, vegetable and ornamental seed for planting purposes), found within the state may be controlled to prevent further infestation or contamination:
    - Cenchrus echinatus* L.—Southern sandbur;
    - Cenchrus incertus* M.A. Curtis—Field sandbur;
    - Convolvulus arvensis* L.—Field bindweed;
    - Eichhornia crassipes* (Mart.) Solms—Floating water hyacinth;
    - Medicago polymorpha* L.—Burelover;
    - Pennisetum ciliare* (L.) Link—Buffelgrass;
    - Portulaca oleracea* L.—Common purslane;
    - Tribulus terrestris* L.—Puncturevine.
  - 4. "Restricted pest" means any of the following plant species, including viable plant parts (stolons, rhizomes, cuttings and seed, except agricultural, vegetable and ornamental seed for planting purposes), found within the state shall be quarantined to prevent further infestation or contamination:
    - Aeroptilon repens* (L.) DC.—Russian knapweed;
    - Aegilops cylindrica* Host.—Jointed goatgrass;
    - Alhagi pseudalhagi* (Bieb.) Desv.—Camelthorn;
    - Cardaria draba* (L.) Desv.—Globed-podded hoary cress (Whitetop);
    - Centaurea diffusa* L.—Diffuse knapweed;
    - Centaurea maculosa* L.—Spotted knapweed;
    - Centaurea solstitialis* L.—Yellow starthistle (St. Barnaby's thistle);
    - Cuscuta* spp.—Dodder;
    - Eichhornia crassipes* (Mart.) Solms—Floating water hyacinth;
    - Elytrigia repens* (L.) Nevski—Quackgrass;
    - Euryops sunbearnosus* subsp. *vulgaris*—Sweet resinbush;
    - Halogeton glomeratus* (M. Bieb.) C.A. Mey—Halogeton;
    - Helianthus ciliaris* DC.—Texas blueweed;
    - Ipomoea triloba* L.—Three-lobed morning glory;
    - Linaria genistifolia* var. *dalmatica*—Dalmation toadflax;
    - Onopordum acanthium* L.—Scotch thistle.
- B:** Area under quarantine: All infested areas within the state.
- C:** The following commodities are hosts or carriers of the regulated or restricted pest:
- 1. All plants other than those categorized as a regulated or restricted pest;
  - 2. Forage, straw, and feed grains;
  - 3. Live and dead flower arrangements;
  - 4. Ornamental displays;
  - 5. Aquariums; and
  - 6. Any appliance, construction or dredging equipment, boat, boat trailer or related equipment, or any other vehicle with soil attached or carrying plant debris.
- D:** The Department may quarantine any commodity, habitat, or area infested or contaminated with a regulated pest and notify the owner or carrier of the restrictions and treatments listed in subsections (F) and (G). If the regulated pest is not quarantined, the Department shall provide the grower with technical information on effective weed control activities through integrated pest management.
- E:** The Department shall quarantine any commodity, habitat, or area infested or contaminated with a restricted pest and shall notify the owner or carrier of the restrictions and treatments of the pest listed in subsections (F) and (G).
- F:** Restrictions.
- 1. No regulated or restricted pest or commodity infested or contaminated with a regulated or restricted pest shall be moved to a non-infested area unless the Director issues a permit for the transporting or propagating of the pest.
  - 2. An owner or the owner's representative shall notify the Department at least two working days in advance of moving contaminated equipment from an infested area.
  - 3. The Department may inspect all equipment within two working days after a request to inspect the equipment is made if the equipment:
    - a. Has been moved into or through a non-infested area;
    - b. Has not been treated; or
    - e. Has been used to harvest an infested crop within the past 12 months.
- G:** Treatments.



1. An owner or the owner's representative shall treat all soil and debris from equipment used in a quarantined area until it is free of the regulated or restricted pest before the equipment is moved. Removal or destruction of the restricted or regulated pest shall be accomplished through one of the following methods:
  - a. Autoclaving:
    - i. Dry heat. The commodity shall be heated for 15 minutes at 212° F.
    - ii. Steam heat. The commodity shall be heated for 15 minutes at 212° F;
  - b. Fumigating with ethylene oxide, chamber only: The commodity shall be fumigated with 1,500 mg/L for four hours in a chamber pre-heated to 115-125° F;
  - c. High pressure water spray;
  - d. Crushing;
  - e. Incinerating; or
  - f. Burying in a sanitary landfill to a depth of six feet.
2. An owner or the owner's representative shall treat an infested area or habitat, including the area within the crop, rangeland, roadside, or private property, with treatments based on an integrated pest management program appropriate to the commodity. The treatments shall take place under the direction of an inspector and shall include:
  - a. Reshipment from the state;
  - b. Manual removal;
  - c. Application of a herbicide;
  - d. Biological control including insects, fungi, nematodes, or microbes; or
  - e. Any other treatment approved by the Director.

**R3-4-245. Prohibited Noxious Weeds**

A. **Definition-Definitions.** In addition to the definitions provided in A.R.S. § 3-201, A.A.C. R3-4-101 and R3-4-201, the following apply to this Section:

1. "Habitat" means any terrestrial or aquatic area within Arizona that is capable of sustaining plant growth.
2. "Infested area" means each individual container in which a pest is found, the specific area that harbors the pest, or any shipment that has not been released to the receiver and is infested with a pest.
3. "Pest" means any of the following plant species, including viable plant parts (stolons, rhizomes, cuttings and seed, except agricultural, vegetable and ornamental seed for planting purposes), that are prohibited from entering the state:

*Aeroptilon repens* (L.) DC. — Russian knapweed;  
*Aegilops cylindrica* Host. — Jointed goatgrass;  
*Alhagi pseudalhagi* (Bieb.) Desv. — Camelthorn;  
*Alternanthera philoxeroides* (Mart.) Griseb. — Alligator weed;  
*Cardaria pubescens* (C.A. Mey) Jarmolenko — Hairy whitetop;  
*Cardaria chalepensis* (L.) Hand-Muzz — Lens podded hoary cress;  
*Cardaria draba* (L.) Desv. — Globed-podded hoary cress (Whitetop);  
*Carduus acanthoides* L. — Plumeless thistle;  
*Cenchrus echinatus* L. — Southern sandbur;  
*Cenchrus incertus* M.A. Curtis — Field sandbur;  
*Centaurea calcitrapa* L. — Purple starthistle;  
*Centaurea iberica* Trev. ex Spreng. — Iberian starthistle;  
*Centaurea squarrosa* Willd. — Squarrose knapweed;  
*Centaurea sulphurea* L. — Sicilian starthistle;  
*Centaurea solstitialis* L. — Yellow starthistle (St. Barnaby's thistle);  
*Centaurea diffusa* L. — Diffuse knapweed;  
*Centaurea maculosa* L. — Spotted knapweed;  
*Chondrilla juncea* L. — Rush skeletonweed;  
*Cirsium arvense* L. Scop. — Canada thistle;  
*Convolvulus arvensis* L. — Field bindweed;  
*Coronopus squamatus* (Forsk.) Ascherson — Creeping warteress (Coronopus);  
*Cucumis melo* L. var. *Dudaim* Naudin — Dudaim melon (Queen Anne's melon);  
*Cuscuta* spp. — Dodder;  
*Drymaria arenarioides* H.B.K. — Alfombrilla (Lightningweed);  
*Eichhornia azurea* (SW) Kunth. — Anchored water hyacinth;  
*Eichhornia crassipes* (Mart.) Solms — Floating water hyacinth;  
*Elytrigia repens* (L.) Nevski — Quackgrass;  
*Euphorbia esula* L. — Leafy spurge;  
*Halogeton glomeratus* (M. Bieb.) C.A. Mey — Halogeton;  
*Helianthus ciliaris* DC. — Texas blueweed;  
*Hydrilla verticillata* Royale — Hydrilla (Florida elodea);  
*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;  
*Ipomoea triloba* L. — Three-lobed morning glory;  
*Isatis tinctoria* L. — Dyers woad;  
*Linaria genistifolia* var. *dalmatica* — Dalmation toadflax;  
*Lythrum salicaria* L. — Purple loosestrife;  
*Medicago polymorpha* L. — Burelover;



*Nassella trichotoma* (Nees.) Haek. — Serrated tussock;  
*Onopordum acanthium* L. — Scotch thistle;  
*Orobanche ramosa* L. — Branched broomrape;  
*Panicum repens* L. — Torpedo grass;  
*Peganum harmala* L. — African rue (Syrian rue);  
*Pennisetum ciliare* (L.) Link — Buffelgrass;  
*Portulaca oleracea* L. — Common purslane;  
*Rorippa austriaca* (Crantz.) Bess. — Austrian fielderess;  
*Salvinia molesta* — Giant Salvinia;  
*Senecio jacobaea* L. — Tansy ragwort;  
*Solanum carolinense* L. — Carolina horsenettle;  
*Sonchus arvensis* L. — Perennial sowthistle;  
*Solanum viarum* Dunal — Tropical Soda Apple;  
*Stipa brachychaeta* Godr. — Puna grass;  
*Striga* spp. — Witchweed;  
*Trapa natans* L. — Water chestnut;  
*Tribulus terrestris* L. — Puncturevine.

1. “Class A Noxious Weed” is categorized as a species of plant that is not known to exist or of limited distribution in the State and is a high priority pest for quarantine, control, or mitigation. Class A noxious weeds are listed in Table 4.
2. “Class B Noxious Weed” is categorized as a species of plant that is known to occur, but of limited distribution in the State and may be a high priority pest for quarantine, control or mitigation if a significant threat to a crop, commodity, or habitat is known to exist. Class B noxious weeds are listed in Table 5.
3. “Class C Noxious Weed” is categorized as a species of plant that is widespread but may be recommended for active control based on risk assessment. Class C noxious weeds are listed in Table 6.

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

**C.** The following commodities are hosts or carriers of the pest:

1. All plants and plant parts other than those categorized as a pest;
2. Forage, straw, and feed grains;
3. Live or dead flower arrangements;
4. Ornamental displays;
5. Aquariums; and
6. Any appliance, construction or dredging equipment, boat, boat trailer or related equipment, or any other vehicle with soil attached or carrying plant debris.

**D.** The Department shall quarantine any commodity, habitat, or area infested or contaminated with a pest and shall notify the owner or carrier of the methods of removing or destroying the pest from the commodity, habitat, or area. The Department shall reject any shipment not released to the receiver and reship to the shipper.

**E.B.** Restrictions:

1. No pest Class A, B, or C Noxious Weed, or commodity infested or contaminated with a pest Class A, B, or C Noxious Weed, shall be admitted into the state unless otherwise authorized by the Associate Director issues a permit for the transporting or propagating of the pest.
2. The Department shall regulate the movement of the commodity out of a quarantined area within the state until the pest is eradicated. Any shipment or lot of a commodity infested or contaminated with a pest arriving in the state in violation of this quarantine shall, according to A.R.S. § 3-205(A), be immediately reshipped from the state, or treated or destroyed using one of the following methods:
  - a. The commodity shall be fumigated with 1,500 mg/L of ethylene oxide for four hours in a chamber pre-heated to 115-125° F;
  - b. Incinerating;
  - c. Burying in a sanitary landfill to a depth of six feet;
  - d. Application of a herbicide; or
  - e. Any other treatment approved by the Director.



2. The Department may quarantine and abate an area infested or contaminated with a Class A or Class B Noxious Weed if it has been determined by the Associate Director that an imminent threat to agriculture or horticulture exists.

**Table 4. Class A Noxious Weeds**

<u>Common Name</u>	<u>Scientific Name</u>
<u>African rue</u>	<u><i>Peganum harmala</i></u>
<u>Canada thistle</u>	<u><i>Cirsium arvense</i></u>
<u>Dudaim melon</u>	<u><i>Cucumis melo v. Dudaim Naudin</i></u>
<u>Dyer's woad</u>	<u><i>Isatis tinctoria</i></u>
<u>Floating water hyacinth</u>	<u><i>Eichhornia crassipes</i></u>
<u>Giant salvinia</u>	<u><i>Salvinia molesta</i></u>
<u>Globe-podded hoary cress</u>	<u><i>Cardaria draba</i></u>
<u>Hydrilla</u>	<u><i>Hydrilla verticillata</i></u>
<u>Leafy spurge</u>	<u><i>Euphorbia esula</i></u>
<u>Plumeless thistle</u>	<u><i>Carduus acanthoides</i></u>
<u>Purple loosestrife</u>	<u><i>Lythrum salicaria</i></u>
<u>Purple starthistle</u>	<u><i>Centaurea calcitrapa</i></u>
<u>Quackgrass</u>	<u><i>Elymus repens (Elytrigia repens)</i></u>
<u>Rush skeletonweed</u>	<u><i>Chondrilla juncea</i></u>
<u>Southern sandbur</u>	<u><i>Cenchrus echinatus</i></u>
<u>Spotted knapweed</u>	<u><i>Centaurea stoebe ssp. micranthos</i></u>
<u>Sweet resinbush</u>	<u><i>Euryops subcarnosus</i></u>
<u>Wild mustard</u>	<u><i>Sinapis arvensis</i></u>

**Table 5. Class B noxious weeds**

<u>Common Name</u>	<u>Scientific Name</u>
<u>Black mustard</u>	<u><i>Brassica nigra</i></u>
<u>Branched broomrape</u>	<u><i>Orobanche ramosa</i></u>
<u>Bull thistle</u>	<u><i>Cirsium vulgare</i></u>
<u>Camelthorn</u>	<u><i>Alhagi maurorum (A. pseudalhagi)</i></u>
<u>Dalmatian toadflax</u>	<u><i>Linaria dalmatica (L. genistifolia v. dalmatica)</i></u>
<u>Diffuse knapweed</u>	<u><i>Centaurea diffusa</i></u>
<u>Field sandbur</u>	<u><i>Cenchrus spinifex (synonym: C. incertus)</i></u>
<u>Giant reed</u>	<u><i>Arundo donax</i></u>
<u>Globe chamomile</u>	<u><i>Oncosiphon piluliferum</i></u>
<u>Halogeton</u>	<u><i>Halogeton glomeratus</i></u>
<u>Jointed goatgrass</u>	<u><i>Aegilops cylindrica</i></u>
<u>Malta starthistle</u>	<u><i>Centaurea melitensis</i></u>
<u>Musk thistle</u>	<u><i>Carduus nutans</i></u>
<u>Natal grass</u>	<u><i>Melinis repens</i></u>
<u>Onionweed</u>	<u><i>Asphodelus fistulosus</i></u>
<u>Russian knapweed</u>	<u><i>Acroptilon repens</i></u>
<u>Russian olive</u>	<u><i>Elaeagnus angustifolia</i></u>
<u>Saharan mustard</u>	<u><i>Brassica tournefortii</i></u>
<u>Scotch thistle</u>	<u><i>Onopordum acanthium</i></u>
<u>Yellow bluestem</u>	<u><i>Bothriochloa ischaemum</i></u>
<u>Yellow starthistle</u>	<u><i>Centaurea solstitialis</i></u>

**Table 6. Class C noxious weeds**

<u>Common Name</u>	<u>Scientific Name</u>
<u>Buffelgrass</u>	<u><i>Cenchrus ciliaris (Pennisetum ciliare)</i></u>
<u>Field bindweed</u>	<u><i>Convolvulus arvensis</i></u>
<u>Fountain grass</u>	<u><i>Pennisetum setaceum</i></u>



Garden or common morning glory	<i>Ipomoea purpurea</i>
Grannyvine	<i>Ipomoea tricolor</i>
Ivy-leaf morning glory	<i>Ipomoea hederacea</i>
Johnsongrass	<i>Sorghum halepense</i>
Kochia	<i>Kochia scoparia</i>
Morning glory	<i>Ipomoea triloba</i>
Morning glory	<i>Ipomoea x leucantha</i>
Puncturevine	<i>Tribulus terrestris</i>
Salt cedar	<i>Tamarix ramosissima</i>
Tree of heaven	<i>Ailanthus altissima</i>

**R3-4-246. Caribbean Fruit Fly Repealed**

**A:** Definitions. The following term applies to this Section:

“Pest” means all life stages of the Caribbean fruit fly, *Anastrepha suspensa*.

**B:** Area under quarantine:

1. In the state of Florida, the following counties: Alachua, Brevard, Broward, Charlotte, Citrus, Collier, DeSoto, Duval, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Lake, Lee, Manatee, Martin, Miami Dade, Monroe, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, St. Johns, St. Lucie, Sarasota, Seminole, Sumter, and Volusia.
2. The Commonwealth of Puerto Rico.

**C:** Regulated commodities:

1. The fresh fruit of the following plants:

- Actinidia chinensis* (Kiwi);
- Annona glabra* (Pond Apple);
- Annona* hybrid;
- Annona squamosa* (Sugar Apple);
- Atalantia citriodes*;
- Averrhoa carambola* (Carambola);
- Blighia sapida* (Akee);
- Canella winteriana* (Wild Cinnamon);
- Capsicum frutesceas* (Bell Pepper);
- Carica papaya* (Papaya);
- Carissa grandiflora* (Natal Plum);
- Casimiroa edulis* (White Sapote);
- Chrysobalanus icaco* (Coeoplum);
- Citrus aurantiifolia* (Lime);
- Citrus aurantium* (Sour Orange);
- Citrus limonia* (Rangpur Lime);
- Citrus nobilis* ‘unshu’ x *Fotunella* sp. (Jaek Orangequat);
- Citrus paradisi* (Grapefruit);
- Citrus paradisi* x *C. reticulata* (Tangelo);
- Citrus reticulata* (Tangerine);
- Citrus sinensis* (Sweet Orange);
- Citrus sinensis* x *C. reticulata* (Temple Orange);
- Clausena lansium* (Wampi);
- Dimocarpus longan* (Longan);
- Diospyros blancoi* (Velvet Apple or Velvet Persimmon);
- Diospyros khaki* (Japanese Persimmon);
- Dovyalis caffra* (Kei Apple);
- Dovyalis hebecarpa* (Ceylon Gooseberry);
- Drypetes lateriflora* (Guiana Plum);
- Eriobotrya japonica* (Loquat);
- Eugenia aggregata* (Cherry of the Rio Grande);
- Eugenia brasiliensis* (Grumichama);
- Eugenia coronata*;
- Eugenia ligustrina*;
- Eugenia luschnathiana* (Pitomba);
- Eugenia uniflora* (Surinam Cherry);
- Ficus altissima*;
- Ficus carica* (Fig);
- Flacourtia indica* (Governor’s Plum);
- Fortunella* spp. (Kumquat);
- Garcinia livingstonei* (Imbe);
- Garcinia xanthochymus*;



- Litchi chinensis* (Lychee);
- Lycopersicon esculentum* (Tomato);
- Malpighia glabra* (Barbados Cherry);
- Malus sylvestris* (Apple);
- Mangifera indica* (Mango);
- Manilkara jaimiqui* spp. *Emarginata* (Wild Dilly);
- Manilkara roxburghiana*;
- Manilkara zapota* (Sapodilla);
- Momordica charantia* (Wild Balsam Apple);
- Muntingia calabura* (Calbur);
- Murraya paniculata* (Orange Jasmine);
- Myrciaria cauliflora* (Jaboticaba);
- Myrcianthes fragrans*;
- Myricaria glomerata*;
- Persea americana* (Avocado);
- Pimenta dioica* (Allspice);
- Pouteria campechiana* (Egg Fruit);
- Prunus persica* (Nectarine);
- Prunus persica* (Peach);
- Pseudanamonis umbellulifera*;
- Psidium* spp. (Guava);
- Punica granatum* (Pomegranate);
- Pyrus eummunis* (Pear);
- Pyrus pyrifolia* (Japanese Pear);
- Pyrus pyrifolia* x *Pyrus communis* (Kieffer Pear);
- Rheedia aristata*;
- Rubus hybrid* (Blackberry);
- Severinia buxifolia* (Box Orange);
- Spondias cytherea* (Otaheite Apple);
- Synsepalum dulcificum* (Miracle Fruit);
- Syzygium cumini* (Jambolan Plum);
- Syzygium jambos* (Rose Apple);
- Syzygium samarangense* (Java Apple);
- Terminalia catappa* (Tropical Almond);
- Terminalia muelleri*;
- Trevisia palmata*;
- Triphasia trifolia* (Limeberry);
- X *Citrofortunella floridana* (Limequat), and
- X *Citrofortunella mitis* (Calamondin).

2. Soil or planting media within the drip area of plants producing, or that have produced, a regulated commodity.

**D.** Restrictions. A regulated commodity produced in or shipped from an area under quarantine is prohibited entry into Arizona unless each lot or shipment is accompanied by a certificate issued by an official of the state of origin, affirming compliance with one of the following:

1. Citrus fruit (*Citrus* spp. and *Fortunella* spp.) has been fumigated with methyl bromide ("Q" label only) for a minimum of two hours under the following conditions:

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

2. Non-citrus fruit has been treated in compliance with a treatment plan approved by the Director.

**E.** Disposition of commodity not in compliance. A regulated commodity shipped into Arizona in violation of this Section shall be destroyed or transported out of state by the owner and at the owner's expense.

**R3-4-248. Japanese beetle**

**A.** Definitions. In addition to the definitions provided in A.R.S. § 3-201, A.A.C. R3-4-101 and R3-4-201, the following apply to this Section:

- 1. "Host commodities" means the commodities listed in the JBHP, ~~Appendix 5~~ Appendix 6.
- 2. "JBHP" means the U.S. Domestic Japanese Beetle Harmonization Plan, adopted by the National Plant Board on August 19, 1998, and revised ~~September 5, 2000~~ June 20, 2016.
- 3. "Pest" means the Japanese beetle, *Popillia japonica* (Newman), ~~notwithstanding the definition in A.R.S. § 3-201~~.

**B.** Area under quarantine: All Category 2 and 3 areas listed in the JBHP, which is incorporated by reference, does not include any later amendments or editions, and is on file with the Department, the Office of the Secretary of State, and the National Plant Board at ~~www.aphis.usda.gov/npsnpb~~ http://nationalplantboard.org/japanese-beetle-harmonization-plan/. ~~The incorporated material includes the following changes:~~



1. ~~Appendix 1, delete the words “(except sod).”~~
2. ~~Appendix 5, definition of host commodities, delete the words “grass sod.”~~
- C. Host commodities covered. All commodities, except grass sod, listed in the JBHP, Appendix 12.
- D. An out-of-state grower who imports a host commodity into Arizona shall comply with the JBHP, except as provided under subsection (E).
- E. Restrictions on importation.
1. An out-of-state grower shall not import into Arizona a host commodity under subsection (C) from an area under quarantine unless the commodity is accompanied by ~~an original~~ a certificate issued by ~~an~~ plant regulatory official of the origin state ensuring compliance with the requirements of the JBHP, Appendix 1.
  2. ~~The Notwithstanding the requirements of the JBHP, Appendix 1, the~~ Associate Director may admit grass sod from an out-of-state grower for shipment to Arizona if:
    - a. The out-of-state grower requests an exception agreement from the Department;
    - b. The out-of-state grower, the ~~state~~State plant~~Plant regulatory~~Regulatory official~~Official~~ of the origin state, and the Associate Director sign an agreement that includes the following terms:
      - i. The out-of-state grower shall ship sod grown only in a Japanese beetle-free county;
      - ii. ~~The origin state’s~~State plant~~Plant regulatory~~Regulatory official~~Official~~ or designee shall place and monitor Japanese beetle traps on the grass sod farm during the agreement period. At least one trap shall be placed on each 10 acres of land. A buffer zone of a one-mile radius shall be established around the grass sod farm, and two traps per square mile shall be placed in the buffer zone. The Department shall revoke the agreement if the origin state documents that one or more Japanese beetles are detected in any trap;
      - iii. ~~The origin state’s~~State plant~~Plant regulatory~~Regulatory official~~Official~~ or designee shall inspect sod before shipment to ensure it is free of the pest; and
      - iv. ~~The out of state grower shall ship sod to Arizona only through the ports of entry on I-10 or I-40~~ The out of state grower shall notify the Associate Director or their designee of sod shipments destined to Arizona prior to shipment.
    - c. Both the out-of-state grower and the ~~origin state’s~~State plant~~Plant regulatory~~Regulatory official~~Official~~ shall perform any other requirement established by the Associate Director to ensure the grass sod is free from all life stages of Japanese beetle.
  3. An out-of-state grower shall not import into Arizona a host commodity from a Category 4 state unless certified by the State Plant Regulatory Official or designee attesting that the host commodity is apparently free of Japanese beetle and has been treated by an approved method to eliminate all live life stages of the pest.
- ~~3.4.~~ Exemptions from importation ban:
- a. Privately-owned houseplants grown indoors; and
  - b. ~~Commodities that are treated by the grower for Japanese beetle may be imported into Arizona if the Associate Director approves the treatment method before shipment~~ Commodities that have been treated by an alternate method approved by the Associate Director and certified by a plant regulatory official of the state of origin.

## ARTICLE 5. COLORED COTTON

### R3-4-501. Colored Cotton Production and Processing

- A. Definitions. In addition to the definitions provided in A.R.S. § 3-101 and ~~R3-4-102~~R3-4-101 and R3-4-201, the following terms apply to this Section:
1. “Certified” means having been inspected with a written certificate of inspection issued by an inspector of the Department.
  2. “Colored cotton” means any variety of cotton plants of the Genus *Gossypium* that produces fiber that is naturally any color other than white.
  3. “Cottonseed” means processed seed cotton used for propagation, animal feed, crushed or composted fertilizer, or oil.
  4. “Composting” means a process that creates conditions that facilitate the controlled decomposition of organic matter into a more stable and easily handled soil amendment or fertilizer, usually by piling, aerating and moistening; or the product of such a process.
  5. “Delinting” means the process of using acid, flame, or mechanical means to remove fiber that remains on cottonseed after ginning.
  6. “Planting seed” means seed of a known variety produced for planting subsequent generations.
  7. “Seed cotton” means raw cotton containing seed and lint that has been harvested from a field, but has not been ginned.
  8. “White cotton” means any variety of the Genus *Gossypium* that produces white fiber as established in ~~28 U.S.C. 401 through 451, the Official Cotton Standards of the United States for the Color Grade of American Upland Cotton, revised July 1, 1993; and Cotton Classification Results, revised July 1994~~ 7 C.F.R. §§ 28.401 through 28.407; and the U.S. Department of Agriculture, Agriculture Marketing Service: Cotton Classification, revised April, 2005. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.
- B. Production requirements.
1. A producer who intends to grow colored cotton shall register in writing with the Department. The registration form shall be received at least 30 days before the cotton planting date for the applicable cultural cotton zone established in ~~R3-4-204~~R3-4-204(E). Any colored cotton not registered with the Department shall be abated as established in A.R.S. §§ 3-204 and 3-205, and the producer may be assessed a civil penalty as established in ~~A.R.S. § 205.02~~A.R.S. § 3-205.02. The registration shall include:
    - a. The name, address, telephone number, and signature of the producer;
    - b. The name, address, telephone number, and signature of the property owner;
    - c. The name, address, and telephone number of the organization or company contracting for the production of colored cotton or to whom the colored cotton will be sold, if known;
    - d. The total number of acres to be planted;



- e. The geographical location of the proposed fields by county, section, township and range; and
- f. The name of the property owners, if known, adjacent to the field where colored cotton will be grown.
- 2. Separation of white and colored cotton.
  - a. A colored cotton producer shall ensure that all colored cotton is planted no less than 500 feet from any white cotton field.
  - b. All producers of white cotton saved for planting seed shall comply with the Field Standards in the Arizona Crop Improvement Association's Cotton Seed Certification Standards, revised July 1995. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.
- 3. A producer shall not plant white cotton on land on which colored cotton has been grown until one or more irrigated non-cotton crops have been produced on that land. If the non-cotton crop is not grown during a traditional cotton growing season, as established by ~~R3-4-204(E)~~R3-4-204(E), the field shall be irrigated before planting a white cotton crop.
- 4. The Department shall notify all cotton producers of the colored cotton plant-back restrictions and of the availability of location and acreage records of colored cotton crops.
- 5. The Department shall notify the Arizona Crop Improvement Association of the colored cotton geographical locations at least 25 days before the cotton planting date for each cultural cotton zone established in ~~R3-4-204~~R3-4-204(E).
- C. Cotton appliances.
  - 1. No cotton producer, contractor, or ginner shall use a cotton appliance or gin to produce, transport, or handle white cotton after the gin or appliance has been used in the production, transportation, or handling of colored cotton until the Department inspects the cotton appliance or gin and finds it free of colored cottonseed, seed cotton, fiber, and gin trash. A cotton producer, contractor, or ginner shall notify the Department at least 48 hours, excluding Sundays and legal holidays, before an inspection is needed.
  - 2. Colored seed cotton, cottonseed, fiber, and gin trash cleaned from cotton equipment, shall be composted or disposed of by the producer or ginner:
    - a. On land where gin trash has previously been disposed and the land is managed as specified in subsection (B)(3); or
    - b. In a landfill approved by the Department.
  - 3. The Department shall legibly mark cotton appliances designated for exclusive use on colored cotton crops.
- D. Transportation. Except in gin yards, colored cottonseed or colored seed cotton transported over public roads shall be totally enclosed or covered.
- E. Gin requirements.
  - 1. A gin owner or manager planning to process colored cotton shall notify the Department, in writing, no less than 30 days before processing the colored cotton.
  - 2. The Department shall notify the Arizona Crop Improvement Association of a gin owner's or manager's intention to process colored cotton within 10 days from the receipt of the notification from the gin.
  - 3. A gin owner or manager processing colored cotton shall not process white cotton until the gin has been cleaned, and inspected by the Department. The gin shall be free of cottonseed, seed cotton, and loose lint as established in subsection (C)(1).
  - 4. If a gin processes colored seed cotton and white seed cotton during the same season, and the white cottonseed is not retained by the plant breeder for research purposes, the producer shall market the white cottonseed as:
    - a. Animal feed,
    - b. Crushed or composted fertilizer, or
    - c. Oil.
  - 5. The ginner shall legibly mark colored seed cotton kept in the gin yard or gin buildings and shall:
    - a. Isolate the seed cotton at least 500 feet from white seed cotton, or
    - b. Enclose it with two foot high chicken wire or chain link fencing.
  - 6. Gin trash not disposed as established in subsection (C)(2) shall be shipped out-of-state, subject to the requirements of the receiving state and ~~7 CFR 301.52 et seq., amended August 30, 1994~~ 7 CFR §§ 301.52 et. Seq., amended June 7, 2005. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.
  - 7. The ginner shall bale or bag colored cotton fiber and mark the bale or bag as colored cotton.
- F. Seed Requirements.
  - 1. A producer or contracting organization, set forth in subsection (B)(1), saving colored cottonseed for propagative purposes shall legibly label the colored planting seed container and notify the Department of:
    - a. The quantity,
    - b. The variety or color,
    - c. The location where the colored planting seed is held or stored, and
    - d. Whether any seed will be shipped out-of-state.
  - 2. If the cotton seed is being delinted in Arizona, the delinting facility shall follow the requirements in Harvesting, Handling and Tagging that are included in the Cotton Seed Certification Standards and have been incorporated by reference in subsection (B)(2)(b).
  - 3. The producer shall render non-viable non-delinted (fuzzy) colored cottonseed not used for propagative purposes by crushing or composting. Whole or cracked colored cottonseed shall not be used as animal feed in Arizona but may be shipped out-of-state, subject to the requirements of the receiving state and ~~7 CFR 301.52 et seq~~ 7 CFR §§ 301.52 et. Seq., amended June 7, 2005.
  - 4. Cotton producers shall not transport unbagged white cotton planting seed using vehicles or other equipment previously used to transport whole or cracked colored cottonseed until the Department has certified that these vehicles and equipment are free of colored cottonseed.
- G. Advisory committee. ~~The Director shall appoint an advisory committee, under A.R.S. § 3-106, to review colored cotton statutes and rules, inspection procedures, and certification methods. The committee shall be appointed for two year staggered terms and a member may be reappointed for one additional term. The committee shall consist of one representative from each of the following categories:~~



- ~~1. The Cotton Research and Protection Council;~~
- ~~2. The Arizona Crop Improvement Association;~~
- ~~3. The Arizona Department of Agriculture;~~
- ~~4. The Arizona Cotton Growers Association;~~
- ~~5. A colored cotton producer;~~
- ~~6. A ginner ginning colored cotton; and~~
- ~~7. A contractor for the production of colored cotton.~~ The Director, as necessary, shall appoint an advisory committee composed of the nominated representatives of the Arizona Cotton Growers Association and the Arizona Cotton Research and Protection Council and such other individuals as may be necessary to make recommendations to the Department on amendments to this Section.

## ARTICLE 9. BIOTECHNOLOGY

### R3-4-901. Genetically Engineered Organisms and Products

- A. Definitions. In addition to the definitions provided in A.R.S. § 3-101, the following shall apply:
1. “Associate Director” means the Associate Director of the Plant Services Division of the Arizona Department of Agriculture.
  2. “Genetically engineered” means the genetic modification of organisms by recombinant DNA techniques, including genetic combinations resulting in novel organisms or genetic combinations that would not naturally occur.
  3. “Organisms” means any active, infective, or dormant stage or life form of any entity characterized as living, including vertebrate and invertebrate animals, plants, bacteria, fungi, mycoplasmas, mycoplasma-like organisms, as well as entities such as viroid, viruses, or any entity characterized as living related to the foregoing.
  4. “Permit” means an application which has been approved by USDA and the Department.
  5. “Permit application” means an application filed with USDA, which may be supplemented with requirements from the Department, for the introduction of genetically engineered organisms and products, as provided by 7 CFR 340, revised June 16, 1987; ~~pages 22908 through 22915.~~ The material incorporated herein by reference is on file with the Office of the Secretary of State and does not include any later amendments or editions of the incorporated matter.
  6. “Product” means plant reproductive parts including pollen, seeds, and fruit, spores, or eggs.
  7. “USDA” means the United States Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine (USDA, APHIS, PPQ).
- B. Permit applications. A genetically engineered organism or product shall not be introduced into Arizona, sold, offered for sale, or distributed for release into Arizona’s environment unless a permit issued pursuant to the application has been issued by USDA, or the Department has been notified by the USDA that the genetically engineered organisms or product is eligible under the notification procedure, as prescribed by ~~7 CFR 340.3, revised April 1993~~ 7 CFR § 340.3, revised August 6, 2007, or it has been determined by the USDA to be of nonregulated status, as prescribed by 7 CFR 340.6, revised ~~April 1993~~ May 1997. The material incorporated herein by reference is on file with the Office of the Secretary of State and does not include any later amendments or editions of the incorporated matter.
1. Applicants for the release or use of genetically engineered organisms or products shall follow all permit application procedures required by USDA.
  2. In addition to USDA’s requirements, permit applications shall demonstrate to the Department that:
    - a. Genetically engineered organisms or products shall be handled in such a manner so that no genetically engineered organism or product accidentally escapes into Arizona’s environment.
    - b. All permit applicants shall comply with Arizona quarantine rules regulating the plants, pests, or organisms being introduced into Arizona.
  3. The Department may, if it deems necessary to protect agriculture, public health, or the environment from potential adverse effects from the introduction of a specific genetically engineered organism or product:
    - a. Place restrictions on the number and location of organisms or products released, method of release, training of persons involved with the release of organisms or products, disposal of organisms or products, and other conditions of use;
    - b. Require measures to limit dispersal of released organisms or spread of inserted genes or gene products;
    - c. Require monitoring of the abundance and dispersal of the released organism or inserted genes or gene products;
    - d. Request the USDA to deny, suspend, modify, or revoke the permit for failure to comply with this rule.
    - e. Request the USDA to suspend the permit if it is determined that an adverse effect is occurring or is likely to occur because of a release authorized by such permit.
  4. To the extent possible, the Department shall accept for review and base its decision on the data submitted with the federal application. However, the Department may request additional information from the applicant to assess the risks to animals and plants, including risks of vector transmissions of genetically engineered organisms or products.
  5. The Associate Director shall review the application recommendations with the Director who shall, within the time period prescribed on each USDA application, approve, conditionally approve, or deny the permit.
  6. The Director shall return the completed application with the resolution to USDA for final action.



NOTICES OF FINAL RULEMAKING

This section of the Arizona Administrative Register contains Notices of Final Rulemaking. Final rules have been through the regular rulemaking process as defined in the Administrative Procedures Act. These rules were either approved by the Governor's Regulatory Review Council or the Attorney General's Office. Certificates of Approval are on file with the Office.

The final published notice includes a preamble and

text of the rules as filed by the agency. Economic Impact Statements are not published.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the final rules should be addressed to the agency that promulgated them. Refer to Item #5 to contact the person charged with the rulemaking. The codified version of these rules will be published in the Arizona Administrative Code.

NOTICE OF FINAL RULEMAKING
TITLE 11. MINES
CHAPTER 3. STATE MINE INSPECTOR
AGGREGATE MINED LAND RECLAMATION

[R19-46]

PREAMBLE

Table with 2 columns: Article, Part, or Section Affected (as applicable) and Rulemaking Action. Lists various rule numbers (e.g., R11-3-101) and their corresponding actions (e.g., New Article, New Section).



R11-3-801	New Section
R11-3-802	New Section
R11-3-803	New Section
R11-3-804	New Section
R11-3-805	New Section
R11-3-806	New Section
R11-3-807	New Section
R11-3-808	New Section
R11-3-809	New Section
R11-3-810	New Section
R11-3-811	New Section
R11-3-812	New Section
R11-3-813	New Section
R11-3-814	New Section
R11-3-815	New Section
R11-3-816	New Section
R11-3-817	New Section
R11-3-818	New Section
R11-3-819	New Section
R11-3-820	New Section
R11-3-821	New Section

**2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. § 27-1204(A)

Implementing statute: A.R.S. §§ 27-1204, 27-1227, 27-1228, 27-1229, 27-1230, 27-1233, 27-1236, 27-1237, 27-1277, 27-1292, and 27-1292

**3. The effective date for the rules:**

May 11, 2019

**a. If the agency selected a date earlier than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**

Not applicable

**b. If the agency selected a date later than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**

Not applicable

**4. Citation to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**

Notice of Rulemaking Docket Opening: 24 A.A.R. 2565, September 14, 2018

Notice of Proposed Rulemaking: 24 A.A.R. 2540, September 14, 2018

**5. The agency's contact person who can answer questions about the rulemaking:**

Name: Laurie Swartzbaugh  
 Address: State Mine Inspector  
 1700 W. Washington St., Suite 403  
 Phoenix, AZ 85007  
 Telephone: (602) 542-5971  
 Fax: (602) 542-5335  
 E-mail: lswartzbaugh@asmi.az.gov  
 Web site: https://asmi.az.gov

**6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**

The legislature enacted the Aggregate Mine Land Reclamation Act (A.R.S. Title 27, Chapter 6) in 2005. The Act requires aggregate exploration operations and aggregate mining units to submit reclamation plans and financial assurance mechanisms to the Office of the State Mine Inspector. The Act requires the Inspector to make rules consistent with the Act for reclamation of surface disturbances at aggregate exploration operations and mining units, financial assurances, and public notice of new plans or substantial changes to existing plans. A Notice of Proposed Rulemaking for the required rules was published at 12 A.A.R. 742, March 10, 2006. The rulemaking process was not completed. This rulemaking process will enact the rules required under A.R.S. § 27-1204. In the interim, members of the industry have been complying with the rules proposed in 2006.

This rulemaking is exempt from Executive Order 2018-02 under paragraph (7)(a) of the Order.



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

The Inspector did not review or rely on a study in the Inspector’s evaluation of or justification for any rule in this rulemaking.

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

Not applicable

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

The cost of reclaiming a surface disturbance of more than five acres can be significant. However, it is statute rather than these rules that require the owner or operator of an exploration operation or aggregate mining unit to develop and obtain the Inspector’s approval of a reclamation plan and to provide a financial assurance mechanism before creating a surface disturbance of more than five acres (See A.R.S. §§ 27-1221 and 27-1222).

There are some costs associated with developing and obtaining the Inspector’s approval of a reclamation plan and financial assurance mechanism. There are also costs associated with the standards a reclamation plan must meet. As specifically authorized by statute (See A.R.S. § 27-1233), there are fees to be paid for review and approval of a reclamation plan or a substantial change to a reclamation plan.

The rules allow use of bond pooling as a financial assurance mechanism. This mechanism was included to reduce the cost of providing financial assurance for small owners and operators.

The legislature required reclamation of aggregate mined lands to protect the environment and to protect public health and safety. The costs associated with reclaiming aggregate mined lands are a cost of doing business offset by the public benefits.

**10. A description of any changes between the proposed rulemaking, including supplemental notices, and the final rulemaking:**

In response to review by the Office of the Attorney General, the Inspector made minor, non-substantive, word-choice changes to R11-3-302.

**11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to comments:**

No public or stakeholder comments were received regarding the rulemaking.

**12. All agencies shall list any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

None

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

Not applicable

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

Not applicable

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

Not applicable

**13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**

None

**14. Whether the rule was previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

None of the rules in this rulemaking was previously made, amended, or repealed as an emergency rule.

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

**TITLE 11. MINES**

**CHAPTER 3. STATE MINE INSPECTOR  
AGGREGATE MINED LAND RECLAMATION**

**ARTICLE 1. DEFINITIONS**

Section

R11-3-101.

Definitions

R11-3-102.

Licensing Time Frames

R11-3-103.

Appeals

**ARTICLE 2. GENERAL REGULATORY PROVISIONS**

Section



<u>R11-3-201.</u>	<u>Document Submittals</u>
<u>R11-3-202.</u>	<u>Preservation of Documents</u>
<u>R11-3-203.</u>	<u>Extension of Time for Submittal of Reclamation Plan</u>
<u>R11-3-204.</u>	<u>Supersedure by Federal Plan</u>
<u>R11-3-205.</u>	<u>Extension of Time to Initiate Reclamation</u>
<u>R11-3-206.</u>	<u>Variance</u>
<u>R11-3-207.</u>	<u>Notice of Proposed Substantial Change to Approved Reclamation Plan</u>
<u>R11-3-208.</u>	<u>Temporary Suspension, Permanent Termination, or Abandonment of Aggregate Mining Activity</u>
<u>R11-3-209.</u>	<u>Cessation of Aggregate Mining Activity</u>
<u>R11-3-210.</u>	<u>Fees</u>
<u>R11-3-211.</u>	<u>Public Notices and Meetings</u>
<u>R11-3-212.</u>	<u>Public Disclosure</u>

### **ARTICLE 3. EXPLORATION OPERATION RECLAMATION PLAN**

Section	
<u>R11-3-301.</u>	<u>Exploration Operation Reclamation Plan Content</u>
<u>R11-3-302.</u>	<u>Modification of Exploration Operation Reclamation Plan</u>

### **ARTICLE 4. EXPLORATION OPERATION RECLAMATION STANDARDS**

Section	
<u>R11-3-401.</u>	<u>Restricted Access</u>
<u>R11-3-402.</u>	<u>Trash Removal</u>

### **ARTICLE 5. AGGREGATE MINING UNIT RECLAMATION PLAN**

Section	
<u>R11-3-501.</u>	<u>Aggregate Mining Unit Reclamation Plan Content</u>
<u>R11-3-502.</u>	<u>Estimating the Cost of Reclamation</u>
<u>R11-3-503.</u>	<u>Multiple Post-aggregate Mining Land Uses</u>
<u>R11-3-504.</u>	<u>Annual Status Report</u>
<u>R11-3-505.</u>	<u>Life of an Approved Reclamation Plan</u>

### **ARTICLE 6. AGGREGATE MINING UNIT RECLAMATION STANDARDS**

Section	
<u>R11-3-601.</u>	<u>Public Safety Standards</u>
<u>R11-3-602.</u>	<u>Erosion Control and Topographic Contouring</u>
<u>R11-3-603.</u>	<u>Roads</u>

### **ARTICLE 7. REVEGETATION AND SOIL STANDARDS**

Section	
<u>R11-3-701.</u>	<u>Revegetation Provisions</u>
<u>R11-3-702.</u>	<u>Revegetation Standards</u>
<u>R11-3-703.</u>	<u>Conservation of Soil</u>
<u>R11-3-704.</u>	<u>Redistribution of Soil</u>
<u>R11-3-705.</u>	<u>Off-site Soil</u>

### **ARTICLE 8. FINANCIAL ASSURANCE**

Section	
<u>R11-3-801.</u>	<u>Definitions</u>
<u>R11-3-802.</u>	<u>Amount of Financial Assurance</u>
<u>R11-3-803.</u>	<u>Blanket Financial Assurance</u>
<u>R11-3-804.</u>	<u>Surety Bond</u>
<u>R11-3-805.</u>	<u>Certificate of Deposit</u>
<u>R11-3-806.</u>	<u>Trust</u>
<u>R11-3-807.</u>	<u>Letter of Credit</u>
<u>R11-3-808.</u>	<u>Insurance Policy</u>
<u>R11-3-809.</u>	<u>Certificate of Self-insurance</u>
<u>R11-3-810.</u>	<u>Cash Deposit</u>
<u>R11-3-811.</u>	<u>Annuity</u>
<u>R11-3-812.</u>	<u>Bonding Pool</u>
<u>R11-3-813.</u>	<u>Limited Individual Financial Assurance</u>
<u>R11-3-814.</u>	<u>Final Action on Financial Assurance Mechanisms</u>
<u>R11-3-815.</u>	<u>Incremental Financial Assurance</u>
<u>R11-3-816.</u>	<u>Application for Release of Financial Assurance</u>
<u>R11-3-817.</u>	<u>Forfeiture Criteria; Forfeiture of Financial Assurance</u>
<u>R11-3-818.</u>	<u>Notice of Forfeiture Action; Avoidance of Forfeiture</u>
<u>R11-3-819.</u>	<u>Notice of Exercise of Forfeiture</u>



R11-3-820. Municipal, County, or State Government  
R11-3-821. Non-mining Excavation Surface Disturbances

**ARTICLE 1. DEFINITIONS**

**R11-3-101. Definitions**

The definitions at A.R.S. §§ 27-441 and 27-1201 apply to this Chapter. Additionally, unless the context requires otherwise, in this Chapter:

- “Act” means the Arizona Mined Land Reclamation Act, enacted in 2005, A.R.S. § 27-1201 et seq., as amended.
- “Approved reclamation plan” means a plan for reclaiming surface disturbances submitted by the responsible party and approved by the Inspector.
- “Borrow pit” means an unregulated excavation surface disturbance from which overburden is extracted for use as fill material in the form in which it is extracted.
- “Completion,” means permanent discontinuance of mining activity of an exploration operation or aggregate mining unit without the intent to resume mining activity.
- “Growth media” means substances or materials that promote or support vegetation.
- “Inert material,” as defined at A.R.S. §§ 49-201 and 49-701, means broken concrete, asphaltic pavement, manufactured asbestos-containing products, brick, rock, gravel, sand, and soil. Inert material includes materials that when subjected to a water leach test that is designed to approximate natural infiltrating waters will not leach substances in concentrations that exceed numeric aquifer water quality standards established under A.R.S. § 49-223, including overburden and wall rock that is not acid generating, taking into consideration acid neutralization potential, and that has not and will not be subject to mine leaching operations.
- “Inspection” means a visual review of an exploration operation or aggregate mining unit to assure compliance with the Act, this Chapter, and conditions of an approved reclamation plan.
- “Institutional controls” means mechanisms that guide, manage, or exercise restraint or direction, including deed restrictions, to protect public safety, fencing districts, and physical control of access.
- “Mining activity” means any action directly involved in mineral exploration, development, or production at or on an exploration operation or aggregate mining unit.
- “Non-mining excavation surface disturbance” means a surface disturbance or excavation that is not an integral or active part of an aggregate mining activity at an aggregate mining facility and does not require reclamation under the Act or this Chapter. Non-mining excavation surface disturbance includes construction excavations, borrow pits, and other site-development excavations that are not used for aggregate development, occur on a one-time or intermittent basis, and involve no processing except use of a screen to remove large rocks, wood, and trash.
- “Operator” means a person or the person’s designated agent, who is legally responsible for directing mining activity at an exploration operation or aggregate mining unit.
- “Overburden” means material covering an area that lends itself to economical exploitation.
- “Owner” means a person that owns land with surface disturbances subject to the Act and this Chapter.
- “Person” means an individual, corporation, governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.
- “Responsible party” means the owner or operator designated in an aggregate site reclamation plan as the person responsible under the Act and this Chapter.
- “Riprap” means loose stone or other material used to armor shorelines, streambeds, bridge abutments, pilings, and other structures against erosion.
- “Showing of good cause” means a demonstration by the responsible party of:
  - A reason beyond the responsible party’s control that prevents or limits the ability to act within required time limits; or
  - Good faith efforts toward the coordination and submission of a aggregate site reclamation plan.
- “Substantial change” means one or more of the following alterations to an approved reclamation plan:
  - Change in the post-aggregate mining use of the land from that stated in the approved reclamation plan;
  - New surface disturbance that cannot be reclaimed in a manner substantially similar to that stated in the approved reclamation plan;
  - Change to the final topography of a surface disturbance that substantially affects the reclamation measures stated in the approved reclamation plan;
  - Change to reclamation measures stated in the approved reclamation plan that has the effect of lessening restrictions to public access to pits or other surface features that may cause a hazard to persons legally on the premises;
  - Change to reclamation measures stated in the approved reclamation plan that materially affects post-aggregate mining land use;



Change to reclamation measures stated in the approved reclamation plan that materially affects the reclamation of access roads, drill pads, drill holes, trenches, and other exploration workings;

New surface disturbance or expansion beyond the boundaries stated in the approved reclamation plan; or

Significant decreases in the cost estimate stated in the reclamation plan to perform reclamation measures for the purpose of determining financial assurance requirements under Article 5 of the Act.

**R11-3-102. Licensing Time Frames**

As required under A.R.S. § 27-1236, the Inspector shall make all approvals or denials in accordance with applicable licensing time frames and procedures.

**R11-3-103. Appeals**

As authorized under A.R.S. § 27-1235 and provided under A.R.S. Title 41, Chapter 6, Article 10, a person may appeal an action of the Inspector taken under the Act and this Chapter.

**ARTICLE 2. GENERAL REGULATORY PROVISIONS**

**R11-3-201. Document Submittals**

- A. A responsible party shall submit to the Inspector any document required under the Act or this Chapter by certified mail with a receipt or hand delivery.
- B. If the document submitted under subsection (A) is a reclamation plan, the responsible party shall ensure an original plus three copies, including any attachments to the plan or amendments, are submitted to the Inspector.
- C. For all documents submitted under subsection (A), the responsible party shall:
  - 1. Sign and date the documents or ensure the documents are signed and dated by an individual with legal authority from the owner or operator; and
  - 2. Include the names and addresses of the owner and operator.

**R11-3-202. Preservation of Documents**

- A. A responsible party shall retain:
  - 1. A copy of the current approved reclamation plan,
  - 2. All reclamation plans for areas for which reclamation is complete, and
  - 3. The most recent annual status report required under R11-3-504.
- B. The responsible party shall retain the documents listed in subsection (A) until all reclamation measures are complete.
- C. The responsible party shall make the documents listed in subsection (A) available, on site, for examination by the Inspector.

**R11-3-203. Extension of Time for Submittal of Reclamation Plan**

- A. As provided under A.R.S. § 27-1222, the responsible party may petition the Inspector for extensions of time in which to submit a reclamation plan for an existing exploration operation or an existing aggregate mining unit.
- B. The Inspector shall not grant an extension of more than 90 days.
- C. For each extension petition after the first, the responsible party shall ensure the revised petition identifies any changes in relevant factors that warrant an additional extension.

**R11-3-204. Supersedure by Federal Plan**

- A. As authorized under A.R.S. § 27-1232, the responsible party of an exploration operation or aggregate mining unit located in whole or part on federally administered land may submit notice to the Inspector of the existence of an approved federal reclamation plan and financial assurance mechanism. The responsible party shall attach to the notice a copy of the approved federal reclamation plan and financial assurance mechanism.
- B. Within 30 days after receiving the notice referenced in subsection (A), the Inspector shall determine whether the approved federal reclamation plan and financial assurance mechanism are consistent with and supersede the requirements of the Act and this Chapter. If the Inspector determines the approved federal reclamation plan and financial assurance mechanism:
  - 1. Are consistent with the requirements of the Act and this Chapter, the Inspector shall provide written notice of the determination to the responsible party.
  - 2. Are not consistent with the requirements of the Act and this Chapter, the Inspector shall provide written notice of the determination to the responsible party and explain the basis for the determination.

**R11-3-205. Extension of Time to Initiate Reclamation**

- A. If the owner or operator of an exploration operation or aggregate mining unit believes the conditions specified in A.R.S. § 27-1226(B) are met, the responsible party for the exploration operation or aggregate mining unit may submit a request for an extension of time to begin reclamation. The responsible party shall submit the request of an extension of time at least 45 days before the times specified in A.R.S. § 27-1226(A).
- B. Within 30 days after receiving a request under subsection (A), the Inspector shall approve or disapprove the request and send written notice of the decision to the responsible party. If the Inspector fails to act on the request within 30 days after receiving the request, the request shall be deemed approved.
- C. If the Inspector disapproves a request submitted under subsection (A), the Inspector shall include an explanation of reasons for the disapproval in the written notice sent under subsection (B).

**R11-3-206. Variance**

- A. In addition to information required under the Act or this Chapter, a request for variance submitted under A.R.S. § 27-1237 shall include:



1. Identification by owner or operator and mine name, if any, of the exploration operation or mining unit for which the variance is sought;
  2. Descriptive location of the property on which the exploration operation or mining unit is located;
  3. Identification of the statutory or regulatory provision or requirement or condition of the approved reclamation plan from which the variance is sought;
  4. Justification for the variance; and
  5. Alternative methods or measures to be used.
- B.** Within 30 days after receiving a request for variance under A.R.S. § 27-1237, the Inspector shall issue a conditional order authorizing the variance or denying the request. If the Inspector denies the request for variance, the order shall include an explanation of reasons for the denial.

**R11-3-207. Notice of Proposed Substantial Change to Approved Reclamation Plan**

- A.** As required under A.R.S. § 27-1227(B), a responsible party that intends to make a change to an approved reclamation plan shall file notice of the proposed change with the Inspector and indicate the purpose and scope of the proposed change and whether the proposed change is believed to be substantial.
- B.** If the Inspector determines within 15 days after receipt of the notice that the proposed change is substantial, the responsible party shall submit an amendment for approval.
- C.** After submittal of the amendment and the fee specified under R11-3-210, the Inspector shall provide written notice to the responsible party approving or disapproving the proposed substantial change within 90 days. If the Inspector disapproves the proposed substantial change, the written notice shall include an explanation of reasons for the disapproval.
- D.** Before implementing an approved substantial change, the responsible party shall submit any required modifications to the financial assurance to account for the substantial change.

**R11-3-208. Temporary Suspension, Permanent Termination, or Abandonment of Aggregate Mining Activity.**

If no mining activity takes place at an aggregate mining facility for 180 consecutive days, the responsible party of the aggregate mining facility shall provide to the Inspector the notice required under A.R.S. § 27-303. The responsible party shall provide the notice using a form acceptable to the Inspector.

**R11-3-209. Cessation of Aggregate Mining Activity**

- A.** The Inspector shall consider the cessation of aggregate mining activity to have occurred if:
1. No aggregate mining activity has occurred during the last 12 months and no mining entity has notified the Inspector of an agreement under A.R.S. § 27-1228 to transfer an approved reclamation plan;
  2. The person conducting the aggregate mining activity has gone out of business and the Inspector has received no notice from a succeeding legal entity;
  3. An extension of time to initiate reclamation provided under R11-3-205 has expired and no other extension has been requested; or
  4. The annual status report required under R11-3-504 is at least 180 days overdue.
- B.** If the Inspector determines under subsection (A) that mining activity has ceased at an aggregate mining facility, the Inspector shall provide written notice of the determination to the last known address of the responsible party by the U.S. Postal Service with receipt or hand delivery. The notice shall inform the responsible party of the determination of cessation of mining activity and provide 45 days in which to respond to the determination. If the responsible party does not respond within the 45 days provided, the determination of cessation is final.
- C.** The date on which the determination of cessation is final is the date the responsible party shall use to calculate, under A.R.S. § 27-1226, the date for initiation of reclamation.

**R11-3-210. Fees**

As specifically authorized under A.R.S. § 27-1233, the Inspector establishes and shall collect the following fees:

1. Reclamation plan for an exploration operation: \$1,565;
2. Substantial change to an approved exploration operation reclamation plan: \$1,565 for up to 20 acres of disturbances, including testing plots or roadway disturbances, plus \$20/acre when the change is greater than 10 percent or 20 acres, whichever is less;
3. Reclamation plan for aggregate mining unit or facility: \$3,800 for up to 160 acres of disturbance plus \$20/acre of additional disturbance; and
4. Substantial change to an approved aggregate mining unit or facility reclamation plan: \$1,565 plus \$20/acre when the change is greater than 10 percent or 20 acres, whichever is less.

**R11-3-211. Public Notices and Meetings**

- A.** The Inspector shall ensure notices required under A.R.S. § 27-1229 include:
1. Mailing address of the Inspector;
  2. Date and time of the deadline for submitting written comments regarding the proposed reclamation plan or substantial change to an approved reclamation plan;
  3. Date, time, and location of a public meeting regarding the proposed reclamation plan or substantial change to an approved reclamation plan;
  4. Brief description of the proposed reclamation plan or substantial change; and
  5. Designation of where the proposed reclamation plan or substantial change may be accessed.
- B.** The Inspector shall ensure notices required under A.R.S. § 27-1230 include:
1. Name and mailing address of the Inspector;
  2. Date and time of the deadline for submitting written comments regarding the proposed reclamation plan or substantial change to an approved reclamation plan;
  3. Brief description of the proposed reclamation plan or substantial change; and



4. Designation of where the proposed reclamation plan or substantial change may be accessed.
- C.** A person that submits a written comment shall ensure the comment:
  1. Includes the name and mailing address of the commenter and describes how the commenter is adversely affected by the plan.
  2. States clearly why the proposed reclamation plan or substantial change to an approved reclamation plan should be approved or disapproved by the Inspector.
  3. Identifies the statutory or regulatory provision that justifies approval or disapproval of the proposed reclamation plan or substantial change to an approved reclamation plan, and
  4. Is signed by the commenter or the commenter's agent or attorney.
- D.** The Inspector shall ensure public meetings conducted under A.R.S. § 27-1229 or 27-1230:
  1. Inform the public of the propose reclamation plan or substantial change to an approved reclamation plan, and
  2. Allow time for persons to make statements and submit written comment regarding the propose reclamation plan or substantial change to an approved reclamation plan.
- E.** The person presiding at a public meeting conducted under A.R.S. § 27-1229 or 27-1230 shall maintain order and allot equitable time for oral comments by participants.
- F.** The Inspector may schedule persons that have an interest in or are knowledgeable about the propose reclamation plan or substantial change to an approved reclamation plan to speak at the public meeting conducted under A.R.S. § 27-1229 or 27-1230.
- G.** With regard to public meetings conducted under A.R.S. § 27-1229 or 27-1230, the Inspector shall:
  1. Maintain a record of the public meetings and make the record available to the public during normal business hours at the Inspector's office; and
  2. Include the agenda, written comments submitted by the deadline specified in subsection (B)(2), and electronic recording or transcript of the public meeting in the record maintained under subsection (G)(1).

**R11-3-212. Public Disclosure**

- A.** Any records, reports, or information obtained or prepared by the Inspector under the Act or this Chapter must be available to the public as specifically authorized under A.R.S. § 27-1231.
- B.** Under A.R.S. § 39-121.01, a person may request to review or copy any public record of which the Inspector is custodian.

**ARTICLE 3. EXPLORATION OPERATION RECLAMATION PLAN****R11-3-301. Exploration Operation Reclamation Plan Content**

- A.** The responsible party of an exploration operation shall submit to the Inspector a reclamation plan before the exploration operation disturbs more than five contiguous acres. The reclamation plan shall include the following:
  1. Information specified under A.R.S. § 27-1251(A);
  2. Information to meet the criteria for approval specified in A.R.S. § 27-1253, as applicable;
  3. A figure or exhibit of the layout of the exploration operation showing the location, nature, and acreage of each disturbance. The sketch does not need to include specific survey coordinates identifying exact topographic features or geographic locations; and
  4. Name and address of the responsible party.
- B.** Within 60 days after receiving a reclamation plan submitted under this Section, the Inspector shall approve the reclamation plan if it meets the requirements in this Section.

**R11-3-302. Modification of Exploration Operation Reclamation Plan**

- A.** As required under A.R.S. § 27-1255, the responsible party may modify an exploration reclamation plan to:
  1. Address types of surface disturbances that will be conducted during exploration operations but have not been previously addressed in the reclamation plan, or
  2. Submit additional financial assurance, if any.
- B.** Before modifying an exploration operation reclamation plan, the responsible party shall submit a request to modify the approved reclamation plan. Within 45 days after receiving a request to modify the approved exploration operation reclamation plan, the Inspector shall provide the responsible party with written notice the request is approved if the request meets the standards specified in subsection (A) and does not propose a modification that constitutes a substantial change. If the Inspector fails to provide written notice of approval within 45 days, the request to modify, including modifications that do not constitute a substantial change, is approved.
- C.** Within 60 days after approval under subsection (B), the responsible party shall submit to the Inspector additional financial assurance mechanisms, if applicable, to address approved plan modifications. The Inspector shall accept or reject the additional financial assurance mechanisms within 30 days after receipt.
- D.** If a request to modify an approved exploration operation reclamation plan contains a proposed modification that constitutes a substantial change, the Inspector shall follow the public notice and meeting procedures required under A.R.S. § 27-1229 and specified under R11-3-211.

**ARTICLE 4. EXPLORATION OPERATION RECLAMATION STANDARDS****R11-3-401. Restricted Access**

As required under A.R.S. § 27-1253, if an open pit or trench will remain at a place frequented by the public, the responsible party for an exploration operation reclamation plan shall ensure measures are taken to restrict access to the open pit or trench. These measures may include fencing and posting visible warning signs.

**R11-3-402. Trash Removal**

The responsible party shall ensure that trash and other materials and structures incidental to exploration that pose a threat to public safety, create a public nuisance, or are inconsistent with an approved reclamation plan are removed promptly.



**ARTICLE 5. AGGREGATE MINING UNIT RECLAMATION PLAN**

**R11-3-501. Aggregate Mining Unit Reclamation Plan Content**

- A.** Before beginning any mining activity, the responsible party of an aggregate mining facility shall submit to the Inspector a reclamation plan. The reclamation plan shall include the information specified in A.R.S. § 27-1271, unless excluded under A.R.S. § 27-1275, including elements in Articles 6 and 7, if applicable. The reclamation plan may include the following:
  - 1. Maps of the existing or proposed surface disturbances for all aggregate mining units of the aggregate mining facility indicating the following, as applicable:
    - a. Boundaries of each aggregate mining unit including any offsets and setbacks;
    - b. Boundaries of the aggregate mining facility on which the aggregate mining unit is located;
    - c. Existing and proposed post-aggregate mining sites;
    - d. Post-reclamation physical topography including all surface elevations and approximate under-water surface configurations or elevations;
    - e. Natural features including surface water and the elevation of any pond or lake;
    - f. Surface disturbances including pits, excavations, walls, worksite pads, parking lots, storage areas, water dikes or ditches, temporary or permanent structures, temporary trailers or pads, and equipment;
    - g. Aggregate mine development rock piles, soil or growth media storage piles, overburden stockpiles, and other piles of unconsolidated materials;
    - h. Settling ponds and waste materials or fines materials;
    - i. Roads, building or foundations and pads, other structures, stationary equipment, fences, including security fences and gates, and berms;
    - j. Other features that will be abated or removed including water wells, power lines, utilities, and buildings not required in the post-aggregate mining land use; and
    - k. Final post-aggregate mining land use objectives for each portion of surface disturbance in each aggregate mining unit. Multiple post-aggregate mining land uses may be listed for an aggregate mining unit but each use is required to meet the requirements of the Act and this Chapter;
  - 2. An indication whether the owner or operator is the responsible party and if the operator is the responsible party, a description of the legal relationship between the owner and the operator including the length of the lease and a general description of lease provisions governing reclamation.
- B.** The Inspector shall approve or disapprove a submitted reclamation plan for an aggregate mining unit according to the licensing time frames specified in A.R.S. § 27-1272.

**R11-3-502. Estimating the Cost of Reclamation**

- A.** When submitting estimated costs to perform a proposed reclamation, as required under A.R.S. §§ 27-1271(B)(11) and 27-1292, the responsible party shall ensure the estimate equals the amount necessary for a third party to perform each proposed reclamation measure listed in the proposed reclamation plan. The responsible party shall ensure the estimate includes:
  - 1. Itemized calculation of estimated cost to perform all reclamation measures for each category of mining activity;
  - 2. Documentation demonstrating how the estimated cost for each category of mining activity, including subtotals and totals, was calculated; and
  - 3. Identification of the source of information used to estimate each cost.
- B.** In estimating the cost of executing the reclamation plan, all activities in the reclamation plan shall be addressed, including, if applicable:
  - 1. Earth moving, regrading, and stabilization of surface disturbances and slopes;
  - 2. Revegetation, preparation of seedbed, and planting or other stabilization methods;
  - 3. Demolition of buildings and other structures not to remain after cessation of mining;
  - 4. Removal of trash, scrap metal, and other materials;
  - 5. Equipment mobilization and demobilization;
  - 6. On-going activities required to maintain the effectiveness of reclamation and stabilization or in place of reclamation. This includes periodic clean-out of sediment basins and maintenance of signs, berms, and fences used to prevent access to areas that pose a threat to public safety;
  - 7. Contractor profit; and
  - 8. Administrative overhead.
- C.** The Inspector shall review the estimated costs submitted under subsection (A) and determine whether the estimate is adequate to complete all required reclamation. The Inspector shall use the estimated costs to determine the amount of required financial assurance.
- D.** If the Inspector determines the estimated costs submitted under subsection (A) are inadequate to complete all required reclamation, the Inspector shall deem the reclamation plan incomplete under A.R.S. §§ 27-1252 or 27-1272.

**R11-3-503. Multiple Post-aggregate Mining Land Uses**

A reclamation plan may list multiple post-aggregate mining land uses for an aggregate mining unit if the reclamation plan shows the post-aggregate mining land use for each area and each use satisfies the requirements of the Act and this Chapter.

**R11-3-504. Annual Status Report**

- A.** As required under A.R.S. § 27-1277, the responsible party shall submit an annual status report to the Inspector using a form prescribed by the Inspector.
- B.** The responsible party shall submit the annual status report within 60 days after the anniversary date of the approval of the reclamation plan.
- C.** The responsible party shall submit a separate annual status report for each approved reclamation plan.



- D.** The responsible party shall include in the annual status report the information listed under A.R.S. § 27-1277(B) for the year preceding the anniversary date of the approval of the reclamation plan and address:
- Whether the aggregate mining operation is currently active, inactive, or in maintenance status;
  - Changes to the mining site such as phases, borders, and offsets or setbacks;
  - Changes to security measures such as fences, gates, berms, or dikes;
  - Changes to costs for reclaiming the area of disturbance;
  - Financial assurance mechanism currently in effect and whether there has been a change in the financial assurance mechanism during the reporting year; and
  - A map, aerial photograph, or both identifying changes made during the reporting year. This includes:
    - Location of changes to the boundaries of the area of disturbance including areas not identified in the original approved reclamation plan;
    - Location of changes to the reclaimed area;
    - Any new features such as berms, gates, dikes, or fences; and
    - Any movement of process areas, roads, and stockpile areas.
- E.** If there have been no changes since the previous year, neither new maps nor new aerial photographs are necessary and the responsible party shall state there are no changes since the previous annual status report.

**R11-3-505. Life of an Approved Reclamation Plan**

An approved reclamation plan and any approved substantial changes to the approved reclamation plan remain in effect until the reclamation is complete and all financial assurance is released.

**ARTICLE 6. AGGREGATE MINING UNIT RECLAMATION STANDARDS**

**R11-3-601. Public Safety Standards**

- A.** The responsible party shall ensure reclamation activities at a mining unit are designed to reduce hazards to public safety to the extent technically and economically practicable by measures including:
- Removing scrap metal, wood, trash, and other debris that pose a threat to public safety, create a public nuisance, or are inconsistent with the approved reclamation plan; and
  - Re-grading slopes as prescribed under R11-3-602 and R11-3-705 for erosion control.
- B.** The responsible party shall ensure structures, equipment, and excavations at the reclamation site are maintained in a manner that is safe and restricts public access.
- C.** If public access to a surface feature that may be a hazard to public safety cannot be reduced adequately through reclamation measures, if structures, equipment, or excavations remain as part of the approved post-aggregate mining land use, or if a mining unit is exempt from reclamation under A.R.S. § 27-1275(A), the responsible party shall take the following steps to protect public safety:
- Construct berms, fences, barriers, or a combination of these measures to restrict public access to the reclamation site;
  - Post and maintain visible warning signs in locations at which public access to the reclamation site is available; and
  - Implement institutional controls to provide safe and stable conditions by all practicable measures.

**R11-3-602. Erosion Control and Topographic Contouring**

- A.** The responsible party shall ensure an aggregate mining unit is reclaimed to a stable condition for erosion control and seismic activity.
- B.** The responsible party shall ensure grading and other topographic contouring are conducted, as necessary, to establish final land forms that are:
- Suitable for the post-aggregate mining land use objective in the approved reclamation plan, and
  - Stable under static and dynamic conditions as certified by a qualified engineer considering the following:
    - Site-specific seismic conditions,
    - Safety factors consistent with good engineering practices, and
    - The hazard to public safety if failure occurs.
- C.** The responsible party shall ensure site-specific grading, revegetation, and other erosion control measures are conducted to minimize erosion.
- D.** The responsible party shall ensure erosion control measures are conducted so permanent piles of aggregate mine overburden and fine materials do not restrict surface drainage, contribute to excessive erosion, or compromise the stability of the reclaimed aggregate mining unit.
- E.** The responsible party shall ensure a reclamation plan includes:
- A narrative describing the current topography and proposed final topography of the aggregate mining unit;
  - Measures to be taken, including the final slope configuration, to reclaim overburden dumps, waste-rock stockpiles, sediment ponds, and fines piles; and
  - Re-grading and reclamation measures to be taken regarding excavations, ponds, open pits, and rock faces unless the Inspector has determined measures under this subsection are impractical under A.R.S. § 27-1275.
- F.** If an excavation, pond, open pit, or rock face is not to be reclaimed under A.R.S. § 27-1275, the responsible party shall include in the reclamation plan measures adequate to restrict access to the hazard and maintain public safety. The measures may include installing and maintaining berms, fences, and other barriers, posting warning signs, or taking any combination of measures adequate to protect the public.

**R11-3-603. Roads**

- A.** The responsible party shall ensure reclamation of a road not included in an approved reclamation plan as part of an approved post-aggregate mining land use begins once the road is no longer needed for operations, reclamation, or monitoring.
- B.** The responsible party shall ensure the following steps are taken to achieve the post-aggregate mining land use specified in the approved reclamation plan:
- Control vehicular traffic on the reclamation area;



- 2. Restore surface drainage patterns to pre-mining conditions or establish new surface drainage patterns;
- 3. Remove or stabilize bridges and culverts. If a bridge or culvert remains, protect it from erosion with rock, concrete, and riprap; and
- 4. Rip, plow, scarify, and revegetate roadbeds as necessary.

**ARTICLE 7. REVEGETATION AND SOIL STANDARDS**

**R11-3-701. Revegetation Provisions**

- A.** If revegetation is part of a proposed reclamation plan, the responsible party shall ensure the plan is consistent with A.R.S. § 27-1271(B)(9)(c) regarding:
  - 1. Season of revegetation;
  - 2. Species and amounts per acre of seeds or flora;
  - 3. Planting methods; and
  - 4. Measures to address revegetation, conservation, and care and monitoring of revegetated areas.
- B.** If the post-aggregate mining land use objective is grazing, fish or wildlife habitat, or forestry or recreation, the responsible party shall ensure the type, density, and diversity of vegetation proposed in the reclamation plan will encourage the type of wildlife or fish habitat desired and is compatible with the wildlife and fish habitat on adjacent lands.
- C.** The responsible party shall ensure the proposed reclamation plan specifically describes the techniques, methods, controls, and measures to be used regarding the following, as applicable:
  - 1. Mulching.
  - 2. Irrigating.
  - 3. Controlling pests.
  - 4. Controlling for disease, and
  - 5. Managing growth.

**R11-3-702. Revegetation Standards**

- A.** If surface disturbances at an aggregate mining location to be revegetated have caused the soil to compact, the responsible party shall ensure ripping, disking, or other means are used to reduce the compaction and establish a suitable root zone before planting.
- B.** The responsible party shall ensure revegetation is conducted using plant species that will support the approved post-aggregate mining land use.
- C.** Revegetation that differs in species, density, or diversity from pre-aggregate mining conditions or conditions on adjacent lands may be used only if:
  - 1. Post-aggregate mining land use differs from pre-aggregate mining land use or the use on adjacent lands; and
  - 2. Soil conditions, topography, or other site-specific characteristics of the surface disturbance make revegetating the land to pre-aggregate mining conditions or conditions on adjacent lands technically or economically impracticable.
- D.** The responsible party shall ensure revegetation is conducted during the time of year most favorable for plant establishment.
- E.** The responsible party may use soil stabilizing practices, irrigation measures, or both to establish vegetation.

**R11-3-703. Conservation of Soil**

If soil conservation is required under A.R.S. § 27-1274 at a surface disturbance, the responsible party shall:

- 1. Mark any stockpile of conserved soil with a legible sign that identifies the stockpile as "SOIL," and
- 2. Stabilize a stockpile of conserved soil as necessary to prevent excessive loss from erosion.

**R11-3-704. Redistribution of Soil**

Before redistributing a stockpile of soil conserved under R11-3-703, the responsible party shall:

- 1. Treat the area of disturbance as necessary to reduce potential for slippage of the redistributed soil or to enhance root penetration, and
- 2. Take steps to redistribute the soil in a manner that:
  - a. Prevents excess compaction, and
  - b. Achieves a thickness consistent with the approved post-aggregate mining land use.

**R11-3-705. Off-site Soil**

- A.** In accordance with an approved post-aggregate mining reclamation plan, the responsible party shall ensure:
  - 1. Final capping growth media, including growth media brought from off-site:
    - a. Supports vegetation that is not listed in R3-4-245.
    - b. Provides a stable growing surface, and
    - c. Does not create a hazard to public safety; and
  - 2. All slopes and benches are no steeper than 2H:1V unless otherwise approved by a professional engineer for seismic stability.
- B.** If all the filling for engineered slopes in an approved post-aggregate reclamation plan cannot be performed within a year after cessation of aggregate mining or the last aggregate mining activity, the responsible party shall submit a written request to the Inspector for an extension of time. The Inspector shall retain a financial assurance mechanism until all safe slope building and stability procedures in the approved post-aggregate reclamation plan are completed.

**ARTICLE 8. FINANCIAL ASSURANCE**

**R11-3-801. Definitions**

- A.** Unless otherwise defined in the Act or this Chapter, the terms used in this Article have the meaning understood under generally accepted accounting principles and practices.
- B.** In this Article:
  - 1. "ICPA" means Independent Certified Public Account.



2. “Parent corporation” means a corporation that directly owns at least 50 percent of the voting stock in another corporation. The other corporation is called a subsidiary of the parent corporation.
3. “Substantial business relationship” means the extent of a business relationship necessary under applicable state law to make a guarantee contract, issued incident to that relationship, valid and enforceable. A substantial business relationship arises from a pattern of recent or ongoing business transactions so a currently existing business relationship between a guarantor and the owner or operator is shown to the satisfaction of the Inspector.
4. “Tangible net worth” means a responsible party’s total assets minus the value of all liabilities and intangible assets.
5. “Intangible assets” means non-physical resources and rights, such as goodwill, patents, intellectual property, and copyrights, which have value to the responsible party because they provide a marketing advantage.

**R11-3-802. Amount of Financial Assurance**

- A. Under the terms of A.R.S. § 27-1271(B)(11) and R11-3-502, the Inspector shall determine the amount of financial assurance required of a responsible party.
- B. Any financial assurance information offered by a responsible party shall meet the requirements of the Act and this Chapter.
- C. The Inspector shall review financial assurance information offered by a responsible party to determine whether the amount of financial assurance is sufficient to meet the standard at A.R.S. § 27-1292(C). The Inspector may rely on standards commonly used by a commercial lender to evaluate the offered financial assurance.
- D. Within 30 days after receiving a responsible party’s offered financial assurance information, the Inspector shall provide the responsible party with written notice the financial assurance is approved, disapproved, or additional information is needed. If additional information is needed, the Inspector may require the responsible party to provide the Inspector with a written legal opinion from an attorney admitted to practice law in Arizona that the offered financial assurance is lawful, enforceable under existing law, and can be drawn on in case of default. A responsible party required to provide a written legal opinion shall do so at the responsible party’s expense.
- E. If an approved financial assurance mechanism is canceled by the issuing institution, the responsible party shall provide the Inspector, within 90 days after the notice of cancellation, with evidence an alternate financial assurance mechanism has been obtained.
- F. A responsible party may cancel a financial assurance mechanism and replace it with an alternate financial assurance mechanism approved by the Inspector.

**R11-3-803. Blanket Financial Assurance**

- A. A responsible party may offer a single financial assurance mechanism to cover the reclamation costs of two or more aggregate exploration operations or mining units or facilities rather than a separate financial assurance mechanism for each aggregate exploration operation or mining unit or facility.
- B. If a single financial assurance mechanism is offered under subsection (A), the responsible party shall ensure the total amount of financial assurance offered equals the total cost to reclaim all aggregate exploration operations or mining units or facilities covered by the single financial assurance mechanism.
- C. To cover an additional aggregate exploration operation or mining unit or facility under a single financial assurance mechanism offered under subsection (A), the responsible party shall provide an updated financial assurance mechanism that meets the standard in subsection (B).

**R11-3-804. Surety Bond**

- A. A responsible party may offer a surety bond as financial assurance required under the Act and this Chapter. The responsible party shall ensure a surety bond offered as financial assurance:
  1. Is an indemnity agreement in a sum certain,
  2. Is payable to the State of Arizona,
  3. Is executed by the responsible party as principal,
  4. Is on a form provided by or acceptable to the Inspector,
  5. Remains in effect until released by the Inspector or canceled by the surety,
  6. Is issued by an insurer authorized to transact surety business in Arizona under A.R.S. Title 20,
  7. Has a power of attorney attached, and
  8. Is signed by the principal and the surety’s attorney-in-fact.
- B. A surety bond offered as financial assurance under subsection (A) may include a provision allowing the surety to cancel the surety bond by providing 60 days’ written notice to the Inspector. Within 45 days after receipt of written notice of cancellation of the surety bond, the responsible party shall provide the Inspector with evidence of new financial assurance approved by the Inspector.

**R11-3-805. Certificate of Deposit**

- A responsible party may offer a certificate of deposit as financial assurance required under the Act and this Chapter. The responsible party shall ensure a certificate of deposit offered as financial assurance:
1. Is payable or assigned to the State Treasurer;
  2. Complies with A.R.S. § 35-155 and any rules made under it;
  3. Is on a form provided by or acceptable to the Inspector;
  4. Assigns and transfers all rights, title, and interest in the certificate of deposit to the State Treasurer except accruing interest remains the property of the responsible party;
  5. Provides the State Treasurer the right to redeem, collect, and withdraw the full amount of the certificate of deposit at any time without notice to the responsible party; and
  6. Provides the assignment remains in effect until the Inspector authorizes its release in writing.



**R11-3-806. Trust**

- A.** A responsible party may satisfy the financial assurance requirements in the Act and this Chapter by establishing an irrevocable trust with the State of Arizona as the primary beneficiary.
- B.** The responsible party shall ensure the trust fund established under subsection (A) has a pay-in period that meets the requirements of the Act and this Chapter.
- C.** The responsible party shall:
  - 1. Submit a duplicate of the trust agreement, with an original signature, to the Inspector to be placed in the operating record of the aggregate exploration operation or mining unit or facility;
  - 2. Initially fund the trust in an amount equal to or greater than the estimated cost in the approved reclamation plan to reclaim surface disturbances existing when the trust is established and all other surface disturbances to occur during the first year of the trust;
  - 3. Make payments to the trust at least annually no later than 30 days after the anniversary date of the initial funding made under subsection (C)(2); and
  - 4. Ensure annual payments made to the trust under subsection (C)(3) are in an amount equal to or greater than the amount required to pay all costs to reclaim surface disturbances made during the annual period.
- D.** If a responsible party establishes a trust under subsection (A) after having used one or more alternative financial assurance mechanisms, the responsible party shall still comply with the provisions in subsection (C) except the amount of initial funding shall be equal to or greater than the estimated cost not covered by the alternative financial assurance mechanisms.

**R11-3-807. Letter of Credit**

- A.** A responsible party may satisfy the financial assurance requirements in the Act and this Chapter by obtaining a confirmed, irrevocable stand-by letter of credit naming with State of Arizona as the primary beneficiary.
- B.** The responsible party shall ensure the letter of credit is issued by a financial institution that:
  - 1. Has authority to issue letters of credit;
  - 2. Is federally insured, and
  - 3. Has letter-of-credit operations regulated by the federal government and examined by an Arizona state agency.
- C.** The responsible party shall ensure the letter of credit:
  - 1. Is for a period that exceeds one year by at least 90 days;
  - 2. Contains terms acceptable to the Inspector;
  - 3. Is in an amount equal to or greater than the estimated cost in the approved reclamation plan;
  - 4. Indicates clearly the conditions under which the State of Arizona may draw on the letter of credit; and
  - 5. Except as provided in subsection (E), indicates the letter of credit may be cancelled only by the issuing financial institution or the Inspector.
- D.** The financial institution that issued a letter of credit under subsection (B) may cancel the letter of credit by sending notice of cancellation by certified mail to both the responsible party and Inspector at least 120 days in advance of cancellation. Within 90 days after receiving the notice of cancellation, the responsible party shall provide the Inspector with evidence an alternate financial assurance mechanism that meets the requirements of the Act and this Chapter has been obtained.
- E.** A responsible party may cancel a letter of credit issued under subsection (B) if the responsible party:
  - 1. Provides the Inspector with evidence an alternate financial assurance mechanism that meets the requirements of the Act and this Chapter has been substituted; or
  - 2. Is released by the Inspector under A.R.S. § 27-1296 and R11-3-816 from the financial assurance requirements in the Act and this Chapter.

**R11-3-808. Insurance Policy**

- A.** A responsible party may satisfy the financial assurance requirements in the Act and this Chapter by obtaining an insurance policy that meets the requirements of this Section.
- B.** The responsible party shall ensure the insurance policy is provided by an insurance company that:
  - 1. Is non-captive;
  - 2. Is licensed in Arizona or holds an approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers; and
  - 3. Has an "A.M. Best" rating of not less than A-VII.
- C.** The responsible party shall ensure the insurance policy:
  - 1. Guarantees insurance proceeds will be available to complete all reclamation in the approved reclamation plan if the aggregate exploration operation or mining unit or facility fails to reclaim all surface disturbances;
  - 2. Guarantees insurance proceeds will be paid up to the amount specified on the face of the insurance policy under the direction of the Inspector to the party specified by the Inspector;
  - 3. Indicates the insurance company providing the policy shall not cancel, terminate, or fail to renew the policy except for failure to pay the premium;
  - 4. Provides for automatic renewal of the insurance policy at the existing face value of the insurance policy;
  - 5. Requires that if the policy holder fails to pay the premium, the insurance company providing the insurance policy will send notice by certified mail to both the policyholder and Inspector at least 60 days before cancelling, terminating, or failing to renew the insurance policy; and
  - 6. Requires the insurance policy to remain in full force and effect if, before the date specified in subsection (C)(5), the renewal premium is paid in full.
- D.** The insured may, with consent of the Inspector, seek a reduction in the amount of insurance coverage if the Inspector approves a reduced amount of financial assurance. The insurance company providing the policy shall not reduce the amount of insurance without



prior consent of the Inspector. The insurance company shall notify the Inspector when the amount of insurance coverage is reduced in accordance with the approved, amended financial assurance requirement.

- E.** The insured may cancel the insurance policy, with notification to the Inspector, if alternate financial assurance that meets the requirements in the Act and this Chapter is substituted.

**R11-3-809. Certificate of Self-insurance**

- A.** A responsible party may satisfy the financial assurance requirements in the Act and this Chapter by successfully completing the financial test specified in this Section. Successful completion involves:
1. Submitting the information required under subsection (B), and
  2. Demonstrating to the Inspector's satisfaction the responsible party meets the requirements under subsection (C).
- B.** The responsible party shall submit to the Inspector the following information and shall submit updated information annually within 120 days after the close of the responsible party's fiscal year:
1. Proof the responsible party is authorized to do business in Arizona;
  2. A letter signed by the chief financial officer of the responsible party certifying:
    - a. The responsible party is qualified to self-insure as a financial assurance mechanism because the responsible party meets the requirements in subsection (C); and
    - b. The data used to reach the conclusion under subsection (B)(2)(a) are from an independently audited, year-end financial statement for the latest fiscal year of the responsible party; and
  3. A copy of one of the following:
    - a. The financial statements the responsible party is required to submit annually to the U.S. Securities and Exchange Commission; or
    - b. A report from an ICPA certifying the ICPA has compared the data under subsection (B)(2)(b) with the financial statement submitted to the U.S. Securities and Exchange Commission and finds no matters requiring the data to be adjusted.
- C.** To qualify to self-insure as a financial assurance mechanism, the responsible party shall meet one of the three following criteria:
1. The responsible party has a tangible net worth of at least 10 times the costs estimated in the approved reclamation plan or a tangible net worth of at least \$10 million, whichever is greater;
  2. The responsible party has all of the following:
    - a. Two of the following three ratios:
      - i. A ratio of total liabilities to net worth of less than 2.0;
      - ii. A ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities great than 0.1; and
      - iii. A ratio of current assets to current liabilities greater than 1.5;
    - b. Both net working capital and tangible net worth at least six times the costs estimated in the approved reclamation plan;
    - c. Tangible net worth at least \$10 million; and
    - d. Assets located in the U.S. amounting to at least 90 percent of total assets or at least six times the costs estimated in the approved reclamation plan; or
  3. The responsible party has all of the following:
    - a. A current rating for the most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's;
    - b. Tangible net worth at least six times the costs estimated in the approved reclamation plan;
    - c. Tangible net worth at least \$10 million; and
    - d. Assets located in the U.S. amounting to at least 90 percent of total assets or at least ten times the costs estimated in the approved reclamation plan.
- D.** If a responsible party that is meeting the financial assurance requirements in the Act and this Chapter by self-insuring is no longer qualified under subsection (C), the responsible party shall provide to the Inspector evidence of an alternative financial assurance mechanism within 60 days after the sooner of:
1. The end of the responsible party's fiscal year, or
  2. The Inspector provides notice to the responsible party that the responsible party is no longer qualified under subsection (C).
- E.** If the Inspector has good cause to believe a responsible party that is meeting the financial assurance requirements in the Act and this Chapter by self-insuring is no longer qualified under subsection (C), the Inspector may require additional reporting of the responsible party's financial condition.
- F.** A responsible party may meet the requirements of this Section by obtaining a written guarantee. If the responsible party obtains a written guarantee:
1. The guarantor shall be:
    - a. The direct or higher-tier parent corporation of the responsible party;
    - b. A group of legal entities controlled through stock ownership by a common parent corporation;
    - c. A firm with a parent corporation that is also the parent corporation of the responsible party; or
    - d. A firm with a substantial business relationship with the responsible party.
  2. The guarantor shall meet all requirements for a responsible party specified in this Section.
  3. The guarantor shall comply with all terms of the guarantee. The responsible party shall ensure the guarantee includes the following terms:
    - a. If the responsible party fails to perform the reclamation specified in the approved reclamation plan and covered by the guarantee, the guarantor shall do so or establish a trust as specified in R11-3-806 in the name of the responsible party;
    - b. The guarantee shall remain in force unless the guarantor sends notice of cancellation by certified mail to both the responsible party and Inspector and waits at least 120 days after both the responsible party and Inspector receive the notice of cancellation; and
    - c. If the responsible party fails to provide the Inspector with evidence an alternate financial assurance mechanism that meets the requirements of the Act and this Chapter has been obtained within 90 days after the responsible party and Inspector



receive notice of cancellation under subsection (F)(3)(b), the guarantor shall obtain and provide evidence to the Inspector of an alternate financial assurance mechanism in the name of the responsible party.

- G.** A responsible party that meets the requirements of this Section by obtaining a written guarantee shall include with the information submitted under subsection (B):
  1. A certified copy of the guarantee;
  2. If the guarantor’s parent corporation is also the parent corporation of the responsible party, a letter describing the value received in consideration of the guarantee; and
  3. If the guarantor is a firm with a substantial business relationship with the responsible party, a letter describing the substantial relationship and the value received in consideration of the guarantee.

**R11-3-810. Cash Deposit**

- A.** A responsible party may satisfy the financial assurance requirements in the Act and this Chapter by depositing with the State Treasurer an amount equal to the estimated costs in the approved reclamation plan. The responsible party shall obtain from the State Treasurer a receipt of deposit showing funds are available for reclamation costs at a specified aggregate exploration operation or mining unit or facility.
- B.** The responsible party may cancel the deposit with the State Treasurer, with notification to the Inspector, if alternate financial assurance that meets the requirements of the Act and this Chapter is substituted.

**R11-3-811. Annuity**

- A.** A responsible party may satisfy the financial assurance requirements in the Act and this Chapter by obtaining an annuity that:
  1. Meets the requirements of this Section, and
  2. Names the State of Arizona as beneficiary.
- B.** The responsible party shall ensure the annuity is provided by an insurance company that:
  1. Is licensed in Arizona or holds an approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers; and
  2. Has an “A.M. Best” rating of not less than A-VII.
- C.** The responsible party shall ensure any incremental or annual payment for the annuity is in an amount adequate to pay all costs to reclaim surface disturbances created during the incremental or annual period.

**R11-3-812. Bonding Pool**

- A.** A responsible party may satisfy the financial assurance requirements in the Act and this Chapter by providing the Inspector with a certificate of participation in a reclamation bond pool.
- B.** The responsible party shall ensure the certificate of participation:
  1. Is an indemnity agreement in a sum certain payable to the State of Arizona;
  2. Is executed by a surety bond pool organization of which the responsible party is a member; and
  3. Is supported by the performance guarantee of a corporation licensed to do business as a surety in Arizona.

**R11-3-813. Limited Individual Financial Assurance**

If two or more persons are the owners or operators of a single aggregate exploration operation or mining unit or facility, each owner or operator may limit the amount of the owner’s or operator’s financial assurance if the total financial assurance of all owners and operators satisfies the requirements of the Act and this Chapter.

**R11-3-814. Final Action on Financial Assurance Mechanisms**

As required under A.R.S. § 27-1292, the Inspector shall take final action on a financial assurance mechanism submitted by a responsible party within 30 days after the financial assurance mechanism is received.

**R11-3-815. Incremental Financial Assurance**

A responsible party that provides financial assurance on an incremental basis, as permitted under A.R.S. § 27-1295, shall ensure the amount of financial assurance provided during each increment is equal to or exceeds the estimated cost to reclaim surface disturbances created during the increment.

**R11-3-816. Application for Release of Financial Assurance**

- A.** Except as provided in subsection (E), the Inspector shall not release any financial assurance until the responsible party satisfies all conditions and requirements of the Act and this Chapter.
- B.** To obtain release of some or all financial assurance, the responsible party shall submit a written request to the Inspector.
- C.** Within 60 days after receiving the request for release of financial assurance submitted under subsection (B), the Inspector or a designated agent shall inspect the aggregate exploration operation or mining unit or facility to determine whether the responsible party has satisfied all conditions and requirements of the Act and this Chapter and either:
  1. Approve release of some or all financial assurance; or
  2. Provide written notice to the responsible party that release of some or all financial assurance is denied, reasons for the denial, and measures necessary to satisfy all conditions and requirements of the Act and this Chapter.
- D.** By agreement of the Inspector and responsible party, the time for inspection designated under subsection (C) may be extended if conditions prevent an inspection of the reclaimed land within the time specified.
- E.** If the responsible party transfers the aggregate exploration operation or mining unit or facility to another owner, the Inspector shall release the transferor’s financial assurance mechanism when the transferee provides an alternate financial assurance mechanism that meets the requirements of the Act and this Chapter.

**R11-3-817. Forfeiture Criteria: Forfeiture of Financial Assurance**

- A.** A financial assurance mechanism filed with the Inspector or a state agency is subject to forfeiture if any of the following exist:



1. An exploration operation or mining unit has been completed, abandoned, or temporarily closed for a period greater than allowed by the Act or this Chapter without initiating reclamation;
  2. An exploration operation or mining unit has been completed, abandoned, or temporarily closed for a period greater than allowed by the Act or this Chapter and the responsible party stops or suspends any ongoing reclamation, as determined by the Inspector;
  3. The responsible party stops conducting business in Arizona and does not transfer the approved reclamation plan and financial assurance to a new operator under A.R.S. § 27-1228;
  4. The responsible party stops conducting business due to insolvency, bankruptcy, receivership, or engages in misconduct as described under A.R.S. § 27-1205;
  5. The responsible party fails to comply with the conditions of the financial assurance mechanism; or
  6. The responsible party fails to reclaim the surface disturbances under the approved reclamation plan, the Act, or this Chapter.
- B.** After determining one or more of the criteria specified in subsection (A) exist, the Inspector shall initiate forfeiture action or contact any federal or state agency with which the financial assurance mechanism was filed and ask the agency to initiate forfeiture action.

**R11-3-818. Notice of Forfeiture Action: Avoidance of Forfeiture**

At least 30 days before initiating forfeiture action, the Inspector shall provide written notice to both the responsible party and all principals and sureties by certified mail with receipt, express mail with receipt, or hand delivery that:

1. The financial assurance is subject to forfeiture;
2. The responsible party has a right to a hearing under A.R.S. Title 41, Chapter 6, Article 10; and
3. The conditions under which the responsible party may avoid forfeiture including:
  - a. Reaching an agreement with the Inspector regarding a compliance schedule under which the responsible party or another party will perform reclamation operations that meet the conditions and requirements of the approved reclamation plan, the Act, and this Chapter; and
  - b. Obtaining a surety bond to replace the financial assurance mechanism subject to forfeiture in an amount sufficient to complete the reclamation as agreed under subsection (3)(a).

**R11-3-819. Notice of Exercise of Forfeiture**

The Inspector shall provide written notice by certified mail, with receipt, of any exercise of forfeiture of financial assurance to both the owner and operator and all principals and sureties.

**R11-3-820. Municipal, County, or State Government**

If the owner of an aggregate exploration operation or mining unit or facility is a municipal, county, or state governmental entity, the Inspector shall not require a financial assurance mechanism. However, the owner shall submit to the Inspector a written guarantee that private lands involved in the aggregate exploration operation or mining unit or facility will be reclaimed in accordance with the Act and this Chapter.

**R11-3-821. Non-mining Excavation Surface Disturbances**

A borrow pit, construction excavation, or other site-development excavation that is not located on mine property or related to mining is outside the jurisdiction of the Inspector but is subject to the jurisdiction of the U.S. Occupational Safety and Health Administration.



NOTICES OF FINAL EXPEDITED RULEMAKING

This section of the Arizona Administrative Register contains Notices of Final Expedited Rulemaking. The Office of the Secretary of State is the filing office and publisher of these rules.

Questions about the interpretation of the expedited rules should be addressed to the agency promulgating the rules. Refer to Item #5 to contact the person charged with the rulemaking.

NOTICE OF FINAL EXPEDITED RULEMAKING
TITLE 13. PUBLIC SAFETY
CHAPTER 3. DEPARTMENT OF PUBLIC SAFETY
TOW TRUCKS

[R19-52]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action
2. Citations to the agency's statutory authority to include the authorizing statute (general) and the implementing statute (specific):
3. The effective date of the rules:
4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:
5. The agency's contact person who can answer questions about the rulemaking:
6. An agency's justification and reason why the rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:



cation by e-mail.

R13-3-1201 requires an amendment to Paragraph (A)(2) to point to the Arizona Department of Transportation incorporated by reference CFR in R17-5-202. The rule also requires the same statutory change as R13-3-701.

The Department received a rulemaking waiver from Mr. Tim Roemer, Governor’s Public Safety Policy Advisor on September 27, 2018.

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

The Department did not rely on any study in its evaluation of or justification for the rule.

**8. A showing of good cause why the rulemaking 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 rulemaking does not diminish a previous grant of authority of a political subdivision of this state.

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

Pursuant to A.R.S. § 41-1027, the expedited rulemaking process is exempt from this requirement.

**10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:**

The *Notice of Final Expedited Rulemaking* was amended to allow for an e-mail notification option in R13-3-902(E)(3)(a). The change was approved by the Governor’s Regulatory Review Council under their authority at the consent agenda meeting on March 5, 2019.

**11. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**

The Department did not receive any public or stakeholder comments regarding this rulemaking.

**12. All agency’s shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

**a. Whether the rule requires a permit, whether a general permit is used, and if not, the reason why a general permit is not used:**

R13-3-902 requires a permit for each individual tow truck. 13 A.A.C. 3 sets safety standards and inspections for each individual tow truck to ensure each vehicle is in compliance and safe to be on the roadway and conducting business; therefore, a general permit to cover an entire tow truck fleet is not possible.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law, and if so, citation to the statutory authority to exceed the requirements of federal law:**

49 CFR 391.45 was incorporated by reference by the Arizona Department of Transportation in R17-5-202. The Department’s rule points to the CFR in R17-5-202. The rules are not more stringent than federal law.

**c. Whether a person submitted an analysis to the agency that compares the rule’s impact on the competitiveness of business in this state to the impact on business in other states:**

No person submitted an analysis to the Department comparing the rule’s business competitiveness impact.

**13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

49 CFR 391.45 was incorporated by reference by the Arizona Department of Transportation in R17-5-202. The Department’s rule points to the CFR already incorporated in R17-5-202.

**14. Whether the rule previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-4-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

The rule was not previously made, amended, or repealed as an emergency rule.

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

**TITLE 13. PUBLIC SAFETY  
CHAPTER 3. DEPARTMENT OF PUBLIC SAFETY  
TOW TRUCKS**

**ARTICLE 7. DEFINITIONS, SCOPE, AND ENFORCEMENT DATES**

- Section R13-3-701. Definitions
- R13-3-703. Enforcement Dates

**ARTICLE 9. TOW TRUCK REGISTRATION AND COMPLIANCE INSPECTION**

- Section R13-3-902. Inspection by the Department



ARTICLE 12. REQUIREMENTS FOR TOW TRUCK AGENTS AND COMPANIES

Section

R13-3-1201. Tow Truck Agent and Company Requirements

ARTICLE 7. DEFINITIONS, SCOPE, AND ENFORCEMENT DATES

R13-3-701. Definitions

A. The definitions in A.R.S. §§ 28-101 and 41-1701 apply to this Chapter.

B. In this Chapter:

1. "Alter" means adding, modifying, or removing any equipment or component after a tow truck has received a permit decal from the Department, in a manner that may affect the operation of the tow truck, compliance with A.R.S. § ~~41-1830-51~~ 28-1108 and this Chapter, or the health, safety, or welfare of any individual.
2. "Bed assembly" means the part of a tow truck that is located behind the cab, is attached to the frame, and is used to mount a boom assembly, hoist, winch, or equipment for transporting vehicles.
3. "Boom assembly" means a device, consisting of sheaves, one or more winches, and wire rope, that is attached to a tow truck and used to lift or tow another vehicle.
4. "Collision" means an incident involving one or more moving vehicles resulting in damage to a vehicle or its load that requires the completion of a written report of accident under A.R.S. § 28-667(A).
5. "Collision recovery" means initial towing or removing a vehicle involved in a collision from the collision scene.
6. "Denial" means refusal to satisfy a request.
7. "Department" means the Arizona Department of Public Safety.
8. "Director" means the Director of the Arizona Department of Public Safety or the Director's designee.
9. "Emergency brake" means the electrical, mechanical, hydraulic, or air brake components used to slow or stop a vehicle after a failure of the service brake system.
10. "Flatbed" means an open platform that is located behind the cab and attached to the frame of a truck.
11. "G.V.W.R." means Gross Vehicle Weight Rating, the value specified by the manufacturer as the fully assembled weight of a single motor vehicle.
12. "Hook" means a steel hook attached to an end of a wire rope or chain.
13. "Parking brake system" means the electrical, mechanical, hydraulic, or air brake components used to hold the tow truck or combination under any condition of loading to prevent movement when parked.
14. "Permit decal" means the non-transferable decal that a tow truck company is required to obtain from the Department before operating a tow truck for the purpose of towing a vehicle.
15. "Person" means the same as in A.R.S. § 1-215.
16. "Power-assisted service brake system" means a service-brake system that is equipped with a booster to supply additional power to the service-brake system by means of air, vacuum, electric, or hydraulic pressure.
17. "Power-operated winch" means a winch that is operated by electrical, mechanical, or hydraulic power.
18. "Service-brake system" means the electrical, mechanical, hydraulic, or air brake components used to slow or stop a vehicle in motion.
19. "Snatch block" means a metal case that encloses one or more pulleys and can be opened to receive a wire rope and redirect energy from a winch.
20. "State" means the state of Arizona.
21. "Steering wheel clamp" means a device used to secure in a fixed position the steering wheel of a vehicle being towed.
22. "Suspension" is the temporary withdrawal of the tow truck permit decal because the Department determines the tow truck or tow truck agent is not in compliance with one or more requirements of this Chapter.
23. "Tow bar" means a device attached to the rear of a tow truck to secure a towed vehicle to the tow truck by chains, straps, or hooks.
24. "Tow plate" means a solid metal support attached to the rear of a tow truck to secure a towed vehicle to the tow truck by chains, straps, or hooks.
25. "Tow sling" means two or more flexible straps attached to the wire rope or boom assembly of a tow truck to hoist a towed vehicle by chains, straps, or hooks.
26. "Tow truck" means a motor vehicle designed, manufactured, or altered to tow or transport one or more vehicles. The following are tow trucks:
  - a. A truck with a flatbed equipped with a winch;
  - b. A truck drawing a semi-trailer or trailer equipped with a winch;
  - c. A motor vehicle that has a boom assembly or hoist permanently attached to its bed or frame;
  - d. A motor vehicle that has a tow sling, tow plate, tow bar, under-lift, or wheel-lift attached to the rear of the vehicle; and
  - e. A truck-tractor drawing a semi-trailer equipped with a winch.
27. "Tow truck agent" means an individual who operates a tow truck on behalf of a tow truck company, and includes owners, individuals employed by the tow truck company, and independent contractors.
28. "Tow truck company" means a person that owns, leases, or operates a tow truck that travels on a street or highway to transport a vehicle, including, but not limited to a vehicle that is damaged, disabled, unattended, repossessed, or abandoned.
29. "Truck-tractor protection valve" means a device that supplies air to the service brake system of a trailer to release the service brakes while the trailer is being towed by a truck- tractor, or to activate the service brakes if the supply of air from the truck-tractor to the trailer is disconnected or depleted.
30. "Under-lift" means an electrical, mechanical, or hydraulic device attached to the rear of a tow truck used to lift the front or rear of a vehicle by its axles or frame.
31. "Vehicle" means the same as in A.R.S. § 28-101.



32. "Wheel lift" means an electrical, hydraulic, or mechanical device attached to the rear of a tow truck used to lift the front or rear of a vehicle by its tires or wheels.
33. "Winch" means a device used for winding or unwinding wire rope.
34. "Wire rope" means flexible steel or synthetic strands that are twisted or braided together and may surround a hemp or wire core.
35. "Work lamp" means a lighting system that is mounted on a tow truck capable of illuminating an area to the rear of the tow truck.

### R13-3-703. Enforcement Dates

As of the effective date of Articles 7 through 13, a tow truck agent shall ensure that a tow truck:

1. Introduced into the state on or after the effective date of Articles 7 through 13 meets the requirements of Articles 7 through 13;
2. ~~Registered and operating as a tow truck in the state before the effective date of Articles 7 through 13, either meets the requirements of Articles 7 through 13 or Articles 1 through 6 until June 1, 2010, at which time the tow truck shall meet the requirements of Articles 7 through 13;~~
32. Sold to a new owner meets the requirements of Articles 7 through 13 before operating as a tow truck within this state; or
43. Not included in the definition of "tow truck" in R13-3-701 before the effective date of Articles 7 through 13, meets the requirements of Articles 7 through 13 within six months of the effective date of Articles 7 through 13 when operating as a tow truck in this state.

## ARTICLE 9. TOW TRUCK REGISTRATION AND COMPLIANCE INSPECTION

### R13-3-902. Inspection by the Department

- A. The Department shall inspect a tow truck for compliance with this Chapter as soon as possible after the tow truck inspection application form is filed and no later than seven days after the application form is filed.
- B. The Department may conduct unannounced, in-service inspections of a tow truck at the roadside, at the company's place of business, or any reasonable time and place to determine the condition of the tow truck.
- C. The Department shall issue tow truck permit decals and identification number decals individually for each approved tow truck.
- D. When a tow truck inspection is conducted under subsection (A) or (B), the following apply:
  1. Department inspectors shall examine the tow truck for compliance with the safety requirements and specifications for the tow truck class under this Chapter.
  2. If the Department finds that the tow truck complies with this Chapter, the Department shall issue an inspection report and if applicable, a permit decal.
  3. If the Department finds that the tow truck does not comply with this Chapter, but has no deficiency listed in R13-3-1201(C)(7), the Department shall issue an inspection report that:
    - a. Specifies the deficiencies found,
    - b. Requires corrective measures, and
    - c. Allows five calendar days for the tow truck agent to correct the deficiencies.
  4. If the Department finds that the tow truck does not comply with this Chapter because of deficiencies listed in R13-3-1201(C)(7), the Department shall not issue a permit decal but shall issue an inspection report that:
    - a. Specifies the deficiencies found, and
    - b. Requires corrective measures.
- E. A tow truck agent shall ensure that a legible copy of the most recent tow truck inspection report is kept in the driver's compartment area of the tow truck and is produced upon demand to any peace officer. The Department may suspend a tow truck permit decal for failure to comply with this subsection.
  1. A tow truck agent shall ensure that:
    - a. A permit decal is affixed to the lower outside right corner of the tow truck's windshield, and
    - b. An identification number decal is permanently affixed to the driver's compartment area.
  2. The Department may suspend a permit decal for failure to maintain the permit decal or identification number decal in compliance with subsection (E)(1).
  3. If a tow truck inspection report, permit decal, or identification number decal is lost, damaged, destroyed, or stolen, the tow truck company shall immediately notify the Department.
    - a. The tow truck company shall provide notification in writing either to Arizona Department of Public Safety, P.O. Box 6638, Mail Drop 1240, Phoenix, AZ 85005-6638, or by e-mail to TowTruckUnit@azdps.gov and include the name of the tow truck agent who registered the tow truck and the number of the lost, damaged, destroyed, or stolen inspection report, permit decal, or identification number decal.
    - b. Upon receipt of the notification, the Department shall issue the replacement inspection report, permit decal, or identification number decal.

## ARTICLE 12. REQUIREMENTS FOR TOW TRUCK AGENTS AND COMPANIES

### R13-3-1201. Tow Truck Agent and Company Requirements

- A. A tow truck company shall ensure that each tow truck agent:
  1. While operating a tow truck possesses and carries a valid driver's license for the class of tow truck operated;
  2. While operating a tow truck possesses and carries a current medical examination certificate in accordance with 49 CFR 391.45 ~~(October 1, 2003)~~ as ~~incorporated by reference~~ referenced in A.A.C. R17-5-202;
  3. Does not operate a tow truck if the agent has more than two moving violation convictions within the previous 12 months;
  4. Possesses the skill and knowledge to rig, move, pick up, and transport a vehicle without causing avoidable damage to the vehicle or other property;
  5. Has not consumed any alcoholic beverage within four hours of operating the tow truck;
  6. Is not using or under the influence of alcohol or any of the following substances as defined in A.R.S. § 13-3401 while operating a tow truck:



- a. Peyote;
  - b. Vapor-releasing substance containing a toxic substance;
  - c. Marijuana;
  - d. Dangerous drugs;
  - e. Narcotic drugs; or
  - f. Prescription-only drug unless the tow truck agent obtains the prescription-only drug pursuant to a valid prescription.
7. Has not been convicted of committing a crime involving fraud, embezzlement, or theft in the five years before operating a tow truck and has never been convicted of committing a felony homicide, felony kidnapping, felony assault, felony sexual offense, or felony robbery;
  8. Has not been convicted under A.R.S. § 28-1381 (driving while under the influence of narcotics, dangerous drugs, or intoxicating beverages) or A.R.S. § 28-693 (reckless driving) while engaged in the operation of a tow truck; and
  9. Does not operate a tow truck while the agent’s license to drive is suspended under A.R.S. § 28-1321 (Implied Consent Law), A.R.S. § 28-3473 (license suspension or revocation), or A.R.S. § 28-4141 (suspended license, no insurance).
- B.** A tow truck agent shall:
1. Comply with A.R.S. § ~~41-1830.51~~ 28-1108;
  2. Permit a peace officer or other duly authorized agent of a law enforcement agency to inspect a tow truck to determine compliance with the requirements of this Chapter. The inspection may be conducted without notice at any reasonable time and place; and
  3. Have a certification from a licensed testing facility certifying the tested line-pull of the winch or the tested lifting capacity of the boom assembly, if the tow truck is equipped with a homemade boom assembly or homemade winch.
- C.** A tow truck agent shall not:
1. Operate a tow truck without an identification number and a legible copy of a tow truck inspection report, as required by this Chapter;
  2. Transfer a permit decal or tow truck inspection report from one tow truck to another;
  3. Tow or move a vehicle from a highway, street, or public property without prior authorization from the owner or operator of the vehicle, the owner’s agent, a person responsible for maintaining the public property, or a law enforcement officer. The tow truck agent may move, but shall not tow, a vehicle to extract an individual from wreckage or to remove a hazard to life or property at a collision scene;
  4. Use a hand-operated or electric winch for collision recovery work;
  5. Operate a tow truck for collision recovery work unless certified for collision recovery;
  6. Use a flatbed tow truck with a G.V.W.R. of less than 14,001 pounds to transport more than one vehicle unless the additional vehicle is a golf cart, a motor-driven cycle, or a trailer that weighs less than 1,500 pounds;
  7. Operate a tow truck that has one or more of the following defects;
    - a. Both warning light assembly lights missing or inoperative;
    - b. All load securement devices missing or defective;
    - c. A portable lamp not in compliance with A.R.S. §§ 28-925(A), 28-927 or 28-939, if a portable lamp is required;
    - d. Any steering axle tire with less than 4/32-inch tread depth in one major groove;
    - e. For an axle other than a steering axle, a tire with less than 2/32-inch tread depth and for a dual wheel axle, both tires on the same side with less than 2/32-inch tread depth;
    - f. Any flat tire or tire with cord exposed by cut or wear;
    - g. Any tow plate, tow bar, tow sling, wheel-lift, or under-lift exhibiting wear in excess of manufacturer standards at any pivot point or any crack in a structural component;
    - h. Wire rope in violation of R13-3-1106;
    - i. Any component not maintained within manufacturer standards; or
    - j. A deficiency noted on an inspection report after the time-frame available to the tow truck agent to correct deficiencies has elapsed;
  8. Equip a tow truck with homemade boom assembly or homemade winch, unless the tow truck company has a certification from a licensed testing facility certifying the tested line pull of the winch or the tested lifting capacity of the boom assembly;
  9. Tow a vehicle using a tow sling, tow plate, or tow bar unless appropriate load securement devices are attached;
  10. Transport a vehicle by flatbed or truck, truck-tractor, or semi-trailer unless the vehicle is secured with a minimum of a four-point tie-down, not including the winch;
  11. Tow a vehicle with a wheel-lift, under-lift, tow plate, tow bar, or tow sling unless two safety chains are attached by crossing the chains with one end of each chain attached to a major structural member of the tow truck and the other end attached to a major structural member of the towed vehicle, with no attachments to the bumpers;
  12. Tow a vehicle using a tow plate, tow bar, tow sling, wheel-lift, or under-lift unless a portable lamp is affixed to the rear of the rear-most towed vehicle, in plain view, and when activated, visible to traffic traveling in the same direction;
  13. Activate warning light assembly except at the scene of service, or when transporting a vehicle that presents a hazard from a collision scene;
  14. Use any vehicle towed or article stored in the towed vehicle, unless it is the property of the tow truck company or tow truck agent;
  15. Operate a tow truck that exceeds the manufacturer’s G.V.W.R. without a load or the manufacturer’s rated capacity for the boom or bed assembly;
  16. Operate a tow truck that is equipped with a tow plate, tow bar, or tow sling unless the tow plate, tow bar, or tow sling has a manufacturer weight rating that exceeds any load carried on it; or
  17. Refuse to make prompt restitution for any damage for which the tow truck company is legally liable.
- D.** The Department may suspend a permit decal for failure to comply with these standards.



**NOTICES OF RULEMAKING DOCKET OPENING**

This section of the *Arizona Administrative Register* contains Notices of Rulemaking Docket Opening.

A docket opening is the first part of the administrative rulemaking process. It is an "announcement" that the agency intends to work on its rules.

When an agency opens a rulemaking docket to consider rulemaking, the Administrative Procedure Act (APA) requires the publication of the Notice of Rulemaking Docket Opening.

Under the APA effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process. Many times an agency may file the Notice of Rulemaking Docket Opening with the Notice of Proposed Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these notices. Questions about the interpretation of this information should be directed to the agency contact person listed in item #4 of this notice.

**NOTICE OF RULEMAKING DOCKET OPENING  
DEPARTMENT OF AGRICULTURE  
PLANT SERVICES DIVISION**

[R19-47]

1. **Title and its heading:** 3, Agriculture  
**Chapter and its heading:** 4, Department of Agriculture - Plant Services Division  
**Article and its heading:** 1, General Provisions  
 2, Quarantine  
**Section numbers:** R3-4-101, Table 1; R3-4-201 through R3-4-204, Tables 2 through 6, R3-4-218 through R3-4-220, R3-4-226, R3-4-228 through R3-4-229, R3-4-231, R3-4-234, R3-4-238 through R3-4-242, R3-4-244 through R3-4-246, R3-4-248; R3-4-501; R3-4-901
2. **The subject matter of the proposed rule:**  
 The purpose of the changes to the rules relate to updating provisions making the language more consistent with current Department practices and industry needs; for clarification, making the rules more easily understandable; and to alleviate regulatory burden, while continuing to provide adequate safeguards to agriculture and horticulture from dangerous plant pests and diseases.
3. **A citation to all published notices relating to the proceeding:**  
 Notice of Proposed Rulemaking: 25 A.A.R. 795, April 5, 2019 (*in this issue*)
4. **Name and address of agency personnel with whom persons may communicate regarding the rule:**  
 Name: Jamie Legg  
 Address: Department of Agriculture  
 Plant Services Division  
 1688 W. Adams St.  
 Phoenix, AZ 85007  
 Telephone: (602) 542-0992  
 Fax: (480) 542-1004  
 E-mail: jlegg@azda.gov
5. **The time during which the agency will accept written comments and the time and place where oral comments may be made:**  
 The Department will accept written comments at the address listed in item 4 until the close of record. Information regarding an oral proceeding is included in the Notice of Proposed Rulemaking starting on page 795 of this issue.
6. **A timetable for agency decisions or other action on the proceeding, if known:**  
 To be determined



NOTICES OF PUBLIC INFORMATION

Notices of Public Information contain corrections that agencies wish to make to their notices of rulemaking; miscellaneous rulemaking information that does not fit into any other category of notice; and other types of information required by statute to be published in the Register.

Because of the variety of Notices of Public Information, the Office of the Secretary of State has not established a specific publishing format for these notices. We do however require agencies to use a numbered list of questions and answers and follow our filing requirements by presenting receipts with electronic and paper copies.

NOTICE OF PUBLIC INFORMATION

DEPARTMENT OF GAMING

RACING DIVISION – BOXING AND MIXED MARTIAL ARTS COMMISSION

[M19-31]

1. Title of the substantive policy statements and the substantive policy statement numbers by which the substantive policy statements are referenced:

- 0004 Conduct of Unarmed Combat/Mixed Martial Arts Programs
0005 Sanction Fees for Unarmed Combat/Mixed Martial Arts Programs
04-008 Financial and Credit Review of Applicants
08-044 Tribal Consultation Policy
2012-01 "Mixed Martial Arts" Definition
2013-01 Stress Test

2. The public information relating to the substantive policy statements:

The Arizona Boxing and Mixed Martial Arts Commission ("Commission") is rescinding the substantive policy statements specified in paragraph #1, effective February 7, 2018. The policies stated therein were modified or integrated into new Commission regulations; were incorrectly codified as substantive policy statements; or are no longer necessary. The Commission may issue new substantive policy statements or guidance documents related to the topics in the rescinded substantive policy statements, if necessary.

3. The name and address of agency personnel with whom persons may communicate regarding this notice of public information:

Name: Francisco Meneses, Executive Director
Address: Boxing and MMA Commission
Department of Gaming
1110 W. Washington, Suite 450
Phoenix, AZ 85007
Telephone: (602) 255-3847
Fax: (602) 255-3883
Email: FMeneses@azgaming.gov
Website: www.boxingandmma.az.gov




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## NOTICES OF SUBSTANTIVE POLICY STATEMENT

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The *Administrative Procedure Act* (APA) requires the publication of Notices of Substantive Policy Statement issued by agencies (A.R.S. § 41-1013(B)(9)).

Substantive policy statements are written expressions which inform the general public of an agency's current approach to rule or regulation practice.

Substantive policy statements are advisory only. A substantive policy statement does not include internal procedural documents that only affect an agency's

internal procedures and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the APA.

If you believe that a substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under A.R.S. § 41-1033 for a review of the statement.

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### NOTICE OF SUBSTANTIVE POLICY STATEMENT

#### DEPARTMENT OF GAMING

#### RACING DIVISION – BOXING AND MIXED MARTIAL ARTS COMMISSION

[M19-32]

**1. Title of the substantive policy statement and the substantive policy statement number by which the substantive policy statement is referenced:**

Arizona Boxing And Mixed Martial Arts Commission Substantive Policy Statement 2019-01 Relating to Annual and Event Bonds.

**2. Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date:**

The substantive policy statement was issued and effective on March 21, 2019.

**3. Summary of the contents of the substantive policy statement:**

The Arizona Boxing and Mixed Martial Arts Commission (the "Commission") is the entity that regulates most forms of unarmed combat sports. Unarmed combat is governed by Arizona Revised Statutes ("A.R.S.") §§ 5-221, *et seq.* and Title 19, Chapter 2, Article 6 of the Arizona Administrative Code ("A.A.C."). The substantive policy statement provides guidance on the Commission's interpretation of annual and event bonds under A.R.S. §§ 5-228(E), and 5-229, and A.A.C. R19-2-B608.

**4. Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement:**

General authority: A.R.S. §§ 5-221, *et seq.*, and A.A.C. Title 19, Chapter 2, Article 6.

Specific authority: A.R.S. §§ 5-228 (E) and 5-229, and A.A.C. R19-2-B608.

**5. A statement as to whether the substantive policy statement is a new statement or a revision:**

The substantive policy statement replaces Substantive Policy Statement 06-021, (effective December 15, 2005).

**6. The agency contact person who can answer questions about the substantive policy statement:**

Name: Francisco Meneses, Executive Director

Address: Boxing and MMA Commission  
Arizona Department of Gaming  
1110 W. Washington, Suite 450  
Phoenix, AZ 85007

Telephone: (602) 255-3847

Fax: (602) 255-3883

Email: [FMeneses@azgaming.gov](mailto:FMeneses@azgaming.gov)

Website: [www.boxingandmma.az.gov](http://www.boxingandmma.az.gov)

**7. Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement:**

The substantive policy statement may be found on the official website of the Commission. The URL for Commission policies is <https://boxingandmma.az.gov/contact-us/statutes-rules-and-policies>. You may receive a written copy, free of charge, by contacting the Executive Director, whose information is listed above.



NOTICE OF SUBSTANTIVE POLICY STATEMENT
DEPARTMENT OF GAMING
RACING DIVISION – BOXING AND MIXED MARTIAL ARTS COMMISSION

[M19-33]

- 1. Title of the substantive policy statement and the substantive policy statement number by which the substantive policy statement is referenced: Arizona Boxing And Mixed Martial Arts Commission Substantive Policy Statement 2019-02 Relating to Assignment of Officials.
2. Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date: The substantive policy statement was issued and effective on March 21, 2019.
3. Summary of the contents of the substantive policy statement: The Arizona Boxing and Mixed Martial Arts Commission (the "Commission") is the entity that regulates most forms of unarmed combat sports.
4. Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement: General authority: A.R.S. §§ 5-221, et seq., and A.A.C. Title 19, Chapter 2, Article 6.
5. A statement as to whether the substantive policy statement is a new statement or a revision: The substantive policy statement replaces Substantive Policy Statement 06-022, (effective March 16, 2006).
6. The agency contact person who can answer questions about the substantive policy statement: Name: Francisco Meneses, Executive Director
7. Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement: The substantive policy statement may be found on the official website of the Commission.

NOTICE OF SUBSTANTIVE POLICY STATEMENT
DEPARTMENT OF GAMING
RACING DIVISION – BOXING AND MIXED MARTIAL ARTS COMMISSION

[M19-34]

- 1. Title of the substantive policy statement and the substantive policy statement number by which the substantive policy statement is referenced: Arizona Boxing And Mixed Martial Arts Commission Substantive Policy Statement 2018-01 Relating To State Championships.
2. Date the substantive policy statement was issued and the effective date of the policy statement if different from the issuance date: The substantive policy statement was issued and effective on September 26, 2018.
3. Summary of the contents of the substantive policy statement: The Arizona Boxing and Mixed Martial Arts Commission (the "Commission") is the entity that regulates most forms of unarmed combat sports.
4. Federal or state constitutional provision; federal or state statute, administrative rule, or regulation; or final court judgment that underlies the substantive policy statement: General authority: A.R.S. §§ 5-224, 5-225 and 5-227.
5. A statement as to whether the substantive policy statement is a new statement or a revision: The substantive policy statement is new.

**6. The agency contact person who can answer questions about the substantive policy statement:**

Name: Francisco Meneses, Executive Director  
Address: Boxing and MMA Commission  
Arizona Department of Gaming  
1110 W. Washington, Suite 450  
Phoenix, AZ 85007  
Telephone: (602) 255-3847  
Fax: (602) 255-3883  
Email: FMeneses@azgaming.gov  
Website: [www.boxingandmma.az.gov](http://www.boxingandmma.az.gov)

**7. Information about where a person may obtain a copy of the substantive policy statement and the costs for obtaining the policy statement:**

The substantive policy statement may be found on the official website of the Commission. The URL for Commission policies is <https://boxingandmma.az.gov/contact-us/statutes-rules-and-policies>. You may receive a written copy, free of charge, by contacting the Executive Director, whose information is listed above.



**NOTICES OF AGENCY OMBUDSMAN**

The Administrative Procedure Act requires the publication of Notices of Agency Ombudsman. Agencies shall publish annually in the *Register* the name or names of those employees who are designated by the agency to assist members of the public or regulated community in seeking information or assistance from the agency. (A.R.S. § 41-1006)

**NOTICE OF AGENCY OMBUDSMAN  
DEPARTMENT OF PUBLIC SAFETY**

[M19-30]

1. **The agency name:** Department of Public Safety
2. **The ombudsman's:**
  - a. **Name:** Inspector Andres Vasquez
  - b. **Title:** Executive Officer, Ombudsman
  - c. **Agency Division:** Office of the Director
3. **The ombudsman's office address to include city, state, and zip code:**

Physical Address: 2102 W. Encanto Blvd.  
Phoenix, AZ 85009

Mailing Address: POB 6638  
Mail Drop 1000  
Phoenix, AZ 85005-6638
4. **The ombudsman's area code and telephone number, fax number and e-mail address, if available:**

Telephone: (602) 223-5046

Fax: (602) 223-2917

E-mail: [avasquez@azdps.gov](mailto:avasquez@azdps.gov)



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**GOVERNOR EXECUTIVE ORDER**

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Executive Order 2019-01 is being reproduced in each issue of the *Administrative Register* as a notice to the public regarding state agencies' rulemaking activities.

This order has been reproduced in its entirety as submitted.

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**EXECUTIVE ORDER 2019-01****Moratorium on Rulemaking to Promote Job Creation and Customer-Service-Oriented Agencies; Protecting Consumers Against Fraudulent Activities**

[M19-04]

**WHEREAS**, government regulations should be as limited as possible; and

**WHEREAS**, burdensome regulations inhibit job growth and economic development; and

**WHEREAS**, protecting the public health, peace and safety of the residents of Arizona is a top priority of state government; and

**WHEREAS**, in 2015 the State of Arizona implemented a moratorium on all new regulatory rulemaking by State agencies through executive order and renewed the moratorium in 2016, 2017 and 2018; and

**WHEREAS**, the State of Arizona eliminated or repealed 422 needless regulations in 2018 and 676 in 2017 for a total of 1,098 needless regulations eliminated or repealed over two years; and

**WHEREAS**, estimates show these eliminations saved job creators more than \$31 million in operating costs in 2018 and \$48 million in 2017 for a total of over \$79 million in savings over two years; and

**WHEREAS**, approximately 283,300 private sector jobs have been added to Arizona since January 2015; and

**WHEREAS**, all government agencies of the State of Arizona should continue to promote customer-service-oriented principles for the people that it serves; and

**WHEREAS**, each State agency shall continue to conduct a critical and comprehensive review of its administrative rules and take action to reduce the regulatory burden, administrative delay and legal uncertainty associated with government regulation while protecting the health, peace and safety of residents; and

**WHEREAS**, each State agency should continue to evaluate its administrative rules using any available and reliable data and performance metrics; and

**WHEREAS**, Article 5, Section 4 of the Arizona Constitution and Title 41, Chapter 1, Article 1 of the Arizona Revised Statutes vests the executive power of the State of Arizona in the Governor.

**NOW, THEREFORE, I, Douglas A. Ducey**, by virtue of the authority vested in me by the Constitution and laws of the State of Arizona hereby declare the following:

1. A State agency subject to this Order shall not conduct any rulemaking, whether informal or formal, without the prior written approval of the Office of the Governor. In seeking approval, a State agency shall address one or more of the following as justifications for the rulemaking:
  - a. To fulfill an objective related to job creation, economic development or economic expansion in this State.
  - b. To reduce or ameliorate a regulatory burden while achieving the same regulatory objective.
  - c. To prevent a significant threat to the public health, peace, or safety.
  - d. To avoid violating a court order or federal law that would result in sanctions by a federal court for failure to conduct the rulemaking action.
  - e. To comply with a federal statutory or regulatory requirement if such compliance is related to a condition for the receipt of federal funds or participation in any federal program.
  - f. To comply with a state statutory requirement.
  - g. To fulfill an obligation related to fees or any other action necessary to implement the State budget that is certified by the Governor's Office of Strategic Planning and Budgeting.
  - h. To promulgate a rule or other item that is exempt from Title 41, Chapter 6, Arizona Revised Statutes, pursuant to section 41-1005, Arizona Revised Statutes.
  - i. To address matters pertaining to the control, mitigation, or eradication of waste, fraud or abuse within an agency or wasteful, fraudulent, or abusive activities perpetrated against an agency.
  - j. To eliminate rules which are antiquated, redundant or otherwise no longer necessary for the operation of state government.
2. A State agency subject to this Order shall not publicize any directives, policy statements, documents or forms on its website unless such are explicitly authorized by Arizona Revised Statutes or Arizona Administrative Code.
3. A State agency subject to this Order and which issues occupational or professional licenses shall review the agency's rules and practices related to receiving and acting on substantive complaints about unlicensed individuals who are allegedly holding them-



selves out as licensed professionals for financial gain and are knowingly or recklessly providing or attempting to provide regulated services which the State agency director believes could cause immediate and/or significant harm to either the financial or physical health of unknowing consumers within the state. Agencies shall identify and execute on opportunities to improve its complaint intake process, documentation, tracking, enforcement actions and coordination with proper law enforcement channels to ensure those allegedly trying to defraud unsuspecting consumers and putting them at risk for immediate and/or significant harm to their financial or physical health are stopped and effectively diverted by the State agency to the proper law-enforcement agency for review. A written plan on the agency’s process shall be submitted to the Governor’s Office no later than May 31, 2019.

- 4. For the purposes of this Order, the term “State agencies” includes, without limitation, all executive departments, agencies, offices, and all state boards and commissions, except for: (a) any State agency that is headed by a single elected State official; (b) the Corporation Commission; and (c) any board or commission established by ballot measure during or after the November 1998 general election. Those state agencies, boards and commissions excluded from this Order are strongly encouraged to voluntarily comply with this Order in the context of their own rulemaking processes.
- 5. This Order does not confer any legal rights upon any persons and shall not be used as a basis for legal challenges to rules, approvals, permits, licenses or other actions or to any inaction of a State agency. For the purposes of this Order, “person,” “rule,” and “rulemaking” have the same meanings prescribed in section 41-1001, Arizona Revised Statutes.

**IN WITNESS THEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

**Douglas A. Ducey**  
**GOVERNOR**

**DONE** at the Capitol in Phoenix on this ninth day of January in the Year Two Thousand and Nineteen and of the Independence of the United States of America the Two Hundred and Forty-Third.

**ATTEST:**  
**Katie Hobbs**  
**SECRETARY OF STATE**



## REGISTER INDEXES

The *Register* is published by volume in a calendar year (See “General Information” in the front of each issue for more information).

Abbreviations for rulemaking activity in this Index include:

### **PROPOSED RULEMAKING**

PN = Proposed new Section  
 PM = Proposed amended Section  
 PR = Proposed repealed Section  
 P# = Proposed renumbered Section

### **SUPPLEMENTAL PROPOSED RULEMAKING**

SPN = Supplemental proposed new Section  
 SPM = Supplemental proposed amended Section  
 SPR = Supplemental proposed repealed Section  
 SP# = Supplemental proposed renumbered Section

### **FINAL RULEMAKING**

FN = Final new Section  
 FM = Final amended Section  
 FR = Final repealed Section  
 F# = Final renumbered Section

### **SUMMARY RULEMAKING**

#### **PROPOSED SUMMARY**

PSMN = Proposed Summary new Section  
 PSMM = Proposed Summary amended Section  
 PSMR = Proposed Summary repealed Section  
 PSM# = Proposed Summary renumbered Section

#### **FINAL SUMMARY**

FSMN = Final Summary new Section  
 FSMM = Final Summary amended Section  
 FSMR = Final Summary repealed Section  
 FSM# = Final Summary renumbered Section

### **EXPEDITED RULEMAKING**

#### **PROPOSED EXPEDITED**

PEN = Proposed Expedited new Section  
 PEM = Proposed Expedited amended Section  
 PER = Proposed Expedited repealed Section  
 PE# = Proposed Expedited renumbered Section

#### **SUPPLEMENTAL EXPEDITED**

SPEN = Supplemental Proposed Expedited new Section  
 SPEM = Supplemental Proposed Expedited amended Section  
 SPER = Supplemental Proposed Expedited repealed Section  
 SPE# = Supplemental Proposed Expedited renumbered Section

#### **FINAL EXPEDITED**

FEN = Final Expedited new Section  
 FEM = Final Expedited amended Section  
 FER = Final Expedited repealed Section  
 FE# = Final Expedited renumbered Section

### **EXEMPT RULEMAKING**

#### **EXEMPT**

XN = Exempt new Section  
 XM = Exempt amended Section  
 XR = Exempt repealed Section  
 X# = Exempt renumbered Section

#### **EXEMPT PROPOSED**

PXN = Proposed Exempt new Section  
 PXM = Proposed Exempt amended Section  
 PXR = Proposed Exempt repealed Section  
 PX# = Proposed Exempt renumbered Section

#### **EXEMPT SUPPLEMENTAL PROPOSED**

SPXN = Supplemental Proposed Exempt new Section  
 SPXR = Supplemental Proposed Exempt repealed Section  
 SPXM = Supplemental Proposed Exempt amended Section  
 SPX# = Supplemental Proposed Exempt renumbered Section

#### **FINAL EXEMPT RULEMAKING**

FXN = Final Exempt new Section  
 FXM = Final Exempt amended Section  
 FXR = Final Exempt repealed Section  
 FX# = Final Exempt renumbered Section

### **EMERGENCY RULEMAKING**

EN = Emergency new Section  
 EM = Emergency amended Section  
 ER = Emergency repealed Section  
 E# = Emergency renumbered Section  
 EEXP = Emergency expired

### **RECODIFICATION OF RULES**

RC = Recodified

### **REJECTION OF RULES**

RJ = Rejected by the Attorney General

### **TERMINATION OF RULES**

TN = Terminated proposed new Sections  
 TM = Terminated proposed amended Section  
 TR = Terminated proposed repealed Section  
 T# = Terminated proposed renumbered Section

### **RULE EXPIRATIONS**

EXP = Rules have expired

*See also “emergency expired” under emergency rulemaking*

### **CORRECTIONS**

C = Corrections to Published Rules

## 2019 Arizona Administrative Register Volume 25 Page Guide

Issue 1, Jan. 4, 2019.....1-87	Issue 2, Jan. 11, 2019.....88-116	Issue 3, Jan. 18, 2019.....117-140
Issue 4, Jan. 25, 2019.....141-172	Issue 5, Feb. 1, 2018.....173-284	Issue 6, Feb. 8, 2019.....285-344
Issue 7, Feb. 15, 2019.....345-396	Issue 8, Feb. 22, 2019.....397-426	Issue 9, March 1, 2019.....427-480
Issue 10, March 8, 2019.....481-544	Issue 11, March 15, 2019.....545-692	Issue 12, March 22, 2019.....693-740
Issue 13, March 29, 2019.....741-790		

### RULEMAKING ACTIVITY INDEX

Rulemakings are listed in the Index by Chapter, Section number, rulemaking activity abbreviation and by volume page number. Use the page guide above to determine the *Register* issue number to review the rule. Headings for the Subchapters, Articles, Parts, and Sections are not indexed.

#### THIS INDEX INCLUDES RULEMAKING ACTIVITY THROUGH ISSUE 13 OF VOLUME 25.

<b>Agriculture, Department of - Pest Management Division</b>  R3-8-103. FEM-720  <b>Board of Education, State</b>  R7-2-201. FXM-98 R7-2-206. FXM-98  <b>Board of Physician Assistants, Arizona Regulatory</b>  R4-17-203. FM-401  <b>Child Safety, Department of - Permanency and Support Services</b>  R21-5-201. EM-771 R21-5-205. EM-771  <b>Contractors, Registrar of</b>  R4-9-116. EXP-373 R4-9-121. EXP-373  <b>Corporation Commission, Arizona - Fixed Utilities</b>  R14-2-2601. PN-355 R14-2-2602. PN-355 R14-2-2603. PN-355 R14-2-2604. PN-355 R14-2-2605. PN-355 R14-2-2606. PN-355 R14-2-2607. PN-355 R14-2-2608. PN-355 R14-2-2609. PN-355 R14-2-2610. PN-355 R14-2-2611. PN-355 R14-2-2612. PN-355 R14-2-2613. PN-355 R14-2-2614. PN-355 R14-2-2615. PN-355 R14-2-2616. PN-355 R14-2-2617. PN-355 R14-2-2618. PN-355 R14-2-2619. PN-355 R14-2-2620. PN-355 R14-2-2621. PN-355	R14-2-2622. PN-355 R14-2-2623. PN-355 R14-2-2624. PN-355 R14-2-2625. PN-355 R14-2-2626. PN-355 R14-2-2627. PN-355 R14-2-2628. PN-355  <b>Corporation Commission, Arizona - Transportation</b>  R14-5-201. FM-151 R14-5-202. FM-151 R14-5-204. FM-151  <b>Economic Security, Department of - Food Stamps Program</b>  R6-14-301. TN-413 R6-14-302. TN-413 R6-14-303. TN-413 R6-14-304. TN-413 R6-14-305. TN-413 R6-14-306. TN-413 R6-14-307. TN-413 R6-14-308. TN-413 R6-14-309. TN-413 R6-14-310. TN-413 R6-14-311. TN-413 R6-14-401. TN-413 R6-14-402. TN-413 R6-14-403. TN-413 R6-14-404. TN-413 R6-14-405. TN-413 R6-14-406. TN-413 R6-14-407. TN-413 R6-14-408. TN-413 R6-14-409. TN-413 R6-14-410. TN-413 R6-14-411. TN-413 R6-14-412. TN-413 R6-14-413. TN-413 R6-14-414. TN-413 R6-14-415. TN-413 R6-14-416. TN-413 R6-14-417. TN-413	R6-14-501. TN-413 R6-14-502. TN-413 R6-14-503. TN-413 R6-14-504. TN-413 R6-14-505. TN-413 R6-14-506. TN-413 R6-14-507. TN-413  <b>Environmental Quality, Department of - Air Pollution Control</b>  R18-2-1001. FM-485 R18-2-1002. FN-485 R18-2-1003. FM-485 R18-2-1005. FM-485 R18-2-1006. FM-485 R18-2-1007. FM-485 R18-2-1008. FM-485 R18-2-1009. FM-485 R18-2-1010. FM-485 R18-2-1011. FM-485 R18-2-1012. FM-485 R18-2-1013. FR-485 R18-2-1016. FM-485 R18-2-1017. FM-485 R18-2-1018. FM-485 R18-2-1019. FM-485 R18-2-1020. FM-485 R18-2-1023. FM-485 R18-2-1025. FM-485 R18-2-1026. FM-485 R18-2-1027. FR-485 R18-2-1028. FR-485 R18-2-1031. FR-485 Table 5. FM-485 R18-2-1201. PM-8 R18-2-1202. PM-8 R18-2-1203. PM-8 R18-2-1204. PM-8 R18-2-1205. PM-8 R18-2-1206. PM-8 R18-2-1207. PM-8 R18-2-1208. P#-8; PN-8 R18-2-1209. PN-8
--	---	--

R18-2-1210.	P#-8; PM-8	R9-8-102.	PEM-675	R9-10-105.	PM-549
<b>Environmental Quality, Department of - Hazardous Waste Management</b>		R9-8-501.	FN-748	R9-10-106.	PM-549
R18-8-101.	FM-435	R9-8-502.	FN-748	R9-10-107.	PR-549; PN-549
R18-8-260.	FM-435	R9-8-503.	FN-748	R9-10-108.	PM-549
R18-8-261.	FM-435	Table 5.1.	FN-748	Table 1.1.	PM-549
R18-8-262.	FM-435	Table 5.2..	FN-748	R9-10-109.	PM-549
R18-8-263.	FM-435	R9-8-504.	FN-748	R9-10-110.	PM-549
R18-8-264.	FM-435	R9-8-505.	FN-748	R9-10-111.	PM-549
R18-8-265.	FM-435	R9-8-506.	FN-748	R9-10-112.	PM-549
R18-8-266.	FM-435	R9-8-507.	FN-748	R9-10-113.	PM-549
R18-8-268.	FM-435	R9-8-512.	FR-748	R9-10-114.	PM-549
R18-8-270.	FM-435	R9-8-521.	FR-748	R9-10-115.	PM-549
R18-8-271.	FM-435	R9-8-522.	FR-748	R9-10-116.	PM-549
R18-8-273.	FM-435	R9-8-523.	FR-748	R9-10-118.	PM-549
R18-8-280.	FM-435	R9-8-531.	FR-748	R9-10-201.	PM-549
<b>Environmental Quality, Department of - Water Quality Standards</b>		R9-8-533.	FR-748	R9-10-202.	PM-549
R18-11-101.	PM-177	R9-8-541.	FR-748	R9-10-203.	PM-549
R18-11-107.1.	PM-177	R9-8-542.	FR-748	R9-10-206.	PM-549
R18-11-109.	PM-177	R9-8-543.	FR-748	R9-10-207.	PM-549
R18-11-114.	PM-177	R9-8-544.	FR-748	R9-10-210.	PM-549
R18-11-115.	PM-177	R9-8-551.	FR-748	R9-10-215.	PM-549
R18-11-120.	PM-177	R9-8-601.	FN-756	R9-10-217.	PM-549
R18-11-122.	PM-177	R9-8-602.	FN-756	R9-10-219.	PM-549
Appendix A.	PM-177	R9-8-603.	FN-756	R9-10-220.	PM-549
Table 1.	PM-177	Table 6.1.	FN-756	R9-10-224.	PM-549
Table 2.	PM-177	Table 6.2..	FN-756	R9-10-225.	PM-549
Table 3.	PM-177	R9-8-604.	FN-756	R9-10-226.	PM-549
Table 4.	PM-177	R9-8-605.	FN-756	R9-10-233.	PM-549
Table 5.	PM-177	R9-8-606.	FN-756	R9-10-302.	PM-549
Table 6.	PM-177	R9-8-607.	FN-756	R9-10-303.	PM-549
Table 11.	PR-177; PN-177	R9-8-608.	FN-756	R9-10-306.	PM-549
Table 12.	PR-177; PN-177	R9-8-611.	FR-756	R9-10-307.	PM-549
Table 13.	PN-177	R9-8-612.	FR-756	R9-10-308.	PM-549
Table 14.	PN-177	R9-8-613.	FR-756	R9-10-314.	PM-549
Table 15.	PN-177	R9-8-614.	FR-756	R9-10-315.	PM-549
Table 16.	PN-177	R9-8-615.	FR-756	R9-10-316.	PM-549
Table 17.	PN-177	R9-8-616.	FR-756	R9-10-321.	PM-549
Appendix B.	PM-177	R9-8-617.	FR-756	R9-10-323.	FEM-259
Appendix C.	PM-177	R9-8-1301.	FN-763	R9-10-324.	PM-549
<b>Game and Fish Commission</b>		R9-8-1302.	FN-763	R9-10-401.	PM-549
R12-4-102.	PM-349	R9-8-1303.	FN-763	R9-10-402.	PM-549
R12-4-106.	PM-349	Table 13.1.	FN-763	R9-10-403.	PM-549
R12-4-204.	PN-349	R9-8-1304.	FN-763	R9-10-408.	PM-549
R12-4-1001.	PN-124	R9-8-1305.	FN-763	R9-10-409.	PM-549
R12-4-1002.	PN-124	R9-8-1306.	FN-763	R9-10-412.	PM-549
R12-4-1003.	PN-124	R9-8-1307.	FN-763	R9-10-414.	PM-549
R12-4-1004.	PN-124	R9-8-1308.	FN-763	R9-10-415.	PM-549
R12-4-1005.	PN-124	R9-8-1312.	FR-763	R9-10-418.	PM-549
<b>Health Services, Department of - Communicable Diseases and Infections</b>		R9-8-1314.	FR-763	R9-10-425.	PM-549
R9-6-1201.	FEM-255	R9-8-1321.	FR-763	R9-10-427.	PM-549
R9-6-1202.	FEM-255	R9-8-1322.	FR-763	R9-10-517.	FEM-259
R9-6-1203.	FEM-255	R9-8-1331.	FR-763	R9-10-602.	PM-549
R9-6-1204.	FEM-255	R9-8-1332.	FR-763	R9-10-607.	PM-549
<b>Health Services, Department of - Health Care Institutions: Licensing</b>		R9-8-1333.	FR-763	R9-10-617.	FEM-259
R9-10-101.	PM-549	R9-8-1334.	FR-763	R9-10-702.	PM-549
R9-10-102.	PM-549	R9-8-1335.	FR-763	R9-10-703.	PM-549
R9-10-104.	PM-549	R9-8-1336.	FR-763	R9-10-706.	PM-549
		R9-8-1337.	FR-763	R9-10-707.	PM-549
		R9-8-1338.	FR-763	R9-10-708.	PM-549
<b>Health Services, Department of - Food, Recreational, and Institutional Sanitation</b>				R9-10-711.	PM-549
				R9-10-712.	PM-549
				R9-10-713.	PM-549
				R9-10-714.	PM-549
				R9-10-715.	PM-549
				R9-10-716.	PM-549

R9-10-717. PM-549  
 R9-10-717.01. PN-549  
 R9-10-718. PM-549  
 R9-10-719. PM-549  
 R9-10-720. PM-549  
 R9-10-721. FEM-259  
 R9-10-801. PM-549  
 R9-10-802. PM-549  
 R9-10-803. PM-549  
 R9-10-806. PM-549  
 R9-10-807. PM-549  
 R9-10-808. PM-549  
 R9-10-810. PM-549  
 R9-10-814. PM-549  
 R9-10-815. PM-549  
 R9-10-817. PM-549  
 R9-10-818. PM-549  
 R9-10-819. FEM-259  
 R9-10-820. PM-549  
 R9-10-917. FEM-259  
 R9-10-1002. PM-549  
 R9-10-1003. PM-549  
 R9-10-1013. PM-549  
 R9-10-1014. PM-549  
 R9-10-1017. PM-549  
 R9-10-1018. PM-549  
 R9-10-1019. PM-549  
 R9-10-1025. PM-549  
 R9-10-1030. FEM-259  
 R9-10-1031. PM-549  
 R9-10-1102. PM-549  
 R9-10-1116. FEM-259  
 R9-10-1316. FEM-259  
 R9-10-1414. PM-549  
 R9-10-1415. FEM-259  
 R9-10-1610. FEM-259  
 R9-10-1712. FEM-259  
 R9-10-1810. FEM-259  
 R9-10-1901. PR-549  
 R9-10-1902. PM-549

**Health Services, Department of - Health Programs Services**

R9-10-101. PM-697  
 R9-10-102. PM-697  
 Table 13.1. PN-697  
 R9-10-103. PM-697  
 R9-10-104. PM-697  
 R9-10-105. PM-697  
 R9-10-106. PN-697  
 R9-10-107. PR-697; PN-697  
 R9-10-108. PR-697; PN-697  
 R9-10-109. PR-697; PN-697  
 R9-10-110. PN-697  
 R9-10-111. PN-697  
 R9-10-112. PN-697  
 R9-10-113. PN-697  
 R9-10-114. PN-697  
 R9-10-115. PN-697

**Health Services, Department of - Sober Living Homes**

R9-12-101. PN-289  
 R9-12-102. PN-289  
 R9-12-103. PN-289  
 R9-12-104. PN-289

R9-12-105. PN-289  
 R9-12-106. PN-289  
 R9-12-107. PN-289  
 Table 1.1. PN-289  
 R9-12-201. PN-289  
 R9-12-202. PN-289  
 R9-12-203. PN-289  
 R9-12-204. PN-289  
 R9-12-205. PN-289  
 R9-12-206. PN-289  
 R9-12-207. PN-289

**Information Technology Agency, Government**

R2-18-101. PM-93  
 R2-18-201. PM-93  
 R2-18-301. PM-93  
 R2-18-401. PM-93  
 R2-18-501. PN-93  
 R2-18-502. PN-93  
 R2-18-503. PN-93

**Insurance, Department of**

R20-6-2401. XN-155  
 R20-6-2402. XN-155  
 R20-6-2403. XN-155  
 R20-6-2404. XN-155  
 R20-6-2405. XN-155  
 R20-6-2406. XN-155

**Medical Board, Arizona**

R4-16-101. FM-145  
 R4-16-102. FM-145  
 R4-16-103. FM-145  
 R4-16-401. FM-145  
 R4-16-402. FM-145

**Optometry, Board of**

R4-21-101. FM-431  
 R4-21-209. FM-431  
 R4-21-210. FM-431  
 R4-21-211. FM-431

**Pharmacy, Board of**

R4-23-110. SPM-19  
 R4-23-202. SPM-19  
 R4-23-203. SPM-19  
 R4-23-205. PM-5; SPM-19  
 R4-23-301. SPM-19  
 R4-23-302. SPM-19  
 R4-23-407. SPM-19  
 R4-23-407.1. SPM-19  
 R4-23-411. SPM-19  
 R4-23-601. SPM-19  
 R4-23-602. SPM-19  
 R4-23-603. SPM-19  
 R4-23-604. SPM-19  
 R4-23-605. SPM-19  
 R4-23-606. SPM-19  
 R4-23-607. SPM-19  
 R4-23-676. PN-5; SPN-19  
 R4-23-692. SPM-19  
 R4-23-693. SPM-19  
 R4-23-1102. SPM-19  
 R4-23-1103. SPM-19  
 R4-23-1105. SPM-19

**Physical Therapy, Board of**

R4-24-101. FM-404  
 R4-24-201. FM-404  
 R4-24-207. FM-404  
 R4-24-208. FM-404  
 Table 1. FM-404  
 R4-24-210. FM-404  
 R4-24-211. FM-404  
 R4-24-401. FM-404  
 R4-24-402. FM-404  
 R4-24-403. FM-404

**Public Safety, Department of - Criminal Identification Section**

R13-1-501. PER-324  
 R13-1-502. PER-324  
 R13-1-503. PER-324  
 R13-1-504. PER-324  
 Exhibit A. RC-412  
 Exhibit B. RC-412

**Retirement System Board, State**

R2-8-501. FM-303  
 R2-8-502. FM-303  
 R2-8-503. FM-303  
 R2-8-504. FM-303  
 R2-8-505. FM-303  
 R2-8-506. FM-303  
 R2-8-507. FM-303  
 R2-8-508. FM-303  
 R2-8-509. FM-303  
 R2-8-510. FM-303  
 R2-8-511. FM-303  
 R2-8-512. FM-303  
 R2-8-513. FM-303  
 R2-8-513.01. FM-303  
 R2-8-513.02. FM-303  
 R2-8-514. FM-303  
 R2-8-515. FR-303  
 R2-8-519. FM-303  
 R2-8-520. FM-303  
 R2-8-521. FM-303  
 R2-8-701. FM-303  
 R2-8-702. FM-303  
 R2-8-703. FM-303  
 R2-8-704. FM-303  
 R2-8-705. FM-303  
 R2-8-706. FM-303  
 R2-8-707. FM-303  
 R2-8-709. FR-303  
 R2-8-1101. FN-303  
 R2-8-1102. FN-303  
 R2-8-1103. FN-303

**Revenue, Department of - Transaction Privilege and Use Tax Section**

R15-5-1860. FEM-327

**Secretary of State, Office of**

R2-12-901. PN-121  
 R2-12-902. PN-121  
 R2-12-903. PN-121  
 R2-12-904. PN-121  
 R2-12-905. PN-121  
 R2-12-906. PN-121  
 R2-12-907. PN-121



R2-12-908.	PN-121	<b>Transportation, Department of - Title, Registration, and Driver Licenses</b>	R17-4-352.	PN-745
R2-12-909.	PN-121		R17-4-407.	PR-670; PN-670
<b>Tax Deferred Annuity and Deferred Compensation Plans, Governing Committee for</b>			R17-4-409.	PM-670
R2-9-101.	PR-91	R17-4-101.	PN-670	
		R17-4-313.	XM-104	
		R17-4-351.	PN-745	

**OTHER NOTICES AND PUBLIC RECORDS INDEX**

Other notices related to rulemakings are listed in the Index by notice type, agency/county and by volume page number. Agency policy statements and proposed delegation agreements are included in this section of the Index by volume page number. Public records, such as Governor Office executive orders, proclamations, declarations and terminations of emergencies, summaries of Attorney General Opinions, and county notices are also listed in this section of the Index and published by volume page number.

**THIS INDEX INCLUDES OTHER NOTICE ACTIVITY THROUGH ISSUE 13 OF VOLUME 25.**

**Agency Ombudsman, Notices of**

First Things First, Early Childhood Development and Health Board; p. 385  
 Game and Fish Commission; p. 385

**Docket Opening, Notices of**

Corporation Commission, Arizona - Fixed Utilities; 14 A.A.C. 2; pp. 376  
 Environmental Quality, Department of - Air Pollution Control; 18 A.A.C. 2; pp. 51-52  
 Environmental Quality, Department of - Water Quality Standards; 18 A.A.C. 11; p. 273  
 Game and Fish Commission; 12 A.A.C. 4; pp. 128, 375-376  
 Health Services, Department of - Food, Recreational, and Institutional Sanitation; 9 A.A.C. 8; pp. 374-375, 466, 724  
 Health Services, Department of - Health Care Institutions: Licensing; 9 A.A.C. 10; p. 678  
 Information Technology Agency, Government; 2 A.A.C. 18; pp. 107-108  
 Insurance, Department of; 20 A.A.C. 6; p. 161  
 Osteopathic Examiners in Medicine and Surgery, Board of; 4 A.A.C. 22; p. 723  
 Pharmacy, Board of; 4 A.A.C. 23; p. 51  
 Podiatry, Board of; 4 A.A.C. 25; p. 465  
 Public Safety, Department of - Criminal Identification Section; 13 A.A.C. 1; p. 331  
 Tax Deferred Annuity and Deferred Compensation Plans, Governing Committee for; 2 A.A.C. 9; p. 107  
 Transportation, Department of - Oversize and Overweight Special Permits; 17 A.A.C. 6; p. 680

Transportation, Department of - Title, Registration, and Driver Licenses; 17 A.A.C. 4; p. 679

**Governor's Office**

**Executive Order 2019-01:** pp. 131-132

**Governor's Regulatory Review Council**

Notices of Action Taken at Monthly Meetings: pp. 342, 424, 787-788

**Guidance Document, Notices of**

Health Services, Department of; p. 109

**Proposed Delegation Agreement, Notices of**

Health Services, Department of; p. 681

**Public Information, Notices of**

Accountancy, Board of; p. 468  
 Environmental Quality, Department of; pp. 57-63  
 Environmental Quality, Department of - Water Pollution Control; p. 162  
 Game and Fish Commission; pp. 53-57  
 Technical Registration, Board of; p. 725

**Substantive Policy Statement, Notices of**

Accountancy, Board of; p. 469  
 Finance Authority, Water Infrastructure; pp. 380-383  
 Insurance, Department; p. 532  
 Lottery Commission, State; p. 726  
 Nursing, Board of; p. 726  
 Real Estate Department, State; pp. 129-130  
 State Land Department, Arizona; pp. 378-380  
 Water Resources, Department of; pp. 332, 378



### RULES EFFECTIVE DATES CALENDAR

A.R.S. § 41-1032(A), as amended by Laws 2002, Ch. 334, § 8 (effective August 22, 2002), states that a rule generally becomes effective 60 days after the day it is filed with the Secretary of State's Office. The following table lists filing dates and effective dates for rules that follow this provision. Please also check the rulemaking Preamble for effective dates.

January		February		March		April		May		June	
Date Filed	Effective Date										
1/1	3/2	2/1	4/2	3/1	4/30	4/1	5/31	5/1	6/30	6/1	7/31
1/2	3/3	2/2	4/3	3/2	5/1	4/2	6/1	5/2	7/1	6/2	8/1
1/3	3/4	2/3	4/4	3/3	5/2	4/3	6/2	5/3	7/2	6/3	8/2
1/4	3/5	2/4	4/5	3/4	5/3	4/4	6/3	5/4	7/3	6/4	8/3
1/5	3/6	2/5	4/6	3/5	5/4	4/5	6/4	5/5	7/4	6/5	8/4
1/6	3/7	2/6	4/7	3/6	5/5	4/6	6/5	5/6	7/5	6/6	8/5
1/7	3/8	2/7	4/8	3/7	5/6	4/7	6/6	5/7	7/6	6/7	8/6
1/8	3/9	2/8	4/9	3/8	5/7	4/8	6/7	5/8	7/7	6/8	8/7
1/9	3/10	2/9	4/10	3/9	5/8	4/9	6/8	5/9	7/8	6/9	8/8
1/10	3/11	2/10	4/11	3/10	5/9	4/10	6/9	5/10	7/9	6/10	8/9
1/11	3/12	2/11	4/12	3/11	5/10	4/11	6/10	5/11	7/10	6/11	8/10
1/12	3/13	2/12	4/13	3/12	5/11	4/12	6/11	5/12	7/11	6/12	8/11
1/13	3/14	2/13	4/14	3/13	5/12	4/13	6/12	5/13	7/12	6/13	8/12
1/14	3/15	2/14	4/15	3/14	5/13	4/14	6/13	5/14	7/13	6/14	8/13
1/15	3/16	2/15	4/16	3/15	5/14	4/15	6/14	5/15	7/14	6/15	8/14
1/16	3/17	2/16	4/17	3/16	5/15	4/16	6/15	5/16	7/15	6/16	8/15
1/17	3/18	2/17	4/18	3/17	5/16	4/17	6/16	5/17	7/16	6/17	8/16
1/18	3/19	2/18	4/19	3/18	5/17	4/18	6/17	5/18	7/17	6/18	8/17
1/19	3/20	2/19	4/20	3/19	5/18	4/19	6/18	5/19	7/18	6/19	8/18
1/20	3/21	2/20	4/21	3/20	5/19	4/20	6/19	5/20	7/19	6/20	8/19
1/21	3/22	2/21	4/22	3/21	5/20	4/21	6/20	5/21	7/20	6/21	8/20
1/22	3/23	2/22	4/23	3/22	5/21	4/22	6/21	5/22	7/21	6/22	8/21
1/23	3/24	2/23	4/24	3/23	5/22	4/23	6/22	5/23	7/22	6/23	8/22
1/24	3/25	2/24	4/25	3/24	5/23	4/24	6/23	5/24	7/23	6/24	8/23
1/25	3/26	2/25	4/26	3/25	5/24	4/25	6/24	5/25	7/24	6/25	8/24
1/26	3/27	2/26	4/27	3/26	5/25	4/26	6/25	5/26	7/25	6/26	8/25
1/27	3/28	2/27	4/28	3/27	5/26	4/27	6/26	5/27	7/26	6/27	8/26
1/28	3/29	2/28	4/29	3/28	5/27	4/28	6/27	5/28	7/27	6/28	8/27
1/29	3/30			3/29	5/28	4/29	6/28	5/29	7/28	6/29	8/28
1/30	3/31			3/30	5/29	4/30	6/29	5/30	7/29	6/30	8/29
1/31	4/1			3/31	5/30			5/31	7/30		



July		August		September		October		November		December	
Date Filed	Effective Date										
7/1	8/30	8/1	9/30	9/1	10/31	10/1	11/30	11/1	12/31	12/1	1/30
7/2	8/31	8/2	10/1	9/2	11/1	10/2	12/1	11/2	1/1	12/2	1/31
7/3	9/1	8/3	10/2	9/3	11/2	10/3	12/2	11/3	1/2	12/3	2/1
7/4	9/2	8/4	10/3	9/4	11/3	10/4	12/3	11/4	1/3	12/4	2/2
7/5	9/3	8/5	10/4	9/5	11/4	10/5	12/4	11/5	1/4	12/5	2/3
7/6	9/4	8/6	10/5	9/6	11/5	10/6	12/5	11/6	1/5	12/6	2/4
7/7	9/5	8/7	10/6	9/7	11/6	10/7	12/6	11/7	1/6	12/7	2/5
7/8	9/6	8/8	10/7	9/8	11/7	10/8	12/7	11/8	1/7	12/8	2/6
7/9	9/7	8/9	10/8	9/9	11/8	10/9	12/8	11/9	1/8	12/9	2/7
7/10	9/8	8/10	10/9	9/10	11/9	10/10	12/9	11/10	1/9	12/10	2/8
7/11	9/9	8/11	10/10	9/11	11/10	10/11	12/10	11/11	1/10	12/11	2/9
7/12	9/10	8/12	10/11	9/12	11/11	10/12	12/11	11/12	1/11	12/12	2/10
7/13	9/11	8/13	10/12	9/13	11/12	10/13	12/12	11/13	1/12	12/13	2/11
7/14	9/12	8/14	10/13	9/14	11/13	10/14	12/13	11/14	1/13	12/14	2/12
7/15	9/13	8/15	10/14	9/15	11/14	10/15	12/14	11/15	1/14	12/15	2/13
7/16	9/14	8/16	10/15	9/16	11/15	10/16	12/15	11/16	1/15	12/16	2/14
7/17	9/15	8/17	10/16	9/17	11/16	10/17	12/16	11/17	1/16	12/17	2/15
7/18	9/16	8/18	10/17	9/18	11/17	10/18	12/17	11/18	1/17	12/18	2/16
7/19	9/17	8/19	10/18	9/19	11/18	10/19	12/18	11/19	1/18	12/19	2/17
7/20	9/18	8/20	10/19	9/20	11/19	10/20	12/19	11/20	1/19	12/20	2/18
7/21	9/19	8/21	10/20	9/21	11/20	10/21	12/20	11/21	1/20	12/21	2/19
7/22	9/20	8/22	10/21	9/22	11/21	10/22	12/21	11/22	1/21	12/22	2/20
7/23	9/21	8/23	10/22	9/23	11/22	10/23	12/22	11/23	1/22	12/23	2/21
7/24	9/22	8/24	10/23	9/24	11/23	10/24	12/23	11/24	1/23	12/24	2/22
7/25	9/23	8/25	10/24	9/25	11/24	10/25	12/24	11/25	1/24	12/25	2/23
7/26	9/24	8/26	10/25	9/26	11/25	10/26	12/25	11/26	1/25	12/26	2/24
7/27	9/25	8/27	10/26	9/27	11/26	10/27	12/26	11/27	1/26	12/27	2/25
7/28	9/26	8/28	10/27	9/28	11/27	10/28	12/27	11/28	1/27	12/28	2/26
7/29	9/27	8/29	10/28	9/29	11/28	10/29	12/28	11/29	1/28	12/29	2/27
7/30	9/28	8/30	10/29	9/30	11/29	10/30	12/29	11/30	1/29	12/30	2/28
7/31	9/29	8/31	10/30			10/31	12/30			12/31	3/1



### REGISTER PUBLISHING DEADLINES

The Secretary of State's Office publishes the Register weekly. There is a three-week turnaround period between a deadline date and the publication date of the Register. The weekly deadline dates and issue dates are shown below. Council meetings and Register deadlines do not correlate. Also listed are the earliest dates on which an oral proceeding can be held on proposed rulemakings or proposed delegation agreements following publication of the notice in the Register.

<b>Deadline Date (paper only) Friday, 5:00 p.m.</b>	<b>Register Publication Date</b>	<b>Oral Proceeding may be scheduled on or after</b>
November 9, 2018	November 30, 2018	December 31, 2018
November 16, 2018	December 7, 2018	January 7, 2019
November 23, 2018	December 14, 2018	January 14, 2019
November 30, 2018	December 21, 2018	January 22, 2019
December 7, 2018	December 28, 2018	January 28, 2019
December 14, 2018	January 4, 2019	February 4, 2019
December 21, 2018	January 11, 2019	February 11, 2019
December 28, 2018	January 18, 2019	February 19, 2019
January 4, 2019	January 25, 2019	February 25, 2019
January 11, 2019	February 1, 2019	March 4, 2019
January 18, 2019	February 8, 2019	March 11, 2019
January 25, 2019	February 15, 2019	March 18, 2019
February 1, 2019	February 22, 2019	March 25, 2019
February 8, 2019	March 1, 2019	April 1, 2019
February 15, 2019	March 8, 2019	April 8, 2019
February 22, 2019	March 15, 2019	April 15, 2019
March 1, 2019	March 22, 2019	April 22, 2019
March 8, 2019	March 29, 2019	April 29, 2019
March 15, 2019	April 5, 2019	May 6, 2019
March 22, 2019	April 12, 2019	May 13, 2019
March 29, 2019	April 19, 2019	May 20, 2019
April 5, 2019	April 26, 2019	May 28, 2019
April 12, 2019	May 3, 2019	June 3, 2019
April 19, 2019	May 10, 2019	June 10, 2019
April 26, 2019	May 17, 2019	June 17, 2019
May 3, 2019	May 24, 2019	June 24, 2019
May 10, 2019	May 31, 2019	July 1, 2019
May 17, 2019	June 7, 2019	July 8, 2019
May 24, 2019	June 14, 2019	July 15, 2019
May 31, 2019	June 21, 2019	July 22, 2019



## GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES

The following deadlines apply to all Five-Year-Review Reports and any adopted rule submitted to the Governor’s Regulatory Review Council. Council meetings and Register deadlines do not correlate. We publish these deadlines as a courtesy.

All rules and Five-Year Review Reports are due in the Council office by 5 p.m. of the deadline date. The Council’s office is located at 100 N. 15th Ave., Suite 402, Phoenix, AZ 85007. For more information, call (602) 542-2058 or visit <http://grrc.az.gov>.

### GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES FOR 2019

[M19-05]

DEADLINE FOR PLACEMENT ON AGENDA*	FINAL MATERIALS SUBMITTED TO COUNCIL	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
<i>Tuesday</i> January 22, 2019	<i>Tuesday</i> February 19, 2019	<i>Tuesday</i> February 26, 2019	<i>Tuesday</i> March 5, 2019
<i>Tuesday</i> February 19, 2019	<i>Tuesday</i> March 19, 2019	<i>Tuesday</i> March 26, 2019	<i>Tuesday</i> April 2, 2019
<i>Tuesday</i> March 19, 2019	<i>Tuesday</i> April 23, 2019	<i>Tuesday</i> April 30, 2019	<i>Tuesday</i> May 7, 2019
<i>Tuesday</i> April 23, 2019	<i>Tuesday</i> May 21, 2019	<b>Wednesday</b> May 29, 2019	<i>Tuesday</i> June 4, 2019
<i>Tuesday</i> May 21, 2019	<i>Tuesday</i> June 18, 2019	<i>Tuesday</i> June 25, 2019	<i>Tuesday</i> July 2, 2019
<i>Tuesday</i> June 18, 2019	<i>Tuesday</i> July 23, 2019	<i>Tuesday</i> July 30, 2019	<i>Tuesday</i> August 6, 2019
<i>Tuesday</i> July 23, 2019	<i>Tuesday</i> August 20, 2019	<i>Tuesday</i> August 27, 2019	<b>Wednesday</b> September 4, 2019
<i>Tuesday</i> August 20, 2019	<i>Tuesday</i> September 17, 2019	<i>Tuesday</i> September 24, 2019	<i>Tuesday</i> October 1, 2019
<i>Tuesday</i> September 17, 2019	<i>Tuesday</i> October 22, 2019	<i>Tuesday</i> October 29, 2019	<i>Tuesday</i> November 5, 2019
<i>Tuesday</i> October 22, 2019	<i>Tuesday</i> November 19, 2019	<i>Tuesday</i> November 26, 2019	<i>Tuesday</i> December 3, 2019
<i>Tuesday</i> November 19, 2019	<i>Tuesday</i> December 24, 2019	<i>Tuesday</i> January 7, 2020	<i>Tuesday</i> January 14, 2020
<i>Tuesday</i> December 24, 2019	<i>Tuesday</i> January 21, 2020	<i>Tuesday</i> January 28, 2020	<i>Tuesday</i> February 4, 2020

\* Materials must be submitted by **5 PM** on dates listed as a deadline for placement on a particular agenda. Placement on a particular agenda is not guaranteed.