



Arizona Department of Agriculture

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Notice of Meeting and Agenda for the "Devices" Subcommittee of the Task Force on the Regulation of Structural Pest Management

The above subcommittee of the Task Force on the Regulation of Structural Pest Management (OPM Task Force) gives notice that it will hold a meeting open to the public on **Tuesday, June 26, 2012 beginning at 10:00 a.m. in room 126** of the Arizona Department of Agriculture, 1688 W Adams Street, Phoenix. Members of the subcommittee will attend either in person or by telephone conference call.

The agenda for the meeting is as follows:

1. Roll Call – Vince Craig, Subcommittee Chairman.
2. Approval of June 19, 2012 Minutes.
3. Review and Action regarding draft Statute and Rule regarding Devices and the Director's Powers and Duties.
4. Discussion and Action regarding establishing guidelines for operators utilizing canines to inspect for Bed Bugs.
5. Call to the Public (2 minute limit per speaker).

This is the time for the public to comment on items relating to the Task Force's purpose and discussions held or wished to be discussed in the future. Members of the Task Force may not discuss items that are not specifically identified on the agenda. Therefore, in response to public comments made on issues that are not listed on the agenda, the Task Force is limited to directing staff to study the matter, responding to any criticism or scheduling the matter for further consideration and decision at a later date.

6. Set Next Meeting Date and Topic Discussion
7. Adjourn

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Anna Villa at (602) 542-4315 (voice), or 1-800-367-3839 (TDD Relay). Requests should be made as early as possible to allow time to arrange the accommodation.

Dated this 14th day of June, 2012

SUBCOMMITTEE FOR DEVICES
PROPOSED LANGUAGE FOR STATUTE AND/OR RULE

Option 1:

(Proposed Statutes):

A.R.S. 3-3503 Powers and Duties:

"The Director may designate by rule, which devices are exempt from regulations under this chapter."

Definitions

"Device means any instrument or contrivance that is intended to be used for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life."

(Proposed Rule):

Devices not requiring a business license or applicator certification:

The following devices are not subject to this chapter:

- (1) a raptor, when used it to control or relocate other birds;
- (2) physical removal of pests or the habitat of pests while cleaning;
- (3) mechanical traps, when used without a pesticide;
- (4) removal by mechanical means of weeds or other obstructing vegetation;
- (5) installation, maintenance, or use of a physical barrier to remove or prevent infestation by nuisance animals;
- (6) installation equipment used for home improvement or modifications; or
- (7) fire arms.

Rationale: The majority of the subcommittee members (MSM) expressed the desire to allow the Director to decide for *himself* which devices are regulated and which devices are not. The proposed statute can be added to the powers and duties section in consideration of that desire. The Task Force has attempted to consistently find ways to *fit* OPM into the Department of Agriculture, by examining Rules and Statutes that can work interchangeably.

The proposed *definition* for devices (as noted above) is taken from the definition *currently* used by the Department of Agriculture. If OPM is going to be a part of the Department of Agriculture, any Rules or Statutes (where applicable) should match, thus

demonstrating uniformity and unity. Deleting the current definition and replacing it with the Department's definition for "device" contributes to that unity and demonstrates support of the Task Force's mission. Because Rules give definition to Statute, the subcommittee should have some language in rule defining what is (not) a device. As technologies emerge, the list can be expanded if necessary. The above option facilitates that process.

Option 2:

(Rule):

Definition:

"Device means any instrument or contrivance that is intended to be used for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life. A device does not include:

- (1) use of a raptor to control or relocate other birds;
- (2) physical removal of pests or the habitat of pests while cleaning;
- (3) use of a mechanical trap without a pesticide;
- (4) removal by mechanical means of weeds or other obstructing vegetation;
- (5) installation, maintenance, or use of a physical barrier to remove or prevent infestation by nuisance animals;
- (6) installation equipment used for home improvement or modifications; or
- (7) fire arms."

Rationale: The majority of the subcommittee members (MSM) expressed the desire to allow the Director to decide for *himself* which devices are regulated and which devices are not. This proposal is already in place when considering the following proposed statute:

" 3-3503. Powers and duties

A. The director shall:

1. **Adopt rules that are necessary** or proper to administer and implement this chapter, including administrative provisions, **license and registration requirements** and qualifications, training and education requirements, health and safety provisions, duties and responsibilities, recordkeeping and production of records requirements, financial security standards, licensee inspection and treatment reports requirements, disciplinary action provisions, equipment provisions, and provisions for the use, storage and application of pesticides and **devices used in management.**"

While the MSM were not in favor of listing which devices were exempt, failing to do so would make the rule too broad. And, it could result in a lack of consistency if one Director favored certain devices and then next director did not. It could result in the public and the industry viewing the Department as inconsistent. The devices, included in the proposed rule, eliminate the broadness of the rule. It also ensures consistency and creates specificity.
