

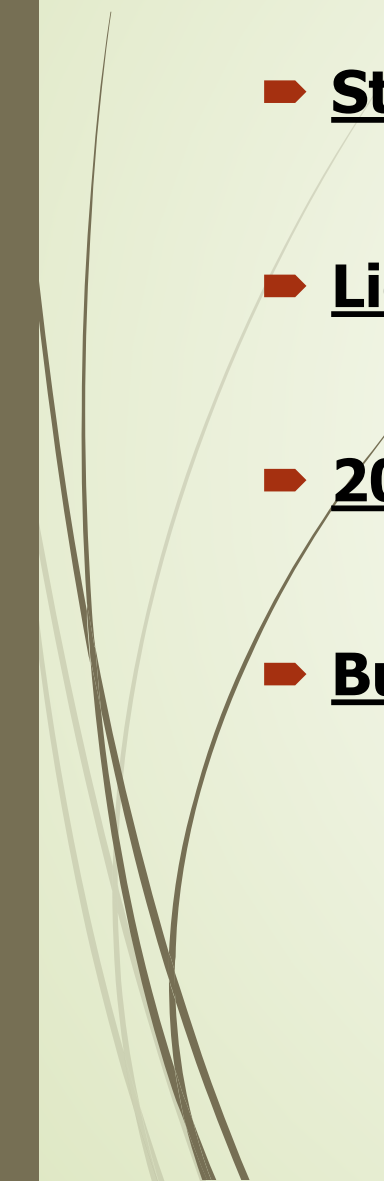


Pest Management Division (PMD)

2023 UPDATES & STUFF



PMD STUFF

- **Staff Changes**
 - **Licensing Process**
 - **2023 Rules Package**
 - **But Why? Knowledge versus Appreciation of Laws**
- 



Staff Changes

- After 8 years as Director of the Arizona Department of Agriculture, Mark Killian has retired. His last day was Friday, February 3rd.
- As of May 6th, **Paul Brierley** is serving as **Interim Director**.
- **Continuing Education Coordinator: Olga Zuniga.**
Her work cell is 602-206-2756. Her immediate Supervisor is Vince Craig, 602-377-2599.

Certification Process

- **Old Process:** Submit complete application and fingerprint packet. Approval to test was granted after results of background check was returned from AZDPS. The background check from AZDPS and PMD review of the background check could take longer than the 90-days grace period for uncertified applicators.
- **New Process:** Submit application. Approval to test is granted immediately. Certification is only granted after receipt of fingerprint packet, background check from AZDPS, passing scores on Core and at least one category-specific exams, and PMD review of the background check.

Inability to pass the background check or pass the applicable exams will result in denial of the certification.

Certification Process

- **Industry's Concern and Request:** “We don't know if our new hires are working beyond the grace period because your agency doesn't inform us when they get certified. Please tell us when a person has applied for an exam so we can keep track of timeframes!”
- **Agency's Position:** Certification information is updated on the PMD website (<https://opm.azda.gov/PCProfSearch.php>) in real time. If an applicator is certified or has been previously certified, the information will appear there. Additionally, all testers received their test scores before at the conclusion of their test. Have you asked your applicators for a copy of their test results?



Certification Process

- ➔ PLEASE NOTE YOU ARE NOT CERTIFIED JUST BECAUSE YOU PASSED THE EXAM(S). THE AGENCY MUST FIRST RECEIVE A CLEAR BACKGROUND CHECK.
- ➔ **YOU CANNOT COMPLETE WDIIRS OR TERMITE TREATMENT PROPOSAL FORMS UNTIL YOU ARE ACTUALLY CERTIFIED.**

New Rules Summary

- Final Grade timeframe **extended** from 12 months to **18 months**
- Grace period for uncertified applicators **extended** from 90 days to **120 days**
- **2 inch lettering requirement** on vehicles **eliminated**
- Eliminate **pretreatment amounts** allow it to be **label driven**.
- **Change mitigating factors for discipline** from Cooperation and Admission of fault to **either/or**.
- **Eliminate Moral Character requirement** for Certified Applicators (**CA**) and Qualified Applicators (**QA**) in Rule.
- **Added strong language based on EPA guidance** to pursue those who engage in unlicensed activity and cause harm to the public or environment.

New Rules

R3-8-102. Certification Categories; Scope

The name and scope of each certification category are as follows and as prescribed in 40 CFR § 171.101(c), (e) through (h) (82 FR 1029, January 4, 2017), and (n). This material is incorporated by reference, is on file with the Department, and does not include any later amendments or editions:

- ~~1. Industrial and institutional: pest management in, on, around or adjacent to a structure not covered by another category; pest management in or on asphalt, concrete, gravel, rocks and similar surfaces, including man holes, not covered by another certification category; pest management of health related pests wherever found; but excluding anti-microbial pest management and fungi inspection~~
- ~~2. Wood-destroying organism management.
 - ~~a. Wood-destroying organism treatment: inspecting for the presence or absence of wood-destroying organisms and treating for wood-destroying organisms in or about a residential or other structure by a means other than use of a fumigant.~~~~

New Rules

R3-8-102. Certification Categories; Scope

- ~~b. Wood-destroying insect inspection: inspecting for the presence or absence of wood-destroying insects only and excluding preparing treatment proposals.~~
- ~~3. Ornamental and turf: pest management, including weeds, pests in trees, shrubs, and flowers, turf and bare ground, not covered by the right-of-way category, by means other than the use of a fumigant. Excludes any pests within a structure.~~
- ~~4. Right of way: pest management of pests, including weeds, in the maintenance of public roads, electric powerlines, pipelines, railway rights of way or other similar areas by a means other than use of a fumigant, but excluding pest management in the maintenance of ornamental trees, shrubs and flowers.~~
- ~~5. Aquatic: pest management, including weeds, in standing or running water.~~
- ~~6. Fumigation: pest management using fumigants; except as provided in the wood preservation category.~~

New Rules

1. The categories shall be as follows, and as prescribed in 40 CFR § 171.101(c), (e) through (h), and (n) (82 FR 1029, January 4, 2017) . This material is incorporated by reference, is on file with the Department, and does not include any later amendments or editions; and,
2. The competency standards shall be as follows, and as prescribed in 40 CFR § 171.103(d)(3), (5) through (8), and (14) (82 FR 1029, January 4, 2017). This material is incorporated by reference, is on file with the Department, and does not include any later amendments or editions.

What does this mean?



What Does This Mean?

40 CFR: Code for Federal Regulations

All state categories will now coincide with federal categories.

Nothing has changed except Public Health.

Public Health Category is considered a special category strictly for Government Employees.

We will not create a new exam. If you're a governmental employee and you're licensed in Industrial / Public Health, you will simply be licensed in Public Health. If you're a non-government applicator, you're simply licensed in Industrial & Institutional category.

This also means if you do not know what categories the agency offers Licensing can provide you with a list of categories. See the following slides:



What the Categories Are and What Do They Say!

(c) Ornamental and turf pest control. This category applies to commercial applicators who use or supervise the use of restricted use pesticides to control pests in the maintenance and production of ornamental plants and turf.

(e) Aquatic pest control. This category applies to commercial applicators who use or supervise the use of any restricted use pesticide purposefully applied to standing or running water, excluding applicators engaged in public health related activities included in as specified in [paragraph \(h\)](#) of this section.

(f) Right-of-way pest control. This category applies to commercial applicators who use or supervise the use of restricted use pesticides in the maintenance of roadsides, powerlines, pipelines, and railway rights-of-way, and similar areas.



What the Categories Are and What Do They Say!

(g) Industrial, institutional, and structural pest control. This category applies to commercial applicators who use or supervise the use of restricted use pesticides in, on, or around the following: Food handling establishments, packing houses, and food-processing facilities; human dwellings; institutions, such as schools, hospitals and prisons; and industrial establishments, including manufacturing facilities, warehouses, grain elevators, and any other structures and adjacent areas, public or private, for the protection of stored, processed, or manufactured products.

(h) Public health pest control. This category applies to State, Tribal, Federal or other governmental employees and contractors who use or supervise the use of restricted use pesticides in government-sponsored public health programs for the management and control of pests having medical and public health importance.

(n) Non-soil fumigation. This category applies to commercial applicators who use or supervise the use of a restricted use pesticide to fumigate anything other than soil.



State-only Categories

- a. Wood-destroying Organism Management
 - i. Wood-destroying organism treatment. Inspecting for the presence or absence of wood-destroying organisms and treating for wood-destroying organisms in or about a residential or other structure by a means other than use of a fumigant.
 - ii. Wood-destroying insect inspection. Inspecting for the presence or absence of wood-destroying insects only and excluding preparing treatment proposals.
- b. Wood preservation. Application of pesticides labeled for use on utility poles or railroad ties, directly to structural components of wood or wood products, to prevent or manage wood degradation by wood destroying organisms including fungi and bacteria, which are not part of an existing structure. This includes drilling a cavity into a structural timber, inserting a methylisothiocyanate or other similar product into the cavity, and sealing the cavity.

AMENDED RULES

R3-8-103. Fees; Charges; Exemption

A. A person shall pay the following application and renewal fees for licensure, certification, and registration:

1. For an applicator:
 - a. Applicator certification, ~~\$75~~**55**.
 - b. Applicator certification broadening application, \$0.
 - c. QA certification, ~~\$400~~**75**.
 - d. QA certification broadening application, ~~\$25~~**15**.
2. For a qualifying party:
 - a. Registration at same time as application for or renewal of the business license, \$0.
 - b. Registration at a different time than application for or renewal of the business license, ~~\$50~~**35**.
 - c. Registration broadening, ~~\$25~~**15**.
 - d. Temporary qualifying party registration, ~~\$400~~**75**.
3. For a business:
 - a. Business license, ~~\$250~~**185**.
 - b. Business license for federal entity, \$0.
 - c. Applicator registration, \$0 per applicator.
4. For a branch:
 - a. Branch office registration, ~~\$50~~**35** per branch.
 - b. Branch supervisor registration at same time as branch office registration


Eliminated Rules

R3-8-203. Applicator Certification

~~**B.** An applicator shall be of good moral character. A conviction for a felony or a misdemeanor involving moral turpitude may demonstrate a lack of good moral character. A conviction for any of the following offenses shall be considered to demonstrate a lack of good moral character: 1. Murder involving the death of a law enforcement officer. 2. An offense described in A.R.S. § 13-2308.01 related to terrorism. 3. A sexual offense of any type where the victim is a minor that is a class 4 or higher felony.~~

R3-8-204. Qualified Applicator Certification

~~**E.** A QA shall be of good moral character. A conviction for a felony or a misdemeanor involving moral turpitude may demonstrate a lack of good moral character. A conviction for any of the following offenses shall be considered to demonstrate a lack of good moral character: 1. Murder involving the death of a law enforcement officer. 2. An offense described in A.R.S. § 13-2308.01 related to terrorism. 3. A sexual offense of any type where the victim is a minor that is a class 4 or higher felony.~~




Why Eliminate the Moral Character Rules?

State Statutes addressing Felony and Moral Turpitude Convictions already exist, so why have an Administrative Code?

A.R.S. § 41-1093.04

D. Notwithstanding any other law or rule, the agency may determine that the person's criminal record disqualifies the person from obtaining a license, permit, certificate or other state recognition only if the agency concludes that the state has an important interest in protecting public safety that is superior to the person's right and either of the following applies:

1. The person was convicted of any of the following, the conviction occurred within **seven** years **preceding the application**, excluding any period of time that the person was imprisoned in the custody of the state department of corrections, and the conviction has not been set aside:



Why Eliminate the Moral Character Rules? (part 2)

- (a) A felony offense.
 - (b) A violent crime as defined in section 13-901.03.
 - (c) An offense included in title 13, chapter 20, 21 or 22 or section 13-2310 or 13-2311 if the license, permit, certificate or other state recognition is for an occupation in which the applicant would owe a fiduciary duty to a client.
2. The person was, at any time, convicted of either of the following:
- (a) An offense that a law specifically requires the agency to consider when issuing a license, permit, certificate or other state recognition and the conviction has not been set aside.
 - (b) A dangerous offense as defined in section 13-105, a serious offense as defined in section 13-706, a dangerous crime against children as defined in section 13-705 or an offense included in title 13, chapter 14 or 35.1, and the conviction has not been set aside.

Amended Rules

F. Final grade treatment for commercial or residential construction.

1. A business licensee that performs a pretreatment or new-construction treatment shall perform a final grade treatment. The final grade treatment must occur after all grading and other construction-related soil disturbance is complete, but ~~within twelve months of the original pretreatment or new-construction treatment.~~ **within 18 months** of the original pretreatment or new construction treatment. The business licensee shall keep a written or electronic record as to why the final grade has not been completed and an estimated time for completion. This record shall be available upon written requests for inspection by the Agency.
2. ~~An applicator shall treat the soil along the exterior of foundation walls at a rate of four gallons of chemical preparation per 10 linear feet (unless precluded by label directions) after all grading and other construction-related soil disturbance is complete, but within twelve months of the original pretreatment or new-construction treatment.~~ Except as specified on the termiticide label, an applicator shall treat all critical areas during a pretreatment at a rate allowed by the product label.

What do these changes mean?



Amended Rules

What do these changes mean?

18 months for final grades

The grace period to complete a final grade has been changed from 12 months to 18 months.

Therefore, any pretreatments performed on or after 9-1-2021 are required to have a final grade within 18 months of the pretreatment.



Amended Rules

What do these changes mean?

The requirement of 4 gallons for every 10 linear feet has been eliminated

Pretreatments and final grades shall now be based on the amounts specified by label directions.

This allows new termiticide products that allow fewer gallons for critical areas (such as Termidor HE) to be applied.

Amended Rules

R3-8-310. Business Management

g. Service vehicles and trailers used in providing pest management services. The business licensee shall ensure that the business name and license number display on a service vehicle or trailer used in providing pest management services conforms to the following:

- i. Is affixed to the service vehicle or trailer used in providing pest management services within 30 days after the PMD issues the license or issues a business li-cense change or after the service vehicle or trailer is acquired, whichever is sooner;
- ii. Is in a color that contrasts with the color of the service vehicle and trailer;
- iii. Is on both sides of the service vehicle and trailer;
- ~~iv. Uses at least two inch letters for the principal words in the business name and at least one and one half inch letters for other words in the business name; and~~
- ~~v. Uses at least two inch numbers for the license number.~~

What do these changes mean?

PMD inspectors no longer need to spend money on rulers every year!!!



Amended Rules

R3-8-401. Supervising an Applicator

G. A QP, business licensee, and political subdivision shall not allow an uncertified applicator to apply a pesticide for more than ~~90~~ 120 days after the applicator is registered.

What does this change mean?

It means that anyone registered as an applicator on or after January 1, 2023, has 120 days to be certified.

Amended Rules

R3-8-606. Penalties

C. Mitigating factors. In considering whether to subtract points for mitigating factors, the Director may consider whether the mitigating act occurred before, during, or after PMD's investigation.

1. Good will.
 - a. Admission of fault or cooperation - 1
 - b. Admission and cooperation - 2
 - c. Admission, cooperation, and corrective action prior to request - 3

What does this change mean?

You do not have to admit fault to negotiate a lower form of discipline. You can simply cooperate!

Did you know Employee Registration is still an issue?

- Starts the clock on the grace period to spray without certification
- Minimizes potential pesticide exposure toward the public and the environment

Did you know that for FY 2022 the PMD filed 30 complaints for Unregistered Employees?

Thanks for the \$4,500.00. You really shouldn't have!!!



Did you know that Supervision documentation is still an issue?

Did you know that you could:

- Ask the PMD for a *courtesy* inspection?
- Ask the PMD for copies of the forms they use (Use/Non-Use Forms) and adopt them as YOUR supervision documentation?
- Ask the PMD to speak at your training course to provide training and receive an hour or more of CE for said training?
- Did you know that any violations we find during the courtesy inspection will not be held against you.



Weed Control Exemption

- Did you know that the PMD has a Spanish speaking staff member (Hector Duran) who can provide your Spanish speaking employees with an ILT training class which covers the Weed Control Exemption?
- Give him a call! 602-513-1987.



Vince Craig / 602 255-3663



Thank you!

Vince Craig / 602 377-2599