



Arizona Revised Statutes
Title 3 - Agriculture
Chapter 20 – Pest Management Division

Chapter 20 – Pest Management Division

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Article 1 – General Provisions

3-3601. Definitions

In this chapter, unless the context otherwise requires:

1. "Branch office" means any fixed place of business, other than the primary office, where records are kept, mail is received, statements are rendered, money is collected, requests for service or bids are received, information pertaining to the business of pest management is given or pesticides are stored or disposed of.
2. "Branch supervisor" means a certified applicator working at or from a branch office who is responsible for ensuring the training, equipping and supervision of all applicators of the branch office.
3. "Business license" means a license that is issued pursuant to this chapter or rules adopted pursuant to this chapter to a person and that entitles that person and the person's employees to engage in the business of pest management.
4. "Business of pest management" means engaging in, offering to engage in, advertising for, soliciting or performing pest management, including any of the following:
 - (a) Identifying infestations or making inspections for the purpose of identifying or attempting to identify infestations.
 - (b) Making written or oral inspection reports, recommendations, estimates or bids with respect to infestations.
 - (c) The application of pesticides or the making of contracts or submitting of bids for the application of pesticides or the use of devices for the purpose of eliminating, exterminating, controlling or preventing infestations.
5. "Certified applicator" means an individual who is licensed by the division to provide pest management services in accordance with this chapter.
6. "Certified qualified applicator" means a certified applicator who is eligible to act as a qualifying party.
7. "Child care facility" means a facility that is regulated pursuant to title 36, chapter 7.1.
8. "De minimis violation" means a violation that, although undesirable, has no direct or immediate relationship to safety, health or property damage.
9. "Device" means any instrument or contrivance that is intended to be used for trapping, destroying, repelling or mitigating any pest or other form of plant or animal life.
10. "Direct supervision" means the use of a pesticide under the instructions, control and responsibility of a certified applicator who is available if needed for consultation or assistance even though the certified applicator is not physically present at the time and place the pesticide is used.
11. "Division" means the pest management division of the department.

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12. "Final grade treatment" means the establishment of a complete vertical barrier at the exterior of foundation walls in stem wall or monolithic construction.
13. "Financial security" means liability insurance, a deposit of cash or certified monies, a surety bond or an irrevocable and unconditional letter of credit from a federally chartered financial institution or a financial institution as defined in section 6-101.
14. "Household pests" means pests, other than wood-destroying organisms, that invade households or other structures, including rodents, vermin and insects.
15. "Immediate supervision" means the use of a pesticide by an individual acting under the instructions, control and responsibility of a certified applicator who is within the direct line of sight or within hearing distance of the individual and who is available for consultation or assistance at the time and place the pesticide is used.
16. "Initial corrective treatment" means the first postconstruction treatment of any kind performed by a licensee, excluding a treatment performed under warranty by a licensee who has performed the pretreatment or new-construction treatment.
17. "Inquiry" means an initial investigation of possible violations of this chapter or rules adopted pursuant to this chapter based on information received from the public or division staff.
18. "Integrated pest management" means a sustainable approach to managing pests that combines biological, cultural, physical and chemical tools in a way that minimizes economic, health and environmental risks.
19. "New-construction treatment" means a treatment that protects all cellulose components of a structure from subterranean termites and that is performed after a permanent concrete slab foundation is installed or footings and supports for a raised foundation are installed, but before the structure or a final grade treatment is completed.
20. "Other structures" includes railroad cars, boats, docks, motor vehicles or airplanes and their contents.
21. "Pest management":
 - (a) Means the management of health-related pests, aquatic pests, household pests, wood-destroying organisms or other pests, including weeds, that exist in, near or around structures, in ornamental shrubs and trees, along rights-of-way or in lawns or cemeteries and all pesticide applications that could be harmful to public health or the environment.
 - (b) Includes the management by persons for hire of health-related pests, aquatic pests, household pests, wood-destroying organisms or other pests, including weeds, that exist on golf courses.
 - (c) Does not include pesticide applications used directly in the commercial production of crops and animals or used not for hire on golf courses.
22. "Pest management services" means identifying infestations or making inspections for the purpose of identifying or attempting to identify infestations, making written or oral inspection reports or recommendations with respect to infestations and the application of pesticides or the

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use of devices not exempt by section 3-3603, subsection B, paragraph 17 for the purpose of eliminating, exterminating, controlling or preventing infestations.

23. "Pesticide" means any substance or mixture of substances intended to be used for preventing, destroying, repelling or mitigating insects, fungi, bacteria, microbes, weeds, rodents, predatory animals or any form of plant or animal life that is, or that the director may declare to be, a pest and that may infest or be detrimental to vegetation, humans, animals or households or be present in any environment.

24. "Political subdivision" means a state agency, county, city, town, municipal corporation or school district or a special district formed pursuant to title 48.

25. "Postconstruction treatment" means a treatment to control wood-destroying organisms in or around an existing structure performed after all soil disturbance associated with construction is complete and after an applicator has completed an inspection of the structure and a treatment proposal under section 3-3632, subsections A and B.

26. "Pretreatment" means a termite treatment that protects all cellulose components of a structure from subterranean termites, that is performed before a permanent concrete slab foundation is installed or in conjunction with establishing footings and supports for a raised foundation and that establishes thorough and complete horizontal and vertical treated barriers.

27. "Prior violation" means any violation for which disciplinary action was taken within a five-year period before the date of the violation for which current disciplinary action is sought.

28. "Qualifying party" means a certified qualified applicator registered with the division as the individual responsible for ensuring the training, equipping and supervision of all applicators of a business licensee or school district.

29. "School" means any public or nonpublic institution, other than a child's home, that is established for the purpose of offering instruction to pupils in programs for preschool children with disabilities, kindergarten programs or any combination of grades one through twelve and that qualifies as a school pursuant to section 15-802.

30. "Service vehicle" means a motor vehicle, including a trailer attached to the motor vehicle, that is used to transport equipment or pesticides for the business of pest management.

31. "Sterilant" means a product that is designed for killing all live vegetation and preventing all vegetation growth for twelve or more months.

32. "Weed" means any plant that grows where it is not wanted.

33. "Wood-destroying insect inspection report" means a written inspection report on a form approved by the director that is prepared in connection with the sale or refinancing of real property whether or not the report is used as part of the transaction.

34. "Wood-destroying organisms" means organisms that attack, damage or destroy wood or wood-derivative products, but does not include birds or mammals.

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3-3602. Applicability of chapter; state preemption

A. This chapter applies to pest management. This chapter does not apply to pesticide applications used directly in the commercial production of crops and animals or used, if not for hire, on golf courses.

B. The regulation of pest management is of statewide concern. The regulation of pest management pursuant to this chapter is not subject to further regulation by a county, city, town or other political subdivision of this state.

3-3603. Powers and duties of director

A. The director is responsible for administering this chapter and shall:

1. Adopt rules that are necessary or proper to administer and implement this chapter, including rules that may be more stringent than a corresponding federal law for:

(a) Administrative provisions.

(b) Licensure, certification and registration requirements and qualifications, including training and education requirements and financial security standards.

(c) Health and safety provisions.

(d) Duties and responsibilities.

(e) Recordkeeping and production of records requirements.

(f) Licensee inspection and treatment report requirements.

(g) Disciplinary action provisions.

(h) Equipment provisions.

(i) Advertising requirements.

(j) The use, storage and application of pesticides and devices used in pest management.

2. Notify the business licensee, applicator and qualifying party in writing of any inquiry into possible violations by the business licensee, applicator or qualifying party by the close of business on the tenth business day after the day on which the director initiated the inquiry if the director anticipates an enforcement action. If in the course of the investigation the division identifies any alleged violations by a different business licensee, applicator or qualified party, the director shall notify the additional alleged violator by the close of business on the tenth business day after the day on which the director initiated the new inquiry.

3. Develop and either conduct or contract to conduct certified applicator and certified qualified applicator tests at locations throughout this state. If the director contracts for these tests, the contracts may provide for specific examination fees or a reasonable range of fees determined by the director to be paid directly to the contractor by the applicant. The director shall make all efforts to contract with private parties to electronically administer the tests.

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4. Maintain a computer system for the benefit and protection of the public that includes the following information on pretreatments, new-construction treatments, final grade treatments, initial corrective treatments and wood-destroying insect inspection reports:

- (a) The name of the individual who performed the work.
- (b) The address or location of the work or project.
- (c) The name of the pest management company.
- (d) The name of the qualifying party.
- (e) The applicator license numbers.
- (f) The nature and date of the work performed.
- (g) Any other information that is required by rule.

5. Establish offices the director deems necessary to carry out the purposes of this chapter.

6. Subject to title 41, chapter 4, article 4, employ personnel the director deems necessary to carry out the purposes of this chapter and designate their duties.

7. Oversee the approval, content and method of delivery of continuing education courses.

8. Deny a license to any person who has had a license revoked for a period of five years from the time of revocation.

9. License applicators and qualified applicators and license businesses in accordance with this chapter and rules adopted pursuant to this chapter.

10. Register qualifying parties, branch supervisors and branch offices in accordance with this chapter and rules adopted pursuant to this chapter.

11. Require the payment of a penalty for any late license renewal.

12. Refuse to issue a business license in a name that is not registered with the secretary of state or filed with the Arizona corporation commission.

13. Adopt a wood-destroying insect inspection report form for use by business licensees.

14. Receive monies authorized under this chapter for deposit, pursuant to sections 35-146 and 35-147, in the appropriate funds.

B. The director may:

1. Compel attendance of witnesses, administer oaths or affirmations and take testimony concerning all matters coming within the director's jurisdiction.

2. Issue subpoenas for the taking of depositions, the production of documents and things and the entry on land for inspection and measuring, surveying, photographing, testing or sampling the property or any designated object or operation on the property relevant to an inquiry or complaint.

3. Contract and enter into interagency and intergovernmental agreements with any private party or public agency.

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4. With at least twenty-four hours' notice, unless there may be an immediate risk to public health and safety, require a business licensee, qualifying party or applicator to produce specific records. On a showing of good cause by the business licensee, qualifying party or applicator, the director may excuse failure to timely comply.
5. Deny or revoke a license based on the information in the application.
6. Issue advisory notices for de minimis violations.
7. Investigate alleged violations of this chapter, rules adopted pursuant to this chapter, consent agreements, orders and any condition imposed in connection with a license.
8. Require the public to provide notices regarding alleged violations in writing.
9. Pursuant to section 41-1092.11, summarily suspend a license issued under this chapter to protect the health, safety and welfare of the public.
10. Issue a corrective work order requiring a business licensee or applicator to remedy deficiencies in treatment or to comply with this chapter or any rules adopted pursuant to this chapter before or after a formal hearing.
11. On receipt of a complaint or on initiation of a complaint by the division, investigate any alleged violation of unlicensed activity pursuant to this chapter. If the director determines that an unlicensed person is performing an act that is required to be performed by a person licensed pursuant to this chapter, the director shall take one or more of the following enforcement actions:
 - (a) Issue a cease and desist order requiring the person to immediately cease operations.
 - (b) Impose on the person a civil penalty of not more than one thousand dollars for the first occurrence and not more than two thousand dollars for the second occurrence.
 - (c) File an action to enjoin the person from engaging in the unlicensed activity.
 - (d) Request that the county attorney or attorney general file charges against the person.
12. Refuse to issue a business license in a name that is likely to be misleading or to imply any distorted representation about the business.
13. Register a certified applicator who is a representative of a business licensee as a temporary qualifying party if the qualifying party becomes disassociated with the business licensee.
14. Provide and conduct classes to train individuals in preparation for certified applicator and certified qualified applicator tests. The director may assess a fee for each class. The director may contract with a commercial enterprise or an accredited institution to conduct the class.
15. Provide and conduct continuing education classes quarterly. The director may assess a fee for each credit hour. The director may contract with a commercial enterprise or an accredited institution to conduct the class under the supervision of division staff.
16. Enter into consent agreements and issue consent orders.

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17. Designate by rule devices that are exempt from the licensure, certification and registration requirements of this chapter.
18. Charge a person for providing copies of rules, forms or policies proposed for adoption and for educational materials.
19. Require a business licensee or qualifying party to register with the division or to otherwise identify all of the licensed or unlicensed applicators of the business or supervised by the qualifying party.
20. Require a business licensee to produce records for the purpose of verifying that an individual is an applicator of the business licensee.
21. Charge a handling fee in addition to the transaction amount for any transaction that could have been completed electronically and was not.
22. Deny or refuse to renew a license of a person who owes unpaid fees or civil penalties to the division.

C. The director or any duly authorized agents may enter any private or public property, including a service vehicle, on which pesticides are located or are reasonably believed to be located to be used for purposes related to pest management or any office of a business engaged in pest management. The owner, managing agent or occupant of the property or office shall permit entry for the purpose of inspecting and investigating conditions relating to the use, storage, application and disposal of pesticides, including worker safety materials and records pertaining to pest management. If a person refuses to admit the director or the authorized agent in accordance with this subsection, the director may obtain a warrant from a court of competent jurisdiction. If a licensed or certified person refuses to admit the director or an authorized agent in accordance with this subsection during regular business hours, the director may impose disciplinary action on the person.

D. The director or any duly authorized agents may monitor compliance by a person with this chapter and rules adopted pursuant to this chapter while the person is providing pest management services.

3-3604. Pest management trust fund

A. The pest management trust fund is established for the exclusive purpose of implementing, continuing and supporting the division and its objectives as established by this chapter.

B. The director shall administer the trust fund as trustee. The state treasurer shall accept, separately account for and hold in trust any monies deposited in the state treasury, which are considered to be trust monies as defined in section 35-310 and which shall not be commingled with any other monies in the state treasury except for investment purposes. On notice from the director, the state treasurer shall invest and divest any trust fund monies deposited in the state treasury as provided by sections 35-313 and 35-314.03, and monies earned from the investment shall be credited to the trust fund.

C. The beneficiaries of the trust are the division programs established by this chapter. Monies in the trust fund shall be disbursed as approved by the director exclusively for the purposes prescribed in this chapter.

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D. Surplus monies, including any unexpended and unencumbered balance at the end of the fiscal year, do not revert to the state general fund.

E. If the division is terminated, any monies in the trust fund shall be expended to meet existing legal obligations of the division. The director shall expend any remaining monies on any program consistent with this chapter.

3-3605. Pest management division council; members; duties

A. The director shall establish by rule a pest management division council to assist and make recommendations to the director regarding the administration and implementation of this chapter. The director shall appoint five members to the council, including one public member.

B. The pest management division council shall:

1. Review pest management policy in this state as established by law and administered by the division.
2. Assist the director in formulating administrative rules for the division, including reviewing, advising and making recommendations to the director on proposed rules before the rules are adopted and recommending and initiating the rulemaking process for rules relating to this chapter.
3. Assist the director in developing proposed budgets for the division.
4. Provide additional assistance as the director deems necessary.

C. If the director determines that the rulemaking recommendations of the pest management division council are practicable and in the best interests of the pest management industry and the public, the director shall accept the rulemaking recommendations. If the director rejects the rulemaking recommendations of the pest management division council, the director shall provide a written explanation of the reasons for the rejection to the division council not more than fifteen days after the director's decision to reject the recommendations.

D. The director shall include the comments of the pest management division council in the official record when adopting rules or budgets for the division.

3-3606. Pesticide applications at schools and child care facilities; advance notification; exemptions

A. Only a certified applicator may apply pesticides at a school or child care facility.

B. A business licensee or certified applicator shall notify a school or a child care facility at least seventy-two hours in advance of any pesticide application in order to permit the school to comply with section 15-152 and the child care facility to comply with section 36-898. The seventy-two-hour advance notice shall include:

1. The scheduled date and time the application is to occur.
2. the location and area of the application and the brand name of the pesticide or pesticides to be applied.
3. The name, address, phone number and contact person of the business licensee or certified applicator.

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4. A statement that further information, the product label or the safety data sheet is available by contacting the business licensee or certified applicator.

C. The following pesticide applications are exempt from the notification requirement prescribed by subsection B of this section:

1. Nonresidual pesticide applications performed or contracted by public health agencies for adult vector control, provided that oral notification is attempted at least seventy-two hours before the application, when possible, to the school office or child care facility office with a statement of the pest problem, treatment procedure, area to be treated and approximate time of the application.

2. Emergency applications of a pesticide that has a toxicity category of III or IV pursuant to 40 Code of Federal Regulations section 156.62 to control harmful pests that pose an immediate threat to the public health. Under the circumstances described in this paragraph or paragraph 1 of this subsection, the business licensee or certified applicator shall do all of the following:

(a) Notify the school office or child care facility office before the application with a statement of the pest problem, treatment procedure, area to be treated and approximate time of application.

(b) Immediately after the application has been completed, notify the school office or the child care facility office of the name of the pesticide applied, the formulation, the strength and dosage and the date and time of application and provide the pesticide label.

(c) Post the treated area immediately after the application. The posting shall be at least eight and one-half inches by eleven inches and shall include the name of the pesticide, the registration number issued by the United States environmental protection agency, the date and time of application and the name and telephone number of the business licensee and certified applicator. A copy of the posting shall also be placed at the main entrance to the school or child care facility. The posting and the copy of the posting shall remain in place for at least forty-eight hours after the application.

3. Disinfectants or swimming pool chemicals.

4. Block, gel or paste-type bait that is a toxicity category III or IV formulation of insecticide pursuant to 40 Code of Federal Regulations section 156.62 and that is either of the following:

(a) Secured in an enclosed, tamper-resistant bait station and placed in an area that is inaccessible to children.

(b) Applied to a crack or crevice that is inaccessible to children.

5. Block-type bait that is a toxicity level III or IV formulation of rodenticide pursuant to 40 Code of Federal Regulations section 156.62 and that is secured in an enclosed, tamper-resistant bait station placed in an area that is inaccessible to children.

6. Personal repellants.

7. Nonrestricted use sanitizers and deodorizers.

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Article 2 – Certification, Registration and Licensure

3-3611. License and registration exemptions

- A. The provisions of this chapter requiring licensure and registration do not apply to:
1. Persons applying nonrestricted use pesticides on residential property that they own and occupy or that they own and that is not occupied.
 2. Authorized representatives of any educational institution engaged in research in the study of pest management or a state agency engaged in research or the study of pest management.
 3. Persons using a nonrestricted, ready-to-use disinfectant, sanitizer or deodorizer.
 4. A utility and the utility's employees if pest management services are needed for an employee's health and safety in order for the employee to continue performing work tasks.
 5. Persons using an over-the-counter antimicrobial to treat a swimming pool.
 6. Persons using a device that is exempt pursuant to section 3-3603, subsection B, paragraph 17.
 7. Persons who are exempt pursuant to section 3-3612 or 3-3613.
- B. An individual is not required to have a separate business license to engage in the business of pest management on behalf of a business licensee or as an employee of a political subdivision.
- C. The director by rule may exempt from sections 3-3615 and 3-3616 a certified applicator who performs inspections but does not make recommendations, estimates, bids or contracts for treatment or use pesticides or devices for pest management and may prescribe alternative requirements and conditions.

3-3612. Political subdivisions; exemptions; definition

- A. A political subdivision that uses pesticides to conduct pest management on property that is owned, leased or managed by the political subdivision, including easements:
1. Is not required to be licensed under section 3-3615.
 2. Must provide the department with the name and telephone number of the primary contact person or persons responsible for responding to department inquiries or concerns regarding compliance with this chapter. The primary contact person or persons at a minimum shall demonstrate to the department:
 - (a) Where the records are retained.
 - (b) Where the personal protective equipment is located.
 - (c) Where the pesticides are stored.
 - (d) That all applicators are properly certified.
- B. A school district is exempt from subsection A, paragraph 2 of this section, but shall have a qualifying party who is registered in the appropriate categories.

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C. An employee of a political subdivision who provides pest management services must be a certified applicator except as provided by subsection D of this section.

D. The following individuals are exempt from the certification requirements of this chapter:

1. An employee of a political subdivision who applied pesticides for the political subdivision no more than ninety calendar days before certification. This exemption does not apply to an employee who applies pesticides at a school or child care facility.
2. An employee of a political subdivision or designated agent while performing emergency response or rescue services.
3. A volunteer of a political subdivision while applying herbicides for the purpose of the eradication and control of noxious weeds as defined in section 3-201 and who is under the immediate supervision of a certified applicator. This exemption does not apply to a volunteer of a political subdivision who:
 - (a) Applies herbicides at a school or child care facility.
 - (b) Uses herbicides that are labeled with the words "restricted use" or "danger".
 - (c) Uses sterilants.
 - (d) Uses application equipment that holds more than four gallons of total mixed liquid herbicide.
 - (e) Has not completed an herbicide application training program conducted by the political subdivision and approved by the division.

E. For the purposes of this section, "volunteer" means a person who works without compensation other than reimbursement of actual expenses incurred or disbursement of meals or other incidental benefits.

3-3613. Landscapers; records; civil penalties

A. The provisions of this chapter requiring licensure and registration do not apply to a person who conducts lawn, garden, shrub or tree maintenance and who applies herbicides for the purpose of weed management, except as otherwise provided in this section.

B. Notwithstanding subsection A of this section, the licensure and registration requirements of this chapter apply to a person who:

1. Uses herbicides that are labeled with the words "restricted use" or "danger".
2. Uses sterilants or preemergent herbicides.
3. Offers weed management as the person's primary service or advertises weed management services.
4. Uses application equipment that collectively holds more than five gallons of total mixed liquid herbicide at an address or project on the same day.
5. Uses more than twenty-five pounds of nonliquid herbicide at an address or project on the same day.

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6. Uses or is part of a crew of two or more herbicide applicators at an address or project on the same day.
7. Uses an herbicide at a school or child care facility.
8. Uses an herbicide at an address or project without performing lawn, garden, shrub or tree maintenance at that address or project on the same day.

C. A person who is exempt from licensure and registration pursuant to this section shall provide treatment records to each customer on application of herbicides for the purpose of weed management and shall retain records containing the same information provided to customers for at least six months after the date of the treatment. For the purposes of this subsection, treatment records must include the following:

1. The address of the location of the herbicide application.
2. The date of the herbicide application.
3. The trade name or common name of the herbicide applied.
4. The amount of the herbicide applied.
5. The name of the individual who performed the treatment.

D. If a person is exempt from licensure and registration pursuant to subsection A of this section but does not comply with subsection C of this section, the director shall:

1. For a first violation, issue a written notice of correction that contains a warning and a copy of this section.
2. For a second violation, impose a civil penalty of at least fifty dollars.
3. For a third or any subsequent violation, impose a civil penalty of not more than one thousand dollars.

E. If a person is not exempt from licensure and registration but uses an herbicide for the purpose of weed management, the director may:

1. Issue a cease and desist order and an administrative warning.
2. For a first violation, impose a civil penalty of not more than one thousand dollars.
3. For a second or any subsequent violation, impose a civil penalty of not more than two thousand dollars.

3-3614. Applicator certification; categories

A. An application for applicator certification shall be in a form prescribed by the director and be accompanied by the prescribed fee.

B. An individual may apply for certification as an applicator or qualified applicator in any one or a combination of the following categories:

1. Industrial, institutional, structural and health-related pest management.
2. Wood-destroying organism management.

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3. Ornamental and turf pest management.
4. Right-of-way pest management.
5. Aquatic pest management.
6. Fumigation.
7. Other categories or subcategories established by rule.

C. An individual who applies for certification as a new qualified applicator shall submit to the division a full set of fingerprints and fees as required by section 41-1750. The director shall submit the fingerprints and fees to the department of public safety for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

3-3615. Business license; financial security

A. A person who engages in the business of pest management shall obtain a valid business license from the division. A person who is not exempt under this chapter and who advertises for, solicits or claims to be willing to engage in the business of pest management is presumed to be engaging in the business of pest management.

B. An application for an original or a renewal business license shall:

1. Be in a form and include the information prescribed by the director.
2. Be accompanied by the prescribed fee.
3. Include the following proof of financial security:

(a) Either a deposit of money, liability insurance, self-insured retention, a surety bond or a certified check protecting persons who may suffer bodily injury or property damage as a result of the operations of the applicant. The director shall not accept a bond or a liability insurance policy unless it is issued by an insurer that holds a valid certificate of authority or that is permitted to transact surplus lines insurance in this state. The amount of the deposit, insurance, self-insured retention or bond shall be at least five hundred thousand dollars and shall be maintained at not less than that amount at all times during the licensing period. The license of a business licensee whose financial security falls below the minimum five hundred thousand dollars shall be suspended by the director and shall remain suspended until the security meets the minimum financial security requirement. The financial security need only cover those particular operations in which the licensee is engaged at any time. If the financial security is in the form of liability insurance or a surety bond, the licensee shall furnish the director with a certificate of coverage that indicates the coverages and endorsements required by this subsection on a form prescribed by the director.

(b) Either of the following if the business licensee performs termite treatments:

- (i) Proof of a surety bond in the amount of one hundred thousand dollars per business license for actual damages, including reasonable costs of collection suffered by persons as a result of termite damage due to negligent treatment.

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(ii) Proof of a liability insurance policy rider in the amount of one hundred thousand dollars per business license that covers termite damage due to negligent treatment.

(c) If the business licensee provides wood-destroying insect inspection reports, proof of a surety bond or a liability insurance policy rider in the amount of one hundred thousand dollars per business license for actual damages plus reasonable costs of collection suffered by persons as a result of errors and omissions contained in the reports.

C. If an insurance policy provides for a deductible, the deductible amount shall not exceed one percent of the total financial security for each occurrence. If the deductible amount is in excess of one percent of the total financial security for each occurrence, the business licensee shall provide other security as provided in this section or other evidence of financial security for the excess deductible amount.

D. If the financial security is in the form of liability insurance, a licensee shall maintain a coverage endorsement for pesticides and herbicides, fumigation, care, custody and control, rights-of-way, wood-destroying insect inspection report errors and omissions and pollution transit for its applicable license categories.

E. If the proof of financial security on file with the division expires, the business license is automatically suspended until a current certificate of insurance or proof of financial responsibility is furnished to the director.

3-3616. Qualifying party; registration

A. A person shall not engage in the business of pest management in any category without a qualifying party registered in that category.

B. To be a qualifying party, an individual must:

1. Be a certified qualified applicator.
2. Register as a qualifying party with the division using a form and including the information prescribed by the director.

3-3617. Branch office; branch supervisor

A. A business licensee shall register each branch office with the director before the branch office opens for business.

B. Each branch office shall be supervised by a registered branch supervisor.

3-3618. Fees

A. The director shall establish by rule and collect application and renewal fees for the following:

1. A business license.
2. A branch office registration.
3. A branch supervisor registration.
4. A qualifying party registration.
5. A temporary qualifying party registration.

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6. A temporary qualifying party renewal registration.
 7. An applicator certification.
 8. A qualified applicator certification.
 9. An applicator registration.
 10. A duplicate license.
- B. The director may charge and collect late fees in addition to the fees listed in subsection A of this section.
- C. The director may establish tiered fees for business licenses.
- D. The director may charge and collect additional fees for goods and services that the director considers to be appropriate to carry out the intent and purpose of this chapter. These additional fees shall not exceed the costs of providing the goods or rendering the services.

Article 3 - Regulation

3-3621. Disciplinary action; grounds; procedure

- A. If the director finds that a person has violated this chapter, a rule adopted pursuant to this chapter or a written order of the director, the director may issue a notice of violation and a cease and desist order to the person and, after an opportunity for a hearing, take any of the following disciplinary actions, in combination or alternatively:
1. Revoke a license or registration.
 2. Suspend a license or registration.
 3. Refuse to renew a license or registration.
 4. Impose probation requirements that require a person to comply with one or more specific provisions of this chapter or rules adopted pursuant to this chapter and that require reporting by or monitoring of the person.
 5. Impose a civil penalty in an amount of not more than one thousand dollars for each violation except for grounds prescribed in section 3-3624, subsection B, paragraphs 8 and 9.
 6. Require a qualifying party to report to the director the qualifying party's role in the management of a business license.
 7. Require an individual to take supplemental continuing education within a time period set by the director.
- B. Instead of taking disciplinary action for a violation pursuant to subsection A of this section, the director may issue an administrative warning.
- C. Except as provided in section 41-1092.11, the director may take disciplinary action against a business licensee pursuant to subsection A of this section only if any of the following applies:

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1. The business licensee has committed a prior violation of the same type, including any violation by any applicator of the business licensee.
2. The business licensee failed to follow a written order of the director directing it to correct a deficiency or problem within the time specified.
3. The business licensee has knowingly assumed operations for a business licensee whose license has been revoked and during the first three years after revocation allows the former licensee to play an active role in company policy, decisions, sales or supervision of applicators.
4. The business licensee is convicted of a felony.
5. The business licensee is determined by the director to have committed a violation in connection with a pretreatment, new-construction treatment or final grade treatment.
6. The business licensee uses applicators to provide pest management services that are not registered pursuant to the requirements established under section 3-3603, subsection B, paragraph 19.
7. The business licensee fails to provide written notice immediately following a pest management treatment in or around residential structures of four or fewer units to the person requesting the treatment or to the person's designated agent. The notice shall include the specific pesticide by trade name used in the treatment.
8. The business licensee performing pest management treatments on an ongoing basis to locations other than residential structures of four or fewer units fails to provide written notice to the person who requested the treatments or the person's designated agent. Notice shall be given before the first application of the pesticide and when new or additional pesticides are used or immediately after each treatment.
9. If the treatments are performed in the interior of residential units, the licensee fails to leave a notice in the interior of each treated unit immediately after each treatment. The notice shall include the pesticide by trade name and any other information as required by the pesticide label or local ordinance.
10. A statement of precaution does not accompany each notification of treatment required in paragraphs 7, 8 and 9 of this subsection. Each statement of precaution shall be printed conspicuously, in not less than eight-point type, and shall include the words:

Warning--pesticides can be harmful. Keep children and pets away from pesticide applications until dry, dissipated or aerated. For more information contact [business license name and business license number] at [telephone number].
11. The business licensee fails within thirty calendar days after completion of a pretreatment, a new-construction treatment, a final grade treatment, an initial corrective treatment project or a wood-destroying insect inspection report to file with the division, in a form approved by the director, the termite action report form and prescribed fee.
12. The business licensee, within twelve months after completion of a termite pretreatment or new-construction treatment, fails either to file a supplemental termite action report in a form

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provided by the director that indicates the completion of the final grade treatment or to report in writing why the treatment has not been completed and when it will be completed.

13. The business licensee's applicator applies a pesticide that causes harm to the public, the environment or a nontarget animal.

14. The business licensee fails within thirty calendar days to pay civil penalties imposed under this chapter or rules adopted pursuant to this chapter.

15. The business licensee engages in the business of pest management while the business license is suspended.

D. The director shall commence an inquiry only within five years after the date of the alleged act or omission.

E. The director may issue an advisory notice stating de minimis violations of statutes or rules that carry no penalty, unless the person subject to this chapter wilfully and repeatedly violates the statute or rule. For wilful and repeated violations, the director may take disciplinary action against the person for a violation.

F. The license of a person who does not renew the license and who has been advised in writing that an investigation or complaint is pending at the time the license is due to expire or terminate does not expire or terminate until the investigation or complaint is resolved. The license is suspended on the date it would otherwise expire or terminate until the person renews the license or the investigation or complaint is resolved.

G. The director may summarily suspend a person's license while there is a pending criminal charge against the person for a felony or a misdemeanor involving moral turpitude.

3-3622. Joint responsibility; burden of proof

A. A business licensee, qualifying party, branch supervisor or applicator may be held jointly responsible for the acts or omissions of another person who is under the supervision of the business licensee, qualifying party, branch supervisor or applicator if the supervising licensee fails to properly train, equip or supervise the other person or fails to maintain records of proper training, equipping or supervising.

B. Failure to timely and fully respond to requests by the director for information relating to training, equipping and supervising is a prima facie showing of a failure to properly train, equip or supervise. A supervising business licensee, qualifying party, branch supervisor or applicator has the burden of proof by a preponderance of the evidence that the supervising person has fulfilled the required duties as prescribed by this chapter, rules adopted pursuant to this chapter or a written order of the director.

3-3623. Civil penalties; suspension

A. The director may suspend a license, certification or registration without a hearing if the licensee fails within thirty calendar days to pay civil penalties imposed under this chapter or rules adopted pursuant to this chapter.

B. A licensee whose license is suspended under subsection A of this section must apply to the director for reinstatement.

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C. A license, certification or registration suspended under subsection A of this section shall be revoked without a hearing after one year of suspension. Revocations under this subsection are not subject to section 3-3603, subsection A, paragraph 7.

D. The division shall not renew a license, certification or registration or broaden a certification until the person suspended under subsection A of this section is reinstated.

3-3624. Unlawful acts; violations; classification

A. A person shall not:

1. Engage in the business of pest management, commence work on a contract or sign, issue or deliver any document expressing an opinion or statement relating to pest management without a business license issued pursuant to this chapter, unless the person is otherwise exempt pursuant to this chapter.
2. Engage in the business of pest management in any category without a qualifying party who is registered in that category.
3. Operate a branch office without a registered branch supervisor under whose direct supervision pesticide applications are made out of that office.
4. Apply pesticides in any category other than wood-destroying organism management or fumigation unless the person is an applicator certified in that category or applies the pesticides under the direct supervision of an applicator certified in that category.
5. Apply pesticides in the category of wood-destroying organism management, aquatic pest management or fumigation unless the person is an applicator certified in that category or the person applies the pesticides under the immediate supervision of an applicator certified in that category.
6. Make recommendations regarding pest management unless the person is a certified applicator.
7. Deny the director or any agent of the director the right to be present on a jobsite in connection with a contemporaneous pest management treatment, including for the purpose of taking pesticide samples and soil samples.

B. The following nonexclusive acts are grounds for disciplinary action:

1. Violating this chapter, rules adopted pursuant to this chapter or a written order of the director.
2. Making false or fraudulent records or reports.
3. Misrepresenting a material fact in obtaining a license.
4. Applying pesticides in a manner that is inconsistent with the label and labeling of the pesticide or that may cause harm to the public, the environment or nontarget animals.
5. Misusing a pesticide if the misuse is due to the failure of the person to properly train or supervise. Proper training includes training to read and understand the label and labeling and to understand the proper use of application equipment. Proper supervision includes oversight of applicators to ensure general compliance with the label and labeling and all applicable laws.

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6. Authorizing, directing or abetting the publication, advertisement, distribution or circulation of any false statement or material misrepresentation concerning a business of pest management.
7. Engaging in the business of pest management or providing pest management services under a suspended license.
8. Being convicted of a felony, a misdemeanor arising from or in connection with a license issued pursuant to this chapter after issuance of the license or a misdemeanor involving moral turpitude.
9. Having had a license, or the equivalent, to apply pesticides or engage in the business of pest management suspended or revoked in another jurisdiction for cause.
10. Making a fraudulent statement or an intentional material misrepresentation in connection with a wood treatment proposal or a wood-destroying insect inspection report.
11. Having three or more de minimis violations of this chapter or rules adopted under this chapter.
12. Failing to provide the director with a current certificate of insurance or proof of financial responsibility.
13. Failing to provide a proper final grade treatment within twelve months after the original pretreatment or new-construction treatment.
14. Providing immediate supervision of more uncertified applicators at a time than is authorized by rule.
15. Failing to make and maintain true and accurate records of treatments performed or wood-destroying insect inspection reports, including those performed under warranty or guarantee, for at least three years after the date of treatment or inspection.
16. Failing to make treatment records available on request of the property owner or the property owner's authorized agent within three business days.
17. Failing to permit the director or any duly authorized agent to promptly inspect records pertaining to pest management located at an office of a business licensee when an employee or the owner of the business licensee is present at the business office and has access to the records.
18. Failing to timely produce specific records requested pursuant to section 3-3603, subsection B, paragraph 4.
19. Violating the terms of a consent agreement or written order of the director.

C. A person who violates subsection A, paragraph 1 of this section with reckless disregard for the health and safety of other persons or property is guilty of a class 6 felony.

3-3625. Business license; principals; definition

A. The director shall deny an application for a new business license or a renewal of an existing business license if a principal of the applicant was also a principal of another business that currently owes past due termite action registration form fees, owes civil penalties to the division

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or has had its business license suspended or revoked within the last five years and was a principal at the time the fees became due or the acts resulting in the disciplinary action occurred.

B. For the purposes of this section, "principal" means a person who owns at least a ten percent interest in a business. Principal includes an owner that is itself a business as well as owners of a principal.

3-3626. Injunctive relief

In addition to all other remedies, the director, either through the attorney general or the county attorney, may apply to the appropriate court for an order enjoining any act or practice that appears to constitute a violation of this chapter or rules adopted pursuant to this chapter. On a proper showing, a temporary restraining order, a preliminary injunction or a permanent injunction shall be granted without bond.

Article 4 – Wood-Destroying Organisms

3-3631. Termite action report form; exemption

A. Within thirty calendar days after completion of a pretreatment, a new-construction treatment, a final grade treatment, an initial corrective treatment or a wood-destroying insect inspection report, a business licensee or certified applicator shall file with the division in a form approved by the director a termite action report form and the prescribed fee. A termite action report is required for termite action only and does not include all wood-destroying organisms.

B. The termite action report form shall include:

1. The address or location of the work or project.
2. The type and date of the work.
3. The name of the business licensee.
4. Any other information required by rule.

C. The director may:

1. Adjust the fee upward or downward to a level that is calculated to produce sufficient revenue to carry out the functions of wood-destroying organism regulation.
2. Establish tiered fees according to the means of submission to encourage electronic submission of the termite action report form.
3. Assess a penalty of not more than one hundred dollars per form for failing to submit the required form or fee, or both, within thirty calendar days.

D. If the business licensee who performs an initial corrective treatment performed the pretreatment or new-construction treatment at the same site and filed a termite action report form with the division documenting the pretreatment or new-construction treatment, the business licensee is exempt from this section with respect to the initial corrective treatment.

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3-3632. Wood-destroying organisms; treatment proposal; form; retention; exception

A. A business licensee shall not commence work on a contract or sign, issue or deliver any documents expressing an opinion or making a statement relating to the presence or absence of wood-destroying organisms in a structure until an inspection is made.

B. Only an applicator certified in the category of wood-destroying organism management shall prepare a treatment proposal on a form approved by the director. The applicator shall deliver a copy of the treatment proposal to the person requesting the proposal or treatment, or the person's designated agent, before beginning treatment. The treatment proposal shall include the following information:

1. The address of the property to be treated.
2. A statement describing that the work is preventative or corrective.
3. A statement describing the evidence of infestation or damage.
4. A diagrammatic description showing the nature and location of evidence of infestation or damage, or both, if applicable.
5. A statement describing the treatment or repair method, including the name of the pesticide or device to be used and a diagrammatic description showing where the treatment or repair will be rendered.
6. The price for the work.
7. The terms for the service agreement provided by the business licensee.
8. The signature and license number of the person who made the inspection of the structure to be treated.

C. A certified applicator shall also give to the person requesting a proposal or treatment a written recommendation that verifies a particular problem and, in addition to the certified applicator's recommendation for treatment, shall advise the person of alternative treatments and methods, including integrated pest management methods, to alleviate the problem.

D. A treatment proposal shall not be in the same form or be construed as a wood-destroying insect inspection report. A treatment proposal that does not identify infestation by wood-destroying organisms is not a binding statement as to the presence or absence of wood-destroying organisms.

E. A treatment proposal shall be prepared by a certified applicator who has received at least five hours of instruction from an in-house education program of the business licensee on the subject of wood-destroying organisms inspections. An examination on the instruction is not required. The business licensee shall keep a record of completion of the training and shall make the record available on the director's request. The instruction requirement does not apply to certified qualified applicators.

F. If a business licensee performs a treatment pursuant to a treatment proposal, the business licensee shall maintain for three years a record of the treatment and the name and quantity of the pesticide used.

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G. This section does not apply to the application of pesticides directly to structural components of wood or wood products, which are not part of an existing structure normally habitable by persons, to prevent or manage wood degradation by wood-destroying organisms.

3-3633. Wood-destroying insect inspection reports

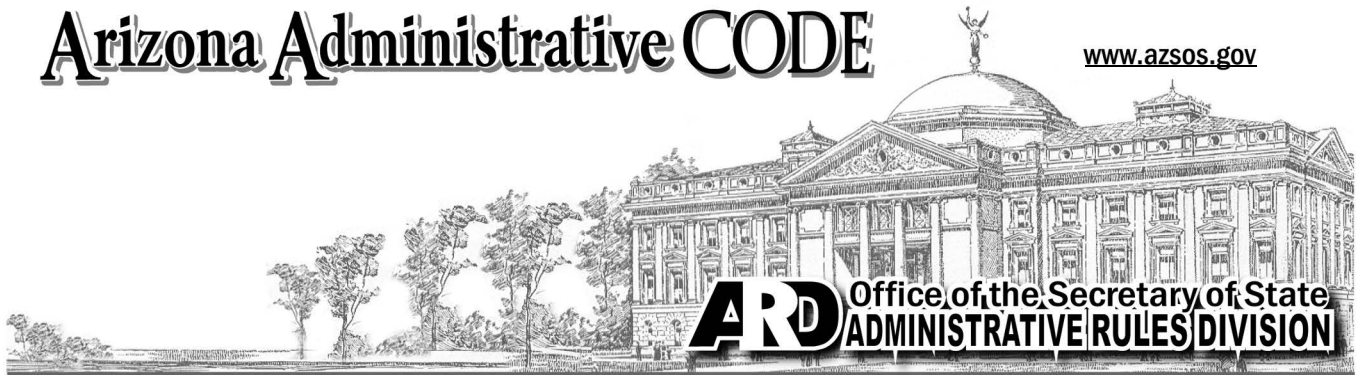
A. Wood-destroying insect inspection reports may be completed only by an applicator who is certified in the category of wood-destroying organism management and who has received at least five hours of instruction from an in-house education program of the business licensee on the subject of wood-destroying insect inspection reports. An examination on the instruction is not required. The business licensee shall keep a record of completion of the training and shall make the record available on the director's request. The instruction requirement does not apply to certified qualified applicators.

B. Wood-destroying insect inspection reports shall be on file in the office of the business licensee within seven calendar days after the completion of an inspection. The business licensee shall retain a copy of all completed wood-destroying insect inspection reports for three years and make the reports available on the director's request.

C. Wood-destroying insect inspection reports are evidence of both the existence or absence of wood-destroying insects and conditions conducive to wood-destroying insects that were visible and accessible to an inspector at the time the inspection was made. A business licensee remains responsible for the accuracy of the inspection and the report as evidence of the presence or absence of infestation and conditions conducive to infestation on the date of inspection, except that a wood-destroying insect inspection report shall not be construed as a guarantee as to the presence or absence of wood-destroying insects and conditions conducive to wood-destroying insects in a structure after the date of inspection.

D. If a certified applicator is exempt from the business license requirement with respect to wood-destroying insect inspections pursuant to rules established by the director, the certified applicator shall fulfill the responsibilities placed on business licensees in this section.

E. A person shall not complete a wood-destroying insect inspection report for a property that the person owns or occupies.



3 A.A.C. 8

Supp. 23-1

TITLE 3. AGRICULTURE

CHAPTER 8. DEPARTMENT OF AGRICULTURE - PEST MANAGEMENT DIVISION

The table of contents on page one contains links to the referenced page numbers in this Chapter.
Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
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Questions about these rules? Contact:

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The release of this Chapter in Supp. 23-1 replaces Supp. 21-2, 1-27 pages.

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), Administrative Rules Division, accepts state agency rule notice and other legal filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into Titles. Titles are divided into Chapters. A Chapter includes state agency rules. Rules in Chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each Chapter.

First Quarter: January 1 - March 31

Second Quarter: April 1 - June 30

Third Quarter: July 1 - September 30

Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2022 is cited as Supp. 22-1. Supplements are traditionally released three to four weeks after the end of the quarter because filings are accepted until the last day of the quarter.

Please note: The Office publishes by Chapter, not by individual rule Section. Therefore there might be only a few Sections codified in each Chapter released in a supplement. This is why the Office lists only updated codified Sections on the previous page.

RULE HISTORY

Refer to the HISTORICAL NOTE at the end of each Section for the effective date of a rule. The note also includes the *Register* volume and page number in which the notice was published (A.A.R.) and beginning in supplement 21-4, the date the notice was published in the *Register*.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate Chapters of the *Code* in Supp. 18-1 to comply with A.R.S. §§ 41-1012(B) and A.R.S. § 41-5505.

A certification verifies the authenticity of each *Code* Chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a Chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a Chapter can be found at the Secretary of State’s website, www.azsos.gov under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor’s notes at the beginning of a Chapter provide information about rulemaking Sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

PERSONAL USE/COMMERCIAL USE

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Rhonda Paschal, rules managing editor, assisted with the editing of this Chapter.

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TITLE 3. AGRICULTURE

CHAPTER 8. DEPARTMENT OF AGRICULTURE - PEST MANAGEMENT DIVISION

Authority: A.R.S. §§ 3-107 and 3-3603(A)(1)

Supp. 23-1

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ARTICLE 1. GENERAL AND ADMINISTRATIVE PROVISIONS**R3-8-101. Definitions**

In addition to the definitions provided in A.R.S. § 3-3601, the following terms apply to this Chapter:

“Administratively complete” means the application contains all components required by statute or this Chapter to be submitted to the PMD to enable the PMD to determine whether to grant a license or approval.

“Advertisement” means a written or oral notice, including a business card, website, or telephone directory listing, which is intended, directly or indirectly, to induce a person to enter into an agreement for pest management services.

“Applicator” means an individual who provides pest management services. Applicator does not include a laborer.

“Applicator certification” means a certified applicator license.

“Broadening” means to add another category of work to an existing certification.

“Certified applicator” means an individual who is licensed by the PMD to provide pest management services, including a QA.

“CEU” means continuing education unit.

“Continuing education unit” means 50 minutes of participation in continuing education.

“Control” or “manage” means, with respect to pests, to exterminate, eradicate, destroy, kill, repel, attract, sterilize, mitigate, remove, or a combination of these activities.

“Department” means the Arizona Department of Agriculture.

“Disassociate” means to die, become disabled, resign, retire, be ill or take leave for more than 14 days, be terminated, or be called to active military duty.

“Entire structure” means all critical areas as defined in this Chapter and as specified on product labeling for both the interior and exterior of a structure.

“EPA” means the U.S. Environmental Protection Agency.

“EPA registration number” means the actual EPA registration number of a product or the federal provision exempting the product from EPA registration.

“Faulty grade” means the top of the foundation is even with or below the adjacent earth. The existing earth level shall be considered grade. Specific exceptions are basement construction and sunken room construction when the surrounding foundation is at least 3 inches above the exterior grade level.

“Fog or fogging” means applying a pesticide by a flammable, aerosolizing thermal or other generator that forms particles less than 10 microns in diameter.

“Food-handling establishment” means a place, other than a private residence, in which food is received, served, stored, packaged, prepared, or processed.

“Fumigant” means a chemical substance with a vapor pressure greater than five millimeters of mercury at 25 degrees Centigrade that is used to destroy plant or animal life.

“Fumigation” means a method of pest management that completely fills an area with a fumigant to suffocate or poison pests within the area.

“Fungi” means saprophytic and parasitic organisms that lack chlorophyll such as molds, rusts, mildews, smuts, and yeast, except those on or in living people or animals or processed foods, beverages, or pharmaceuticals.

“Health care institution” means a health care institution licensed pursuant to title 36, chapter 4 and includes doctor and dental offices.

“Label” means a written, printed, electronic or graphic document that is approved by the EPA and on or attached to a pesticide container, the wrapper of a pesticide container, or a device.

“Labeling” means a written, printed, electronic or graphic document that is authorized by the manufacturer or a state or federal agency to accompany a pesticide or device, or is referred to on the label or in literature accompanying the pesticide or device.

“Laborer” means an individual who performs physical labor necessary for an applicator to provide pest management services, including drilling and trenching, but who does not handle any pesticide container that has ever been opened, identify infestations, make inspections, make inspection reports or recommendations with respect to infestations, or use any device for the purpose of eliminating, exterminating, controlling or preventing infestations, except that laborer includes an individual who assists with the use of a tarp on a structure for a fumigation performed by an applicator.

“Pest” means a vertebrate or invertebrate insect, bird, mammal, or other animal or organism, or a weed or plant pathogen that is in an undesirable location.

“Pesticide,” as defined in A.R.S. § 3-3601, includes an insecticide, fungicide, rodenticide, termiticide, fumigant, larvicide, piscicide, adulticide, herbicide, nematocide, avicide, or molluscicide.

“PMD” means Pest Management Division.

“Primary service,” as used in A.R.S. § 3-3613(B)(3), means applying an herbicide as the only or predominant service under a verbal or written contract to maintain a property.

“Project” means an individual address or a privately owned or individually owned dwelling.

“QA” means certified qualified applicator.

“QP” means qualifying party.

“Qualified applicator certification” means a certified qualified applicator license.

“SDS” means safety data sheet, which is a written communication regarding a hazardous chemical that meets the standards at 29 CFR 1910.1200(g).

“Service container” means a receptacle that is used to hold, store, or transport a pesticide concentrate or use-dilution preparation other than the original labeled receptacle provided by the manufacturer, a measuring instrument, or application equipment.

“Signal word” means a word printed on a label that indicates the toxicity level of the pesticide in the container to which the label is affixed.

“Special Local Need registration” means an authorization from the Department to use a pesticide, which meets an Ari-

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zona-specific need, in Arizona according to the terms of the registration.

“Specimen label” means a label other than the label attached to a pesticide container that contains the same information as the labeling; including an electronic label.

“Structure” means all parts of a building, whether vacant or occupied, in all stages of construction.

“Subterranean termites” means the several species of termites that usually maintain contact with the soil, including those in the families Rhinotermitidae and Termitidae.

“Supplemental wood-destroying insect inspection” means a re-examination made by an applicator of the business licensee that conducted a previous wood-destroying insect inspection and within 30 days of the previous examination to determine whether corrective treatment has been performed or conditions conducive to wood-destroying insects have been corrected.

“Tag” means a written document that is required under this Chapter to be posted conspicuously at a pretreatment or new-construction treatment site.

“TARF” means termite action report form.

“Termiticide” means a chemical registered by the EPA and the Department and used for control of termites.

“Water-retention basin” means an area to temporarily hold water run-off until the water dissipates.

“WDIIR” means wood-destroying insect inspection report.

“Wood-destroying insect inspection” means an inspection for the presence or absence of wood-destroying insects.

Historical Note

New Section recodified from R4-29-101 at 23 A.A.R.

1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

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. 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.
3. 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.
4. Competency standards for state-only categories.
 - a. Wood-destroying organism treatment certification applicants must be able to do the following:
 - i. Demonstrate practical knowledge of inspection of structures for the presence or absence of wood-destroying organisms, including recognition of wood-destroying organisms and signs of their presence, and understanding their life cycle, biology, and affect on building structural components;
 - ii. Demonstrate practical knowledge of treatment of structures to control the wood-destroying organisms;
 - iii. Demonstrate practical knowledge of the formulations appropriate for control of wood-destroying organisms;
 - iv. Demonstrate practical knowledge of methods of application that avoid contamination of sensitive areas, minimize damage and contamination to treated areas, minimize exposure to people and pets, and minimize environmental impacts;
 - v. Read and understand pesticide labels, labeling and safety data sheets for pesticides, and apply pesticides according to label and labeling instructions; and
 - vi. Complete a treatment proposal, TARF and WDIIR.
 - b. Wood-destroying insect inspection involves no use of pesticides, and certification applicants must be able to do the following:
 - i. Demonstrate practical knowledge of inspection of structures for the presence or absence of wood-destroying insects, including recognition of wood-destroying insects and signs of their presence, and understanding their life cycle, biology, and affect on building structural members; and
 - ii. Complete a WDIIR.
 - c. Wood preservation certification applicants must be able to do the following:
 - i. Demonstrate practical knowledge of inspection of wood for the presence or absence of wood-destroying organisms, including recognition of wood-destroying organisms and signs of their presence, and understanding their life cycle, biology, and affect on wood;
 - ii. Demonstrate practical knowledge of treatment of wood to control the wood-destroying organisms;
 - iii. Demonstrate practical knowledge of the formulations appropriate for control of wood-destroying organisms;

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- iv. Demonstrate practical knowledge of methods of application that avoid contamination of sensitive areas, minimize damage and contamination to treated areas, minimize exposure to people and pets, and minimize environmental impacts; and
- v. Read and understand pesticide labels, labeling and safety data sheets for pesticides, and apply pesticides according to label and labeling instructions.

Historical Note

New Section recodified from R4-29-102 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2). Section amended by final rulemaking at 29 A.A.R. 757 (March 24, 2023), with an immediate effective date of March 10, 2023 (Supp. 23-1).

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, \$55.
 - b. Applicator certification broadening application, \$0.
 - c. QA certification, \$75.
 - d. QA certification broadening application, \$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, \$35.
 - c. Registration broadening, \$15.
 - d. Temporary qualifying party registration, \$75.
 - 3. For a business:
 - a. Business license, \$185.
 - b. Business license for federal entity, \$0.
 - c. Applicator registration, \$0 per applicator.
 - 4. For a branch:
 - a. Branch office registration, \$35 per branch.
 - b. Branch supervisor registration at same time as branch office registration, \$0.
 - c. Branch supervisor registration at a different time than branch office registration, \$15.
- B.** A person renewing an applicator certification, QA certification, business license, branch office registration, or branch supervisor registration shall receive a 10 percent reduction in the renewal fee for renewals submitted for a two year renewal period.
- C.** In addition to the fees listed in subsection (A), a person shall pay a \$10 handling fee for each application or renewal form not submitted electronically when PMD allows electronic submission.
- D.** A person shall pay a late fee equal to ten percent of the renewal fee for any license, certification, or registration that is not renewed timely.
 - 1. If a business license remains expired for more than 30 days, to renew the license, a person shall also pay an additional late fee of \$15 per month that the license remains expired, not to exceed \$165. Late fees are in addition to the renewal fee.
 - 2. If a certification remains expired for more than 30 days, to renew the certification, a person shall also pay an additional late fee of \$10 per month the certification remains expired, not to exceed \$110. Late fees are in addition to the renewal fee.
- E.** A business licensee shall pay the following TARF fees:
 - 1. Electronic submissions, \$2;
 - 2. Electronic final grade treatment TARF submissions, \$0;
 - 3. Electronic TARF submissions for a pretreatment or new-construction treatment of an addition that abuts the slab of an originally treated structure, \$0, if the business licensee:
 - a. Performed the pretreatment or new-construction treatment of the main structure,
 - b. Filed a TARF regarding the pretreatment or new-construction treatment,
 - c. Has the structure under warranty, and
 - d. Treats the abutting addition under the terms of the site warranty;
 - 4. All paper submissions, \$8; and
 - 5. Late fee equal to the original TARF fee for any TARF submission more than 30 days after the due date, except that the late fee for an electronic final grade treatment TARF submission more than 30 days after the due date shall be \$2.
- F.** If the PMD administers a certification examination, an applicant shall pay \$50 to take the examination. If an examination service or testing vendor administers a certification examination, an applicant shall pay the examination service or testing vendor the examination cost established in the vendor's contract with the PMD.
- G.** PMD employees are exempt from the applicator and examination fees listed in this Section.
- H.** An applicant who makes a payment for a fee due under this Section that is rejected by a financial institution will be subject to all of the following:
 - 1. The PMD shall void any approval of the application or renewal.
 - 2. The applicant shall pay any financial institution fee incurred by the PMD.
 - 3. The PMD may require the applicant to pay all fees due using a method other than a personal or business check.
 - 4. An application for renewal will be considered untimely if the substitute payment is not received by the PMD by the original due date, and the applicant will be subject to a late fee based on the date of receipt of the substitute payment.
- I.** The PMD may reject an application or request for service that is submitted with the incorrect fee and not process the application or provide the service. An application for renewal will be considered untimely if the substitute payment is not received by the PMD by the original due date, and the applicant will be subject to a late fee based on the date of receipt of the substitute payment.

Historical Note

New Section recodified from R4-29-103 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2). Section amended by final expedited rulemaking at 25 A.A.R. 720, effective February 25, 2019 (Supp. 19-1). Section amended by final expedited rulemaking at 27 A.A.R. 1007, with an immediate effective date of June 8, 2021 (Supp. 21-2). Section amended by final rulemaking at 29 A.A.R. 757 (March 24, 2023), with an immediate effective date of March 10, 2023 (Supp. 23-1).

R3-8-104. Pest Management Division Council

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- A.** A five-member Pest Management Division Council is established to assist and make recommendations to the Director regarding the administration and implementation of A.R.S. Title 3, Chapter 20.
- B.** The members shall meet the following qualifications:
1. Three members shall be business licensees or qualifying parties and shall each have a minimum of five years of pest management experience.
 - a. At least one of these three members shall be a business licensee who has five or fewer applicators.
 - b. For one of these three members, first priority shall be given to a business licensee or QP based outside of Maricopa and Pima Counties and secondary priority shall be given to a business licensee or QP who is not based outside of those counties but is associated with a business that has an office in Arizona outside of those counties. If there are no qualified first or secondary priority applicants, the Director may appoint any business licensee or QP with a minimum of five years of pest management experience.
 2. One member shall be a representative of a political subdivision.
 3. One member shall be a public member who does not provide pest management services or work for a business licensee.
- C.** Members shall serve three year staggered terms. Members shall not serve consecutive terms, except that a member who is appointed to fill a vacancy may serve the unexpired term that fills the vacancy plus one regular term. A member shall be ineligible for reappointment for three years.
- D.** The office of a member shall be deemed vacant under any of the following circumstances:
1. The member no longer satisfies the qualification in subsection (B).
 2. The member is unable to perform the duties of the office.
 3. The absence of the member from three consecutive Committee meetings if the absences have not been excused by the Committee.
- E.** The Committee shall annually select a chairman and vice-chairman from among its members.
- Historical Note**
New Section recodified from R4-29-104 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).
- R3-8-105. Reserved**
- Historical Note**
New reserved Section recodified from R4-29-105 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).
- R3-8-106. Reserved**
- Historical Note**
New reserved Section recodified from R4-29-106 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).
- R3-8-107. Licensing Time-frames**
- A.** Overall time-frame. The PMD shall issue or deny a license within the overall time-frames listed in Table 1. The overall time-frame, which is the total number of days provided for both the administrative completeness and substantive review time-frames, begins when the PMD receives an application.
- B.** Administrative completeness review time-frame.
1. During the administrative completeness review time-frame, the PMD shall notify the applicant in writing whether the application is complete or incomplete. If the application is incomplete, the PMD shall specify in the notice what information is missing. If the PMD does not provide notice to the applicant within the administrative completeness review time-frame, the PMD shall deem the application complete.
 2. An applicant with an incomplete license application shall supply the missing information within the completion request period listed in Table 1. The administrative completeness review and overall time-frames are suspended from the postmark date of the notice of missing information until the date the PMD receives the information.
 3. If an applicant fails to submit the missing information before expiration of the completion request period, the PMD shall consider the application withdrawn and close the file. An applicant whose file is closed may apply for a license by submitting a new application and application fee.
- C.** Substantive review time-frame.
1. The substantive review time-frame listed in Table 1 begins when an application is administratively complete or at the end of the administrative completeness review time-frame in Table 1, whichever occurs first. If the PMD determines during the substantive review that additional information is needed, the PMD shall send the applicant a comprehensive written request for additional information.
 2. Both the substantive review and overall time-frames are suspended from the date of the PMD request until the date that the PMD receives the additional information. The applicant shall submit the additional information within the additional information period listed in Table 1.
 3. If the applicant fails to provide the additional information within the additional information period in Table 1, the PMD shall consider the application withdrawn and close the application. An applicant whose file is closed may apply for a license by submitting a new application and application fee.
- D.** Within the overall time-frame listed in Table 1, the PMD shall:
1. Deny a license or approval to an applicant if the PMD determines that the applicant does not meet all the substantive criteria required by the PMD's statutes and this Chapter; or
 2. Grant a license or approval to an applicant if the PMD determines that the applicant meets all the substantive criteria required by the PMD's statutes and this Chapter.
- E.** If the PMD denies a license or approval under subsection (D)(1), the PMD shall provide a written notice of denial to the applicant that explains:
1. The reason for the denial, with citations to supporting statutes or rules;
 2. The applicant's right to seek a fair hearing to challenge the denial; and
 3. The time for appealing the denial.
- Historical Note**
New Section recodified from R4-29-107 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2). Section amended by final rulemaking at 29 A.A.R. 757 (March 24, 2023), with an

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immediate effective date of March 10, 2023 (Supp. 23-1).

Table 1. Time-frames (Calendar Days)

License	Authority	Administrative Completeness Review	Applicant Response to Completion Request	Substantive Completeness Review	Applicant Response to Additional Information Request	Overall Time-frame
Applicator New Renewal Broaden	A.R.S. § 3-3614 R3-8-203 R3-8-208 R3-8-210	30 30 30	45 45 45	60 60 60	360 15 360/∞*	90 90 90
Qualified applicator (QA) New Renewal Broaden	A.R.S. § 3-3614 R3-8-204 R3-8-208 R3-8-210	30 30 30	45 45 45	60 60 60	360 15 360	90 90 90
Qualifying party (QP) New Renewal Broaden Temporary	A.R.S. § 3-3616 R3-8-205 R3-8-208 R3-8-210 R3-8-205	30 30 30 10	45 45 45 10	60 60 60 10	90 15 90 15	90 90 90 20
Business	A.R.S. § 3-3615; R3-8-202; R3-8-208; R3-8-209	30	45	60	15	90
Branch Office	A.R.S. § 3-3617; R3-8-206	30	45	60	15	90
Branch supervisor New Renewal	A.R.S. § 3-3617 R3-8-206 R3-8-208	30 30	45 45	60 60	90 15	90 90
Continuing Education Approval	R3-8-216	20	20	55	15	75

* ∞ (Infinity) response refers to examination scores for current applications only.

Historical Note

New Article 1, Table 1 recodified from 4 A.A.C. 29, Article 1, Table 1, at 23 A.A.R. 1976, effective June 30, 2017; Table 1 amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

R3-8-108. Reserved

Historical Note

New reserved Section recodified from R4-29-108 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

ARTICLE 2. CERTIFICATION, REGISTRATION AND LICENSURE; CONTINUING EDUCATION

R3-8-201. Activities that Require a License; Exemptions

- A. Business license. A person doing an activity defined as the business of pest management shall first possess a valid business license, unless the person is:
 - 1. A political subdivision;
 - 2. Acting on behalf of a business licensee or political subdivision; or
 - 3. Otherwise exempt by this Chapter or the PMD’s statutes.
- B. Qualifying party registration. A business licensee or school district shall only do an activity defined as the business of pest management if the business licensee or school district has a registered qualifying party. The business licensee or school district shall only provide pest management services in a certification category if the qualifying party is registered in that certification category.
- C. Applicator licensure.
 - 1. An individual who provides pest management services shall be a certified applicator and only provide pest management services in a certification category for which the

- applicator is currently certified except as provided under subsections (C)(2) and (C)(3) or as otherwise exempt by this Chapter or the PMD’s statutes.
- 2. A certified applicator desiring to work in a category for which the applicator is not certified shall become certified in the category within 30 calendar days after beginning work in that category and shall be supervised as provided in subsection (C)(3)(c) while working in that category.
- 3. An individual may provide pest management services on behalf of a business licensee without being a certified applicator if the individual:
 - a. Is registered as an applicator of the business licensee under R3-8-207;
 - b. Has been registered as an applicator of the business licensee for not more than 90 calendar days out of the last 365 days; and
 - c. Is supervised by a certified applicator who:
 - i. Is certified in the category for which supervision is provided;
 - ii. Provides immediate supervision when the individual performs pest management services in the wood-destroying organism treatment, aquatic, or fumigation category, uses a restricted use pesticide, or uses a pesticide under an experimental use permit; and

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- iii. Provides direct supervision when the individual performs pest management services not covered by subsection (C)(3)(c)(ii).
- 4. An individual may not provide pest management services at a school, child care facility, health care institution, or food-handling establishment unless the individual is a certified applicator in the certification category for which services are being provided.
- 5. An individual using an animal to assist with identifying infestations or making inspections for the purpose of identifying or attempting to identify infestations shall be a certified applicator in the certification category for which services are being provided.
- D.** Applicator registration. An applicator may not provide pest management services on behalf of a business licensee or political subdivision unless the applicator is registered as an applicator of the business licensee or political subdivision pursuant to R3-8-207.
- E.** Exemptions. A person is not required to be licensed who:
 - 1. Provides general information about a label or labeling, the identification or management of a pest, integrated pest management or the use of a registered pesticide; does not directly or indirectly charge for the information; and does not make an on-site recommendation.
 - 2. Performs sales work that does not include:
 - a. Identifying on-site infestations or making inspections for the purpose of identifying or attempting to identify infestations;
 - b. Making written or oral inspection reports or on-site recommendations with respect to infestations; or
 - c. The application of pesticides or the use of devices for the purpose of eliminating, exterminating, controlling or preventing infestations.
 - 3. Is an authorized representative of any educational institution engaged in research in the study of pest management and does not provide pest management services for hire.
 - 4. Is a certified home inspector and documents evidence of wood-destroying organisms on a home inspection, but does not prepare a WDIIR, prepare a treatment proposal, make treatment estimates, bids, or recommendations, apply pesticides, or use devices.
 - 5. Only uses, applies or installs home improvement articles, such as insulation, caulk and paint, that are pre-incorporated with a pesticide.
- v. Person authorized to make decisions for the business if any other type of business form;
- vi. Names of all principals of the business including all individuals or other corporations or partnerships that own at least ten percent interest of the business.
- d. Telephone number;
- e. Physical address;
- f. Mailing address, if different from physical address;
- g. Email address; and
- h. Chemical storage address.
- 2. Daytime telephone number of individuals identified under subsection (A)(1)(c);
- 3. Name of the qualifying party; and
- 4. The dated signature and title of an authorized representative of the business affirming that the information provided is true and correct.
- B.** In addition to the form required under subsection (A), an applicant shall submit:
 - 1. The fee specified in R3-8-103;
 - 2. The proof of financial security required by A.R.S. § 3-3615;
 - 3. The name and physical address of the statutory agent of the business; and
 - 4. A copy of the Articles of Incorporation or Organization, Certificate of Limited Partnership, trust, trade name certificate, partnership agreement, or other evidence of the form of business organization.
- C.** A business cannot be licensed without a registered qualifying party.
- D.** If the PMD determines there may be cause to deny a license to an applicant, the PMD may send a written notice to the applicant requiring the applicant to appear at a specific location, date and time to answer questions.
- E.** A business license expires on May 31, and is:
 - 1. Issued with an expiration in the following calendar year as an initial licensure; and
 - 2. Renewable for one or two years, depending on the renewal period selected by the applicant.
- F.** A business license may not be transferred except in accordance with R3-8-209 and may not be renewed beyond the expiration of the registration for the business's qualifying party.
- G.** If an applicant's proof of financial security includes an insurance policy which provides for a deductible in excess of one percent of the total financial security for each occurrence, the applicant shall provide other evidence of financial security for the excess deductible amount as required by A.R.S. § 3-3615. Financial security in the following forms will be acceptable, provided that the nature of the security provides adequate protection for persons who may suffer bodily injury or property damage as a result of the operations of the applicant:
 - 1. Liability insurance, self-insured retention or surety bond issued by an insurer that holds a valid certificate of authority or that is permitted to transact surplus lines insurance in this state;
 - 2. Bank statement evidencing a deposit of money in an amount equal to, or greater than, the excess deductible amount; or
 - 3. Certified Check in an amount equal to, or greater than, the excess deductible amount.

Historical Note

New Section recodified from R4-29-201 at 23 A.A.R.

1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

R3-8-202. Business License

- A.** An applicant for a business license shall submit the following information on a form obtained from the PMD:
 - 1. About the business:
 - a. Business name;
 - b. Name and form of business organization;
 - c. Names of the following persons authorized to act on behalf of the business:
 - i. Owner if a sole proprietorship;
 - ii. Managing or general partner if a partnership;
 - iii. President and other authorized officers if a corporation;
 - iv. All the managers or members if a limited liability company; or

Historical Note

New Section recodified from R4-29-202 at 23 A.A.R.

1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August

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29, 2017 (Supp. 17-2), Section amended by final rulemaking at 29 A.A.R. 757 (March 24, 2023), with an immediate effective date of March 10, 2023 (Supp. 23-1).

R3-8-203. Applicator Certification

A. Application. An applicant for applicator certification shall submit the fee specified in R3-8-103 and the following information on a form obtained from the PMD:

1. Full name;
2. Applicator certification number, if any;
3. Home address;
4. Mailing address, if different from the home address;
5. Telephone number;
6. Email address;
7. Date of birth;
8. Social Security number;
9. A statement whether the applicant has ever had a license or permit to practice pest management denied, revoked, or suspended and if the answer is yes, the date, jurisdiction taking the action, nature of the action, and explanation of the circumstances;
10. Name of employer, if any;
11. Employer's business license number, if applicable;
12. Employer's telephone number, if applicable; and
13. The applicant's dated signature affirming that the information provided is true and correct.
14. Information and documentation concerning lawful presence required by A.R.S. § 41-1080.

B. Examination. An applicant shall take and pass the certification examinations as provided in R3-8-211 in order to become certified.

C. An applicant for initial certification shall be at least 18 years of age.

D. If the PMD determines there may be cause to deny certification to an applicant, the PMD may send a written notice to the applicant requiring the applicant to appear at a specific location, date and time to answer questions.

E. Certification. Applicator certification is not transferable, expires on May 31, and is:

1. Issued with an expiration in the following calendar year as an initial certification,
2. Renewable for one or two years, depending on the renewal period selected by the applicant, and
3. Renewed for all certification categories for the same renewal period, and
4. The responsibility of the individual to whom it is issued.

Historical Note

New Section recodified from R4-29-203 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2), Section amended by final rulemaking at 29 A.A.R. 757 (March 24, 2023), with an immediate effective date of March 10, 2023 (Supp. 23-1).

R3-8-204. Qualified Applicator Certification

A. Before applying for QA certification, an applicant shall fulfill the experience requirement for each category.

B. Application. An applicant for QA certification shall submit the fee specified in R3-8-103 and the following information on a form obtained from the PMD:

1. Full name;
2. Applicator certification number, if any;
3. QA certification number, if any;
4. Home address;
5. Mailing address, if different from the home address;

6. Telephone number;

7. Email address;

8. Date of birth;

9. Social Security number;

10. A statement whether the applicant has ever had a license or permit to practice pest management denied, revoked, or suspended and if the answer is yes, date, jurisdiction taking the action, nature of the action, and explanation of the circumstances;

11. Name of employer, if any;

12. Employer's business license number, if applicable;

13. Employer's telephone number, if applicable;

14. Certification categories for which application is made; and

15. The applicant's dated signature affirming that the information provided is true and correct.

16. Information and documentation concerning lawful presence required by A.R.S. § 41-1080, if not on file.

C. Experience. An applicant shall possess one of the following qualifications:

1. Certification as an applicator for 24 months within the ten years preceding the application in the category applied for.

2. Certification as an applicator for 12 months within the ten years preceding the application and either:

a. Successful completion of 12 semester hours or its equivalent within the 10 years preceding the application in pest management courses directly related to each category applied for; or

b. A Bachelor's degree in agricultural sciences, biological sciences, or pest management with 12 semester hours or its equivalent in pest management courses directly related to each category applied for.

3. Twenty four months of verifiable experience in the business of pest management, in another State where licensure was not required, within the ten years preceding application directly related to the category applied for.

D. For an individual who applies for QA certification within one year of honorable separation from active military duty, the time periods "preceding the application" in subsection (C) are tolled during the term of active military duty.

E. PMD review.

1. After notification by the PMD that the applicant is eligible for certification, the applicant may schedule and take the certification examinations described under R3-8-211.

2. If the PMD determines there may be cause to deny certification to an applicant, the PMD may send a written notice to the applicant requiring the applicant to appear at a specific location, date and time to answer questions.

F. Examination. An applicant shall take and pass the certification examinations as provided in R3-8-211 in order to become certified.

G. Certification. QA certification is not transferable, expires on May 31, and is:

1. Issued with an expiration in the following calendar year as an initial certification,

2. Renewable for one or two years, depending on the renewal period selected by the applicant,

3. Renewed for all certification categories for the same renewal period, and

4. The responsibility of the individual to whom it is issued.

H. For the purposes of this Section, pest management courses means courses in entomology, zoology, vertebrate management, plant pathology, agronomy, general horticulture, plant

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biology or botany, biochemistry, organic or inorganic chemistry, the eradication or management of weeds, toxicology, the environmental impact of pesticides, or any combination thereof.

Historical Note

New Section recodified from R4-29-204 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2). Section amended by final rulemaking at 29 A.A.R. 757 (March 24, 2023), with an immediate effective date of March 10, 2023 (Supp. 23-1).

R3-8-205. Qualifying Party Registration; Temporary Qualifying Party Registration

- A.** An applicant for registration as a QP shall submit the fee specified in R3-8-103 and the following information on a form obtained from the PMD:
1. Full Name;
 2. QA certification number;
 3. Certification categories to be registered;
 4. Name, and license number if applicable, of the business or school district for which the applicant will act as the QP; and
 5. Dated signature of the applicant affirming that the information provided is true and correct;
- B.** An individual may only register as a QP in categories for which the individual possesses QA certification.
- C.** A certified applicator who is the representative of a business licensee or school district may register as a temporary QP if the QP has become disassociated with the business licensee or school district within the last 45 days. A certified applicator may only register as a temporary QP in the categories for which both the former QP was registered and the certified applicator is certified.
- D.** An applicant for registration as a temporary QP shall submit the fee specified in R3-8-103 and:
1. The information required in subsection (A), except subsection (A)(2);
 2. The applicant's applicator certification number;
 3. Written confirmation signed by the business licensee, school district, or former QP indicating that the former QP has become disassociated with the business licensee or school district; and
 4. A written statement signed by the business licensee or school district that:
 - a. The business licensee or school district has not operated in the business of pest management for more than five business days since the disassociation in the categories for which the disassociated QP was registered; and
 - b. The business licensee or school district wants the certified applicator to act as a temporary QP.
- E.** A business licensee or school district shall not use a temporary QP to qualify the business or school district in a category for more than 180 days in any 12 month period.
- F.** Registration.
1. QP registration is not transferable, expires on May 31, and is:
 - a. Issued with an expiration in the following calendar year as an initial registration,
 - b. Renewable for one or two years, depending on the renewal period selected by the applicant, and
 - c. Renewed for all registration categories for the same renewal period.

2. Temporary QP registration is not transferable, is valid for 90 calendar days and may be renewed once for the business license.
3. A QP or temporary QP may only register to qualify one business licensee or school district except as provided in subsection (F)(4).
4. A QP for school districts shall separately register as a QP for each school district served, but may not register as a QP for more than one school district without approval from the Director pursuant to R3-8-402(C).

Historical Note

New Section recodified from R4-29-205 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

R3-8-206. Branch Office Registration; Branch Supervisor Registration

- A.** A business licensee may not do business from a branch office unless the branch office and a branch supervisor are registered with the PMD.
- B.** To register a branch office, the business licensee shall submit the fee specified in R3-8-103 and the following information on a form obtained from the PMD:
1. The business licensee's name and licensee number.
 2. About the branch office:
 - a. Full name of branch supervisor;
 - b. Branch supervisor's applicator certification number;
 - c. Telephone and fax numbers;
 - d. Physical address;
 - e. Mailing address, if different from physical address;
 - f. Email address; and
 - g. Chemical storage address; and
 3. The dated signature of an authorized representative of the business licensee.
- C.** A branch office shall do business in the name of the business licensee only.
- D.** To register as a branch supervisor, the applicant shall submit the fee specified in R3-8-103 and the following information on a form obtained from the PMD:
1. Full name,
 2. Applicator certification number,
 3. Business name and license number,
 4. Physical and mailing address of branch office where the applicant will be the supervisor,
 5. Branch office telephone and fax numbers,
 6. Dated signature of the applicant affirming that the information provided is true and correct, and
 7. Dated signature of an authorized representative of the business licensee.
- E.** A branch supervisor may only register to supervise a branch office at one physical location.
- F.** Registration. Registration as a branch office or branch supervisor is not transferable, expires on May 31, and is:
1. Issued with an expiration in the following calendar year as an initial registration, and
 2. Renewable for one or two years, depending on the renewal period selected by the applicant.

Historical Note

New Section recodified from R4-29-206 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August

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29, 2017 (Supp. 17-2).

R3-8-207. Applicator Registration

- A.** Every applicator of a business licensee or political subdivision shall be registered with the PMD as an applicator for that business licensee or political subdivision before providing pest management services for the business licensee or political subdivision. This requirement is in addition to applicator certification requirements.
- B.** To register an applicator, a person shall submit the fee specified in R3-8-103 and the following information about the applicator on a form obtained from the PMD:
1. Full name;
 2. Name, and license number if applicable, of the business licensee or political subdivision;
 3. For an applicator of a business licensee, identification of the primary or branch office where the applicator's pest management records will be kept;
 4. For a certified applicator, the applicator's certification number;
 5. For an uncertified applicator, the applicator's:
 - a. Home address;
 - b. Mailing address, if different from the home address;
 - c. Email address;
 - d. Telephone number;
 - e. Date of birth;
 - f. Social Security number; and
 6. Dated signature of the applicant affirming that the information provided is true and correct.
- C.** An uncertified applicator shall be at least 18 years of age.
- D.** Applicator registration is valid from the date the PMD receives all the information required under subsection (B) and the registration fee.
- E.** Applicator registration is non-transferable and expires on May 31.
- F.** A business licensee and QP are jointly responsible for ensuring compliance with this Section.
- G.** The Director shall assess a business licensee with a \$150 civil penalty for each unregistered applicator.

Historical Note

New Section recodified from R4-29-207 at 23 A.A.R.

1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

R3-8-208. License, Certification and Registration Renewal

- A.** An application to renew a business license, applicator or QA certification, or qualifying party, branch office, branch supervisor, or applicator registration is due May 1 of the year the license, certification, or registration expires. Failure to receive a renewal application does not justify a failure to timely renew.
- B.** An applicant for renewal shall submit the following information on a form obtained from the PMD:
1. All renewals:
 - a. A change in physical address and mailing address, if any;
 - b. Email address;
 - c. Telephone number;
 - d. Dated signature of the applicant affirming that the information provided is true and correct; and
 - e. License specific information described in this subsection, if applicable.
 2. Business license:

- a. Full name of the qualifying party in each category for which the business provides pest management services, and
 - b. Proof that the licensee still meets the financial security requirement in A.R.S. § 3-3615; and
 - c. A change in the chemical storage address, if any.
3. Applicator and QA certification:
- a. Name of employer, if any;
 - b. A statement whether the applicant has had a license or permit to practice pest management denied, revoked, or suspended during the last 12 months and if the answer is yes, the date, jurisdiction taking the action, nature of the action, and explanation of the circumstances; and
4. Applicator registration: The names and if applicable certification numbers of all of the business licensee's current applicators.
- C.** An applicant for renewal shall select a one or two year renewal period and shall pay the renewal fee listed in R3-8-103 for each year of renewal.
- D.** CEU requirements. The Director shall not renew a certification unless, prior to the expiration of the current certification, the applicator obtains the CEUs required by R3-8-215.
- E.** Expired license, certification, or registration.
1. An applicant who submits a complete renewal application, including the renewal fee, after the expiration of the license, certification, or registration shall pay the late fee listed under R3-8-103 as a penalty in addition to the renewal fee.
 2. An applicant may renew an expired applicator or QA certification without retaking the written examinations provided the applicant has satisfied the CEU requirements, during their most recent certification period.
 3. A certification that has been expired for more than 11 months may not be renewed. The former certificate holder may apply as a new applicant and shall retake and pass the applicable certification examinations.
 4. A business license that has been expired for more than one year may not be renewed. The former licensee may apply as a new applicant.
 5. Notwithstanding subsections (E)(1) through (4), an applicant who fails to renew because the applicant is on active military duty may obtain the continuing education required under R3-8-215 and apply for renewal within one year of honorable separation from active military duty without paying a late fee.
- F.** Renewal effective date.
1. If an applicant submits a complete application for renewal, including the renewal fee, before the expiration of the license, certification, or registration, then the license certification, or registration does not expire until:
 - a. The renewal has been approved; or
 - b. In the case of denial or new limits on the license, certification, or registration, the last day for seeking review of the PMD order or later date fixed by a court.
 2. If an applicant fails to submit a complete application for renewal, including the renewal fee, before the expiration of the license, certification, or registration, then the license, certification, or registration expires as provided in this Article and is not valid until the PMD has approved the renewal application. A business, branch office, or applicator with an expired license, registration, or certification may not provide pest management ser-

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vices or otherwise engage in the business of pest management. A qualifying party with an expired registration may not qualify a business licensee or school district. A branch supervisor with an expired registration may not supervise a branch office.

- G.** Surrendering a certification or license.
1. An applicator or business licensee may surrender their certification or license at any time, except for the following situations:
 - a. The applicator or business licensee is currently the subject of an investigation; or
 - b. The applicator or business licensee owes civil penalties or termite action registration form fees.
 2. An applicator or business licensee that has surrendered their certification or license is not absolved of any termite action registration form fees or civil penalties based on actions or omissions that occurred prior to surrendering their certification or license.
 3. The Office shall not refund any certification or licensing fees paid prior to the applicator or business license surrendering their certification or license.

Historical Note

New Section recodified from R4-29-208 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

R3-8-209. Change in Business Licensee

- A.** Transfer to spouse. A business license may be transferred to the licensee's spouse without a fee by submission of a Business License Entity Change Application if the licensee's spouse submits evidence of marriage to the licensee, keeps the same business name for the remainder of the licensee period and agrees to honor all of the licensee's customer contracts and warranties.
- B.** Transfer to new entity. A person may request a transfer of a business license to a new entity without a fee by submitting a Business License Entity Change Application if:
1. The owners of the current business licensee own a majority of the new entity,
 2. The new entity keeps the same business name as the current business licensee for the remainder of the licensing period,
 3. The new entity agrees to honor all customer contracts and warranties provided by the current business licensee, and
 4. The current business licensee and the new entity are not the same form of entity.
- C.** When a business license is transferred under subsection (A) or (B), the new licensee shall be responsible for any outstanding fees or penalties owed to the PMD and for any disciplinary action taken by the PMD as a result of violations of this Chapter or the PMD's statutes by the former licensee.
- D.** Except as provided in subsections (A) and (B), a change in ownership of a licensed sole proprietorship requires a new business license.
- E.** If, through a change in ownership, a licensed business's office becomes a branch office of another licensed business, the new owner shall notify the PMD and comply with R3-8-206.
- F.** A business licensee shall report any change in the principals of the business to the PMD within 30 days. Principal means a person who owns at least a 10 percent interest in a business. Principal includes an owner that is itself a business as well as owners of a principal.

- G.** If a business licensee changes the name of the business, the licensee shall provide the following information on a Business Name Change Application submitted to the PMD prior to the change:
1. Name of business entity;
 2. Current business name;
 3. Business license number;
 4. New business name requested;
 5. Copy of the Registered Trade Name Certificate, amended Articles of Organization or Incorporation, amended Certificate of Limited Partnership, or amended Statement of Partnership Authority or Qualification showing the new name; and
 6. Dated signature of the authorized representative of the business licensee affirming that the information provided is true and correct.
- H.** If a business licensee changes the form of the business, the licensee shall provide the following information on a Business Entity Change Application submitted to the PMD within 30 days of the change:
1. Name of licensed business entity;
 2. Business name and license number;
 3. Name and form of new business entity;
 4. Names of the following persons authorized to act on behalf of the new business entity:
 - a. Owner if a sole proprietorship,
 - b. Managing or general partner if a partnership,
 - c. President and other authorized officers if a corporation,
 - d. All the managers or members if a limited liability company, or
 - e. Person authorized to make decisions for the business if any other type of business form;
 5. Copy of the new business entity's Articles of Organization or Incorporation, Certificate of Limited Partnership, trust, trade name certificate, partnership agreement, or other evidence of the form of business organization;
 6. As applicable, the Articles of Merger or Consolidation, Statement of Merger, or approved partnership conversion; and
 7. Dated signature of the authorized representative of the business licensee affirming that the information provided is true and correct.

Historical Note

New Section recodified from R4-29-209 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

R3-8-210. Certification Broadening

- A.** To broaden an applicator certification, the applicant shall:
1. Submit the application described in R3-8-203,
 2. Submit the fee required under R3-8-103, and
 3. Take and pass the certification examination for the specific category in which broadening is sought.
- B.** A QA is eligible to broaden a QA certification only if, in the category in which broadening is sought, the QA has a valid applicator certification or a qualification listed in R3-8-204(C).
- C.** To broaden a QA certification, the QA shall:
1. Submit the application described in R3-8-204 and indicate on the application the category in which broadening is sought,
 2. Submit the fee required under R3-8-103,

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3. Submit the evidence of experience required under R3-8-204(C) for the category in which broadening is sought except as provided in subsection (D), and
 4. Take and pass the certification examination for the specific category in which broadening is sought.
- D.** Experience exemptions. A QA may become certified without meeting the experience requirement of R3-8-204(C) in the categories of:
1. Right-of-way or ornamental and turf if the individual has QA certification in the category of industrial and institutional, wood-destroying organism treatment, ornamental and turf, or right-of-way.
 2. Wood-destroying organism management if the individual has QA certification in the industrial and institutional category.
 3. Wood preservation if the individual has QA certification in the wood-destroying organism treatment category.

Historical Note

New Section recodified from R4-29-210 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2). Section amended by final rulemaking at 29 A.A.R. 757 (March 24, 2023), with an immediate effective date of March 10, 2023 (Supp. 23-1).

R3-8-211. Certification Examination

- A.** An applicant for applicator certification or QA certification shall make arrangements to take the certification examinations by contacting the PMD or the examination service or testing vendor with which the PMD has contracted. An individual may apply for applicator certification in any of the categories found in R3-8-102.
- B.** The Department shall ensure that the core examination tests the knowledge and understanding of 40 CFR 171.103(c) (82 FR 1029, January 4, 2017). This material is incorporated by reference, is on file with the Department, and does not contain any later amendments or additions.
- C.** The category competency standards shall be 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 contain any later amendments or additions.
- D.** To be certified, an applicant shall score at least 75 percent on the general standards ("core") examination and on the category-specific examination in each category for which the applicant seeks certification.
- E.** An applicant who fails an examination may not retake the examination for at least seven days or more than two times in a 6-month period.
- F.** An examination score is only valid for the earlier of 12 months from the date of application for certification or 12 months from the examination date.
- G.** The PMD shall void the examination score and deny the application of an applicant that the PMD determines cheated on an examination. The applicant may not reapply for one year.

Historical Note

New Section recodified from R4-29-211 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2). Section amended by final rulemaking at 29 A.A.R. 757 (March 24, 2023), with an immediate effective date of March 10, 2023 (Supp. 23-1).

R3-8-212. Reciprocity

The Director may waive the examination requirements in whole or in part for an individual who is certified as an applicator by another state, federal, or tribal agency under an approved EPA certification plan. In order to qualify for reciprocity:

1. An applicant must apply for Arizona reciprocal certification. In that application, the candidate shall:
 - a. Provide information as in R3-8-203 or R3-3-204, as applicable.
 - b. Submit the Department required form to their state, federal or tribal agency for verification of certification.
2. Upon verification of like competency standards for each category of certification requested, the Department shall issue an Arizona certification.
3. In addition to reasons for revocation under A.R.S. Title 3, Chapter 20, Articles 1 through 5, and the rules adopted thereunder, the Department can terminate an applicator's original certification upon notification that the applicator's original certification has been terminated for any reason.

Historical Note

New Section recodified from R4-29-212 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2). Section amended by final rulemaking at 29 A.A.R. 757 (March 24, 2023), with an immediate effective date of March 10, 2023 (Supp. 23-1).

R3-8-213. Political Subdivision Responsible Individual

- A.** A political subdivision that uses pesticides to conduct pest management on property that is owned, leased or managed by the political subdivision, including easements, shall designate an individual or individuals responsible for the following:
 1. Responding to inquiries or concerns by the Director or the Director's designee regarding compliance with A.R.S. Title 3, Chapter 20.
 2. Identifying for the Director or the Director's designee where records required by this Chapter are maintained, where personal protection equipment is located, and where pesticides are stored.
 3. Demonstrating that all applicators are properly certified.
- B.** The political subdivision shall annually submit the following information about the responsible individual(s) during the month of May on a form obtained from the Director or the Director's designee:
 1. Full name;
 2. Physical address;
 3. Mailing address, if different from the physical address;
 4. Email address;
 5. Telephone number;
 6. Dated signature of the responsible individual(s) affirming that the information provided is true and correct.
- C.** If the political subdivision changes its responsible individual(s), the political subdivision shall provide the information about the new responsible individual(s) listed in subsection (B) to the Director within 30 days.
- D.** School districts are exempt from this Section.

Historical Note

New Section recodified from R4-29-213 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

R3-8-214. Reserved**Historical Note**

New reserved Section recodified from R4-29-214 at 23

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A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-215. Continuing Education

- A. A certified applicator who is not a QA shall, during the current certification period, obtain six CEUs in order to renew the certification for one year or 12 CEUs in order to renew for two years.
- B. A QA shall, during the current certification period, obtain 12 CEUs in order to renew the certification for one year or 24 CEUs in order to renew for two years.
- C. For an individual who holds both a certified applicator license and a QA license, obtaining the units required in subsection (B) satisfies the requirement in subsection (A).
- D. CEUs earned during a certification period that are in excess of the requirements in this Section do not carry forward for use in a subsequent certification period.
- E. An applicator who teaches a continuing education course may earn one unit of continuing education for each hour taught, not more than once during a calendar year.
- F. No CEU credit will be earned by an attendee of a continuing education course who does not complete the course.
- G. No CEU credit will be earned by an attendee of a continuing education course who had previously attended the same course during the same licensing period.

Historical Note

New Section recodified from R4-29-215 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

R3-8-216. Continuing Education Approval

- A. Only continuing education courses approved by the PMD may be used to satisfy the continuing education requirement in R3-8-215. The PMD shall approve a continuing education course only if the course addresses what is found in R3-8-211(B) and (C).
- B. A person who wishes to have the PMD determine whether a course qualifies for CEU credit shall submit the following information to the PMD:
 1. Type of continuing education listed under subsection (A);
 2. Name of continuing education provider;
 3. Address and telephone number of continuing education provider;
 4. Course outline, listing the subjects and indicating the amount of time allocated for each subject;
 5. Brief description of the information covered within each subject;
 6. Brief biography of the presenter, demonstrating the presenter's qualifications;
 7. Whether a fee is charged for attending the course;
 8. Date and location of each session;
 9. Whether the course is open to the public;
 10. Number of continuing education units sought;
 11. Previous continuing education number, if any; and
 12. Dated signature of applicant;
- C. The provider of an approved continuing education course shall:
 1. Enter attendance information using the PMD's on-line continuing education reporting tool within 10 days after the date of the continuing education course, and
 2. Maintain a copy of the verification of attendance and original sign-in sheet that lists the attendees' names and certification numbers for two years.
 3. Allow PMD and Department employees to attend the course and review course materials without charge,

except that the provider has no obligation to provide food to the employees that is made available for paying attendees.

4. Notify PMD in writing of the date, time and place of each continuing education course at least two weeks before each course. In-house and online courses are exempt from this requirement.
- D. Unless otherwise indicated in the notice of approval, the PMD's approval of a continuing education course is valid for two years.
- E. Approval of a continuing education course is not renewable. To reapply for approval of a continuing education course, a person shall comply with the requirements of subsection (B).
- F. The provider of an approved continuing education course shall provide notice and updated information to the PMD within 10 days after the subject matter or instructor of the course changes.
- G. To evaluate the effectiveness of a continuing education course, the PMD may monitor an approved continuing education course at no cost.
- H. The PMD shall revoke its approval of a continuing education course if the PMD determines that the course fails to meet the standards for approval listed in this Section, the continuing education provider provided false information on its application or false information pertaining to attendance, or the continuing education provider fails to comply with the PMD's statutes and this Chapter.
- I. The PMD may modify the number of CEUs earned for a CEU course if the CEU course varies significantly in content or length from the approved curriculum. If the PMD modifies the number of CEUs earned, the PMD shall send a letter of modification to the course organizer, who shall be required to inform all individuals who attended the course.

Historical Note

New Section recodified from R4-29-216 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2). Section amended by final rulemaking at 29 A.A.R. 757 (March 24, 2023), with an immediate effective date of March 10, 2023 (Supp. 23-1).

ARTICLE 3. PEST MANAGEMENT**R3-8-301. Using Pesticides and Devices**

- A. An applicator shall use only a pesticide that is currently registered for use by the Department or was registered by the Department and does not have a passed EPA end use date.
- B. An applicator shall not misuse a pesticide or device. It is misuse of a pesticide or device if an applicator:
 1. Applies, handles, stores, or disposes of a pesticide or device in a manner that is inconsistent with the label or labeling;
 2. Provides a pest management service or handles a pesticide without wearing clothing and using the personal protective equipment required by the label or labeling to protect the applicator from pesticide exposure;
 3. Uses a pesticide in a manner that causes the pesticide to come into contact with a person, other than the applicator, animal, or property, other than the property receiving the pest management service, unless the contact results from an accident beyond the reasonable control of the applicator;
 4. Uses a pesticide in a food-handling establishment that is not labeled for food-handling establishment; and

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5. Uses a pesticide in a manner that contaminates food, feed, or drugs or equipment used to prepare or serve food, feed, or drugs.
- C. While mixing a pesticide with water, an applicator shall protect the water supply from back-siphoning of the pesticide mixture. An applicator shall not add water to a tank in which a pesticide is mixed or from which a pesticide is dispensed by protruding a fill-pipe or hose connection into the tank. An applicator shall ensure that a fill-pipe or hose connection terminates at least two inches above the tank fill opening or is equipped with an effective anti-siphoning device.
- D. An applicator shall ensure that all equipment, including auxiliary equipment such as a hose or metering device, used for mixing or applying a pesticide is in good repair and operating properly.
- E. An applicator shall apply, store, or dispose of a pesticide designated by the EPA as restricted use only if the applicator is certified or working under the immediate supervision of an applicator certified in the category for which the restricted-use pesticide is applicable.
- F. An applicator shall clean a pesticide spill in accordance with the pesticide label and labeling directions and in a manner that minimizes exposure to humans and other non-target organisms. If a pesticide spill may endanger humans, an applicator shall clean the pesticide spill in accordance with recommendations by health and medical personnel and local authorities.
- G. An applicator shall apply a pesticide at a rate provided by a Special Local Need registration issued by the Department and the pesticide labeling. The applicator shall have in the applicator's possession at the time of the application both the Special Local Need labeling and the EPA section 3 label and labeling.
- H. If information regarding provision of a particular pest management service is not available on the pesticide label or labeling or addressed in the PMD's statutes or this Chapter, an applicator shall comply with the pesticide manufacturer's recommendation and the general industry practice prevailing in the community at the time the pest management service is provided.
- I. If there is a conflict between any provision in this Section and labeling instructions, an applicator shall follow the more specific instruction.
4. The strength of the concentrate or dilution expressed as a percentage of active ingredients;
5. Any signal word required on the label; and
6. The phrase "KEEP OUT OF REACH OF CHILDREN."
- D. An applicator shall not place words or markings on a service container or on the label affixed to the service container that are unrelated to the pesticide in the service container, except for markings related to a method of tracking the product.
- E. If the label affixed to a pesticide container becomes lost or damaged, an applicator shall attach a specimen label to the pesticide container.
- F. An applicator shall replace a damaged container, other than a fumigant container, with an identically labeled container or a properly labeled service container.
- G. Application equipment from which a pesticide is directly discharged and in which the pesticide is not stored is not subject to the labeling requirements of this Section.
- H. An applicator shall not store a pesticide in a manner which food, beverage, feed, drugs, cosmetics, eating utensils, or tobacco products can be contaminated.
- I. An applicator shall not store a pesticide in a container that was used for food, beverage, feed, drugs, or cosmetics, or which by size, shape, or marking could be confused as being a food, beverage, feed, drug, or cosmetic.
- J. An applicator shall not store a fumigant within a residence, office or cab of a vehicle.
- K. An applicator shall ensure that a pesticide in an original or service container, an empty pesticide container that has not been prepared for disposal in accordance with its label, or a returnable or reusable pesticide container is kept in a locked storage space when on an unattended service vehicle or is within view and under the supervision of the applicator responsible for the service vehicle.
- L. An applicator shall ensure that a pesticide in portable application equipment is kept locked when on an unattended service vehicle or is within view and under the supervision of the applicator responsible for the service vehicle.
- M. To prevent damage during transit, an applicator shall ensure that a pesticide container is secured in a locked storage space while the pesticide container is transported on a service vehicle.

Historical Note

New Section recodified from R4-29-301 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2). Section amended by final rulemaking at 29 A.A.R. 757 (March 24, 2023), with an immediate effective date of March 10, 2023 (Supp. 23-1).

R3-8-302. Storing and Disposing of Pesticides and Devices

- A. An applicator shall store and dispose of a pesticide or device in a manner consistent with its label and labeling.
- B. An applicator shall store a pesticide in a closed container that is free from corrosion, leakage, or pesticide contamination on the outside of the container and properly labeled.
- C. An applicator shall ensure that a service container bears a durable and legible specimen label with the following information:
 1. The name, address, and telephone number of the business licensee or political subdivision;
 2. The common chemical or trade name of the principal active ingredients;
 3. The EPA registration number;

Historical Note

New Section recodified from R4-29-302 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-303. Pesticide and Device Storage Area

- A. A business licensee or political subdivision shall provide a pesticide and device storage area that complies with all federal, state, and local laws. The storage area may include an area on a service vehicle.
- B. A business licensee or political subdivision shall secure the storage area required under subsection (A) from unauthorized entry by equipping its entrance or access with a lock.
- C. Immediately after storing a pesticide, a business licensee or political subdivision shall conspicuously post a sign at the entrance or access to a non-vehicle storage area and on a vehicle storage area indicating there is a pesticide, chemical, or poison stored inside.
- D. A business licensee or political subdivision shall provide sufficient ventilation to the outside of the storage area required under subsection (A) to prevent build-up of odors and preclude chemical injury to an individual or animal.
- E. A business licensee or political subdivision shall provide the following in or immediately adjacent to the storage area

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required under subsection (A), including a storage area on a service vehicle:

1. Electric or battery-powered lighting that is sufficient to read a pesticide label;
2. Fully charged and operational fire extinguisher or fire suppression system appropriate to each pesticide stored in the area;
3. Emergency medical information including the telephone number of the state or local poison control center;
4. Material capable of absorbing a spill or leak of at least one gallon;
5. Specimen label and SDS for each pesticide stored in the area; and
6. Washing facilities that include at least one gallon of fresh water, soap, and towels.

Historical Note

New Section recodified from R4-29-303 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-304. Devices Exempt from Licensure and Registration; Advertising

- A.** The following devices are not subject to the licensure and registration requirements of this Chapter or the PMD's statutes:
1. Physical barriers used to remove or prevent infestation by pests;
 2. Equipment used for the physical removal of pests or the habitat of pests;
 3. Mechanical equipment used for the physical removal of weeds and other vegetation;
 4. Mechanical traps used without a pesticide;
 5. Installation equipment used for home improvement or modifications;
 6. Raptors used to control or relocate other birds; and
 7. Fire arms.
- B.** An unlicensed person who engages in the business of pest management, but is exempt from licensure and registration because the person does not apply any pesticides and only uses devices listed in subsection (A) shall prominently display or include the phrase "Not licensed to apply pesticides" in all written and oral advertisements.

Historical Note

New Section recodified from R4-29-304 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

R3-8-305. Equipping a Service Vehicle

A business licensee or political subdivision shall provide each service vehicle with the following:

1. All equipment and supplies required by the label and labeling to apply properly the pesticides on the service vehicle;
2. A measuring and pouring device compatible with the pesticides on the service vehicle;
3. Protective clothing and safety equipment suitable for use when handling, mixing, or applying the pesticides on the service vehicle;
4. Material capable of absorbing a spill or leak of at least one gallon;
5. A storage container large enough to hold material contaminated by absorbing a spill or leak of pesticides;
6. At least one gallon of clean, drinkable water for each individual using the service vehicle at one time;
7. Uncontaminated change of clothing;

8. Specimen label and SDS for each pesticide on the service vehicle; and
9. A locking storage space designed to prevent a pesticide container from being damaged while in transit.

Historical Note

New Section recodified from R4-29-305 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-306. Providing Notice to Customers

- A.** Immediately following an application, the applicator shall provide a written notice to a customer for whom the applicator provides a pest management service that contains the:
1. Name and address of the customer;
 2. Specific site to which a pesticide was applied;
 3. Date of service;
 4. Target pest or purpose of service;
 5. Trade name of pesticide applied;
 6. EPA registration number of restricted use pesticide applied;
 7. Amount of pesticide applied, in terms of percent active ingredient and volume of diluted mixture or in terms of total amount of liquid concentrate, ready-to-use product, granular material, or bait stations;
 8. Name and certification number of the applicator or if the applicator is uncertified, the name of the uncertified applicator and the name and certification number of the applicator providing supervision; and
 9. Following statement printed in at least an eight-point font: "Warning—Pesticides can be harmful. Keep children and pets away from pesticide applications until dry, dissipated, or aerated. For more information, contact [business licensee's name and business license number issued by the PMD] at [business licensee's telephone number]."
- B.** The applicator may provide the notice required by subsection (A) electronically.
- C.** An applicator who provides a pest management service at a school shall comply with the notification requirements in A.R.S. § 3-3606.

Historical Note

New Section recodified from R4-29-306 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

R3-8-307. Performing a Wood-destroying Insect Inspection; WDIIRs

- A.** Only an applicator certified in the category of wood-destroying organism management, who works under the direct employment of a business license and who has received the training required under A.R.S. § 3-3633 may complete a WDIIR.
- B.** An applicator completing a WDIIR shall inspect all areas of a structure including crawlspaces that are visible or accessible at the time of the inspection. The applicator may use techniques such as non-destructive probing and sounding.
- C.** An applicator completing a WDIIR may exclude from inspection an area that is permanently covered by a floor covering, wall covering, or built-in appurtenance such as a bookcase, cabinet, appliance, equipment, or furniture or that would require removing or marring finish work or moving furniture, appliances, or equipment. The applicator shall note on the WDIIR all areas that are not inspected and the reason the areas are not inspected.

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- D.** An applicator completing a WDIIR shall inspect all areas where there is evidence of current or previous infestation and where a condition conducive to infestation exists. A condition conducive to infestation includes:
1. Faulty grade level. If a structure contains a slab or floor that is at or below grade, the existing earth level is considered grade level;
 2. Inaccessible sub-area such as an area with less than 24 inches of clear space between the bottom of a floor joist and grade level;
 3. Excessive cellulose debris. Cellulose debris is excessive when:
 - a. The debris can be raked into a pile of at least one cubic foot,
 - b. A stump or wood imbedded in a footing of the structure is in contact with earth, or
 - c. Firewood or a lumber pile is within six inches of the structure;
 4. Earth-to-wood contact, which involves wood that is part of a structure or that is attached to or securely abuts the structure and is in contact with the ground; or
 5. Excessive moisture or evidence of a moisture condition in or around a structure.
- E.** To verify whether a corrective treatment was performed or a condition conducive to infestation was corrected, an applicator may conduct a supplemental inspection within 30 days after an original inspection. An inspection conducted more than 30 days after an original inspection is not a supplemental inspection.
- F.** An applicator completing a WDIIR may exclude from inspection other structures at the site. The applicator shall note on the WDIIR all structures at the site that are not inspected and the reason the structures are not inspected.
- G.** WDIIRs shall be prepared in accordance with R3-8-501(E).
- Historical Note**
- New Section recodified from R4-29-307 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).
- R3-8-308. Performing Wood-destroying Insect Management**
- A.** An applicator shall not perform wood-destroying insect management or fumigation unless the applicator is certified in the category of wood-destroying organism treatment or fumigation, respectively, or working under the immediate supervision of an applicator who is certified in the category of wood-destroying organism treatment or fumigation respectively.
- B.** An applicator shall not perform wood-destroying insect management, issue a treatment proposal, or quote a fee for service until the business licensee that employs the applicator ensures that:
1. An on-site inspection of the property is performed by a certified applicator meeting the training requirement under A.R.S. § 3-3632(E),
 2. A treatment proposal is prepared, based upon the on-site inspection, on a form approved by the PMD and contains the information required under A.R.S. § 3-3632(B) and (C), and
 3. The treatment proposal is delivered to the person requesting the proposal or treatment, prior to the treatment.
- C.** An applicator shall apply a termiticide only in the quantity, strength, dosage, and manner prescribed on the termiticide label unless otherwise specified by this Chapter or a PMD order.
- D.** Pretreatment for commercial or residential construction.
1. Unless a contract between the business licensee and customer specifies additional requirements, an applicator performing a pretreatment shall:
 - a. Establish a horizontal barrier of termiticide before any concrete slab under roof is poured or in conjunction with establishing the footings and supports for a raised foundation; and
 - b. Establish a vertical barrier of termiticide in all critical areas visible during the time of pretreatment. An area is critical at the time of pretreatment if the area is identified as critical by the termiticide label or if there is soil in the immediate vicinity of:
 - i. A penetration or protrusion through the slab;
 - ii. An observable preset for crack or joint control;
 - iii. A formed-up change of grade level;
 - iv. Abutting slabs;
 - v. A bath trap or tear-out;
 - vi. The interior of a foundation or stem wall; or
 - vii. A pier, pillar, pipe, or other object that extends from the soil to the structure.
 2. 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, for each foot of depth from grade level to the footer. If there is no adjacent footer, the applicator shall treat to a depth of one foot or as specified by labeling instructions.
 3. Unless the termiticide label requires more, an applicator is not required to treat a critical area during a pretreatment beyond a depth of four feet if:
 - a. Treating beyond a depth of four feet will, or reasonably may, cause an off-site application;
 - b. Access to the footer is not possible because of its distance below grade; or
 - c. Treating beyond a depth of four feet will, or reasonably may cause an environmental contamination.
 4. If an applicator does not treat a critical area during a pretreatment beyond a depth of four feet because the applicator determines that one of the exceptions in subsection (D)(3) is applicable, the applicator shall:
 - a. Apply the amount of termiticide possible without causing an off-site application or environmental contamination, and
 - b. Include evidence of the exception in the treatment record. Evidence of the exception may include:
 - i. A photograph of the interior grade and adjacent location that would or reasonably might be contaminated by treating beyond a depth of four feet,
 - ii. A photograph of the site after the pretreatment but before concrete placement,
 - iii. A written statement from the general contractor concerning the fill material and compaction rating,
 - iv. A written statement from the concrete subcontractor describing the depth of the footer as greater than four feet, or
 - v. A written compaction rating statement from the engineering subcontractor.
 5. If an applicator is advised before concrete is poured that a treated area is disturbed and the continuous horizontal or vertical chemical barrier established under subsection

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- (D)(1) is broken, and if the applicator is provided an opportunity to re-treat the disturbed area, the applicator shall re-treat the disturbed area and re-establish a continuous horizontal and vertical chemical barrier.
6. Immediately after completing a pretreatment, an applicator shall securely affix a tag to the pretreatment site. The applicator shall ensure that the tag is visible, readily available for inspection, and unlikely to be covered with concrete or soil. If there is a contractor's permit or inspection board at the pretreatment site, the applicator may affix the tag to the board. The applicator shall ensure that the tag contains the following information about the pretreatment:
 - a. Name of business licensee;
 - b. Address of business licensee;
 - c. Telephone number of business licensee;
 - d. License number of business licensee;
 - e. Location or address of project;
 - f. Date of pretreatment application;
 - g. Time that application was started (not time that applicator arrived at the site);
 - h. Time that application ended (not time that applicator left the site);
 - i. Trade name of pesticide used;
 - j. Percentage of active ingredient in the pesticide used;
 - k. Number of gallons of chemical preparation applied;
 - l. Square footage of area treated;
 - m. Linear footage of area treated;
 - n. Type of slab construction;
 - o. Name of applicator; and
 - p. Certification number of applicator or, if not certified, the name and certification number of the applicator providing immediate supervision.
 7. If it is necessary for an applicator to abandon a pretreatment site before completing the treatment, the applicator shall complete and affix the tag described in subsection (D)(6), representing the work completed, and after marking the tag "TREATMENT IN-COMPLETE."
 8. If a contractor requires a copy of the tag described in subsection (D)(6) for the customer's file, an applicator shall prepare and provide the contractor with a duplicate tag that is clearly marked "DUPLICATE."
- E.** New-construction treatment for commercial or residential construction.
1. Unless specifically precluded by the termiticide label, an applicator performing a new-construction treatment shall treat all critical areas visible at the time of the treatment. An area is critical at the time of a new-construction treatment if the area is identified as critical by the termiticide label or if there is soil in the immediate vicinity of:
 - a. A penetration or protrusion through the slab;
 - b. An observable crack or joint;
 - c. Abutting slabs;
 - d. A bath trap or tear-out;
 - e. The interior of a foundation or stem wall; or
 - f. A pier, pillar, pipe, or other object that extends from the soil to the structure.
 2. An applicator shall comply with subsections (D)(2) through (D)(4) when treating a critical area during a new-construction treatment except that the treatment shall be at the labeled rate rather than at a rate of four gallons of chemical preparation per 10 linear feet for each foot of depth.
 3. If an applicator is advised that a treated area is disturbed, the applicator shall re-treat the disturbed area.
 4. Immediately after completing a new-construction treatment, an applicator shall securely affix a tag to the new-construction site in the manner described in subsection (D)(6). The applicator shall ensure that the tag contains the information listed in subsection (D)(6).
 5. An applicator shall comply with subsections (D)(7) and (D)(8) when performing a new-construction treatment.
- 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 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. 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.
 3. An applicator shall leave a record of the final grade treatment in an unlocked electrical or circuit-breaker box, if available. Otherwise, the applicator shall conspicuously post or leave the record with the property agent. The applicator shall ensure that the record of the final grade treatment contains the information listed in subsection (D)(6), except the information required under subsections (D)(6)(l) and (D)(6)(n) is not required.
- G.** An applicator who performs a pretreatment, new-construction treatment or final grade treatment shall ensure that a copy of the information recorded on a tag required under subsection (D) or (E) or the final grade treatment record required under subsection (F) is provided to the business licensee for inclusion in the business licensee's service records.
- H.** A warranty regarding subterranean termite treatment shall only be issued to a builder if the structure received a pretreatment or a new-construction treatment.
- I.** Post-construction treatment for commercial or residential construction.
1. If an applicator uses a drilling and injecting application method for a post-construction treatment, the applicator shall space the treatment holes in each treated area no more than 24 inches apart or in accordance with the termiticide label, whichever is more restrictive. If an applicator determines that a structural feature makes it necessary to space treatment holes more than 24 inches apart, the applicator may space the treatment holes more than 24 inches apart if the greater distance is within the limits on the termiticide label.
 2. After completing a post-construction treatment using a drilling and injection application method, an applicator shall securely patch all treatment holes, including those in an un-finished basement, enclosed porch, garage, or workshop, with a material that is non-porous and non-cellulose.
 3. Unless precluded by label directions, any application to treat the soil along the exterior of foundation walls shall be made at an effective treatment rate of four gallons of chemical preparation per ten linear feet in a trench six

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inches wide or other method of treatment prescribed by the label to achieve the effective treatment rate.

4. All post construction treatments shall be made in accordance with the treatment proposal delivered as required under subsection (B). Any deviations to the original proposal shall be redelivered in writing in a revised treatment proposal and shall be approved prior to performing the treatment by the person who requested the original proposal or their authorized agent.

Historical Note

New Section recodified from R4-29-308 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2). Section amended by final rulemaking at 29 A.A.R. 757 (March 24, 2023), with an immediate effective date of March 10, 2023 (Supp. 23-1).

R3-8-309. Termite Warranties and Retreatments

- A. If a business licensee or an employee of a business licensee is advised before concrete is poured that a pretreatment area is disturbed and the continuous chemical barrier is broken and if an opportunity is provided to re-treat the disturbed area or is advised that a new-construction treatment area is disturbed, the business licensee shall ensure that the disturbed area is retreated.
- B. A business licensee that provides a subterranean termite treatment warranty shall ensure that the effective date of the warranty is the date on which treatment begins.
- C. If subterranean termites occur in or on a residential or commercial structure within three years after a business licensee first performs a pretreatment or new-construction treatment of the structure, the business licensee shall re-treat the affected area of the structure free of charge in accordance with the label specifications of a termiticide available for use. If subterranean termites occur in or on an addition that does not abut the slab of a residential or commercial structure within three years after a business licensee first performs a pretreatment or new-construction treatment of the non-abutting addition, the business licensee shall re-treat the non-abutting addition free of charge in accordance with the label specifications of a termiticide available for use. For the purpose of this subsection, the business licensee is the business licensee who performed the pretreatment or new-construction treatment or a successor that acquired the business assets pertaining to wood-destroying insect treatment.
- D. If subterranean termites occur a third time on the exterior of a one or two unit residential structure within three years after a business licensee first performs a pretreatment or new-construction treatment, the business licensee shall re-treat the entire exterior perimeter of the structure free of charge.
1. As used in this subsection, exterior means a portion of a residential structure where termite activity originates and that is not livable and not a garage;
 2. For the purpose of this subsection and subsection (E):
 - a. A first occurrence means the first time evidence of subterranean termites exists after a pretreatment or new-construction treatment;
 - b. A second occurrence means evidence of subterranean termites exists at least 25 feet away from the site of the first occurrence and at least 45 days after the date of re-treatment for the first occurrence; and
 - c. A third occurrence means evidence of subterranean termites exists at least 25 feet away from the sites of both the first and second occurrences and at least 45

days after the date of re-treatment for the second occurrence.

- E. If subterranean termites occur a third time on the interior of a one or two unit residential structure within three years after a business licensee first performs a pretreatment or new-construction treatment, the business licensee shall perform a post-construction treatment of the entire structure free of charge. As used in this subsection, interior means a portion of a residential structure where termite activity originates and that is livable or a garage.
- F. A business licensee that performs a re-treatment under subsection (C) or (D) or a post-construction treatment under subsection (E) shall not charge the consumer for any expense incurred in providing the re-treatment or post-construction treatment to which the consumer is entitled under this Chapter.
- G. If a business licensee goes to a structure to perform a re-treatment under subsection (C) or (D) or a post-construction treatment under subsection (E) and determines there is no evidence of subterranean termites, the business licensee may charge the consumer a reasonable amount for the expenses incurred in making the trip.
- H. If a business licensee determines that a re-treatment or post-construction treatment is necessary because the continuous chemical barrier is disturbed, the business licensee may charge the reasonable cost of reestablishing the barrier.
- I. If a customer refuses a re-treatment or post-construction treatment as described in this Section, access to the customer's property, or to allow drilling in an area where drilling is necessary, the business licensee shall obtain the customer's printed name and dated signature on a document evidencing that the business licensee:
 1. Informed the customer of the right to a re-treatment or post-construction treatment at no charge,
 2. Provided the customer with a copy of this Section and the termiticide label requirements,
 3. Provided the customer with the PMD's telephone number, and
 4. Explained to the customer the benefits of having and the detriments of not having a re-treatment or post-construction treatment.

Historical Note

New Section recodified from R4-29-309 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

R3-8-310. Business Management

- A. Financial responsibility.
1. A business licensee shall maintain the financial responsibility required by A.R.S. § 3- 3615 and this Chapter.
 2. A business licensee shall ensure that the required financial responsibility covers all pest management activities provided from the primary business office and each branch office.
 3. If there is an interruption in the financial responsibility of a business licensee, the business licensee shall immediately stop providing pest management services.
- B. Use of business name and license number.
1. A business licensee shall prominently display the license issued by the PMD at the primary business office and each branch office.
 2. A business licensee shall prominently display the business name and license number, as recorded on the license issued by the PMD, on:

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- a. Customer proposals or contracts for pest management services;
- b. Service records;
- c. Inspection reports;
- d. Written materials provided to customers or potential customers;
- e. Correspondence;
- f. Advertisements; and
- 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 license 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;
3. A business licensee that always uses a service vehicle and trailer together is required to mark only the service vehicle or trailer as described in subsection (B)(2)(g). A business licensee that uses a vehicle only for sales, solicitations, or solely for inspections and does not carry a pesticide, and does not otherwise use the vehicle to provide a pest management service, is not required to mark the vehicle as described in subsection (B)(2)(g).
4. When complying with subsection (B)(2), a business licensee may use a slogan, trade name, or trade mark in addition to the business name and license number. When complying with subsection (B)(2), a business licensee may use a word or phrase to indicate its former licensed business name if it had a previously licensed business name.

Historical Note

New Section recodified from R4-29-310 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2). Section amended by final rulemaking at 29 A.A.R. 757 (March 24, 2023), with an immediate effective date of March 10, 2023 (Supp. 23-1).

R3-8-311. Reserved**Historical Note**

New reserved Section recodified from R4-29-311 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-312. Reserved**Historical Note**

New reserved Section recodified from R4-29-312 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-313. Reserved**Historical Note**

New reserved Section recodified from R4-29-313 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-314. Reserved**Historical Note**

New reserved Section recodified from R4-29-314 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-315. Reserved**Historical Note**

New reserved Section recodified from R4-29-315 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-316. Reserved**Historical Note**

New reserved Section recodified from R4-29-316 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-317. Reserved**Historical Note**

New reserved Section recodified from R4-29-317 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-318. Reserved**Historical Note**

New reserved Section recodified from R4-29-318 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-319. Reserved**Historical Note**

New reserved Section recodified from R4-29-319 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-320. Reserved**Historical Note**

New reserved Section recodified from R4-29-320 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

ARTICLE 4. SUPERVISION**R3-8-401. Supervising an Applicator**

- A. A QP and business licensee shall ensure that an applicator receives the training, equipment, and supervision that the applicator requires to comply fully with the PMD's statutes, this Chapter, and label and labeling directions.
- B. A QP shall be readily available to an applicator while the applicator provides pest management services.
- C. A QP shall ensure that the use, application, storage, or disposal of a pesticide is performed or supervised by an individual certified in a category applicable to the pesticide being used, applied, stored, or disposed.
- D. A QP shall ensure that immediate supervision, which requires supervision by a certified applicator who is physically present, is provided when an uncertified applicator performs pest management services in the wood-destroying organism management, aquatic, or fumigation category, uses a restricted use pesticide, or uses a pesticide under an experimental use permit. A QP shall ensure that a certified applicator provides immediate supervision to not more than two uncertified applicators at a time.
- E. In circumstances other than those described in subsection (D), a QP shall ensure that direct supervision, which does not require a supervising certified applicator to be physically present, is provided. A QP shall ensure that a certified applicator providing direct supervision considers the potential danger to the public or environment if the uncertified applicator misuses a pesticide. A QP shall ensure that a certified applicator providing direct supervision instructs the uncertified applicator in

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the following areas and has written evidence that the instruction was provided and understood:

1. Proper loading, mixing, applying, storing, and disposing of the pesticide;
 2. Use of required safety equipment; and
 3. Method and means by which to contact the supervisor immediately.
- F.** A QP shall ensure that an applicator has the protective clothing, safety supplies, and equipment specified by the label or labeling of each product used by the applicator and by the PMD's statutes and this Chapter. The QP shall ensure that the applicator is instructed regarding how to use, maintain, clean, and store the protective clothing, safety supplies, and equipment.
- G.** A QP, business licensee, and political subdivision shall not allow an uncertified applicator to apply a pesticide for more than 120 days after the applicator is registered.
- H.** Direct Supervision Requirements For Restricted Use Pesticides. When a restricted use pesticide is applied by a non-certified applicator, the certified applicator providing direct or immediate supervision shall meet the requirements of 40 CFR § 171.201(a) through (d) (82 FR 1040, January 4, 2018). This material is incorporated by reference, is on file with the Department, and does not contain any later amendments or additions.

Historical Note

New Section recodified from R4-29-401 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2). Section amended by final rulemaking at 29 A.A.R. 757 (March 24, 2023), with an immediate effective date of March 10, 2023 (Supp. 23-1).

R3-8-402. Qualifying a Business or School District

- A.** A business licensee or school district shall employ a QP in each category of pest management in which the business licensee or school district provides pest management services. A business licensee or school district may employ multiple QPs.
- B.** A QP may not qualify more than one business licensee or school district at a time.
- C.** Notwithstanding subsection (B), the Director may allow a QP to qualify more than one school district if the Director believes that the number of applicators, pest management needs, and distance of the school districts will not hinder the QP's ability to comply with R3-8-403.
- D.** A QP may only qualify a business licensee or school district in the categories of pest management in which the QP is registered.

Historical Note

New Section recodified from R4-29-402 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2). Section amended by final rulemaking at 29 A.A.R. 757 (March 24, 2023), with an immediate effective date of March 10, 2023 (Supp. 23-1).

R3-8-403. Qualifying Party Management

- A.** A QP shall be physically present at the primary business office at least once every 14 days and at each branch office at least once every 120 days and ensure that all of the following are done:
1. Determine pesticide use by reviewing records of pesticide acquisitions, storage, disposal, and current inventory;

2. Review the pesticide inventory, including pesticides stored on a service vehicle, to determine compliance with labels, labeling, and the PMD's statutes and rules;
 3. Review the training, supervision, and equipping of applicators employed by the business licensee or school district to determine whether the training, supervision, and equipping is sufficient to enable the applicators to comply with labels, labeling, and the PMD's statutes and rules;
 4. Review personnel records to determine whether an applicator employed by the business licensee or school district is registered and certified in all applicable categories within the time-frames specified by R3-8-201;
 5. Review office records and recordkeeping procedures to determine compliance with required recordkeeping and reporting; and
 6. Ensure that any deficiency noted when the responsibilities listed in subsections (A)(1) through (A)(5) are performed is corrected.
- B.** A QP shall develop a written plan that specifies how the duties and responsibilities of the QP are to be fulfilled if the QP is absent or unavailable for any reason. The QP shall ensure that the plan is implemented when the QP is absent or unavailable.
- C.** A QP shall not delegate the responsibility to be physically present at least every 14 days at the primary business office and at least every 120 days at branch offices unless the QP submits written documentation to the PMD from a licensed medical or mental health care professional that indicates the licensed medical or mental health care professional is treating the QP and is of the opinion that the QP is unable to fulfill the responsibility to be physically present as required.
- D.** A QP shall:
1. Be active in the management of all pest management related activities of the business licensee or school district.
 2. During normal business hours, be readily available to the applicators of the business licensee or school district.
 3. Ensure that a business licensee maintains current proof of financial security.
- E.** A temporary QP has the same duties and responsibilities as a regular QP.

Historical Note

New Section recodified from R4-29-403 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

R3-8-404. Branch Supervisors

With respect to a branch office, the branch supervisor shall fulfill all the duties and responsibilities of a QP in this Article, except as follows:

1. The branch supervisor shall be present at the branch office at a minimum of once every 14 days to review pesticide use, storage and disposal and by ensuring the training, equipping, and supervision of the applicators.
2. The branch office may operate in each category of pest management in which the QP is registered even if the branch supervisor is not a certified applicator in the category, though R3-8-201(C) still applies.
3. The branch supervisor is not responsible for ensuring that the business licensee maintains current proof of financial security.

Historical Note

New Section recodified from R4-29-404 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2). Section

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amended by final rulemaking at 29 A.A.R. 757 (March 24, 2023), with an immediate effective date of March 10, 2023 (Supp. 23-1).

R3-8-405. Supervision of Qualifying Party

A business licensee or school district shall ensure that a QP of the business licensee or school district receives the training, equipment, and supervision that the QP requires to comply fully with the PMD's statutes and rules and label and labeling directions.

Historical Note

New Section recodified from R4-29-405 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

R3-8-406. Responsible Individuals

A responsible individual for a political subdivision shall

1. Respond to inquiries or concerns by the Director or the Director's designee regarding compliance with A.R.S. Title 3, Chapter 20.
2. Identify for the Director or the Director's designee where records required by this Chapter are maintained, where personal protection equipment is located, and where pesticides are stored.
3. Demonstrate that all applicators are properly certified.

Historical Note

New Section recodified from R4-29-406 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

R3-8-407. Joint Responsibility

- A. An applicator, qualifying party, branch supervisor, or business licensee who supervises another person shall ensure that the supervised person is properly trained and equipped and receives the supervision necessary for the supervised person to provide pest management services in accordance with the pesticide label and labeling, this Chapter and the PMD statutes.
- B. An applicator, qualifying party, branch supervisor, or business licensee who supervises another person may be held jointly responsible for the acts or omissions of the supervised person.
- C. It is an affirmative defense to joint responsibility as described in subsection (B) if an applicator, qualifying party, branch supervisor, or business licensee complied with subsection (A) and can demonstrate that compliance with contemporaneously maintained records.
- D. A QP and business licensee shall comply with every provision in this Chapter regarding applicator duties and responsibilities.

Historical Note

New Section recodified from R4-29-407 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

R3-8-408. Reserved**Historical Note**

New reserved Section recodified from R4-29-408 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-409. Reserved**Historical Note**

New reserved Section recodified from R4-29-409 at 23

A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-410. Reserved**Historical Note**

New reserved Section recodified from R4-29-410 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-411. Reserved**Historical Note**

New reserved Section recodified from R4-29-411 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-412. Reserved**Historical Note**

New reserved Section recodified from R4-29-412 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-413. Reserved**Historical Note**

New reserved Section recodified from R4-29-413 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-414. Reserved**Historical Note**

New reserved Section recodified from R4-29-414 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-415. Reserved**Historical Note**

New reserved Section recodified from R4-29-415 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-416. Reserved**Historical Note**

New reserved Section recodified from R4-29-416 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-417. Reserved**Historical Note**

New reserved Section recodified from R4-29-417 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-418. Reserved**Historical Note**

New reserved Section recodified from R4-29-418 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

ARTICLE 5. RECORDKEEPING AND REPORTING**R3-8-501. Applicator Recordkeeping**

- A. An applicator shall make all records required by law and provide the records to the business licensee or political subdivision that supervises, directs, or employs the applicator within five business days.
- B. Service records. An applicator shall make a record of each pest management service provided. The applicator shall include the following information in the service record:
 1. Name and address of the customer;
 2. Specific site at which a pesticide was applied;
 3. Date and time of service;
 4. Target pest or purpose of service;
 5. Trade name of pesticide applied;
 6. EPA registration number of any restricted use pesticide applied;

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7. Amount of pesticide applied, in terms of percent active ingredient and volume of diluted mixture or in terms of total amount of liquid concentrate, ready-to-use product, granular material, or bait stations; and
 8. Name and certification number of the applicator or if the applicator is uncertified, name of the uncertified applicator and the name and certification number of the applicator providing supervision.
- C.** Pesticide purchase records. An applicator shall make a record of each restricted-use pesticide purchased or otherwise acquired. The applicator shall include the following information in the pesticide purchase record:
1. Date of purchase or acquisition;
 2. Trade name of pesticide;
 3. EPA registration number of pesticide;
 4. Quantity of pesticide purchased or acquired; and
 5. Name and license number of the applicator making the pesticide purchase record or name of the business licensee.
- D.** Pesticide disposal records. An applicator shall make a record of each pesticide disposed, sold, lost, or otherwise relinquished. The applicator shall include the following information in the pesticide disposal record:
1. Date of disposal;
 2. Trade name of pesticide;
 3. EPA registration number of pesticide;
 4. Quantity of pesticide disposed;
 5. Percent active ingredient in the pesticide disposed;
 6. Method of disposal;
 7. Location and type of disposal site or service; and
 8. Name and license number of the applicator making the pesticide disposal record or name of the business licensee.
- E.** WDIIR. An applicator who completes a WDIIR shall:
1. Complete the WDIIR using the most current form approved by the PMD. A trademark or logo may be placed on the WDIIR if it does not alter the format or substance of the PMD approved form;
 2. Submit an original WDIIR to the QP or branch supervisor within seven days after completing the wood-destroying insect inspection;
 3. Submit a supplemental WDIIR to the QP or branch supervisor within seven days after completing a supplemental wood-destroying insect inspection to verify that a corrective treatment was performed or a condition conducive to the pest was corrected. The applicator shall include the original inspection number on the supplemental WDIIR;
 4. If required by a federal agency, complete another inspection form in addition to but not instead of the PMD - approved WDIIR; and
 5. Ensure that the following information is included on the WDIIR:
 - a. Name, address, telephone number, and license number of business licensee. This information may be pre-printed on the WDIIR;
 - b. Time and date of wood-destroying insect inspection, and the WDIIR number;
 - c. Purpose of the inspection report;
 - d. Whether the report is from an original or supplemental inspection;
 - e. Name of property owner or seller;
 - f. Address of inspected property;
 - g. Inspected and un-inspected structures at the site and the reason why structures are un-inspected;
 - h. Areas of the structure not inspected because they were obstructed or inaccessible and the cause of the obstruction or inaccessibility;
 - i. Whether visible evidence of wood-destroying insects is observed;
 - j. Whether visible evidence of infestation from wood-destroying insects is observed and if so, the date on which a proper management measure is performed, if applicable;
 - k. Whether visible damage from wood-destroying insects is observed and if so, the insect causing the damage and the areas in which the damage is observed;
 - l. Whether visible evidence of previous treatment is observed and if so, the nature of the evidence;
 - m. If damage from wood-destroying insects is observed, whether or when the damage will be corrected and whether the damage will be corrected by the business licensee or another company;
 - n. Visible conditions conducive to infestation by wood-destroying insects;
 - o. Diagram or graph of the structure clearly indicating wood-destroying insects, damage, conducive conditions observed, and areas where further inspection is recommended, and a statement or indication on the diagram or graph clearly identifying inaccessible areas; and
 - p. Dated signature and certification number of the individual making the inspection. The individual making the inspection shall sign the WDIIR by hand or electronically and shall not use a signature stamp or allow another individual to affix the signature.
- F.** Wood-destroying organism treatment proposal. An applicator who is qualified under A.R.S. § 3-3632(B) and (E) shall complete a wood-destroying organism treatment proposal using a form approved by the PMD and provide a copy of the proposal to the person requesting the proposal or treatment and the QP.
- G.** Non-certified applicator records: When supervising an applicator of a restricted use pesticide, records shall be kept as required in 40 CFR § 171.201(e) (82 FR 1040, January 4, 2018). This material is incorporated by reference, is on file with the Department, and does not contain any later amendments or additions.

Historical Note

New Section recodified from R4-29-501 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2). Section amended by final rulemaking at 29 A.A.R. 757 (March 24, 2023), with an immediate effective date of March 10, 2023 (Supp. 23-1).

R3-8-502. Qualifying Party Recordkeeping

- A.** In addition to ensuring that the records required under R3-8-501 are made, a QP shall ensure that complete records are made and maintained of the training, supervision, and equipment provided to an applicator.
- B.** At a minimum, QP training records must consist of the following information:
1. Date of the training,
 2. Printed name and signature of the trainee,
 3. Printed name and signature of the trainer,
 4. Brief description of the topic or topics covered, and
 5. Copies of labels and any other pertinent material used in training.

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- C. A QP shall maintain the records described in this Section for three years, including after the applicator's employment ending date.
- D. Non-certified applicator records: When supervising an applicator of a restricted use pesticide, records shall be kept as required in 40 CFR § 171.201(e) (82 FR 1040, January 4, 2018). This material is incorporated by reference, is on file with the Department, and does not contain any later amendments or editions.
- Historical Note**
- New Section recodified from R4-29-502 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2). Section amended by final rulemaking at 29 A.A.R. 757 (March 24, 2023), with an immediate effective date of March 10, 2023 (Supp. 23-1).
- R3-8-503. Business Licensee and Political Subdivision Recordkeeping and Retention**
- A. In addition to ensuring that the records required under R3-8-501 and R3-8-502 are made and maintained, a business licensee and political subdivision shall make and maintain records of the following:
1. The specimen label and SDS for each registered pesticide currently used by an applicator supervised, directed or employed by the business licensee or political subdivision;
 2. The financial responsibility required under R3-8-310(A), if applicable;
 3. Purchase records of each pesticide purchased or otherwise acquired that include the following information:
 - a. Date of purchase or acquisition;
 - b. Trade name of pesticide;
 - c. Quantity of pesticide purchased or acquired; and
 - d. Name of the business licensee;
 4. Date on which a service vehicle or trailer is acquired;
 5. Incident reports submitted to the PMD as required under R3-8-504;
 6. A pest management service provided, including a service provided under a warranty;
 7. The evidence of customer refusal of a re-treatment or post-construction treatment required under R3-8-309(J);
 8. Written inspection reports;
 9. Business licensee contracts for pest management services; and
 10. Personnel records including for each applicator supervised, directed or employed by the business licensee or political subdivision:
 - a. Date of hire or beginning of relationship;
 - b. Date on which pest management services are first performed;
 - c. Training and continuing education received;
 - d. Supervision received;
 - e. Protective clothing, safety supplies, and equipment issued to employee;
 - f. Name of supervisor; and
 - g. Employment or relationship ending date.
- B. A business licensee or political subdivision shall maintain the records as follows:
1. Records under subsection (A)(1), as long as the registered pesticide is used by the business licensee or political subdivision. The business licensee shall maintain the records required under subsection (A)(1) at the primary business office or branch office from which the registered pesticide is used or at which the registered pesticide is stored;
 2. Records under subsection (A)(2), current;
 3. Records under subsection (A)(3) or R3-8-501(C) and (D), three years from the date of purchase or disposal;
 4. Records under subsection (A)(4), as long as the service vehicle or trailer is owned by the business licensee or political subdivision;
 5. Records under subsection (A)(5), until the statute of limitation for possible legal action resulting from the incident is expired or until resulting legal action is completed;
 6. Records under subsections (A)(6) and (A)(7), three years;
 7. Records under subsections (A)(8) and (A)(9), three years from the date on the inspection report or customer contract;
 8. Records under subsection (A)(10), three years, including after the employment ending date;
 9. WDIIRs completed under subsection (C), three years; and
 10. Records under subsections (A)(5) and (A)(6) that pertain to the use of a restricted-use pesticide shall be maintained separate from other records.
- C. When an applicator supervised, directed or employed by a business licensee submits a WDIIR, the business licensee shall record the following on the WDIIR:
1. TARF number,
 2. If the business licensee has the property under warranty:
 - a. Account number,
 - b. Target pest,
 - c. Date of initial treatment,
 - d. Date of warranty expiration, and
 3. The TARF number of each TARF completed regarding the property after the WDIIR is completed.
- D. TARF. A business licensee or political subdivision shall:
1. Submit to the PMD a TARF, using a form approved by the PMD, within 30 days of completing an action specified under subsection (D)(3). For the purpose of reporting, a pretreatment or new-construction treatment is complete when no further preventative treatment is necessary until the final grade treatment unless it is necessary to re-treat a disturbed continuous chemical barrier. In a multiple-unit project, a pretreatment or new-construction is complete when no further preventative treatment is necessary for the last unit at the project until the final grade treatment unless it is necessary to re-treat a disturbed continuous chemical barrier;
 2. Include the fee with each TARF and, if applicable, the penalty required under R3-8-103;
 3. Unless exempt under subsection (D)(4), submit a TARF after completing each of the following:
 - a. Pretreatment, including pretreatment of an addition that does not abut the slab of a previously pretreated structure;
 - b. New-construction treatment, including new-construction treatment of an addition that does not abut the slab of a previously new-construction treated structure;
 - c. Final grade treatment;
 - d. Initial corrective termite treatment at a site; and
 - e. WDIIR.
 4. Not submit a TARF after completing:
 - a. A supplemental WDIIR; or
 - b. The first initial corrective insect termite treatment at a site if the business licensee:
 - i. Performed a pretreatment or new-construction treatment at the site,

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- ii. Filed a TARP regarding the pretreatment or new-construction treatment, and
 - iii. Performs the initial corrective termite treatment under R3-8-309(D) or under a warranty.
5. Include the information required under A.R.S. § 3-3631 and the following on a TARP:
- a. License number of the licensed business that performed the work;
 - b. Name of the QP;
 - c. For a WDIIR, indicate whether:
 - i. There was evidence of infestation, conditions conducive to infestation, or damage present;
 - ii. Previous treatment was performed for an infestation; and
 - iii. Corrective actions were taken for conditions conducive or damage present;
 - d. For a pretreatment, new-construction treatment, or final grade treatment to establish an exterior vertical barrier, indicate:
 - i. Chemical used and its EPA registration number,
 - ii. Amount of chemical used,
 - iii. Percentage of active ingredient in the chemical used, and
 - iv. Square and linear footage treated; and
 - e. For a post-construction corrective termite treatment, indicate:
 - i. Type of treatment,
 - ii. Target organism,
 - iii. Chemical used and its EPA registration number,
 - iv. Amount of chemical used, and
 - v. Percentage of active ingredient in the chemical used.

Historical Note

New Section recodified from R4-29-503 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2). Section amended by final rulemaking at 29 A.A.R. 757 (March 24, 2023), with an immediate effective date of March 10, 2023 (Supp. 23-1).

R3-8-504. Reporting Incidents and Bulk Releases

- A.** Notice to PMD of an incident.
1. A business licensee and political subdivision shall provide written notice to the PMD within one business day after one of the following incidents is confirmed by medical personnel or an applicable regulatory agency to be caused by a pesticide applied by the business licensee or political subdivision:
 - a. Death or illness of an individual;
 - b. Contamination of food, feed, drugs, or water supply;
 - c. Contamination of a structure that results in the hospitalization of an occupant or evacuation of the structure; or
 - d. Contamination of the environment that results in evacuation of the area.
 2. A QP shall determine if the business licensee or school district has complied with subsection (A)(1). If compliance has not occurred, the QP shall provide the written notice required by subsection (A)(1) to the PMD within the time-frame specified in subsection (A)(1).
- B.** Notice to PMD of a bulk release.
1. A business licensee or political subdivision shall notify the PMD at the Pesticide Hotline, 1-800-423-8876, as soon as practical after a bulk release, but no later than

three hours after the bulk release. If the bulk release is on a public highway or railway, or results in the death of an individual, the person shall immediately report the release to the Arizona Department of Public Safety Duty Office.

2. A QP shall determine if the business licensee or school district has complied with subsection (B)(1). If compliance has not occurred, the QP shall provide the notices specified in subsection (B)(1) within one business day after the release.

Historical Note

New Section recodified from R4-29-504 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

R3-8-505. Groundwater Protection List Reporting

- A.** For each application of a soil-applied pesticide containing an active ingredient that appears on the Arizona Department of Environmental Quality groundwater protection list and has been detected in Arizona groundwater within the last five years, the QP shall submit the following information on a quarterly basis on a form approved by the PMD:
1. The county of use,
 2. The name of product used and the EPA registration number,
 3. The amount applied,
 4. The dates covered by the report, and
 5. Business license number.
- B.** For the purposes of this Section, “soil-applied pesticide” means a pesticide intended for application to or injection into the soil or for which the label requires or recommends that the application be followed within seventy-two hours by irrigation. Soil-applied pesticides include pesticides applied for final grade treatment, post-construction exterior trench or rod treatment, or pre-emergent weed control, but exclude pesticides applied within the stem wall or footer of a structure or to soil that will be promptly covered with concrete.

Historical Note

New Section recodified from R4-29-505 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

Appendix A. Reserved**Historical Note**

Reserved Article 5, Appendix A recodified from Article 5, Appendix A at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

ARTICLE 6. INSPECTIONS; DISCIPLINARY PROCEDURES**R3-8-601. Inspection of Licensee Records**

- A.** Upon written request by the PMD for the production of records, an applicator, QP, branch supervisor, business licensee, or political subdivision shall:
1. Make the records required under this Chapter available for review by the PMD within 24 hours or by a later date specified by the PMD.
 2. Make the records available at the PMD unless another location is agreed upon.
 3. Be available to interpret the submitted records if requested by the PMD.

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- B. If a person cannot timely comply with a request made under subsection (A), the person shall immediately provide written notice to the PMD, indicate the reason for noncompliance, and request greater specificity regarding the information to be made available or additional time in which to comply.
- C. If the PMD requests a record from a business licensee or political subdivision when there may be an immediate risk to the health or safety of an individual, non-target animal, or the environment, the business licensee or political subdivision shall provide the record to the PMD within one hour.
- D. An applicator or branch supervisor is only responsible for producing records within the applicator's or branch supervisor's control.

Historical Note

New Section recodified from R4-29-601 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

R3-8-602. Compliance with PMD Monitoring

- A. If the PMD makes a written request of an applicator for a list of the time and location of pest management services that the applicator is scheduled to provide on a specified date, the applicator shall make the information available within 24 hours. The applicator may make the information available in a manner prescribed by the PMD.
- B. If an applicator cannot timely comply with a request made under subsection (A), the applicator shall immediately provide written notice to the PMD, indicate the reason for noncompliance, and request greater specificity regarding the information to be made available or additional time in which to comply.

Historical Note

New Section recodified from R4-29-602 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

R3-8-603. Corrective Work Orders

- A. If the PMD issues a corrective work order requiring a licensee to remedy deficiencies in treatment or to comply with this Chapter or the PMD's statutes, the licensee shall notify the PMD in writing by the date specified in the order that the corrective work is complete.
- B. The Director may consider a licensee's compliance with a corrective work order or lack thereof in imposing appropriate disciplinary action.
- C. Failure to timely complete the corrective action or notify the PMD of the completion is a separate ground for disciplinary action.
- D. A corrective work order issued by the PMD is not subject to A.R.S. § 41-1009(E)-(F) unless the PMD indicates in the order that timely compliance with the order will result in no disciplinary action being taken for a deficiency or violation.

Historical Note

New Section recodified from R4-29-603 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

R3-8-604. Disciplinary Action

- To determine the disciplinary action that is appropriate, the Director may consider the following:
- 1. Prior violations,
 - 2. Dishonest or self-serving motive,

- 3. Amount of experience as a licensee,
- 4. Submission of false evidence or statements or other deceptive practices during the investigative or disciplinary process,
- 5. Acknowledgement of wrongful nature of violation,
- 6. Practices put in place to prevent a similar violation from occurring again,
- 7. Compliance with a corrective work order,
- 8. Degree of harm resulting from the violation, and
- 9. Whether harm resulting from the violation was cured.

Historical Note

New Section recodified from R4-29-604 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-605. Consent Agreements

- A. A consent agreement shall include the following:
 - 1. General nature of violations,
 - 2. Citation to statutes and rules alleged to be violated,
 - 3. Disciplinary action to be taken,
 - 4. Effective date of the disciplinary action if different from the date of the consent agreement,
 - 5. Corrective action to be taken, and
 - 6. Date to complete any corrective action.
- B. A person entering into a consent agreement with the PMD shall waive the right to a formal hearing, rehearing, or judicial review of the matters contained in the consent agreement.

Historical Note

New Section recodified from R4-29-605 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2).

R3-8-606. Penalties

- A. When assessing a civil penalty for a violation, the Director shall assess a civil penalty for each violation based on the violation's total point value set out in this Section. To calculate the total point value, the Director shall sum the points for each aggravating factor and may subtract the points for each mitigating factor. The Director, in his sole discretion, may treat multiple violations as a single violation for the purpose of calculating the civil penalty.
- B. Aggravating factors.

1. Pesticide type.	
a. General use.	2
b. Experimental use or special local need.	3
c. Restricted use or unregistered.	5
2. Harm to humans and non-target animals.	
a. None or unverified potential harm.	0
b. Potential harm.	3
c. Actual, verifiable harm.	5
3. Harm to environment and economic loss.	
a. None or unverified potential harm.	0
b. Potential harm or loss.	3
c. Actual, verifiable loss of \$10,000 or less.	4
d. Actual, verifiable loss exceeding \$10,000.	5
e. Actual, verifiable environmental harm.	5
4. Non-pesticide violations.	
a. Negligent violations.	4
b. Knowing or willful violations.	8
5. Prior similar violations.	
a. None.	0
b. Warning letter within 12 months.	1
c. One or more within 36 months, but none within 12 months.	2

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- d. One within 12 months. 3 L. 100–532, title VI, § 604, Oct. 25, 1988, 102 Stat. 2678;
- e. More than one within 24 months, but none within 12 months. 4 Pub. L. 102–237, title X, § 1006(a)(8), Dec. 13, 1991, 105 Stat. 1895.). This material is incorporated by reference, is on file with the Department, and includes no later amendments or editions.
- f. More than one within 12 months. 5
- 6. Culpability.
 - a. Negligent violations. 2 4. A final order imposing civil penalty under section 14(a) of FIFRA (7 U.S.C. § 1361) (June 25, 1947, ch. 125, § 14, as added Pub. L. 92–516, § 2, Oct. 21, 1972, 86 Stat. 992; amended Pub. L. 95–396, § 17, Sept. 30, 1978, 92 Stat. 832; Pub. L. 100–532, title VI, § 604, Oct. 25, 1988, 102 Stat. 2678; Pub. L. 102–237, title X, § 1006(a)(8), Dec. 13, 1991, 105 Stat. 1895.). This material is incorporated by reference, is on file with the Department, and includes no later amendments or editions.
 - b. Knowing or willful violations. 4 5. A violation of State laws or regulations relevant to the State certification plan.
- 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
 - 2. Environmental benefit.
 - a. Clean up. 1
 - b. Move toward less toxic methods. 2
 - c. Develop IPM program. 3
 - 3. Consumer benefit.
 - a. Consumer education. 1
 - b. Make consumer whole. 2
 - c. Extend warranty. 3
 - 4. Other benefits.
 - a. Training (CEU). 1
 - b. Equipment (modification or new). 2
 - c. Purchase and use of computer for TARFs. 3
- D. Civil penalty. To calculate the civil penalty, the Director shall:
 - 1. For total point values of 6-10, multiply the value by \$100 and then subtract \$500.
 - 2. For total point values of 11-15, multiply the value by \$100 and then subtract \$600.
 - 3. For total point values of more than 16, assess the maximum penalty of \$1000.
- E. Other penalties. In addition to assessing a civil penalty, the Director:
 - 1. For any total point value, may require extra continuing education.
 - 2. For total point values of 6-11, may impose probation requirements.
 - 3. For total point values of 12-17, shall impose probation requirements and may suspend the license, certification, or registration.
 - 4. For total point values of 18 or more, shall suspend or revoke the license, certification, or registration.
 - 5. May take any other action permitted by law, including imposing probation requirements after a suspension ends.
- F. In addition to the civil penalties prescribed by this Section, the Director may charge a person who knowingly or willfully commits a violation of this Article which causes:
 - 1. Harm to the environment or economic loss of \$10,000 or less with a class 1 misdemeanor.
 - 2. Harm to humans or animals, or the environment or an economic loss exceeding \$10,000 with a class 6 felony.
- G. In addition, the Director may deny, suspend or revoke applicator certification for:
 - 1. Misuse of a pesticide.
 - 2. Falsifying records required to be kept by a certified applicator.
 - 3. A criminal conviction under section 14(b) of FIFRA (7 U.S.C. § 1361) (June 25, 1947, ch. 125, § 14, as added Pub. L. 92–516, § 2, Oct. 21, 1972, 86 Stat. 992; amended Pub. L. 95–396, § 17, Sept. 30, 1978, 92 Stat. 832; Pub. L. 100–532, title VI, § 604, Oct. 25, 1988, 102 Stat. 2678; Pub. L. 102–237, title X, § 1006(a)(8), Dec. 13, 1991, 105 Stat. 1895.). This material is incorporated by reference, is on file with the Department, and includes no later amendments or editions.

Historical Note

New Section recodified from R4-29-606 at 23 A.A.R. 1976, effective June 30, 2017; Section amended by exempt rulemaking at 23 A.A.R. 1949, effective August 29, 2017 (Supp. 17-2). Section amended by final rulemaking at 29 A.A.R. 757 (March 24, 2023), with an immediate effective date of March 10, 2023 (Supp. 23-1).

R3-8-607. Reserved

Historical Note

New reserved Section recodified from R4-29-607 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-608. Reserved

Historical Note

New reserved Section recodified from R4-29-608 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-609. Reserved

Historical Note

New reserved Section recodified from R4-29-609 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

ARTICLE 7. RESERVED

R3-8-701. Reserved

Historical Note

New reserved Section recodified from R4-29-701 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-702. Reserved

Historical Note

New reserved Section recodified from R4-29-702 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-703. Reserved

Historical Note

New reserved Section recodified from R4-29-703 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-704. Reserved

Historical Note

New reserved Section recodified from R4-29-704 at 23 A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-705. Reserved

Historical Note

New reserved Section recodified from R4-29-705 at 23

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A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-706. Reserved

Historical Note

New reserved Section recodified from R4-29-706 at 23
A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-707. Reserved

Historical Note

New reserved Section recodified from R4-29-707 at 23
A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).

R3-8-708. Reserved

Historical Note

New reserved Section recodified from R4-29-708 at 23
A.A.R. 1976, effective June 30, 2017 (Supp. 17-2).