

ARTICLE 1. GENERAL AND ADMINISTRATIVE PROVISIONS

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), and (n), which are adopted by reference:

~~1. Industrial and institutional: pest management in, on, around or adjacent to a structure not covered by another category; pest management in or on asphalt, concrete, gravel, rocks and similar surfaces, including man holes, not covered by another certification category; pest management of health related pests wherever found; but excluding anti-microbial pest management and fungi inspection~~

1. The categories shall be as follows, and as prescribed in 40 CFR 171.101(c), (e) through (h), and (n), which are adopted by reference; and,

2. The competency standards shall be as follows, and as prescribed in 40 CFR 171.103(d)(3), (5) through (8), and (14), which are adopted by reference.

~~3. Ornamental and turf: pest management, including weeds, pests in trees, shrubs, and flowers, turf and bare ground, not covered by the right-of-way category, by means other than the use of a fumigant. Excludes any pests within a structure.~~

~~23. 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.

~~4. Right of way: pest management of pests, including weeds, in the maintenance of public roads, electric powerlines, pipelines, railway rights-of-way or other similar areas by a means other than use of a fumigant, but excluding pest management in the maintenance of ornamental trees, shrubs and flowers.~~

~~5. Aquatic: pest management, including weeds, in standing or running water.~~

~~6. Fumigation: pest management using fumigants; except as provided in the wood preservation category.~~

7b. Wood preservation: application of pesticides, including fumigants 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;

(ii) Demonstrate practical knowledge of the formulations appropriate for control of wood-destroying organisms;

(iii) 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;

(iv) Read and understand pesticide labels, labeling and safety data sheets for pesticides, and apply pesticides according to label and labeling instructions; and

(v) 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;
 - (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.

R3-8-103. Fees; Charges; Exemption

A. ~~Beginning March 1, 2019 through June 30, 2022, 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.** ~~Beginning July 1, 2022, a A person shall pay the following application and renewal fees for licensure, certification, and registration:~~
- ~~1. For an applicator:
 - ~~a. Applicator certification, \$75.~~
 - ~~b. Applicator certification broadening application, \$0.~~
 - ~~c. QA certification, \$100.~~
 - ~~d. QA certification broadening application, \$25.~~~~
 - ~~2. For a qualifying party:
 - ~~a. Registration at same time as application for or renewal of the business license, \$0.~~
 - ~~b. Registration at a different time than application for or renewal of the business license, \$50.~~
 - ~~c. Registration broadening, \$25.~~
 - ~~d. Temporary qualifying party registration, \$100.~~~~
 - ~~3. For a business:
 - ~~a. Business license, \$250.~~
 - ~~b. Business license for federal entity, \$0.~~
 - ~~c. Applicator registration, \$0 per applicator.~~~~
 - ~~4. For a branch:
 - ~~a. Branch office registration, \$50 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, \$25.~~~~
- C.** 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.
- DC.** 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.
- ED.** 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.

FE. 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.

GF. 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.

HG. PMD employees are exempt from the applicator and examination fees listed in this Section.

HH. 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.

R3-8-104. No change.

R3-8-105. Reserved.

R3-8-106. Reserved

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.

Table 1. No change.

**ARTICLE 2. CERTIFICATION, REGISTRATION AND LICENSURE; CONTINUING
EDUCATION**

R3-8-201. No change.

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
 - 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.

~~e.~~d. Telephone number;

~~d.~~e. Physical address;

~~e.~~f. Mailing address, if different from physical address;

~~f.~~g. E-mail address; and

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.

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. E-mail 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. An applicator shall be of good moral character. A conviction for a felony, or a conviction for a misdemeanor involving moral turpitude, as defined in A.R.S. § 1-215, may demonstrate a lack of good moral character. ~~A conviction for any of the following offenses shall be considered to demonstrate a lack of good moral character:~~ The PMD may refer to A.R.S. § 41-1093.04 for guidance on offenses that justify denial, suspension, or revocation of a license.

1. ~~Murder involving the death of a law enforcement officer.~~

2. ~~An offense described in A.R.S. § 13-2308.01 related to terrorism.~~
 3. ~~A sexual offense of any type where the victim is a minor that is a class 4 or higher felony.~~
- C. Examination. An applicant shall take and pass the certification examinations as provided in R3-8-211 in order to become certified.
- D. An applicant for initial certification shall be at least 18 years of age.
- E. 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. 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.

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. E-mail 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. A QA shall be of good moral character. A conviction for a felony, or a conviction for a misdemeanor involving moral turpitude, as defined in A.R.S. § 1-215, may demonstrate a lack of good moral character. A conviction for any of the following offenses shall be

~~considered to demonstrate a lack of good moral character: The PMD may refer to A.R.S. § 41-1093.04 for guidance on offenses that justify denial, suspension, or revocation of a license.~~

- ~~1. Murder involving the death of a law enforcement officer.~~
- ~~2. An offense described in A.R.S. § 13-2308.01 related to terrorism.~~
- ~~3. A sexual offense of any type where the victim is a minor that is a class 4 or higher felony.~~

F. 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.

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

H. 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.

I. For the purposes of this Section, pest management courses means courses in entomology, zoology, vertebrate management, plant pathology, agronomy, general horticulture, plant biology or botany, biochemistry, organic or inorganic chemistry, the eradication or management of weeds, toxicology, the environmental impact of pesticides, or any combination thereof.

R3-8-205. No change.

R3-8-206. No change.

R3-8-207. No change.

R3-8-208. No change.

R3-8-209. No change.

R3-8-210. Certification Broadening

- A.** To broaden an applicator certification, the applicant shall:
1. Submit the application described in ~~R4-29-203~~R3-8-203,
 2. Submit the fee required under ~~R4-29-103~~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 ~~R4-29-204(C)~~R3-8-204(C).
- C.** To broaden a QA certification, the QA shall:
1. Submit the application described in ~~R4-29-204~~R3-8-204 and indicate on the application the category in which broadening is sought,
 2. Submit the fee required under ~~R4-29-103~~R3-8-103,
 3. Submit the evidence of experience required under ~~R4-29-204(C)~~R3-8-204(C) for the category in which broadening is sought except as provided in subsection (D) of this Section, 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 ~~R4-29-204(C)~~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.

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 core and category-specific examinations may measure knowledge and understanding of the following content areas:~~
- ~~1. Pesticide label and labeling and pesticide types and formulations;~~
 - ~~2. Pest identification, life cycles, and habits;~~
 - ~~3. Safety and environmental factors relating to the use, handling, storage, and disposal of pesticides;~~
 - ~~4. Application techniques, calibration and dilution, and equipment types, uses, and maintenance; and~~
 - ~~5. Laws and rules.~~
- B.** The Department shall ensure that the core examination tests the knowledge and understanding of 40 CFR 171.103(c), which is adopted by reference.
- C.** The category competency standards shall be as prescribed in 40 CFR 171.103(d)(3), 40 CFR 171.103(d)(5) through (8) and 40 CFR 171.103(d)(14), which are adopted by reference; and in R3-8-102(4).
- ED.** 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.
- FE.** 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.
- GF.** 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.
- HG.** 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.

R3-8-212. Reciprocity

~~Notwithstanding the examination requirements in R4-29-203(C), R4-29-204(G), and R4-29-211,~~ The director may waive the examination requirements in whole or in part for an individual

who is certified as an applicator pursuant to A.R.S. Title 3, Chapter 2 or 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 must:
 - a. Shall 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 certification upon notification that the applicator's original certification has been terminated for any reason.

R3-8-213. No change.

R3-8-214. Reserved.

R3-8-215. No change.

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).
1. ~~Pesticide labels and labeling;~~
 2. ~~Safety, environmental factors, and consequences;~~
 3. ~~Pesticide use and disposal;~~
 4. ~~Laws and rules related to pest management and the business of pest management;~~
 5. ~~Application techniques;~~
 6. ~~Calibration and dilution;~~
 7. ~~Equipment;~~
 8. ~~Pest identification;~~
 9. ~~Life cycles and habits;~~
 10. ~~Calculation and measurements;~~

~~11. New pest management technologies;~~

~~12. Integrated pest management; or~~

~~13. Licensee responsibilities.~~

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.

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 the label or labeling recommends not be used in a is not labeled for food-handling establishment; and

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.

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, ~~in accordance with R3-8-307,~~ 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 in subsection (D)(3) and unless on the termiticide label requires more,~~ an applicator shall treat all critical areas during a pretreatment at a rate of four gallons of chemical preparation per 10 linear feet 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 (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 twelve months of the original pretreatment or new construction treatment.~~ within 18 months of the original pretreatment or new construction treatment. The business licensee shall keep a written or electronic record as to why the final grade has not been completed and an estimated time for completion. This record shall be available upon written requests for inspection by the Agency.

2. ~~An applicator shall treat the soil along the exterior of foundation walls at a rate of four gallons of chemical preparation per 10 linear feet (unless precluded by label directions) after all grading and other construction-related soil disturbance is complete, but within twelve months of the original pretreatment or new construction treatment.~~ Except as specified on the termiticide label, an applicator shall treat all critical areas during a pretreatment at a rate allowed by the product label.

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 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.

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:
 - 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;
 - iv. ~~Uses at least two inch letters for the principal words in the business name and at least one and one half inch letters for other words in the business name; and~~
 - v. ~~Uses at least two inch numbers for the license number.~~
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.

ARTICLE 3. PEST MANAGEMENT. NO CHANGE.

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 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 ~~90~~ 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-d), which is adopted by reference.

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 ~~R4-29-403~~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.

R3-8-403. No change.

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 ~~R4-29-201(C)~~ 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.

R3-8-405. No change.

R3-8-406. No change.

R3-8-407. No change.

R3-8-408. Reserved.

R3-8-409. Reserved.

R3-8-410. Reserved.

R3-8-411. Reserved.

R3-8-412. Reserved.

R3-8-413. Reserved.

R3-8-414. Reserved.

R3-8-415. Reserved.

R3-8-416. Reserved.

R3-8-417. Reserved.

R3-8-418. Reserved.

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;
7. Amount of pesticide applied, in terms of percent active ingredient and ~~total amount diluent (water, etc.); total amount of concentrate and total amount of diluent (water, etc.); or total amount of ready to use product by weight or volume (e.g. lbs, grams, ounces, etc.);~~ 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 ~~a~~ 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 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) which is adopted by reference.

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 equipping 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 topic(s) covered, and
 5. Copies of labels and any other pertinent material used in training.
- 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) which is adopted by reference.

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 ~~OPM~~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 subsection (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,
 - ii. Filed a TARF 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 TARF:
- 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.

R3-8-504. No change.

R3-8-505. No change.

Appendix A. Reserved

ARTICLE 6. INSPECTIONS; DISCIPLINARY PROCEDURES

R3-8-601. No change.

R3-8-602. No change.

R3-8-603. No change.

R3-8-604. No change.

R3-8-605. No change.

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
d. One within 12 months.	3
e. More than one within 24 months, but none within 12 months.	4
f. More than one within 12 months.	5
6. Culpability.	
a. Negligent violations.	2
b. Knowing or willful violations.	4
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 <u>or cooperation</u>	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. Equipment (modification or new).

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 \$10000 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
4. A final order imposing civil penalty under section 14(a) of FIFRA.
5. A violation of State laws or regulations relevant to the State certification plan.

R3-8-607. Reserved.

R3-8-608. Reserved.

R3-8-609. Reserved.

ARTICLE 7. RESERVED