



# Arizona Department of Agriculture

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## **Notice of Meeting and Agenda for the Task Force on the Regulation of Structural Pest Management**

The Task Force on the Regulation of Structural Pest Management (OPM Task Force) gives notice that it will hold a meeting open to the public on Wednesday, June 13, 2012 beginning at 1:00 p.m. in room 206 of the Arizona Department of Agriculture, 1688 W Adams Street, Phoenix. Members of the OPM Task Force will attend either in person or by telephone conference call. The Task Force may vote to hold an executive session for the purpose of obtaining legal advice on any matter listed on the agenda pursuant to A.R.S. § 38-431.03(A)(3).

The agenda for the meeting is as follows:

1. Roll Call – Jack Peterson, Chairman & OPM Acting Director
2. Current Status of the Office of Pest Management and coordination with the Department of Agriculture, including:
  - Listserv Signup – <http://listsrv.azda.gov/> - Jack Peterson
  - Changes, updates or other items out of the ordinary
3. Topic discussions and possible actions
  - **Recommendations to date from the TF:**
    - i. no inactive license requirements – all licenses whether active or inactive have to obtain *Continuing Education Units* (CEU) and pay to continue licensure and certification,
    - ii. continue holding OPM CEU classes dealing with laws, rules and keeping persons in compliance,
    - iii. discontinue state required criminal background investigations,
    - iv. continue *Termite Action Report Form* (TARF) at reduced fee,
    - v. business names go through the *Secretary of State* or *Arizona Corporation Commission* and only address when names are misleading, and
    - vi. continue the requirement for a *Qualifying Party*
  - Review and discussion of overall draft statutory and regulatory language that is prepared to come to final recommendations. Major focus will be on the draft rule package. In addition the following topics were slated for additional change and discussion.
  - Items for discussion and possible subcommittee creation/discussion (Subcommittees are public bodies and must post and discuss just like the full committee.)

These proposals are for discussion purposes and in many cases have not been approved by the Task Force.

<u>Proposed Statutes</u>	<u>Comments</u>
<p><b>§ 3-102. Department organization</b></p> <p>A. The Arizona department of agriculture is established consisting of the following divisions:</p> <ol style="list-style-type: none"> <li>1. The animal services division, which is responsible for milk, dairy, livestock and aquaculture regulation, the state veterinarian, meat, poultry and egg inspection and performing the administrative functions authorized or contracted pursuant to law for the Arizona beef council.</li> <li>2. The plant services division, which is responsible for the fruit and vegetable standardization program and entomological services.</li> <li>3. The environmental services division, which is responsible for regulating seed, feed and agricultural chemicals, including pesticides and fertilizers, and for native plant protection.</li> </ol> <p>B. The following are established in addition to and separate from the divisions of the department:</p> <ol style="list-style-type: none"> <li>1. A state agricultural laboratory.</li> <li>2. An office of agriculture safety.</li> <li>3. An office of inspections.</li> <li>4. An office of commodity development and promotion.</li> <li><u>5. An office of pest management.</u></li> </ol> <p>C. The department shall have a central administrative service office providing:</p> <ol style="list-style-type: none"> <li>1. Data processing, accounting and budgeting, records management, publications, property control and personnel services and training.</li> <li>2. A program to cross-train appropriate personnel to enable them to perform similar functions or comparable work for different administrative units in the department.</li> </ol>	
<p><b>§ 3-363. Rules</b></p> <p>The director shall adopt rules to regulate pesticides which shall include provisions to:</p> <ol style="list-style-type: none"> <li>1. Administer and implement this article.</li> <li>2. Prescribe measures to control, monitor, inspect and govern pesticide use.</li> <li>3. Prohibit or restrict pesticide use.</li> </ol>	

<b><u>Proposed Statutes</u></b>	<b><u>Comments</u></b>
<p>4. Restrict the areas in which pesticide use may occur.</p> <p>5. Prescribe minimum qualifications for all persons who engage in pesticide use, including, as appropriate, requirements that the persons have valid licenses, permits or certificates, have adequate training, including continuing education requirements and meet financial responsibility standards.</p> <p>6. Prescribe appropriate record keeping and reporting requirements regarding pesticide use, except that the record keeping and reporting requirements for growers and certified private applicators who apply pesticides shall be equivalent to, but not more stringent than, the requirements prescribed under the federal insecticide, fungicide and rodenticide act (61 Stat. 163) and the food, agriculture, conservation and trade act of 1990 (P.L. 101-624; 104 Stat. 3359).</p> <p>7. Prohibit pesticide use which is inconsistent with the pesticide label as required under the federal insecticide, fungicide and rodenticide act (61 Stat. 163).</p> <p>8. Exempt from regulation under this article pesticide use that is regulated in <del>title 32</del>, chapter <del>22</del> <u>35</u>.</p> <p>9. Issue licenses, permits and certificates for pesticide use, as appropriate, having terms of one or more years.</p> <p>10. Charge and collect the following fees for each permit, license and certification under this article:</p> <p>(a) Not to exceed twenty dollars per year for a grower permit.</p> <p>(b) Not to exceed one hundred dollars per year for a seller permit.</p> <p>(c) Not to exceed one hundred dollars per year for a custom applicator license.</p> <p>(d) Not to exceed fifty dollars per year for a pilot license.</p> <p>(e) Not to exceed fifty dollars per year for a pest control advisor license.</p> <p>(f) Not to exceed twenty-five dollars per year for a piece of equipment used to apply pesticides by a custom applicator.</p> <p>(g) Not to exceed fifty dollars per year for restricted use certification.</p> <p>11. Establish a nonexclusive list of acts and omissions that constitute serious, nonserious and de minimis violations of this article.</p> <p>12. Establish a system of administrative penalties and fines for violations of this article and any rules adopted under this article. Under this system:</p> <p>(a) Violators shall be assessed a number of points for each violation, depending upon such factors as:</p> <p>(i) Potential and actual consequences of the violation on public and worker health and safety and the environment.</p>	

Proposed Statutes	Comments
<p>(ii) Wrongfulness of the conduct.</p> <p>(iii) Degree of culpability of the violator.</p> <p>(iv) Duration of the violation.</p> <p>(v) Prior violations or citations.</p> <p>(b) Penalties shall be assessed depending upon the number of points accrued by the violator.</p>	
<p><b>ARTICLE 1. GENERAL PROVISIONS</b></p>	
<p><b>§ 3-3501. Scope</b></p> <p><u>This chapter pertains to pest management. Pest management 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. This chapter does not pertain to pesticide applications used directly in the commercial production of crops and animals or used on golf courses.</u></p>	<p>This new section is helpful in terms of delineating the scope of the pest management statutes.</p>
<p><b>§ <del>32-2301</del>, 3-3502. Definitions</b></p> <p>In this chapter, unless the context otherwise requires:</p> <p><del>1. "Acting director" means the person appointed pursuant to section 32-2302 to serve as the acting director of the office.</del></p> <p><del>2. 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 or received, information pertaining to the business of structural pest control management is given and from which the use of pesticides and devices is supervised by a licensed applicator or qualifying party or pesticides are stored or disposed of.</del></p> <p><u>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 employees of the branch office.</u></p> <p>3. "Business license" means a license that is issued pursuant to this chapter <u>or rules adopted pursuant to this chapter</u> to a person and that entitles that person and the person's employees to engage in the business of <del>structural pest control</del> <u>management</u>.</p> <p>4. "Business of <del>structural pest control</del> <u>management</u>" means engaging in, offering to engage in, advertising for, soliciting or performing <del>structural pest control</del> <u>management</u>, including any of the following:</p> <p>(a) Identifying infestations or making inspections for the purpose of identifying or attempting to identify <del>infestations of households or other structures, and the surrounding area by any of the following:</del> <u>infestations.</u></p>	<p>Several new definitions have been added and a few deleted. The terms director and department are defined in A.R.S. § 3-101. A few definitions were moved to this section from other parts of OPM's statutes.</p> <p>The new definitions include newly proposed terminology.</p> <ul style="list-style-type: none"> <li>• Branch supervisor instead of branch manager</li> <li>• Wood-destroying organisms instead of insects</li> <li>• Certified applicator instead of licensed applicator</li> <li>• Certified qualified applicator ("QA") as a new designation comparable to the former inactive qualifying party</li> <li>• Pretreatment instead of before construction treatment</li> <li>• New-construction treatment instead of during construction treatment</li> </ul>

Proposed Statutes	Comments
<p>(i) <del>Public health pests.</del></p> <p>(ii) <del>Aquatic pests.</del></p> <p>(iii) <del>Household pests.</del></p> <p>(iv) <del>Wood-destroying insects.</del></p> <p>(v) <del>Pests, Other pests, including weeds, existing around structures, in ornamental shrubs and trees, on golf courses, along rights of way or in lawns and cemeteries.</del></p> <p>(vi) <del>Fungi.</del></p> <p>(b) Making written or oral inspection reports, recommendations, estimates or bids with respect to infestations.</p> <p>(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.</p> <p><u>5. "Certified applicator" means an individual who is licensed by the Department to provide pest management services in accordance with this chapter.</u></p> <p><u>6. "Certified qualified applicator" means a certified applicator who is eligible to act as a qualifying party.</u></p> <p><u>7. "Child care facility" means a facility regulated pursuant to title 36, chapter 7.1.</u></p> <p><del>5-8.</del> <u>8. "De minimis violation" means a violation that, although undesirable, has no direct or immediate relationship to safety, health or property damage.</u></p> <p><del>6.</del> <u>"Department" means, through December 31, 2013, the Arizona department of agriculture.</u></p> <p><del>7-9.</del> <u>9. "Device" means any mechanical, pesticide or electrical apparatus used in conjunction with, in place of or to supplement, disperse or dispense pesticides.</u></p> <p><del>8-10.</del> <u>10. "Direct supervision" means use of a pesticide under the instructions, control and responsibility of a licensed certified applicator who is available if needed for consultation or assistance even though the licensed certified applicator is not physically present at the time and place the pesticide is used.</u></p> <p><del>9.</del> <u>"Director" means, through December 31, 2013, the director of the Arizona department of agriculture.</u></p> <p><del>10-11.</del> <u>11. "Final grade treatment" means establishment of a complete vertical barriers barrier at the exterior of foundation walls in stem wall or monolithic construction or at the exterior of grade beams in monolithic construction.</u></p> <p><u>12. "Financial security" means liability insurance, a deposit of cash or certified monies, a surety bond, or an irrevocable and unconditional letter of credit from an Arizona or federally chartered financial institution.</u></p>	<ul style="list-style-type: none"> <li>Initial corrective treatment instead of initial termite corrective treatment</li> </ul>

Proposed Statutes	Comments
<p>11. "Fungi inspection report" means a written inspection report on a form approved by the office.</p> <p>12. <del>13.</del> "Household pests" means pests, other than wood-destroying <del>insects,</del> <u>organisms</u>, that invade households or other structures, including rodents, vermin and insects.</p> <p>13. <del>14.</del> "Immediate supervision" means use of a pesticide by an employee acting under the instructions, control and responsibility of a <del>licensed</del> <u>certified</u> applicator who is within the direct line of sight or within hearing distance of the employee and who is available for consultation or assistance at the time and place the pesticide is used.</p> <p>14. <del>15.</del> "Initial <del>termite</del> corrective treatment" means the first <u>post-construction</u> treatment of any kind performed by a licensee <del>after a treatment made prior to or during construction,</del> excluding a treatment performed under warranty by a licensee who has performed the <u>pretreatment or new-construction</u> treatment <del>prior to or during construction.</del></p> <p>15. <del>16.</del> "Inquiry" means <del>information from the public or office staff</del> <u>an initial investigation</u> of possible violations of this <del>chapter,</del> <u>chapter</u> or rules adopted pursuant to this chapter <u>based on information received from the public or Department staff.</u></p> <p>16. <del>17.</del> "Integrated pest management" means a sustainable approach to managing pests that combines biological, cultural, physical and <del>pesticide</del> <u>chemical</u> tools in a way that minimizes economic, health and environmental risks.</p> <p>17. "License" means <del>an approval granted by the office to act as an applicator or qualifying party or to operate a business of structural pest control in this state.</del></p> <p>18. "Licensed applicator" means a person who is licensed by the office to apply pesticides in accordance with this chapter.</p> <p>18. "New-construction treatment" means a treatment that protects all cellulose components of a structure from wood-destroying insects and 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.</p> <p>19. "Office" means the office of pest management established by section 32-2302.</p> <p>20. <del>19.</del> "Other structures" includes railroad cars, boats, docks, motor vehicles or airplanes and their contents.</p> <p>21. <del>20.</del> "Pest management" means the management of <del>public health</del> <u>health related</u> pests, aquatic pests, household pests, wood-destroying <del>insects, fungi</del> <u>organisms</u>, or other pests, including weeds, that exist <u>in,</u> near or around structures, in ornamental shrubs and trees, <del>on golf courses,</del> along rights-of-way or in lawns or cemeteries and all pesticide application that could be harmful to public health or the environment. Pest management does not include pesticide applications used directly in the commercial production of crops and animals <del>if those applications are governed by the Arizona department of agriculture pursuant to title 3, chapter 2, articles 6 and</del></p>	

<b><u>Proposed Statutes</u></b>	<b><u>Comments</u></b>
<p>6.1.</p> <p>21. <u>“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 use of devices for the purpose of eliminating, exterminating, controlling or preventing infestations.</u></p> <p>22. <u>“Pesticide” means any substance or mixture of substances intended to be used for defoliating plants or 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 may infest or be detrimental to vegetation, humans, animals or households or be present in any environment.</u></p> <p>23. <u>“Political subdivision” means a state agency, county, city, town, municipal corporation or school district, or a special district formed pursuant to title 48.</u></p> <p>24. <u>“Post-construction treatment” means treatment to control wood-destroying insects in 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 3-3523(A) &amp; (B).</u></p> <p>25. <u>“Pretreatment” means a termite treatment that protects all cellulose components of a structure from subterranean termites, is performed before a permanent concrete slab foundation is installed or in conjunction with establishing footings and supports for a raised foundation, and establishes thorough and complete horizontal and vertical treated barriers.</u></p> <p><del>23:</del> 26. <u>“Prior violation” means any violation for which disciplinary action was taken within a five-year period prior to the date of the violation for which current disciplinary action is sought.</u></p> <p>24. 27. <u>“Qualifying party” means <del>an individual who is licensed by the office to ensure the supervision and training a certified qualified applicator registered with the Department as the individual responsible for ensuring the training, equipping and supervision of all employees applicators of a business licensee licensee, registered private owner, or political subdivision in the business of structural pest control.</del> an individual who is licensed by the office to ensure the supervision and training a certified qualified applicator registered with the Department as the individual responsible for ensuring the training, equipping and supervision of all employees applicators of a business licensee licensee, registered private owner, or political subdivision in the business of structural pest control.</u></p> <p>28. <u>“School” means any public or nonpublic institution, other than a child’s home, established for the purposes of offering instruction to pupils in programs for preschool children with disabilities, kindergarten programs or any combination of grades one through twelve that qualifies as a school pursuant to section 15-802.</u></p> <p>29. <u>“Service vehicle” means a motor vehicle, including a trailer attached to the motor vehicle, used to transport equipment or pesticides for the business of pest management.</u></p> <p>30. <u>“Sterilant” means a product that is designed for killing all live vegetation and preventing all vegetation growth for twelve or more months.</u></p>	

Proposed Statutes	Comments
<p><del>25- 31.</del> "Weed" means any plant that grows where it is not wanted.</p> <p><del>26- 32.</del> "Wood-destroying insect inspection report" means a written inspection report on a form approved by the <del>acting</del> 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.</p> <p><del>27- 33.</del> "Wood-destroying <del>insects</del> <u>organisms</u>" means <del>insects</del> <u>organisms</u> that attack, damage or destroy wood or wood-derivative products, <u>but does not include birds or mammals.</u></p>	
<p><del>§ 32-2302. Office of pest management; acting director</del></p> <p><del>A. The office of pest management is established.</del></p> <p><del>B. The director of the department of agriculture shall appoint an acting director of the office who has administrative experience and experience in pest management to serve at the director's pleasure through December 31, 2013.</del></p>	
<p><del>§ 32-2304. 3-3503. Powers and duties</del></p> <p><del>A. The acting director is responsible for administering this chapter and shall:</del></p> <p><del>1. Adopt rules that are necessary or proper for the administration of to administer and implement this chapter, including administrative provisions, license and registration requirements and qualifications, training and education requirements, health and safety provisions, duties and responsibilities, recordkeeping and production of records requirements, financial security standards, licensee inspection and treatment reports requirements, disciplinary action provisions, equipment provisions, and provisions for the use, storage and application of pesticides and devices used in structural pest control management.</del></p> <p><del>2. Administer and enforce this chapter and rules adopted pursuant to this chapter.</del></p> <p><del>3. Notify the business licensee, applicator and qualifying party in writing of any complaint against inquiry into possible violations by the business licensee, qualifying party or employee of the business licensee by the close of business on the tenth business day after the day on which the acting director initiated the complaint inquiry if the director anticipates an enforcement action. If in the course of the investigation the Department identifies any alleged violations by a different business licensee, applicator or qualifying 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.</del></p> <p><del>4. 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 the complaint.</del></p> <p><del>5. Conduct Develop and either conduct or contract to conduct certified applicator license and certified qualifying party license qualified applicator tests at locations throughout this state. If the acting director contracts for these</del></p>	<p>Several portions of this section have been clarified or revised for improved effectiveness.</p> <p>The subpoena power has been revised and moved to the "may" portion of the section.</p> <p>Powers covered by A.R.S. § 3-107 and A.R.S. Titles 35 &amp; 41 have been deleted. This includes summary suspensions, the use of the Office of Administrative Hearings, and credit card fees.</p> <p>Provisions related to criminal background checks have been deleted.</p> <p>New powers have been added related to the registration or identification of applicators by businesses and QPs, access to records establishing that a person is an employee of the business, the charging of handling fees for non-electronic transactions, and the denial of a license to a person who owes fees or penalties.</p> <p>Revised subsection (A)(3) parallels similar</p>

Proposed Statutes	Comments
<p>tests, the contracts may provide for specific examination fees or a reasonable range of fees determined by the <del>acting</del> director to be paid directly to the contractor by the applicant. The <del>acting</del> director shall make all efforts to contract with private parties to electronically administer the <del>applicator and qualifying party</del> license tests.</p> <p><del>6.</del> <u>5.</u> Maintain a computer system for the benefit and protection of the public that includes the following information on <del>termit</del> pretreatments, new-construction treatments, final grade treatments <del>that are done before or during construction</del>, initial <del>termit</del> corrective projects, <del>preventative termit</del> treatments and wood-destroying insect inspection reports:</p> <p>(a) The name of the individual who performed the work.</p> <p>(b) The address or location of the work or project.</p> <p>(c) The name of the pest management company.</p> <p>(d) The name of the qualifying party.</p> <p>(e) The applicator license numbers.</p> <p>(f) The nature and date of the work performed.</p> <p>(g) Any other information that is required by rule.</p> <p><del>7. Establish offices it deems necessary to carry out the purposes of this chapter.</del></p> <p><del>8. Employ permanent or temporary personnel it deems necessary to carry out the purposes of this chapter and designate their duties.</del></p> <p><del>9. Investigate violations of this chapter and rules adopted pursuant to this chapter.</del></p> <p><del>10.</del> <u>6.</u> Oversee the approval, content and method of delivery of continuing education courses.</p> <p><del>11.</del> <u>7.</u> Deny a license to any person who has had a license revoked for a period of five years from the time of revocation.</p> <p><del>12.</del> <u>8.</u> License applicators, <del>qualifying parties</del> <u>qualified applicators</u> and businesses in accordance with this chapter and rules adopted pursuant to this chapter.</p> <p><u>9. Register qualifying parties and branch supervisors in accordance with this chapter and rules adopted pursuant to this chapter.</u></p> <p><del>13.</del> <u>10.</u> Require the payment of a penalty for any late license renewal.</p> <p><del>14. Require either completion of the continuing education requirement or successful completion of the license examination for failure to renew a license on time.</del></p>	<p>Agriculture requirements in A.R.S. §§ 3-364(B) &amp; 3-3107(C).</p> <p>New subsection (B)(6) comes from 32-2321(I).</p> <p>Provisions related to TARF fees have been moved to new section 3-3522.</p> <p>Revised subsection C concerning OPM's right to enter now more closely parallels the Department's similar authority under A.R.S. §§ 3-364(A) &amp; 3-2605(A) and includes a right to inspect service vehicles.</p> <p>New subsection D solidifies OPM's authority to monitor licensees while they perform pest management services. <i>See also</i> A.R.S. § 3-3531(A)(7).</p>

<u>Proposed Statutes</u>	<u>Comments</u>
<p><del>15. Suspend a license if a licensee fails to renew the license within thirty calendar days after the renewal date.</del></p> <p><del>16. 11. 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.</del></p> <p><del>17. 12. Adopt a wood-destroying insect inspection report form for use by business licensees.</del></p> <p><del>B. The acting director may charge to the holder of a business license the actual cost of providing mailed copies of rules, forms or policies that are proposed for adoption and for educational materials.</del></p> <p><del>C. The acting director shall administer and enforce this chapter and the rules adopted pursuant to this chapter.</del></p> <p><del>D. B. The acting director may:</del></p> <p><del>1. Compel attendance of witnesses, administer oaths or affirmations and take testimony concerning all matters coming within the acting director's jurisdiction. 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.</del></p> <p><del>2. Require a person who seeks a license pursuant to this chapter to submit to the office a full set of fingerprints and the fees required by section 41-1750. The acting 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.</del></p> <p><del>3. Enter into intergovernmental agreements.</del></p> <p><del>4. 2. With at least twenty-four hours' hours notice, request specific records from unless there may be an immediate risk to health or safety, require a business licensee, qualifying party or certified applicator at the person's place of business during normal business hours to produce specific records. On a showing of good cause by the person, the director may excuse a failure to timely comply.</del></p> <p><del>5. 3. Deny or revoke a license based on the information in the application or information that the acting director receives from the criminal background check.</del></p> <p><del>6. On a showing of good cause by the business licensee, excuse a failure to timely comply with a records request.</del></p> <p><del>7. 4. Issue advisory notices for de minimis violations.</del></p> <p><del>8. Require inspectors to be licensed applicators in all categories within their scope of work during their probationary period. Inspectors shall attend and complete an investigative training class that is prescribed by the acting director.</del></p> <p><del>9. 5. Investigate alleged violations of all applicable federal and state statutes, this chapter, rules or adopted</del></p>	

Proposed Statutes	Comments
<p><del>pursuant to this chapter, consent agreements, orders or alleged violations of and</del> any condition imposed in connection with a license.</p> <p>6. <u>Require the public to provide alleged violations in writing.</u></p> <p><del>10- 7.</del> Pursuant to section <del>32-2329</del> 41-1092.11, summarily suspend a license issued under this chapter to protect the health, safety and welfare of the public.</p> <p><del>11- 8.</del> Issue a corrective work order requiring a licensee 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.</p> <p><del>12- 9.</del> Do at least one of the following in relation to unlicensed pest management business operations, <u>except as to operations not requiring licensure:</u></p> <p>(a) Issue a cease and desist order requiring <del>an unlicensed pest management</del> <u>the</u> business to immediately cease operations.</p> <p>(b) <del>Except as provided in section 32-2311, subsection D, impose on an unlicensed pest management</del> <u>Impose on the owner of the</u> business a civil penalty of not more than one thousand dollars for the first occurrence and not more than two thousand dollars for the second or subsequent occurrence.</p> <p><del>13. Refer all cases for formal hearing to the office of administrative hearings.</del></p> <p>14. <u>10.</u> Refuse to issue a business license in a name that is likely to be misleading or to imply any distorted representation about the business.</p> <p><del>15- 11. Issue a renewable and revocable temporary qualifying party license to a licensed</del> <u>Register a certified</u> applicator who is a representative of a business licensee <u>as a temporary qualifying party</u> if the qualifying party becomes disassociated with the business licensee.</p> <p><del>16- 12.</del> Provide and conduct classes to train <del>applicators and qualifying parties</del> <u>individuals</u> in preparation for <del>license tests</del> <u>certified applicator and certified qualified applicator exams</u>. The <del>acting</del> director may assess a fee for each class. The <del>acting</del> director may contract with a commercial enterprise or an accredited institution to conduct the class.</p> <p><del>17- 13.</del> Provide and conduct continuing education classes quarterly. The <del>acting</del> director may assess a fee for each credit hour. The <del>acting</del> director may contract with a commercial enterprise or an accredited institution to conduct the class under the supervision of <del>office</del> <u>Department</u> staff.</p> <p><del>18. Appoint an employee of the office to conduct an informal settlement conference with a licensee against whom an inquiry is received or a complaint is filed.</del></p> <p><del>19. Prepare a consent order only after either an informal settlement conference is conducted pursuant to section 32-2321 or a formal hearing is conducted pursuant to title 41, chapter 6, article 10.</del></p>	

<u>Proposed Statutes</u>	<u>Comments</u>
<p><del>20. 14. Apply to the appropriate court, through the attorney general or county attorney, for an order enjoining any act or practice that constitutes a violation of this chapter or any rule adopted pursuant to this chapter.</del></p> <p><del>21. Approve proposed consent orders.</del></p> <p><del>15. Enter into consent agreements and issue consent orders.</del></p> <p><del>16. Charge a person for providing copies of rules, forms or policies that are proposed for adoption and educational materials.</del></p> <p><del>17. Require business licensees to register with the Department or otherwise identify all of the licensed and unlicensed applicators of the business.</del></p> <p><del>18. Require qualifying parties to register with the Department or otherwise identify all of the licensed and unlicensed applicators supervised by the qualifying party.</del></p> <p><del>19. Require a business licensee to produce records, including tax records, for the purpose of verifying that an individual is an employee of the business licensee.</del></p> <p><del>20. Charge a handling fee in addition to the transaction amount for any transaction that could have been completed electronically and was not.</del></p> <p><del>21. Deny a license to or refuse to renew the license of a person who owes unpaid fees or civil penalties to the Department.</del></p> <p><del>E. Each completed form for a termite treatment that is done before or during construction, initial termite corrective treatment project or wood destroying insect inspection report shall be accompanied by a fee. The initial fee is eight dollars. The acting director may:</del></p> <ol style="list-style-type: none"> <li><del>1. Adjust the fee upward or downward to a level that is calculated to produce sufficient revenue to carry out the functions prescribed under this section.</del></li> <li><del>2. Establish tiered fees according to the means of submission to encourage electronic submission of the termite action registration form.</del></li> <li><del>3. Assess a penalty of not to exceed one hundred dollars per form for failing to submit the required form or fee, or both, within thirty calendar days.</del></li> </ol> <p><del>F. Subject to the limitations of section 41 2544, the acting director may enter into agreements for the purpose of enabling the office to accept payment for fees imposed under this chapter by alternative payment methods, including credit cards, charge cards, debit cards and electronic funds transfers. Before the monies are transferred to the acting director pursuant to section 32 2305, the person collecting the fees shall deduct any amount charged or withheld by a company providing the alternative payment method under an agreement with the office.</del></p> <p><del>G. C. In the enforcement of this article, the acting <u>The</u> director or any duly authorized agents may enter with the</del></p>	

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<p><del>authority of a warrant issued by a court of competent jurisdiction at reasonable times on any private or public property property, including service vehicles, 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.</del> The owner, managing agent or occupant of the property <u>or office</u> shall permit entry for the purpose of inspecting and investigating conditions relating to the use, storage, application and disposal of <del>pesticides.</del> <u>pesticides, including worker safety materials, and to records pertaining to pest management. If a person refuses to admit the director or an agent in accordance with this subsection, the director may obtain a warrant from a court of competent jurisdiction. If a licensed person refuses to admit the director or an agent in accordance with this subsection during regular business hours, the director may also impose disciplinary action on the person.</u></p> <p><u>D. The director or any duly authorized agents may monitor compliance by a person with this Chapter and the rules adopted under this Chapter while the person is providing pest management services.</u></p>	
<p><b>§ <del>32-2305.</del> <u>3-3504. Pest management fund; exemption</u></b></p> <p><del>A. A</del> <u>The pest management fund is established. All monies collected under the provisions of this chapter shall be deposited, pursuant to sections 35-146 and 35-147, in the fund.</u></p> <p><del>B. Pursuant to sections 35-146 and 35-147, the acting director shall deposit ten per cent of all fees in the state general fund and deposit the remaining ninety per cent in the pest management fund. All monies collected from civil penalties shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund. The director shall administer the fund. On notice from the director, the state treasurer shall invest and divest monies in the fund as provided by section 35-313 and monies earned from investment shall be credited to the fund.</del></p> <p><u>C. The fund shall be used solely for the purpose of administering the provisions of this chapter upon the order of the director.</u></p> <p><del>C. D. Monies deposited in the</del> <u>The pest management fund are shall be exempt from the provisions of section 35-190 relating to lapsing of appropriations.</u></p> <p>OR</p> <p><del>A. A</del> <u>The pest management trust fund is established for the exclusive purpose of implementing, continuing and supporting the program established by this chapter. All monies collected under the provisions of this chapter shall be deposited in the trust fund.</u></p> <p><del>B. Pursuant to sections 35-146 and 35-147, the acting director shall deposit ten per cent of all fees in the state general fund and deposit the remaining ninety per cent in the pest management fund. All monies collected from civil penalties shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund. 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</del></p>	<p>This section has been revised to match the language for Department of Agriculture funds, including elimination of 90/10 status.</p> <p>Agricultural funds currently have a temporary trust status. If this status continues, the OPM fund may also get trust status.</p>

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<p><u>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 investment shall be credited to the trust fund.</u></p> <p><u>C. The beneficiary of the trust is the program established by this chapter. The trust fund shall be used solely for the purposes of this chapter on the order of the director.</u></p> <p><u><del>C. D. Monies deposited in the</del> The pest management trust fund <del>are</del> shall be exempt from the provisions of section § 35-190 relating to lapsing of appropriations. <u>Surplus monies, including any unexpended and unencumbered balance at the end of the fiscal year, do not revert to the state general fund.</u></u></p>	
<p><b><u>§ <del>32-2306.</del> 3-3505. Annual and informational reports</u></b></p> <p>A. On or before September 30 of each year, the <del>acting</del> director shall submit a report regarding the number and types of termite treatments as maintained pursuant to section <del>32-2304</del> 3-3503, subsection <del>E</del> B. The information shall be categorized according to the general type of treatment used, including pesticide, bait, mechanical, temperature and other methods of treatment. If pesticide treatment is used, the report shall include the active ingredient or trade name of the pesticide used.</p> <p>B. The <del>acting</del> director shall submit copies of the report to the speaker of the house of representatives, the president of the senate, the governor, the secretary of state and the director of the Arizona state library, archives and public records.</p> <p>C. If a buyer of real property makes a request to the <del>acting</del> director, the <del>acting</del> director shall make available to the buyer an information report listing all termite treatments reported for the property. The wood-destroying insect inspection report shall state that a buyer may obtain the information report from the <del>acting</del> director.</p>	
<p><b><u>§ 3-3506. Local regulation</u></b></p> <p><u>The provisions of this chapter and the rules which implement this chapter are of statewide concern and are not subject to further local regulation.</u></p>	
<p><b><u>ARTICLE 2. CERTIFICATION, REGISTRATION AND LICENSURE</u></b></p>	
<p><b><u>§ 3-3511. Certification categories</u></b></p> <p><u>An individual may apply for certification as an applicator or qualified applicator in any one or a combination of the following categories:</u></p> <ol style="list-style-type: none"> <li><u>1. Industrial, institutional, structural and health related pest management.</u></li> <li><u>2. Wood-destroying organism management.</u></li> <li><u>3. Ornamental and turf pest management.</u></li> </ol>	<p>The names of the certification categories have been updated to better match the category names listed in the federal regulations. Category 1 is the former “General” category.</p> <p>“Weed” has been removed from the title of the “right-of-way” category. This will make it clearer that right-of-way applicators can treat right-of-way weeds, aquatic applicators can</p>

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<p><u>4. Right-of-way pest management.</u></p> <p><u>5. Aquatic pest management.</u></p> <p><u>6. Fumigation.</u></p> <p><u>7. Other categories or subcategories established by rule.</u></p>	<p>treat aquatic weeds, and ornamental and turf applicators can treat turf weeds.</p> <p>OPM rules will describe the scope of each category.</p>
<p><b><u>§ 32-2312. Applicator licenses; application; categories; renewal; inactive licenses</u></b></p> <p><del>A. An application for an applicator license shall be in a form prescribed by the acting director and accompanied by the prescribed fee. The application shall set forth whether the applicant has ever been convicted of a felony and, if so, the nature of the felony, when and where it was committed and the disposition of the conviction.</del></p> <p><del>B. An applicant may apply for a license in any one or a combination of the following categories:</del></p> <ol style="list-style-type: none"> <li><del>1. General and public health pest management, excluding management of wood-destroying insects, wood-destroying insect inspection, antimicrobial pest management, fungi inspection, right of way and weed management, fumigation, aquatic pest management and turf and ornamental horticulture pest management.</del></li> <li><del>2. Management of wood-destroying insects.</del></li> <li><del>3. Right of way and weed management.</del></li> <li><del>4. Fumigation.</del></li> <li><del>5. Turf and ornamental horticulture pest management.</del></li> <li><del>6. Antimicrobial pest management.</del></li> <li><del>7. Fungi inspection.</del></li> <li><del>8. Wood-destroying insect inspection.</del></li> <li><del>9. Aquatic pest management.</del></li> <li><del>10. Other categories or subcategories based on practice in the industry and established by rule.</del></li> </ol> <p><del>C. An applicator shall pass an examination, given under the direction of the acting director, with a score of at least seventy five per cent for each category in which the applicator is seeking licensure.</del></p> <p><del>D. An applicator shall be of good moral character. A felony conviction may demonstrate a lack of good moral character.</del></p> <p><del>E. Except as provided in subsection F of this section, each employee of a business licensee applying pesticides shall be licensed in all applicable categories within ninety calendar days after employment.</del></p> <p><del>F. An unlicensed employee of a business licensee applying pesticides, other than for the treatment of termites,</del></p>	<p>These provisions will be placed in rule.</p>

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<p>shall work under the direct supervision of a licensed applicator at all times.</p> <p>G. An unlicensed employee of a business licensee applying pesticides for the treatment of termites shall work under the immediate supervision of a licensed applicator at all times. Only one unlicensed employee at a time may be immediately supervised by a licensed applicator.</p> <p>H. A licensed applicator desiring to work in a category for which the applicator is not licensed shall become licensed in the category within thirty calendar days after beginning work.</p> <p>I. Except as provided in section 32-4301, each applicator license shall be renewed by submitting a form prescribed by the acting director and paying the prescribed fee.</p> <p>J. An applicator may apply to the acting director for inactive license status. To reactivate an inactive license that has been inactive for one year or less, an applicator shall apply to the acting director. To reactivate an inactive license that has been inactive for more than one year, an applicator shall apply to the acting director and shall either successfully complete the applicator license examination or, within twelve months preceding application for reactivation, complete continuing education as required pursuant to section 32-2319.</p>	
<p><b>§ <del>32-2313</del>, <u>3-3512</u>. Business license; renewal; financial security; definition</b></p> <p>A. A person who <del>wishes to engage</del> <u>engages</u> in the business of pest management shall <del>first obtain</del> <u>possess a valid business license obtained</u> from the <del>office as provided in this article</del> <u>Department</u>. A person who is not exempt under this article and who advertises for, solicits or holds himself out as willing to engage in the business of pest management is presumed to be <u>engaging</u> in the business of pest management.</p> <p>B. An application for <u>an original or a renewal of a business license</u> shall:</p> <ol style="list-style-type: none"> <li>1. Be in a form <u>and include the information</u> prescribed by the <del>acting</del> director.</li> <li>2. Be accompanied by the prescribed fee.</li> <li>3. <del>Include the name and address of the qualifying party and written documentation of how the qualifying party will be active in the day to day management of the business licensee.</del></li> <li>4. <del>List all owners with more than a ten per cent ownership interest in the company, all corporate officers and members of the board of directors.</del></li> </ol> <p>C. A business licensee shall <del>register each primary and branch office with the acting director before it opens for business.</del></p> <p><del>D. 3. An applicant shall furnish</del> <u>Include the following to the acting director</u> <u>proof of financial security:</u></p> <ol style="list-style-type: none"> <li>1. <del>(a) Proof of financial responsibility consisting of either</del> <u>Either</u> a deposit of money, liability insurance, self-insured retention, a surety bond or a certified check protecting persons who may suffer <del>legal damages</del> <u>bodily injury or property damage</u> as a result of the operations of the applicant. The <del>acting</del> director shall not accept a</li> </ol>	<p>Deleted subsections (B)(3), (B)(4) &amp; (F) will be moved into rule.</p> <p>Deleted subsections (C) &amp; (G) are now covered by section 3-3514.</p> <p>Deleted subsection (H) has been moved to the general definitions statute, 3-3502.</p>

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<p>bond or a liability insurance policy unless 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 <del>acting</del> 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 <del>acting</del> director with a certificate of coverage that indicates the coverages and endorsements required by this subsection on a form prescribed by the <del>acting</del> director.</p> <p><del>2.</del> (b) Either of the following if the business licensee performs termite treatments:</p> <p>(<del>a</del>) (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.</p> <p>(<del>b</del>) (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.</p> <p><del>3.</del> (c) If the business licensee provides wood-destroying insect inspection reports <del>or fungi inspection reports</del>, 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.</p> <p><del>4.C.</del> If an insurance policy provides for a deductible, the deductible amount shall not exceed one per cent of the total financial security for each occurrence. If the deductible amount is in excess of one per cent of the total financial security for each occurrence, the business licensee shall provide other security as provided in this <del>subsection</del> <u>section</u> or other evidence of financial security for the excess deductible amount.</p> <p><del>5.D.</del> 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, <del>fungi inspection report errors and omissions</del> and pollution transit for its applicable license categories.</p> <p>E. If the proof of financial security on file with the <del>office</del> <u>Department</u> expires, the business license is automatically suspended until a current certificate of insurance or proof of financial responsibility is furnished to the <del>acting</del> director.</p> <p><del>F. Except as provided in section 32-4301, each business licensee shall renew the business license and each office registration on or before the expiration date of the license by filing renewal forms prescribed by the acting</del></p>	

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<p>director and paying the prescribed renewal fees. If a business licensee fails to renew the business license as required by this subsection, the licensee shall not engage in the business of pest management.</p> <p>G. Each branch office of a business licensee shall be supervised by a licensed applicator or qualifying party who is licensed in all categories in which the branch office operates.</p> <p>H. For the purposes of this section, "financial security" means liability insurance, a deposit of cash or certified monies, a surety bond or other equivalent item.</p>	
<p><b>§ 32-2314. Qualifying party; license; examination; inactive status; temporary license</b></p> <p><del>A. An application for a qualifying party license shall be in a form prescribed by the acting director and accompanied by the prescribed fee. The application shall set forth whether the applicant has ever been convicted of a felony and, if so, the nature of the felony, when and where it was committed and the disposition of the conviction.</del></p> <p><del>B. A qualifying party may apply for a license in any one or a combination of the following categories:</del></p> <ol style="list-style-type: none"> <li><del>1. General and public health pest management, excluding management of wood-destroying insects, wood-destroying insect inspection, antimicrobial pest management, fungi inspection, right of way and weed management, fumigation, aquatic pest management and turf and ornamental horticulture pest management.</del></li> <li><del>2. Management of wood-destroying insects.</del></li> <li><del>3. Right of way and weed management.</del></li> <li><del>4. Fumigation.</del></li> <li><del>5. Turf and ornamental horticulture pest management.</del></li> <li><del>6. Antimicrobial pest management.</del></li> <li><del>7. Fungi inspection.</del></li> <li><del>8. Wood-destroying insect inspection.</del></li> <li><del>9. Aquatic pest management.</del></li> <li><del>10. Other categories or subcategories based on practice in the industry and established by rule.</del></li> </ol> <p><del>C. An applicant for qualifying party licensure shall:</del></p> <ol style="list-style-type: none"> <li><del>1. Pass an examination, given under the direction of the acting director, with a score of seventy five per cent or more.</del></li> <li><del>2. Present evidence satisfactory to the acting director that the person has sufficient education or experience in the use of or supervising the use of a pesticide covered by each category for which the person is applying as</del></li> </ol>	<p>These provisions will be placed in rule, but under the heading of certified qualified applicators (QA).</p>

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<p>demonstrated by having had within five years immediately preceding application either:</p> <p>(a) Three thousand verifiable hours of practical experience in the business of pest management.</p> <p>(b) Two thousand verifiable hours of practical field experience in the business of pest management and have successfully completed at least twelve semester hours or its equivalent in entomology, the eradication or management of weeds, general horticulture, plant pathology or any combination of these subjects directly related to each category for which the person is applying.</p> <p>3. Be of good moral character. A felony conviction may demonstrate a lack of good moral character.</p> <p><del>D. The examination shall test the qualifying party's knowledge of pests and the use, storage and application of pesticides and other devices used in the eradication of pests within the category for which the person is applying.</del></p> <p><del>E. A qualifying party shall have an inactive qualifying party license status if the qualifying party is not currently acting as a qualifying party for a business licensee. To reactivate an inactive license that has been inactive for one year or less, a qualifying party shall apply to the acting director to qualify a business license. To reactivate an inactive license that has been inactive for more than one year, a qualifying party shall apply to the acting director to qualify a business license and shall either successfully complete the license examination or, within twelve months preceding application for reactivation, complete continuing education as required pursuant to section 32-2319.</del></p> <p><del>F. If the acting director issues a renewable and revocable temporary qualifying party license pursuant to section 32-2304, the temporary qualifying party license is valid for sixty calendar days and may be renewed only on approval of the acting director if good cause is established for delay in the procurement of a qualifying party license. Under the temporary qualifying party license, a business licensee shall otherwise fully comply with the requirements of this chapter and rules adopted pursuant to this chapter.</del></p> <p><del>G. A person acting as a qualifying party shall:</del></p> <p><del>1. Be active in the management of the business licensee by being present at the business office location each month to review pesticide use, storage and disposal and by ensuring the supervision and training of the employees of the business.</del></p> <p><del>2. During normal business hours, be readily available to the licensed applicators and employees of the business licensee.</del></p> <p><del>H. A qualifying party shall renew a qualifying party license by submitting a form prescribed by the acting director and a fee prescribed by section 32-2317. A qualifying party shall furnish to the acting director proof of completion of continuing education as prescribed by section 32-2319. Successful completion of the qualifying party license examination for each category may be substituted for the continuing education requirement. Continuing education hours used for renewal of a qualifying party's applicator license may be used for the</del></p>	

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<p><del>qualifying party's license renewal.</del></p> <p><b>§ 3-3513. Qualifying party</b></p> <p><u>A. A person shall not engage in the business of pest management in any category without a qualifying party registered in that category.</u></p> <p><u>B. To be a qualifying party, an individual shall:</u></p> <p><u>1. Be a certified qualified applicator.</u></p> <p><u>2. Register as a qualifying party with the Department using a form and including the information prescribed by the director.</u></p>	<p>This new section states the basic requirements related to QPs. More details about applying to be a QP and the responsibilities of a QP will be in rule.</p> <p>Instead of going from a licensed applicator directly to a QP, the statutes will now have a certified applicator who passes the current QP tests become a certified qualified applicator or QA. A business can have several QAs who are not QPs. Each business will inform OPM which QA is serving as the QP by registering that QA as a QP.</p>
<p><b>§ 3-3514. Branch office; branch supervisor</b></p> <p><u>A. A business licensee shall register each branch office with the director before the branch office opens for business.</u></p> <p><u>B. Each branch office shall be supervised by a registered branch supervisor.</u></p>	<p>This section is specific to branch offices and is no longer a subpart of the business license statute. Branch manager has been changed to branch supervisor to reflect the individual's responsibility to supervise the other applicators.</p>
<p><del>§ 32-2311. 3-3515. Persons not required to be licensed; civil penalties; definition</del> <b>License exemptions; private owner registration</b></p> <p>A. <del>This</del> <u>The provisions of this chapter does requiring licensure and registration do not apply to:</u></p> <p><del>1. Persons licensed or certified pursuant to title 3, chapter 2, article 6.</del></p> <p><del>2. Persons applying nonrestricted use pesticides on residential property that they own and occupy or that they own which is unoccupied.</del></p> <p><del>3. 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.</del></p> <p><del>4. Employees of political subdivisions or their designated agents while performing emergency response or rescue services.</del></p> <p><del>5. 3. Persons using a nonrestricted, ready to use disinfectant, sanitizer or deodorizer.</del></p> <p><del>7. 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.</del></p>	<p>A.R.S. § 32-2311 will be divided into three separate statutes for clarity. This section will cover general exemptions from licensure. Political subdivisions and landscapers will be covered by other sections.</p> <p>Subsection (A)(5) adds a statutory exemption for over-the-counter anti-microbial treatments of swimming pools.</p> <p>New subsection B makes clear that a person working on behalf of a business licensee or a political subdivision does not need their own separate business license to do that.</p> <p>Significantly, this section adds a new exemption in subsection C for private owners.</p>

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<p>8. <del>Except as provided in section 32-2307, volunteers of political subdivisions who apply herbicides for the purpose of the eradication and control of noxious weeds as defined in section 3-201 and who are under the immediate supervision of a licensed applicator. This exemption does not apply to:</del></p> <p><del>(a) The use of herbicides that are labeled with the words "restricted use" or "danger" and that are not commercially available to the general public.</del></p> <p><del>(b) The use of sterilants.</del></p> <p><del>(c) Volunteers of political subdivisions who use application equipment that holds more than eight gallons of total mixed liquid herbicide.</del></p> <p><del>(d) Volunteers of political subdivisions who use more than twenty-five pounds of a nonliquid herbicide.</del></p> <p><del>(e) Volunteers of political subdivisions who do not follow label and labeling directions.</del></p> <p><del>(f) Volunteers of political subdivisions who have not completed an office of pest management approved herbicide application training program conducted by the political subdivision.</del></p> <p>5. <u>Persons using an over-the-counter anti-microbial to treat a swimming pool.</u></p> <p><u>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 political subdivision.</u></p> <p><u>C. A person is not required to have a business license to apply pesticides on commercial property that the person owns or occupies or on residential property that the person owns and which another person occupies provided both:</u></p> <p><u>1. The owner of the property is registered with the Department as a private owner with respect to the property.</u></p> <p><u>2. The owner provides proof of the financial security required by section 3-3512 unless the director lowers or eliminates the financial security requirement for private owners by rule.</u></p> <p><u>D. The exemption in subsection C of this section applies to the property owner and the owner's employees.</u></p> <p><u>E. The director may exempt by rule from sections 3-3512 and 3-3513 and prescribe alternate requirements and conditions for certified applicators who perform inspections but do not make recommendations, estimates, bids or contracts for treatment or use pesticides or devices for pest management.</u></p>	<p>This exemption applies to people who apply pesticides to property that they own and who do not apply pesticides for hire. The exemption eliminates the need for a business license, but does require registration for tracking purposes. The registration fee is significantly less than the business license fee. Notably, this exemption can apply to landlords.</p> <p>This section also adds a new exemption, as established in rule, from potentially both a business license and the QP requirement for certified applicators who are only in the business of doing inspections. For example, under this authority, the Director could exempt people who only perform termite inspections from the business license and/or QP requirements.</p>
<p><b><u>§ 32-2311. 3-3516. Persons not required to be licensed; civil penalties; definition Political subdivisions; exemptions</u></b></p> <p><u>A. A political subdivision that uses pesticides to conduct pest management on property owned, leased or managed by the political subdivision, including easements:</u></p> <p><u>B. An employee of a political subdivision who engages in pest management:</u></p>	<p>A.R.S. § 32-2311 will be divided into three separate statutes for clarity. This section will cover political subdivisions.</p> <p>The section will require political subdivisions to have a QP, but will also allow political</p>

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<p>1. Is not required to be licensed under section <del>32-2313 or 32-2314</del> <u>3-3512</u>.</p> <p>2. Must <u>have a qualifying party registered in the appropriate categories.</u></p> <p><u>B. A political subdivision may enter into an intergovernmental agreement with another political subdivision for the purpose of obtaining the services of the other political subdivision's qualifying party. A qualifying party for political subdivisions shall separately register as a qualifying party for each political subdivision served, but may not register as a qualifying party for more than one political subdivision without approval from the director.</u></p> <p><u>C. An employee of a political subdivision who provides pest management services must be licensed as an a certified applicator under section <del>32-2312</del>, except as provided by subsection A, paragraph 4 D of this section.</u></p> <p><u>D. The following individuals are exempt from the certification requirements:</u></p> <p><u>1. Employees of political subdivisions who applied pesticides for the political subdivision for the first time no more than ninety days prior, but this exemption does not apply to employees who apply pesticides at a school or child care facility.</u></p> <p><u>2. Employees of political subdivisions or their designated agents while performing emergency response or rescue services.</u></p> <p><u>3. Volunteers of political subdivisions while applying herbicides for the purpose of the eradication and control of noxious weeds as defined in section 3-201 and who are under the immediate supervision of a certified applicator. This exemption does not apply to volunteers of political subdivisions who:</u></p> <p><u>(a) Apply herbicides at a school or child care facility.</u></p> <p><u>(b) Use herbicides that are labeled with the words "restricted use" or "danger."</u></p> <p><u>(c) Use sterilants or pre-emergent herbicides.</u></p> <p><u>(d) Use application equipment that holds more than four gallons of total mixed liquid herbicide.</u></p> <p><u>(e) Have not completed a Department approved herbicide application training program conducted by the political subdivision.</u></p> <p><del>E. Volunteers of political subdivisions who are not working under the immediate supervision of a licensed applicator may be subject to section 32-2304, subsection D, paragraph 12.</del></p> <p><del>F. For the purposes of this section, "volunteers of political subdivisions" means persons who work without compensation other than reimbursement of actual expenses incurred or disbursement of meals or other incidental benefits.</del></p>	<p>subdivisions to enter into interagency agreements for the sharing of a QP.</p> <p>Subsection (D)(1) gives employees of political subdivisions the same 90 day exception that employees of business licensees have.</p> <p>Subsections (D)(2)-(3) are not new, though they do have a new location. They are slightly revised versions of A.R.S. § 32-2311(A)(4) &amp; (A)(8).</p>
<p><b><u>§ 32-2311, 3-3517. Persons not required to be licensed; civil penalties; definition Landscapers; records; civil penalties</u></b></p>	<p>A.R.S. § 32-2311 will be divided into three separate statutes for clarity. This section will cover landscapers.</p>

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<p><del>A. This</del> <u>The provisions of this chapter does requiring licensure and registration do not apply to:</u></p> <p><del>6. Except as provided in section 32-2307, persons who are conducting a person who conducts lawn, garden, shrub or tree maintenance and who apply applies herbicides for the purpose of weed management. This exemption does not apply to:</del> <u>management, except as otherwise provided in this section.</u></p> <p><u>B. Notwithstanding subsection A, the licensure and registration requirements of this chapter apply to a person who:</u></p> <p><del>(a) 1. The use of Uses herbicides that are labeled with the words "restricted use" or "danger" and that are not commercially available to the general public. "danger."</del></p> <p><del>(b) 2. The use of Uses sterilants or pre-emergent herbicides.</del></p> <p><del>(c) 3. Persons who offer Offers weed management as their the person's primary service or who advertises weed management services.</del></p> <p><del>(d) 4. Persons who use Uses application equipment that collectively holds more than eight four gallons of total mixed liquid herbicide at an address or project on the same day.</del></p> <p><del>(e) 5. Persons who use Uses more than twenty-five pounds of a nonliquid herbicide at an address or project on the same day.</del></p> <p><del>(f) Persons who do not follow label and labeling directions.</del></p> <p><u>6. Uses or is part of a crew of two or more herbicide applicators at an address or project on the same day.</u></p> <p><u>7. Uses an herbicide at a school or child care facility.</u></p> <p><u>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.</u></p> <p><u>C. A person who is exempt from licensure and registration pursuant to subsection A, paragraph 6 of 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 not less than six months from the date of the treatment. For the purposes of this subsection, treatment records shall include all of the following:</u></p> <ol style="list-style-type: none"> <li><u>1. The address of the location of the herbicide application.</u></li> <li><u>2. The date of the herbicide application.</u></li> <li><u>3. The trade name or common name of the herbicide applied.</u></li> <li><u>4. The amount of herbicide applied.</u></li> </ol>	<p>The revisions to this section tighten up the exemption to prevent abuse. The penalty for unlicensed activity when an exemption does not apply has been increased to match the penalty applicable to anyone else who engages in the business of pest management without a license.</p>

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<p>5. <u>The name of the individual who performed the treatment.</u></p> <p>D. If a person is exempt <u>from licensure and registration</u> pursuant to subsection A, <del>paragraph 6</del> <u>A</u> of this section but does not comply with subsection C <del>of this section or if a person is not licensed under this chapter and the person is not exempt pursuant to subsection A, paragraph 6 of this section as a result of doing something prescribed in subsection A, paragraph 6, subdivisions (a) through (f) of this section,</del> the acting director shall:</p> <ol style="list-style-type: none"> <li>1. On a first violation, issue a written notice of correction that contains a warning and a copy of this section <del>and that provides full notice of the exemption requirements.</del></li> <li>2. On a second violation, impose a civil penalty of not <del>more</del> <u>less</u> than <del>two hundred</del> fifty dollars.</li> <li>3. On a third or any subsequent violation, impose a civil penalty of not more than <del>five hundred</del> <u>one thousand</u> dollars.</li> </ol> <p>E. If a person is not exempt from licensure and registration but uses a herbicide for the purpose of weed management, the director may:</p> <ol style="list-style-type: none"> <li>1. Issue a cease and desist order and an administrative warning.</li> <li>2. On a first violation, impose a civil penalty of not more than one thousand dollars.</li> <li>3. On a second or any subsequent violation, impose a civil penalty of not more than two thousand dollars.</li> </ol>	
<p><b>§ <del>32-2317</del> <u>3-3518</u>. Fees</b></p> <p>A. The acting director shall establish and collect <u>application and renewal</u> fees <del>that may include service charges allowed pursuant to section 32-2304 for persons who pay with alternative payment methods, including credit cards, charge cards, debit cards and electronic transfers, but that may not exceed the following amounts per year:</del></p> <ol style="list-style-type: none"> <li>1. <del>Qualifying party license application fee, one hundred fifty dollars.</del></li> <li>2. <del>Qualifying party license renewal fee, one hundred fifty dollars.</del></li> <li>3. <del>Qualifying party license renewal fee, inactive status, twenty five dollars.</del></li> <li>4. <del>Temporary qualifying party license application fee, twenty five dollars.</del></li> <li>5. <u>1. Business license application fee, one hundred <u>five thousand</u> dollars.</u></li> <li>6. <del>Business license renewal fee, one hundred dollars.</del></li> <li>7. <u>2. Branch office registration application fee, <u>two hundred</u> fifty dollars.</u></li> <li>8. <del>Branch office registration renewal fee, fifty dollars.</del></li> <li>9. <del>Late renewal penalty fee, double the prescribed renewal fee.</del></li> </ol>	<p>The fee amounts listed are for initial discussion purposes. The present thought is to have the fees set by rule generally in an amount less than the maximum allowed by law.</p> <p>Instead of setting an exact late fee, the section will now allow the director to set late fees by rule.</p>

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<p><del>10. 3. Qualifying party license status change, inactive to active, one hundred registration, twenty five one hundred dollars.</del></p> <p>4. <u>Temporary qualifying party registration, one hundred dollars.</u></p> <p>5. <u>Branch supervisor registration, one hundred dollars.</u></p> <p><del>11. 6. Applicator license application, thirty certification, five hundred dollars.</del></p> <p><del>12. Applicator license annual renewal, twenty five dollars.</del></p> <p>7. <u>Qualified applicator certification, five hundred dollars.</u></p> <p>8. <u>Private owner registration, two hundred fifty dollars.</u></p> <p>9. <u>Employee registration, one hundred dollars per employee.</u></p> <p><del>13. 10. Duplicate license identification card or registration, ten fifty dollars.</del></p> <p>B. <u>The director may charge and collect late fees as a penalty in addition to the fees listed in subsection A of this section.</u></p> <p>C. <u>The director may establish tiered fees for business licenses.</u></p> <p>D. <u>The office director may charge and collect additional fees for services that the acting director considers to be appropriate to carry out the intent and purpose of this chapter. These additional fees shall not exceed the costs of rendering the services.</u></p>	
<p><del>§ 32-2319. Continuing education</del></p> <p><del>A. In order to satisfy continuing education requirements, a licensee shall verify attendance at programs of instruction that are overseen and approved by the acting director and that are designed to augment the proficiency of the licensed applicator or qualifying party relating to pest management.</del></p> <p><del>B. If one individual holds both an applicator license and a qualifying party license, the completion of a minimum of six hours of continuing education in the preceding year for the applicator license satisfies the continuing education requirements for both the applicator license and qualifying party license.</del></p>	
<p><b>ARTICLE 3. SCHOOLS; WOOD-DESTROYING ORGANISMS</b></p>	
<p><del>§ 32-2307. 3-3521. Notification of pesticide</del> <b>Pesticide applications to schools and child care facilities; notification; exemptions; definitions</b></p> <p>A. <u>Only a certified applicator may apply pesticides at a school or child care facility.</u></p> <p>B. <u>A business licensee or licensed 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</u></p>	<p>New subsection A highlights up front the key requirement that was formerly hidden at the end of subsection B.</p> <p>Deleted subsection E was out of place in this section.</p>

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<p>include the date and time the application is to occur. The seventy-two hour advance notice shall also include the brand name, concentration, rate of application, pesticide label and material safety data sheet and any use restrictions required by the pesticide label. <del>Only an individual holding an applicator license may make pesticide applications at schools and child care facilities.</del></p> <p><del>B.</del> <u>C.</u> Immediately prior to application of a <del>pesticide</del> <u>pesticide</u>, a business licensee or <del>licensed</del> <u>certified</u> applicator shall provide the school or child care facility with a written preapplication notification containing the following information:</p> <ol style="list-style-type: none"> <li>1. The brand name, concentration and rate of application and any use restrictions required by the label of the herbicide or specific pesticide.</li> <li>2. The area or areas where the pesticide is to be applied.</li> <li>3. The date and time the application is to occur.</li> <li>4. The pesticide label and the material safety data sheet.</li> </ol> <p><del>C.</del> <u>D.</u> The pesticide label and material safety data sheet may be used in place of <del>the</del> <u>any</u> information required pursuant to subsections <del>A and B and C</del> of this section if <del>all of the information required by those subsections</del> is already contained on the <u>pesticide</u> label or material safety data sheet.</p> <p><del>D.</del> <u>E.</u> The following pesticide applications are exempt from the notification requirement prescribed in subsections <del>A and B and C</del> of this section:</p> <ol style="list-style-type: none"> <li>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.</li> <li>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 <del>licensed</del> <u>certified</u> applicator shall do all of the following: <ol style="list-style-type: none"> <li>(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.</li> <li>(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.</li> <li>(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</li> </ol> </li> </ol>	<p>The definitions of child care facility and school have been moved to the general definitions statute, 3-3502. The special definition of pesticides has now been incorporated into the exemptions in this statute.</p>

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<p>environmental protection agency, the date and time of application and the name and telephone number of the business licensee and <del>licensed</del> <u>certified</u> 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.</p> <p>3. Disinfectants or swimming pool chemicals.</p> <p>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:</p> <p>(a) Secured in an enclosed, tamper-resistant bait station and placed in an area that is inaccessible to children.</p> <p>(b) Applied to a crack or crevice inaccessible to children.</p> <p>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 inaccessible to children.</p> <p>6. Personal repellants.</p> <p>7. Any pesticide exempt from regulation by the United States environmental protection agency pursuant to the federal insecticide, fungicide and rodenticide act (7 United States Code section 136w).</p> <p><u>8. Nonrestricted use sanitizers and deodorizers.</u></p> <p><del>E. The provisions of this chapter shall regulate and determine all requirements regarding licenses, fees, testing, education, and all other requirements regarding the business of pest control for persons licensed pursuant to this chapter.</del></p> <p><del>F. For the purposes of this section:</del></p> <p><del>1. "Child care facility" means a facility regulated pursuant to title 36, chapter 7.1.</del></p> <p><del>2. "Pesticides" does not include nonrestricted use disinfectants, sanitizers or deodorizers.</del></p> <p><del>3. "School" means an educational institution that provides instruction in prekindergarten programs, kindergarten programs or any of grades one through twelve.</del></p>	
<p><b><u>§ 3-3522. Termite Action Registration Form</u></b></p> <p><u>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 Department in a form approved by the director a termite action registration form and the prescribed fee.</u></p> <p>B. The termite action registration form shall include:</p>	<p>All provisions related to TARFs have been moved to this new section.</p>

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<p><u>1. The address or location of the work or project.</u></p> <p><u>2. The type and the date of the work.</u></p> <p><u>3. The name of the business licensee.</u></p> <p><u>4. Any other information required by rule.</u></p> <p><u>C. The director may:</u></p> <p><u>1. Adjust the fee upward or downward to a level that is calculated to produce sufficient revenue to carry out the functions of the Department prescribed under this chapter.</u></p> <p><u>2. Establish tiered fees according to the means of submission to encourage electronic submission of the termite action registration form.</u></p> <p><u>3. Assess a penalty of not to exceed one hundred dollars per form for failing to submit the required form or fee, or both, within thirty calendar days.</u></p> <p><u>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 Department documenting the pretreatment or new-construction treatment, the business licensee is exempt from this section with respect to the initial corrective treatment.</u></p>	
<p><b><u>§ <del>32-2323</del>. 3-3523. Wood-destroying insects; organisms; treatment proposal; registration form; fee</u></b></p> <p>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 <del>insects</del> <u>organisms</u> in a structure until an inspection is made.</p> <p>B. Only an applicator <del>or qualifying party licensed</del> <u>certified</u> in the <del>categories</del> <u>category</u> of wood-destroying <del>insect</del> <u>organism</u> management <del>and wood-destroying insect inspection</del> shall prepare a treatment proposal on a form approved by the <del>acting director and</del> <u>director</u>. The applicator shall deliver a copy of the treatment proposal to the person requesting the <del>proposal, proposal or treatment</del>, or the person's designated agent, before beginning treatment. The treatment proposal shall include the following information:</p> <p>1. The address of the property to be treated.</p> <p>2. A statement describing that the work is preventative or corrective.</p> <p>3. A statement describing the evidence of infestation or damage.</p> <p>4. A diagrammatic description showing the nature and location of evidence of infestation or damage, or both, if applicable.</p> <p>5. A statement describing the treatment or repair method, including the name of the pesticide, <del>agent</del> or device to</p>	

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<p>be used and a diagrammatic description showing where the treatment or repair will be rendered.</p> <p>6. The price for the work.</p> <p>7. The terms for the service agreement provided by the business licensee.</p> <p>8. The signature and license number of the person who made the inspection of the structure to be treated.</p> <p>C. A <del>licensee</del> <u>certified applicator</u> shall also give to the person requesting a proposal <u>or treatment</u> a written recommendation that verifies a particular problem and, in addition to the <del>licensee's</del> <u>certified applicator's</u> recommendation for treatment, shall advise the person of alternative treatments and methods, including integrated pest management methods to alleviate the problem.</p> <p>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 <del>insects</del> <u>organisms</u> is not a binding statement as to the presence or absence of wood-destroying <del>insects</del> <u>organisms</u>.</p> <p>E. A treatment proposal shall be prepared by a <del>licensed</del> <u>certified</u> applicator <del>or qualifying party</del> who has received at least five hours of instruction from <del>the office</del> or an in-house education program of a <u>the</u> business licensee on the subject of wood-destroying <del>insect</del> <u>organism</u> 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 <del>acting</del> director's request.</p> <p>F. If a business licensee performs a treatment pursuant to a treatment proposal, the business licensee shall maintain for five years a record of the treatment and the name and quantity of the pesticide used.</p> <p><del>G. Within thirty calendar days after completion of a termite treatment or on the next business day after the thirty calendar days, a business licensee shall file with the office in a form or format approved by the acting director a complete and accurate termite action registration form and a fee as prescribed by the acting director. The termite action registration form shall include information prescribed in section 32-2321, subsection C, paragraph 11 and this section. This subsection only applies to the following:</del></p> <ol style="list-style-type: none"> <li><del>1. Any treatments done before or during construction, including final grade treatments.</del></li> <li><del>2. The first preventative or corrective termite treatment by a business licensee to a site. If the business licensee who performed this termite treatment performed the before or during construction treatment at the same site and filed a termite action report form with the office documenting the before or during construction treatment, the business licensee is exempt from this paragraph.</del></li> <li><del>3. A wood-destroying insect inspection report.</del></li> </ol> <p><u>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</u></p>	

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<p><u>degradation by wood-destroying organisms.</u></p>	
<p><b>§ <del>32-2324.</del> 3-3524. Wood-destroying insect inspection reports</b></p> <p>A. Wood-destroying insect inspection reports may only be completed by an applicator <del>or qualifying party</del> who is licensed <u>certified</u> in the <del>categories of management</del> <u>category</u> of wood-destroying insects and <u>organism management</u> or wood-destroying insect inspection and who has received at least five hours of instruction from <del>the office or the former structural pest control commission</del> or an in-house education program of a <u>the</u> 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 <del>acting</del> director's request.</p> <p>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 five years and make the reports available on the <del>acting</del> director's request.</p> <p>C. Wood-destroying insect inspection reports are evidence of the existence or absence of wood-destroying insects that were visible and accessible to an inspector on the date 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 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 in a structure after the date of inspection.</p> <p><u>D. If a certified applicator is exempt from the business license requirement with respect to wood-destroying insect inspections by rules established by the director, the certified applicator shall fulfill the responsibilities placed on business licensees in this section.</u></p> <p><u>E. A person shall not complete a wood-destroying insect inspection report for a property that the person owns or occupies.</u></p>	<p>New subsection D relates to A.R.S. § 3-3515(D), which authorizes the director to allow, by rule, people who only inspect to act without a business license. If there is not a business licensee, this subsection requires the inspector to keep the required records and be responsible for the accuracy of the inspection and report.</p> <p>New subsection E is designed to prevent conflicts of interest where a person is making a WDIIR for a building the person owns or occupies.</p>
<p><b>§ <del>32-2324.01.</del> Fungi inspection reports</b></p> <p>A. <del>Fungi inspection reports may only be completed by a licensed applicator or qualifying party who is licensed in the fungi category and who has received at least eight hours of instruction from the office or the former structural pest control commission or an in-house education program of a business licensee on the subject of fungi inspection and inspection reports. An examination on the instruction is not required. The business licensee shall keep a record of the completion of the training and shall make the record available on the acting director's request.</del></p> <p>B. <del>Fungi 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 fungi inspection</del></p>	

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<p>reports for five years and make the reports available on the acting director's request.</p> <p>C. Fungi inspection reports are evidence of the existence or absence of fungi that was visible and accessible to an inspector on the date 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 fungi on the date of inspection, except that a fungi inspection report shall not be construed as a guarantee as to the presence or absence of fungi in a structure after the date of inspection.</p> <p>D. The acting director shall approve a fungi inspection report form for use in fungi inspections.</p>	
<p><b>ARTICLE 4. REGULATION</b></p>	
<p><del>§ 32-2325</del> <b>3-3531. Unlawful acts</b></p> <p><u>A.</u> A person shall not:</p> <ol style="list-style-type: none"> <li>1. Engage in the business of pest management without <del>holding</del> a business license issued pursuant to this chapter unless exempt.</li> <li>2. Engage in the business of pest management in any category without a qualifying party <del>licensed</del> <u>registered</u> in that category.</li> <li>3. Operate a branch office without <del>employing a licensed applicator or qualifying party</del> <u>a registered branch supervisor</u> under whose direct supervision pesticide applications are made out of that office.</li> <li>4. Apply pesticides in any category other than <del>the control of wood-destroying insects</del> <u>organisms management or fumigation</u> unless the person is <del>an a certified applicator or qualifying party licensed</del> <u>in that category pursuant to this chapter</u> or applies the pesticides under the direct supervision of <del>an a certified applicator or qualifying party licensed</del> <u>in that category pursuant to this chapter</u>.</li> <li>5. Apply pesticides <del>for the management in the category</del> <u>in the category</u> of wood-destroying <del>insects</del> <u>organism management, aquatic pest management, or fumigation</u> unless <del>both of the following apply:</del></li> </ol> <p>(a) <del>The the person is an a certified applicator or qualifying party licensed</del> <u>in that category pursuant to this chapter</u> or the person applies the pesticides under the immediate supervision of <del>a licensed an applicator certified in that category.</del></p> <p>(b) <del>The person has received at least five hours of instruction from the office or the former structural pest control commission or an in-house education program of a business licensee on the subject of management of wood-destroying insects that is appropriate for the specific type of application performed. An examination on the instruction is not required. A business licensee shall keep a record of completion of the training and shall make it available on the acting director's request.</del></p> <ol style="list-style-type: none"> <li>6. Make recommendations regarding pest management unless the person is a <del>licensed</del> <u>certified</u> applicator <del>or</del></li> </ol>	<p>The section is a revision of A.R.S. § 32-2325 combined with subsection (B) of A.R.S. § 32-2321.</p> <p>Former (A)(5)(b) is still covered by A.R.S. §§ 3-3523(E) &amp; 3-3524(A).</p> <p>Subsection (B)(4) changes undue harm to the public to harm to the public, environment, or non-target animals.</p> <p>New subsection (B)(7) makes clear that the Department can take disciplinary action against a person who performs pest management services while having a suspended license.</p> <p>This section also augments violations related to records. If an OPM employee visits the office of a business licensee and an employee of the business licensee is there, the business licensee must promptly provide access to the business's records. In all other cases, except when health or safety is at risk, the business licensee has at least 24 hours to provide access to the records, including securing a record from an employee out in the field.</p> <p>This section also adds violating the terms of a</p>

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<p><u>qualifying party.</u></p> <p>7. Deny to an authorized inspector the right to be present on a jobsite in connection with a contemporaneous pest management treatment <u>for the purpose of taking samples</u>, including <u>for the purpose of taking pesticide samples</u> and soil samples.</p> <p><u>B. The following nonexclusive acts are grounds for disciplinary action:</u></p> <p><u>1. Violating this chapter, rules adopted pursuant to this chapter or a written order of the director.</u></p> <p><u>2. Making false or fraudulent records or reports.</u></p> <p><u>3. Misrepresenting a material fact in obtaining a license.</u></p> <p><u>4. Applying pesticides in a manner that is inconsistent with the label requirements of the pesticide or that may cause harm to the public, the environment or non-target animals.</u></p> <p><u>5. Misuse of 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, labeling and all applicable laws.</u></p> <p><u>6. Authorizing, directing or abetting the publication, advertisement, distribution or circulation of any false statement or material misrepresentation concerning a business of pest management.</u></p> <p><u>7. Engaging in the business of pest management or providing pest management services under a suspended license.</u></p> <p><u>8. Conviction 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.</u></p> <p><u>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.</u></p> <p><u>10. Making a fraudulent statement or an intentional material misrepresentation in connection with a wood treatment proposal or a wood-destroying insect inspection report.</u></p> <p><u>11. Three or more de minimis violations of this chapter or rules adopted under this chapter.</u></p> <p><u>12. Failure to provide the director with a current certificate of insurance or proof of financial responsibility.</u></p> <p><u>13. Failure to <u>provide a proper final grade treatment</u> within twelve months of the original pretreatment or new-construction treatment.</u></p> <p><u>14. Immediately supervising more unlicensed applicators at a time than authorized by rule.</u></p>	<p>consent agreement or order as separate grounds for discipline.</p>

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<p><u>15. Failure to make and maintain true and accurate records of treatments performed, including those performed under warranty or guarantee, for at least three years from date of treatment except any record of a termite treatment or a wood-destroying insect inspection report, which shall be made and maintained for at least five years from the date of treatment or inspection.</u></p> <p><u>16. Failure to make treatment records available within three business days on request of the property owner or the property owner's authorized agent.</u></p> <p><u>17. Failure 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 of the business licensee is present at the business office and has access to those records.</u></p> <p><u>18. Failure to timely produce specific records requested pursuant to section 3-3503, subsection B, paragraph 2.</u></p> <p><u>19. Violating the terms of a consent agreement or order.</u></p>	
<p><del>§ 32-2321</del> <b>3-3532. Disciplinary action; grounds; procedure; judicial review</b></p> <p><del>A. After an opportunity for a formal hearing or pursuant to a consent order, the acting</del> <u>If the director finds that a person has violated this chapter, a rule adopted pursuant to this chapter, or a written order, 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:</u></p> <ol style="list-style-type: none"> <li><u>1. Revoke a license or registration.</u></li> <li><u>2. Suspend a license or registration.</u></li> <li><u>3. Refuse to renew a license or registration.</u></li> <li><u>4. Impose probation requirements that require a <del>business licensee, licensed applicator or qualifying party person</del> 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 <del>business licensee, licensed applicator or qualifying party person</del>.</u></li> <li><u>5. Impose a civil penalty in an amount of not more than one thousand dollars for each violation except for grounds prescribed in subsection B, paragraphs 8 and 9 of <del>this</del> section <u>3-3531</u>.</u></li> <li><u>6. Require a qualifying party to report to the <del>acting</del> director the qualifying party's role in the management of a business license.</u></li> <li><del>7. Issue an administrative warning.</del> <u>Require an individual to take supplemental continuing education within a period set by the director.</u></li> </ol> <p><u>B. In lieu of taking disciplinary action for a violation pursuant to subsection A of this section, the director may issue an administrative warning.</u></p>	<p>The disciplinary action subsection is being updated to specifically include additional continuing education and to list administrative warnings as an alternative to disciplinary action.</p> <p>Subsection B has been moved to new section 3-3531.</p> <p>Failure to pay civil penalties, applying a pesticide that causes harm, using unregistered applicators, and operating with a suspended license have been added as bases to impose disciplinary action on a business.</p> <p>Notice of hearings, informal settlement conferences, and final administrative decisions are addressed in Title 41, so subsections E, J &amp; L are not needed.</p> <p>Subsections F, G &amp; H have been moved to section 3-3534 with respect to civil penalties. As will be set out in rule, failure to pay necessary fees or have the necessary continuing</p>

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<p><del>B. The following acts are grounds for disciplinary action:</del></p> <ol style="list-style-type: none"> <li><del>1. Violating this chapter, rules adopted pursuant to this chapter or a written order of the acting director.</del></li> <li><del>2. Making false or fraudulent records or reports.</del></li> <li><del>3. Misrepresenting a material fact in obtaining a license.</del></li> <li><del>4. Applying pesticides in a manner that is inconsistent with the label requirements of the pesticide or that may cause undue harm to the public.</del></li> <li><del>5. Misuse of a pesticide if the misuse is due to training received or not received or lack of appropriate supervision. 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, labeling and all applicable laws.</del></li> <li><del>6. Authorizing, directing or abetting the publication, advertisement, distribution or circulation of any false statement or material misrepresentation concerning a business of pest management.</del></li> <li><del>7. Conviction of a felony or misdemeanor arising from or in connection with a license issued pursuant to this chapter after issuance of the license.</del></li> <li><del>8. Conviction of a felony.</del></li> <li><del>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.</del></li> <li><del>10. Making a fraudulent statement or an intentional material misrepresentation in connection with a wood treatment proposal or a wood destroying insect inspection report.</del></li> <li><del>11. Three or more de minimis violations of this chapter or rules adopted under this chapter.</del></li> <li><del>12. Failure to provide the acting director with a current certificate of insurance or proof of financial responsibility.</del></li> <li><del>13. Failure to establish a complete vertical barrier at the exterior of foundation walls in stem wall construction or exterior of grade beams in monolithic construction within twelve months of the original treatment made before or during construction.</del></li> <li><del>14. Immediately supervising more than one unlicensed applicator at a time.</del></li> <li><del>15. Failure to make and maintain true and accurate records of treatments performed, including those performed under warranty or guarantee, for at least three years from date of treatment except any record of a termite treatment, a wood destroying insect inspection report or a fungi inspection report, which shall be made and maintained for at least five years from the date of treatment or inspection.</del></li> </ol>	<p>education units at renewal will now result in the expiration of the license and denial of renewal, not a suspension and revocation.</p> <p>Subsection I has been moved to 3-3503(B)(6).</p> <p>Subsection K will be incorporated into rules as appropriate.</p> <p>Subsection P is not needed in this section and has been deleted.</p> <p>New subsection G prevents a person from letting a license naturally expire in order to avoid revocation of the license.</p>

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<p>16. <del>Failure to make treatment records available within three business days on request of the property owner, the property owner's authorized agent or a representative of the office.</del></p> <p>C. Except as provided in section <del>32-2329, 41-1092.11</del>, the <del>acting</del> director may <del>proceed</del> <u>take disciplinary action</u> against a business licensee pursuant to subsection A, <del>paragraphs 1 through 5</del> <u>A</u> of this section only if, <del>after an opportunity for a hearing, it has been shown that</del> <u>if</u> any of the following <del>applies</del>: <u>apply</u>:</p> <ol style="list-style-type: none"> <li>1. The business licensee has committed a prior violation of the same type, including any violation by any employee of the business licensee.</li> <li>2. The business licensee failed to follow a written order of the <del>acting</del> director directing it to correct a deficiency or problem within the time specified.</li> <li>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 employees.</li> <li>4. The business licensee is convicted of a felony.</li> <li>5. The business licensee is determined by the <del>acting</del> director to have committed a violation in connection with a <u>pretreatment, new-construction treatment, or final grade treatment</u> <del>before or during construction</del>.</li> <li>6. The business licensee changes its name or majority ownership of the business and fails to: <ol style="list-style-type: none"> <li>(a) Report to the <del>acting</del> director within thirty calendar days the status of all warranties issued by the licensee.</li> <li>(b) Notify within thirty calendar days all persons who hold warranties issued by the licensee regarding the change.</li> </ol> </li> <li>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.</li> <li>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.</li> <li>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.</li> <li>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</li> </ol>	

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<p>type, and shall include the words:</p> <p>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].</p> <p>11. The business licensee fails within thirty calendar days after completion of a <u>termite pretreatment, a new-construction treatment, a final grade treatment</u> <del>that is done before or during construction</del>, an initial termite corrective treatment project or a wood-destroying insect inspection report to file with the <del>office</del> <u>Department</u>, in a form approved by the <del>acting</del> director, <del>all data required by the acting director</del> <u>the termite action registration form and prescribed fee</u>. <del>The data shall include:</del></p> <p>(a) <del>The name of the individual who performed the work.</del></p> <p>(b) <del>The address or location of the work or project.</del></p> <p>(c) <del>The type and the date of the work.</del></p> <p>(d) <del>The name of the business licensee.</del></p> <p>(e) <del>The name of the qualifying party.</del></p> <p>(f) <del>The applicator's license number.</del></p> <p>(g) <del>Any other information required by rule.</del></p> <p>12. The business licensee, within twelve months after completion of a termite <u>pretreatment or new-construction</u> treatment <del>that is done before or during construction</del>, fails either to file a supplemental termite action report in a form provided by the <del>acting</del> 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.</p> <p><u>13. The business licensee's applicator applies a pesticide that causes harm to the public, the environment, or a non-target animal.</u></p> <p><u>14. The business licensee uses applicators to provide pest management services that are not registered pursuant to requirements established under section 3-3503(B)(17).</u></p> <p><u>15. The business licensee fails within thirty calendar days to pay civil penalties imposed under this chapter or the rules adopted pursuant to this chapter.</u></p> <p><u>16. The business licensee engages in the business of pest management while the business license is suspended.</u></p> <p><del>D. Nothing in subsection C, paragraph 3 of this section shall be deemed to prohibit a business licensee from directly purchasing accounts from a licensee whose license has been revoked if the purchase is made within such time after the revocation as the acting director by rule may establish.</del></p>	

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<p><del>E. Before taking any action pursuant to this section, the acting director shall notify in writing interested persons and the licensee before the date of the hearing pursuant to title 41, chapter 6, article 10 either personally or by certified mail at the last address known to the office. The written notice shall contain the nature of the charge or charges against the licensee and the time and place of the hearing on the charges.</del></p> <p><del>F. A license may be suspended without a hearing as prescribed in section 32-2329 or if its holder fails within thirty calendar days to:</del></p> <ol style="list-style-type: none"> <li><del>1. Pay renewal fees.</del></li> <li><del>2. Pay civil penalties.</del></li> <li><del>3. Demonstrate the completion of required continuing education.</del></li> </ol> <p><del>G. The holder of a license suspended under subsection F of this section must apply to the acting director for reinstatement.</del></p> <p><del>H. Licenses suspended under subsection F of this section are automatically revoked without a hearing after one year of suspension. Licenses revoked under this section are not subject to section 32-2304, subsection A, paragraph 11.</del></p> <p><del>I. All complaints shall be in writing.</del></p> <p><del>J. If the acting director appoints an employee of the office to conduct an informal settlement conference with the complaining party pursuant to section 32-2304, the purpose of the informal settlement conference is to reach agreement as to the disposition of all or a portion of the complaint, including any agreement providing for repairing or rectifying the conditions specified in the complaint. The settlement conference shall be conducted informally and the rules of evidence do not apply. The settlement conference shall not be recorded. Participants in the settlement conference may ask questions of the complainant and may review any materials or reports compiled by the office with respect to the complaint.</del></p> <p><del>K. If the office prepares a consent order pursuant to section 32-2304, after either an informal settlement conference conducted pursuant to subsection J of this section or a formal hearing by the office conducted pursuant to title 41, chapter 6, article 10, the consent order shall only set forth the general nature of the inquiry or complaint, the specific action to be taken by the licensee or business licensee, the penalty, if any, and the time for compliance, if any, for any corrective action to be taken.</del></p> <p><del>L. Except as provided in section 41-1092.08, subsection H, final decisions of the acting director are subject to judicial review pursuant to title 12, chapter 7, article 6.</del></p> <p><del>M. <u>D.</u> The acting director shall consider only an inquiry received or complaint filed within <u>not issue a citation or file a complaint for a violation more than</u> five years after the date of the alleged act or omission.</del></p> <p><del>N. <u>E.</u> The acting director may issue an advisory notice stating de minimis violations of statutes or rules that carry</del></p>	

<u>Proposed Statutes</u>	<u>Comments</u>
<p>no penalty, unless the person subject to this chapter wilfully and repeatedly violates the statute or rule. For wilful and repeated violations, the <del>acting</del> director may take disciplinary action against the person for a violation.</p> <p><del>O. If the office finds a violation or the office enters into a consent agreement, the office:</del></p> <ol style="list-style-type: none"> <li><del>1. Shall not delete the record of the complaint for at least five years following the filing of the complaint.</del></li> <li><del>2. Shall include information from the inquiry in the record of complaint. If no violation is found, the information from the inquiry shall be deleted.</del></li> </ol> <p><del>P. Only this chapter applies to, regulates and determines all requirements regarding licensure, licensure fees, testing and education related to pest management in this state. Only this chapter applies to, regulates and determines all requirements regarding the business of pest management, including the application or notification of use or disposal of pesticides for pest management in this state.</del></p> <p><del>Q. For purposes of filing or submitting all documents or fees required under this chapter, service is considered complete if postmarked on the proper date and delivered by first class mail or a higher class.</del></p> <p><u>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 licensee renews the license or the investigation or complaint is resolved.</u></p> <p><u>G. The director may suspend a license while there is a pending criminal charge against the licensee for a crime involving moral turpitude.</u></p>	
<p><del>§ 32-2308. 3-3533. Joint responsibility for supervised persons</del></p> <p>A. A business licensee, qualifying party, <u>branch supervisor</u>, 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, <u>branch supervisor</u>, 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.</p> <p>B. Failure to timely and fully respond to requests by the <del>acting</del> director for information relating to training, equipping and supervising is a prima facie showing of a failure to properly train, equip or supervise. <del>The A supervising licensee has the burden of proof by a preponderance of the evidence that the 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 acting director.</del></p>	
<p><u>§ 3-3534. Civil penalties; suspension</u></p> <p>A. The Department may suspend a license, certification or registration without a hearing if the licensee fails</p>	

<b><u>Proposed Statutes</u></b>	<b><u>Comments</u></b>
<p><u>within thirty calendar days to pay civil penalties imposed under this chapter or the rules adopted pursuant to this chapter.</u></p> <p><u>B. A licensee suspended under subsection A of this section must apply to the director for reinstatement.</u></p> <p><u>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 3-3503, subsection A, paragraph 7.</u></p> <p><u>D. The Department shall not renew a license, certification or registration or broaden a certification if the licensee is suspended under subsection A of this section.</u></p>	
<p><b><u>§ 3-3535. Business license; principals</u></b></p> <p><u>A. When a business licensee currently has its license suspended or owes civil penalties to the Department or a business has had its business license revoked within the last five years, the Department shall deny an application for a new business license from a person if a principal of the applicant was also a principal of the business disciplined by the Department as described in this subsection.</u></p> <p><u>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.</u></p>	<p>This new section is designed to prevent a business from avoiding disciplinary action by re-opening under a new business name.</p>
<p><b><u>§ <del>32-2327</del>. 3-3536. Injunctive relief</u></b></p> <p><u>In addition to all other remedies, the acting 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.</u></p>	
<p><b><u>§ <del>32-2329</del>. Summary suspension</u></b></p> <p><u>The acting director may summarily suspend, without a formal hearing, any license issued pursuant to this chapter if the acting director considers it to be necessary to protect the health, safety and welfare of the public.</u></p>	<p>This is covered by other statutes.</p>

- i. Golf courses what regulatory changes will be required
- ii. Reporting – review draft language – groundwater
- iii. What to regulate - devices and people who do not use pesticides
- Additional discussion items
  - i. 18 - Minimum age for certification
  - ii. Required Criminal background investigations by employers – law required – not state initiated
  - iii. Qualifying party
    - 1. Private registration – business license exemption
    - 2. State agency and political subdivisions – requiring a qualifying party
    - 3. Are the requirements set right? Ability to obtain and broaden
- Future deadlines – legislative action in 2013, drafting of legislation and associated rules – other changes that are needed that have not been discussed

Old Business – task force purpose as laid out in the legislation may be discussed during any discussion items or as separate discussions - the task force shall submit findings and recommendations, relating to OPM including:

- i. Review of all laws and regulations
- ii Review organizational configurations within the ADA
- iii. Review of personnel and funding issues for administration within the ADA.
- iv. Statutory changes
- 4. Executive Session to obtain legal advice pursuant to A.R.S. § 38-431.03(A)(3) on any matter listed on the agenda
- 5. Call to the Public (2 minute limit per speaker)

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

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

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

Dated this 11th day of June, 2012

**OPM Proposed Statutes Update**  
**Brief Summary of Changes to May 8 Draft**

**§ 3502 – definitions**

Revised “final grade treatment” and “financial security”

Removed “office”

**§ 3523 – wood-destroying organism treatment proposals**

(G) – new

**§ 3531 – unlawful acts**

(A)(7) – new

(A)(8) – revised and consolidated

(A)(13) – revised

**§ 3532 – disciplinary action**

(C)(16) – new

**§ 3534 – civil penalties**

Supplemented section heading

**These proposals are for discussion purposes and in some cases have not been approved by the Task Force. Highlighting is used to show material that has been added or revised since May 8.**

#### **R4-29-101, R3-7-101. Definitions**

The definitions in A.R.S. § 32-2301 et seq. apply to this Chapter. ~~Additionally, in~~ In addition to the definitions provided in A.R.S. § 3-3502, the following terms apply to this Chapter:

“Administratively complete” means an application contains all components required by statute or this Chapter to be submitted to the ~~Commission~~ Department to enable the ~~Commission~~ Department 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.

“Applicant” means:

~~An individual requesting an initial or renewal applicator, temporary qualifying party, or qualifying party license;~~

~~One of the following if requesting an initial or renewal business license:~~

~~An individual, for a sole proprietorship;~~

~~An officer, for a corporation;~~

~~The managing or general partner, for a partnership or limited liability partnership;~~

~~The manager or two members, for a limited liability company or professional liability company; or~~

~~A designated agent of a state agency or political subdivision or appointed or elected individual or body, an appointed or elected individual, or a member of an appointed or elected body; or~~

~~An individual or entity requesting approval of a continuing education course.~~

“Applicator” means an individual licensed by the Commission as qualified to provide who provides pest management services ~~when working under both a qualifying party and business license.~~

“Applicator certification” means a certified applicator license.

“Before construction treatment,” as used in the Commission’s statutes, means pretreatment.

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

“Continuing education” means a planned course or program that the Commission approves under R4-29-216.

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

“CEU” means continuing education unit.

“Continuing education unit” means ~~60~~ 50 minutes of participation in continuing education.

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

“De minimis violation” has the same meaning as prescribed in A.R.S. § 32-2301 and means an act or omission by a licensee for which the Commission provides an opportunity to correct the act or omission informally rather than filing a complaint against the licensee.

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

“During construction treatment,” as used in the Commission’s statutes, means ~~new construction treatment.~~

“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.

“Final grade Final grade treatment” means ~~to establish~~ establishment of a complete vertical barriers barrier at the exterior of foundation walls in stem wall stem wall or monolithic construction or at the exterior of grade beams in monolithic construction.

“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.

~~“Fungi inspection report” means the document authorized by A.R.S. § 32-2324.01 and prepared in connection with the sale or refinancing of real property regardless of whether the report is used as part of the sale or refinancing.~~

~~“Inquiry” means a threshold investigation by the Commission to determine whether the Commission has jurisdiction in a matter and if so, the likelihood that there has been a violation of the Commission’s statutes or this Chapter or misuse of a pesticide.~~

**“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, 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, 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.

~~“Late” means a document required to be submitted to the Commission is post marked after the date the document is due or is not received by the Commission.~~

~~“Liability insurance,” as used in A.R.S. § 32-2313, means insurance that protects the business licensee named in the insurance policy and any person working with the express or implied permission of the named business licensee, against loss from legal liability for bodily injury or property damage as a result of the named business licensee providing pest management services.~~

~~“Manner inconsistent with the label” means the use of a pesticide in a manner not permitted by the label or labeling.~~

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

~~“New-construction treatment” means a termite treatment that complies with standards in the Commission’s statutes and this Chapter, protects all cellulose components of a structure from subterranean termites, wood-destroying insects and is performed after a permanent concrete slab foundation is installed or after footings and supports for a raised foundation are installed installed, but before the structure or a final grade treatment is completed.~~

~~“Next business day,” as used in A.R.S. § 32-2323(G), means the first day after the 30th calendar day that is not a Saturday, Sunday, or state holiday.~~

~~“Non food area of a food handling establishment” means a lavatory, floor drain, entrance or vestibule, office, garage, mop closet, can or bottle storage, or garbage, locker, machine, or boiler room.~~

~~“Of employment,” as used in A.R.S. § 32-2312(E), means the date on which an employee of a business licensee first applies a pesticide within the scope of employment by the business licensee.~~

~~“Other equivalent item,” as used in A.R.S. § 32-2313(H) regarding financial responsibility, means an irrevocable and unconditional letter of credit, from an Arizona chartered or federally chartered financial institution, that is filed with the Commission.~~

~~“Party” has the same meaning as prescribed in A.R.S. § 41-1001.~~

~~“Person” means an individual, sole proprietorship, corporation, limited liability corporation, partnership, association, governmental subdivision or unit of a governmental subdivision, public or private organization, or governmental agency.~~

“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. § ~~32-2301~~ 3-3502, includes an insecticide, fungicide, rodenticide, termiticide, fumigant, **larvacide, larvicide, piscicide,** adulticide, herbicide, nematicide, avicide, or molluscicide.

~~“Pest management services” means the tasks that comprise the business of structural pest control or structural pest control as defined in A.R.S. § 32-2301~~ 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 use of devices for the purpose of eliminating, exterminating, controlling or preventing infestations.

“Post-construction treatment” means **a** ~~treatment that complies with standards in the Commission’s statutes and this Chapter~~ to control subterranean termites or other wood-destroying insects in an existing structure, and is 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 A.R.S. § ~~32-2323(A)~~ 3-3523(A) and (B).

~~“Practical experience,” as used in A.R.S. § 32-2314, means field work, research, training, teaching, or supervision relevant to pest management services regardless of whether compensation is received, and coursework as required by the Commission’s statutes.~~

~~“Pretreatment” means a termite treatment that ~~complies with standards in the Commission’s statutes and this Chapter,~~ protects all cellulose components of a structure from subterranean termites, is performed before a permanent concrete slab foundation is installed or in conjunction with establishing footings and supports for a raised foundation, and establishes thorough and complete horizontal and vertical treated barriers.~~

“Primary service,” as used in A.R.S. § ~~32-2311(A)(6)(e)~~ 3-3517(B)(3), means applying an herbicide as the only or predominant service under a verbal or written contract to maintain a property.

~~“Prior to construction,” as used in the Commission’s statutes, means pretreatment.~~

~~“Prior violation of the same type” means failure to comply with a statute or rule regarding use of a pesticide, failure to comply with a statute or rule not regarding the use of a pesticide, failure to comply with a Commission order, or engaging in unlicensed activity, for which disciplinary action was taken within the five years preceding similar conduct for which current disciplinary action is sought.~~

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

~~“Public liability,” as used in A.R.S. § 32-2313, means protection against legal liability for the death, injury, or disability of any human being.~~

“QA” means certified qualified applicator.

“QP” means qualifying party.

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

~~“Repeated de minimis violations,” as used in A.R.S. § 32-2321, means at least three similar violations of statute or rule by the same licensee within five years.~~

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

“Service vehicle” means a motor vehicle, including a trailer attached to the motor vehicle, used regularly to transport ~~a licensee~~ an applicator and equipment or pesticides used to provide pest management services.

“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 ~~Arizona~~ Department of Agriculture to use a pesticide, which meets an Arizona-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 ~~label attached to the pesticide container~~ labeling.

“Sterilant,” as used in ~~A.R.S. § 32-2311(A)(6)(b)~~, means a product that may prevent vegetation growth for 12 or more months.

“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.

~~“Temporary qualifying party” means an individual who is licensed by the Commission under R4-29-208 for a limited time to ensure the training, supervision, and equipping of a business licensee’s applicators after the business licensee’s qualifying party disassociates from the business.~~

“Termiticide” means a chemical registered by the EPA and the Arizona Department of Agriculture 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, which is a written report on a form approved by the ~~Commission~~ Department that is prepared in connection with the sale or refinancing of real property regardless of whether the report is used as part of the sale or refinancing.

~~“Web site” means the Commission’s Internet site at [www.sb.state.az.us](http://www.sb.state.az.us) or a subsequent uniform resource locator.~~

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

#### **R4-29-102, R3-7-102. License Categories and Certification Categories; Scope of Work**

For the purpose of this Chapter and A.R.S. § 32-2301 et seq., license categories and the scope of work for each category are as follows:

1. ~~Category B1 (General pest and public health) is limited to controlling general terrestrial vertebrate and invertebrate pests in or about a residential or other structure, public health pests, and pests not included in another license category but does not include pests in forests, aquatic food production, or agricultural plant areas.~~
2. ~~Category B2 (Wood-destroying insect control) is limited to controlling wood-destroying insects in or about a structure by a means other than use of a fumigant.~~
3. ~~Category B3 (Weed and right-of-way control) is limited to controlling terrestrial weeds in all areas other than a forest or agricultural plant or aquatic area.~~
4. ~~Category B4 (Fumigation) is limited to using fumigants.~~
5. ~~Category B5 (Turf and ornamental horticulture) is limited to controlling plant and turf pests, diseases, or viruses and using plant growth regulators on ornamental horticultural plants and turf in all areas other than a forest or agricultural plant area and except by means of a fumigant.~~
6. ~~Category B7 (Fungi inspection) is limited to inspecting a structure for suspected fungi and completing a Commission-approved structural fungi inspection report.~~
7. ~~Category B8 (Wood-destroying insect inspection) is limited to inspecting a structure for the items listed in R4-29-303 and reporting the results of the inspection on a WDIIR.~~

8. ~~Category B9 (Aquatic) is limited to controlling pests, including weeds, in an aquatic area other than a water retention basin or agricultural or forest area, and except for mosquito control.~~

The name and scope of each certification category are as follows:

1. Industrial and institutional: pest management in or about a residential or other structure excluding anti-microbial pest management, fungi inspection, or pest management covered by another certification category.
2. Wood-destroying organisms.
  - a. Wood-destroying organism management: inspecting for the presence or absence of wood-destroying organisms and managing wood-destroying organisms in or about a residential or other structure by a means other than use of a fumigant.
  - b. Wood-destroying insect inspection: inspecting for the presence or absence of wood-destroying insects only.
  - c. Wood preservation: 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 including fungi and bacteria.
3. Ornamental and turf: pest management, including weeds, in the maintenance of ornamental trees, shrubs, flowers, and turf by a means other than use of a fumigant.
4. Right-of-way: managing invertebrate pests, including weeds, in the maintenance of public roads, electric powerlines, pipelines, railway rights-of-way or other similar areas.
5. Aquatic: pest management, including weeds, in standing or running water.
6. Fumigation: pest management using fumigants.

#### **~~R4-29-103. — Complaint Information~~**

- ~~A. A person may submit information to the Commission alleging unlicensed activity or misuse of a pesticide or violation of law by a licensee or a person who is not licensed. Information may be submitted in writing by mail, electronic mail, or fax, or orally by telephone or personal appearance.~~
- ~~B. The Commission shall ensure that information regarding the complaint process is available on the Commission's web site.~~
- ~~C. If the Commission determines that the public health may be in danger, the Commission shall refer a complaint or the results of an investigation to the Arizona Department of Health Services, another appropriate health related agency, or the EPA.~~

#### **~~R4-29-104. — Providing Information to the Commission~~**

- ~~A. A person that wants the Commission to consider written information at a meeting shall submit the written information by the cut off date established by the Commission.~~
- ~~B. An individual who wants to address the Commission may do so by appearing at a Commission meeting and completing a request to speak form.~~
- ~~C. The Commission shall ensure that Commission meeting dates and the cut off date for each meeting are available on the Commission's web site.~~

#### **~~R4-29-105, R3-7-103. Fees; Charges; Exemption~~**

- ~~A. Under the authority provided by A.R.S. § 32-2317, the Acting Director establishes and shall collect the following fees: A person shall pay the following application and renewal fees for licensure, certification, and registration:~~
  1. For an applicator:
    - a. ~~License application, \$30; Applicator certification, \$100;~~
    - b. ~~License broadening application, \$10; Applicator certification broadening application, \$50;~~
    - c. ~~License renewal application, active or inactive status, online, \$20; QA certification, \$200;~~

and

- d. ~~License renewal application, active or inactive status, on paper, \$25; and QA certification broadening application, \$150.~~
  - e. ~~Duplicate license, \$10.~~
  - 2. For a qualifying party:
    - a. ~~License application, \$150; Registration, \$100;~~
    - b. ~~License broadening application, \$50; Registration broadening application, \$50; and~~
    - c. ~~License renewal during active status, online, \$120;~~
    - d. ~~License renewal during active status, on paper, \$125;~~
    - e. ~~License renewal during inactive status, online, \$20;~~
    - f. ~~License renewal during inactive status, on paper, \$25;~~
    - g. ~~Change from inactive to active status, \$125;~~
    - h.c. ~~Temporary qualifying party license application, \$25; registration, \$100.~~
    - i. ~~Temporary qualifying party license renewal application, \$25; and~~
    - j. ~~Duplicate license, \$10.~~
  - 3. For a business:
    - a. ~~License application, \$75; License, \$300;~~
    - b. ~~License renewal application, online, \$70;~~
    - c. ~~License renewal application, on paper, \$75;~~
    - d.b. ~~Branch office registration application, \$35; registration, \$100; and~~
    - e. ~~Branch office registration renewal application, \$35; and~~
    - f. ~~Duplicate license, \$10.~~
  - 4. Branch supervisor registration, \$50.
  - 5. Private owner registration, \$100.
  - 6. Applicator registration, \$25 per applicator.
- B.** 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.
- B.C.** ~~Under the authority provided by A.R.S. § 32-2304(A)(13), the Acting Director establishes and shall collect a penalty that is double the license renewal fee~~ A person shall pay a late fee equal to the renewal fee for any license, certification, or registration that is not renewed timely. 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. The penalty is Late fees are in addition to the license renewal fee.
- D.** A business licensee or registered private owner shall pay the following TARF fees:
- 1. Electronic submissions, \$4;
  - 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.
- C.E.** ~~If the Acting Director Department administers the examination required under A.R.S. § 32-2312(C) or 32-2314(C), the Acting Director shall charge \$50 to cover the cost of providing this service~~ a certification examination, an applicant shall pay \$50 to take the examination. If the Acting Director Department enters into a contract with an examination service or testing vendor administers a certification examination, an applicant shall pay to the examination service or testing vendor the examination cost established in the vendor's contract with the Department.

- ~~D. Under the authority provided by A.R.S. § 32-2304(E), the Acting Director establishes and shall collect a fee of \$8 for each TARF required to be submitted under this Chapter except there is no fee to submit timely a TARF pertaining to a final grade treatment.~~
- ~~E. Under the authority provided by A.R.S. § 32-2304(E), the Acting Director establishes and shall collect a penalty of \$8 for a TARF that is filed within 180 days after it is due and a penalty of \$16 for a TARF that is filed more than 180 days after it is due. The penalty is in addition to the TARF filing fee under subsection (D). The penalty in this subsection applies to an untimely TARF pertaining to a final grade treatment.~~
- ~~F. Any payment to the Office may be made by cash, credit or debit card, money order, or cashier's, certified, business, or personal check. If payment is made by money order or check, the payer shall make the money order or check payable to the Office of Pest Management. If payment is Payments made by business or personal check, payment is not credited until the check clears the bank. The Office does not prorate fees. Fees are not refundable unless A.R.S. § 41-1077 applies. The Office may refuse all forms of payment other than cash, cashier's check, or money order from a person that issued an insufficient funds payment to the Office.~~
- ~~G. An employee of the Office or the Arizona Department of Agriculture who applies for or holds a Office issued license is exempt from the fees in subsections (A) through (C).~~
- F. Department employees are exempt from the applicator and examination fees listed in this Section.
- G. An applicant who issues a check for a fee due under this Section that is rejected for insufficient funds will be subject to all of the following:
1. The Department shall void any approval of the application or renewal.
  2. The applicant shall pay any bank fee incurred by the Department.
  3. The Department 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 Department 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.
- ~~H. The Acting Director shall Department 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 Department 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. Notwithstanding subsections (A), (D) and (E), for services provided in fiscal year 2011-2012, the Acting Director shall collect the following fees:~~
- ~~1. For an applicator:
 
    - ~~a. License application, \$75;~~
    - ~~b. License broadening application, \$30; and~~
    - ~~c. License renewal application, active or inactive status, \$50.~~~~
  - ~~2. For a qualifying party:
 
    - ~~a. License application, \$175;~~
    - ~~b. License broadening application, \$150;~~
    - ~~c. License renewal during active status, \$150;~~
    - ~~d. License renewal during inactive status, \$75;~~
    - ~~e. Change from inactive to active status, \$125;~~
    - ~~f. Temporary qualifying party license application, new or renewal, \$75.~~~~
  - ~~3. For a business:
 
    - ~~a. License application, \$250;~~
    - ~~b. License renewal application, \$200; and~~
    - ~~c. Branch office registration application, new or renewal, \$75.~~~~
  - ~~4. For a duplicate license, \$10.~~
  - ~~5. TARF submittal:~~

- a. ~~Electronic, \$8;~~
- b. ~~On paper, \$15; and~~
- c. ~~Penalty, in addition to the regular fee, for a TARE filed more than 30 days after it is due, \$16.~~

~~J.I.~~ In addition to the fees in subsection (I), the Acting Director listed in this Section, the Department may collect service charges from persons who pay with alternative payment methods, including credit cards, charge cards, debit cards and electronic transfers.

**~~R4-29-106, R3-7-104.~~ Joint Responsibility**

- A. An applicator, qualifying party, branch supervisor, or business licensee who supervises another ~~person, whether the supervised person is licensed or unlicensed,~~ 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 ~~competently and safely in accordance with the pesticide label and labeling, this Chapter and A.R.S. Chapter 35.~~
- B. ~~Under A.R.S. § 32-2308, an~~ An applicator, qualifying party, branch supervisor, or business licensee who supervises another ~~person, whether the supervised person is licensed or unlicensed,~~ 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, licensee complied with subsection (A) and can demonstrate that compliance with contemporaneously maintained records.
- D. A QP, business licensee, and registered private owner shall comply with every provision in this Chapter regarding applicator duties and responsibilities.

**~~R4-29-107, R3-7-105.~~ Licensing Time-frames**

- A. Overall time-frame. The ~~Commission~~ Department 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 ~~Commission~~ Department receives an application.
- B. Administrative completeness review time-frame.
  - 1. During the administrative completeness review time-frame, the ~~Commission~~ Department shall notify the applicant in writing whether the application is complete or incomplete. If the application is incomplete, the ~~Commission~~ Department shall specify in the notice what information is missing. If the ~~Commission~~ Department does not provide notice to the applicant within the administrative completeness review time-frame, the ~~Commission~~ Department 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 ~~Commission~~ Department receives the information.
  - 3. If an applicant fails to submit the missing information before expiration of the completion request period, the ~~Commission~~ Department 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 ~~Commission~~ Department determines during the substantive review that additional information is needed, the ~~Commission~~ Department 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 ~~Commission's~~ Department's request until the date that the ~~Commission~~ Department 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 ~~Commission~~ Department 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 ~~Commission~~ Department shall:

1. Deny a license or approval to an applicant if the ~~Commission~~ Department determines that the applicant does not meet all the substantive criteria required by the ~~Commission's~~ Department's statutes and this Chapter; or
2. Grant a license or approval to an applicant if the ~~Commission~~ Department determines that the applicant meets all the substantive criteria required by the ~~Commission's~~ Department's statutes and this Chapter.

E. If the ~~Commission~~ Department denies a license or approval under subsection (D)(1), the ~~Commission~~ Department 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. Time-frames (Calendar Days)**

Type of License, Registration, Change or Approval License	Applicable Statute or Rule Authority	Administrative Completeness Review	<u>Applicant</u> Response to Completion Request	Substantive <u>Completeness</u> Review	<u>Applicant</u> Response to Additional Information	Overall Time-frame
Applicator New	A.R.S. § 32-2312 <del>R4-29-203</del> <u>R3-7-203</u>	30	90	100	<del>180</del> <u>360</u>	130
Renewal	<u>203</u>	30	90	100	15	130
Broaden	<del>R4-29-207</del> <u>R3-7-209</u>	30	90	100	<del>180</del> <u>360</u>	130
Activate	<u>209</u> <del>R4-29-212</del> <u>R3-7-211</u> <del>R4-29-210</del>	30	90	100	15	130
<u>Qualified applicator (QA)</u>	<u>R3-7-204</u>	<u>30</u>	<u>90</u>	<u>100</u>	<u>360</u>	<u>130</u>
<u>New</u>	<u>R3-7-209</u>	<u>30</u>	<u>90</u>	<u>100</u>	<u>15</u>	<u>130</u>
<u>Renewal</u>	<u>R3-7-211</u>	<u>30</u>	<u>90</u>	<u>100</u>	<u>360</u>	<u>130</u>
<u>Broaden</u>						
Qualifying party (QP) New	A.R.S. § 32-2314 <del>3-3513</del> <del>R4-29-204</del> <u>R3-7-205</u>	30	90	100	<del>180</del> <u>90</u>	130
Renewal	<u>205</u>	30	90	100	15	130
<u>Broaden</u>	<del>R4-29-207</del> <u>R3-7-209</u>	10	10	10	15	20
Temporary	<u>209</u>	10	10	100	15	110
<u>Renew</u>	<u>R3-7-211</u>	30	90	100	180	130
Temporary	<del>R4-29-208</del> <u>R3-7-205</u>	30	90	100	15	130
<u>Broaden</u>						
Activate	<del>R4-29-209</del> <del>R4-29-212</del>					

	<del>R4-29-211</del>					
Business New	A.R.S. § <del>32-2313</del> 3-3512; R3-7-202;	30	90	100	15	130
Renewal	<del>R3-7-209; R3-7-</del>	30	90	100	15	130
Branch Office	210 R4-29-206	30	90	100	15	130
Name Change	R4-29-207 R4-29-213 R4-29-214	30	90	100	15	130
Branch Office	<u>A.R.S. § 3-3514;</u> <u>R3-7-206</u>	<u>30</u>	<u>90</u>	<u>100</u>	<u>15</u>	<u>130</u>
Branch supervisor	<u>A.R.S. § 3-3514</u> <u>R3-7-206</u>	<u>30</u>	<u>90</u>	<u>100</u>	<u>90</u>	<u>130</u>
New	<u>R3-7-209</u>	<u>30</u>	<u>90</u>	<u>100</u>	<u>15</u>	<u>130</u>
Renewal						
Private Owner	<u>A.R.S. § 3-3515;</u> <u>R3-7-207</u>	<u>30</u>	<u>90</u>	<u>100</u>	<u>15</u>	<u>130</u>
Continuing Education Approval	<del>A.R.S. § 32-2319</del> <del>R4-29-216 R3-7-</del> <del>215</del>	20	60	55	15	75

**ARTICLE 2. OBTAINING, RENEWING, ACTIVATING OR INACTIVATING A LICENSE; EXAMINATION; CONTINUING EDUCATION REQUIREMENT; APPROVAL OF CONTINUING EDUCATION**

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

**R4-29-201-R3-7-201. Activities that Require a License; Exemptions; General Provisions**

- ~~A. Unless exempt under A.R.S. § 32-2311, an individual who provides pest management services shall obtain an applicator license from the Commission. An applicator shall perform pest management services only on behalf of a business licensed by the Commission.~~
- ~~B. To obtain a license as a qualifying party, an individual shall also be licensed as an applicator.~~
- ~~C. A licensed business shall provide pest management services only if the licensed business employs at least one individual who holds a qualifying party license. A licensed business shall provide pest management services in a category only if the licensed business employs an individual who has an activated qualifying party or temporary qualifying party license in the category.~~
- ~~D. A licensed qualifying party or temporary qualifying party shall not qualify more than one licensed business. A licensed business may employ more than one licensed qualifying party.~~
- ~~E. An applicator or qualifying party shall provide pest management services only in the category for which the applicator or qualifying party is licensed. To provide pest management services in a new category, an applicator or qualifying party shall complete the license broadening process described in R4-29-212.~~

- ~~F. Under A.R.S. § 32-2312(D), an applicant for licensure is required to be of good moral character. The Commission shall deny a license to an applicant determined not to be of good moral character. In determining whether an applicant is of good moral character, the Commission shall consider whether the applicant:~~
- ~~1. Committed an act, which, if committed by a licensee, would be grounds for disciplinary action against the licensee;~~
  - ~~2. Has been convicted of a felony or a misdemeanor; or~~
  - ~~3. Cheated on a licensing examination.~~
- ~~G. The holder of a license issued by the Commission shall not assign or transfer the license.~~
- ~~H. An applicator license expires on May 31 except that a new applicator license that is issued in May is valid until May 31 of the following year.~~
- ~~I. A qualifying party or business license expires on December 31 except that a new qualifying party or business license issued in December is valid until December 31 of the following year.~~
- ~~J. If a licensee files a timely and complete renewal application, the existing license does not expire until the Commission issues a notice granting or denying renewal. If the Commission denies license renewal, the existing license does not expire until all administrative appeals are exhausted.~~
- 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 or registered private owner;
  2. Acting on behalf of a business licensee, political subdivision, or registered private owner; or
  3. Otherwise exempt by this Chapter or A.R.S. Title 3, Chapter 35.
- B. Qualifying party registration. A business licensee, political subdivision, or registered private owner shall only do an activity defined as the business of pest management if the business licensee, political subdivision, or registered private owner has a registered qualifying party. The business licensee, political subdivision, or registered private owner 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 A.R.S. Title 3, Chapter 35.
  2. A certified applicator desiring to work in a category for which the applicator is not certified shall become certified in the category within 90 calendar days after beginning work 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 R3-7-208;
    - 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 management, aquatic, or fumigation category, uses a restricted-use pesticide, or uses a pesticide under an experimental use permit; and
      - 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.
- D. Applicator registration. An applicator may not provide pest management services on behalf of a business licensee, private registered owner, or political subdivision unless the applicator is registered

as an applicator of the business licensee, private registered owner, or political subdivision pursuant to R3-7-208.

- 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; or
  2. Performs sales work that does not include:
    - 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; and
    - 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.

**~~R4-29-202. License Exemptions; Unlicensed Persons~~**

- ~~A. In addition to the exemptions in A.R.S. § 32-2311, a person is not required to be licensed by the Commission if:~~
- ~~1. The person provides general information about a label or labeling, identifying or controlling a pest, integrated pest management, or use of an EPA or Arizona Department of Agriculture registered pesticide, does not directly or indirectly charge for the information provided, and does not make an onsite recommendation; or~~
  - ~~2. The person performs sales work that does not include any of the tasks identified under A.R.S. § 32-2301 as comprising the business of structural pest control or structural pest control.~~
- ~~B. Even if not required to be licensed by the Commission, a person shall not misuse a pesticide or device. Misuse includes using, applying, handling, or storing a pesticide in a manner inconsistent with the label or labeling, or using a device for an unintended purpose as indicated by the labeling of the device.~~
- ~~C. An allegation that an unlicensed person misused a pesticide may be investigated by the Commission or the EPA and may be prosecuted by the EPA.~~
- ~~D. If a licensee fails to renew because the licensee is on active military duty but applies for renewal within 100 days of honorable separation from active military duty, the Commission shall process the renewal application as timely and not charge the penalty prescribed under R4-29-105.~~
- ~~E. Under A.R.S. § 32-2312, an unlicensed person employed by a business licensee may apply pesticides for a maximum of 90 days from the date of employment if the unlicensed person is supervised by a licensed applicator or qualifying party and the applicator or qualifying party providing supervision:~~
- ~~1. Is licensed in the category for which supervision is provided;~~
  - ~~2. Provides immediate supervision while the unlicensed person performs wood-destroying insect control or fumigation, or uses a restricted-use pesticide; and~~
  - ~~3. Provides direct supervision while the unlicensed person performs pest management services not listed in subsection (E)(2).~~

**~~R4-29-206. R3-7-202. Obtaining a Business License~~**

- ~~A. An applicant for a business license to conduct pest management services shall submit the following information to the Commission on a form obtained from the Commission Department:~~
- ~~1. About the qualifying party who will qualify the business:
 
    - ~~a. Full name;~~
    - ~~b. Physical address;~~
    - ~~c. Mailing address, if different from the physical address;~~~~

- ~~d. Electronic mail address, if any;~~
- ~~e. Date of birth;~~
- ~~f. Social Security number;~~
- ~~g. Telephone number;~~
- ~~h. Qualifying party license number and applicator license number, if any;~~
- ~~i. License category of qualification; and~~
- ~~j. The dated signature of the qualifying party;~~
- ~~2.1. About the business license applicant: individual submitting the application on behalf of the business:~~
  - ~~a. Full name,~~
  - ~~b. Mailing address;~~
  - ~~c. ~~Electronic mail~~ E-mail address, if any;~~
  - ~~d. Telephone number;~~
  - ~~e. ~~Date of birth;~~ Title with respect to the business; and~~
  - ~~f. ~~Social Security number;~~ Dated signature affirming that all information provided on the application is true and correct.~~
- ~~3.2. About the business:~~
  - ~~a. Business name;~~
  - ~~b. Form of business organization and 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, secretary, and statutory agent~~ President and other authorized officers if a corporation;~~
    - ~~iv. ~~Manager or at least two~~ All the managers or members if a limited liability company; or~~
    - ~~v. ~~Designated agent of an appointed or elected person or body if the state or a political subdivision; or~~~~
    - ~~vi. Person authorized to make decisions for the business if any other type of business form;~~
  - ~~c. Telephone number;~~
  - ~~d. Fax number;~~
  - ~~e. Physical address;~~
  - ~~f. Mailing address, if different from physical address; ~~and~~~~
  - ~~g. E-mail address, if any; ~~and~~~~
  - ~~g.h. Chemical storage address; ~~and~~~~
- ~~4. ~~The business applicant's dated signature affirming that the information provided is true and correct.~~~~
- ~~3. Daytime telephone number of individuals identified under subsection (A)(2)(b); and~~
- ~~4. Name of the qualifying party.~~
- B.** In addition to the form required under subsection (A), an applicant shall submit:
  - 1. The fee specified in **R4-29-105 R3-7-103**;
  - ~~2. A completed Business License Application Supplement that includes the following information about the pest management business:~~
    - ~~a. A description of how the qualifying party will manage the business;~~
    - ~~b. A description of how the qualifying party will supervise the pest management services provided by the business;~~
    - ~~c. A description of plans to provide training for all licensed applicators employed by the business;~~
    - ~~d. A description of how the business will comply with the financial responsibility requirements in A.R.S. § 32-2313;~~
  - 2. The proof of financial security required by A.R.S. § 3-3512;

- ~~e.3. The names of all individuals who own at least 10 percent principals of the business as defined in subsection (G);~~
- ~~f.4. The name and physical address of the statutory agent of the business; and~~
- ~~g. If a corporation, the names of all corporate officers;~~
- ~~3. The following information on a completed Commission insurance certificate if the applicant will fulfill the financial responsibility requirements by purchasing liability insurance or a surety bond:~~
- ~~a. Name, address, and telephone number of the insured;~~
- ~~b. Existing business licenses held by the applicant;~~
- ~~c. Name, address, and telephone number of the insurer;~~
- ~~d. Name, address, and telephone number of the insurance producer or broker;~~
- ~~e. Number of the insurance policy or surety bond, effective and expiration dates, limits, and deductible, if any;~~
- ~~f. The categories of work covered by the insurance or bond; and~~
- ~~g. The dated signature and title of an agent of the insurer or producer or broker certifying that:~~
- ~~i. The company is authorized by the Arizona Department of Insurance to do business in Arizona;~~
- ~~ii. The insurance or bond has been issued to the insured for the period indicated;~~
- ~~iii. The insurance or bond complies with the Commission's statutes regarding coverage endorsements;~~
- ~~iv. The company will notify the Commission in writing within 30 days if the insurance or bond is cancelled, revoked, or falls below the legal limit or if the deductible exceeds \$10,000; and~~
- ~~v. The company will furnish information regarding the insurance or bond to the Commission upon request; and~~
- ~~4.5. A copy of the Articles of Incorporation, Articles of Organization, Certificate of Limited Partnership, trust, trade name certificate, partnership agreement, or other evidence of the form of business organization.~~
- ~~C. The Commission shall deny use of a business license name that the Commission determines is similar to an existing business name and may cause a reasonable person to confuse the two businesses. A business cannot be licensed without a registered qualifying party.~~
- ~~D. If the Commission Department determines there may be cause to deny a license to an applicant, the Commission shall Department may send a written notice to the applicant specifying the date and time for requiring the applicant to appear at a Commission meeting and specific location, date and time to answer questions.~~
- ~~E. The Commission shall issue a business license to an applicant that the Commission determines is qualified under A.R.S. § 32-2313 and this Chapter. The business license, which is valid until December 31, authorizes the licensee to operate a structural pest control business in each category in which the licensee employs a qualifying party licensed in the category. 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 R3-7-210 and may not be renewed beyond the expiration of the registration for the business's qualifying party.~~
- ~~G. For the purposes of this section, 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.~~

~~R4-29-203, R3-7-203. **Obtaining an Applicator License Certification**~~

- ~~A. Application. An applicant for an applicator license certification shall submit the fee specified in R3-7-103 and the following information to the Commission on a form obtained from the Commission Department:~~

1. Full name;
  2. Applicator license certification number, if any;
  3. Physical Home address;
  4. Mailing address, if different from the physical home address;
  5. Telephone number;
  6. Electronic mail E-mail address, if any;
  7. Date of birth;
  8. Social Security number;
  9. ~~A statement whether the applicant has ever been convicted of a felony or a misdemeanor and if the answer is yes, submit:~~
    - a. ~~A completed Criminal Conviction Supplement form that includes information regarding the charge, date, jurisdiction and disposition of conviction, and current status;~~
    - b. ~~A copy of documents pertaining to each conviction including court orders and police, probation, and pre-sentence reports;~~
    - c. ~~A complete set of fingerprints; and~~
    - d. ~~The fee for fingerprint processing;~~
  - 10.9. 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;
  - 11.10. Name of employer, if any;
  - 12.11. Employer's business license number, if applicable;
  - 13.12. Employer's telephone number, if applicable;
  - 14.13. License category Certification categories for which application is made; and
  - 15.14. The applicant's dated signature affirming that the information provided is true and correct.
- B.** ~~In addition to the form required under subsection (A), an applicant shall submit the fee specified in R4-29-105.~~
- C.** ~~Under the authority at A.R.S. § 32-2304(B)(2), if the Commission determines it is in the best interest of the state, the Commission shall require an applicant to submit a complete set of fingerprints and the fee for fingerprint processing.~~
- D.** ~~If the Commission determines that an applicant is eligible for licensure, the Commission shall notify the applicant that the applicant may schedule and take a licensing examination described under R4-29-205.~~
- B.** An applicator shall be of good moral character. A conviction for a felony or a misdemeanor involving moral turpitude may demonstrate a lack of good moral character.
- C.** Examination. An applicant shall take and pass the certification examinations as provided in R3-7-212 in order to become certified.
- D.** An applicator shall be at least 18 years of age.
- E.** ~~If the Commission Department determines there may be cause to deny a license certification to an applicant, the Commission shall Department may send a written notice to the applicant specifying the date and time for requiring the applicant to appear at a Commission meeting and specific location, date and time to answer questions.~~
- F.** ~~The Commission shall issue a license to an applicant who meets all of the qualifications in A.R.S. § 32-2312 and this Chapter and passes the licensing examinations. The license authorizes the applicator to provide pest management services until May 31 if the applicator is employed by a licensed business.~~
- 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.

**R4-29-204, R3-7-204. Obtaining a Qualifying Party License Qualified Applicator Certification**

- A. Before applying for a ~~qualifying party license~~, QA certification, an applicant shall ~~hold an~~ have applicator license ~~for certification in each category in for which a qualifying party license is sought~~ the applicant seeks QA certification and fulfill the ~~practical~~ experience requirement for each category.
- B. Application. An applicant for a ~~qualifying party license~~ QA certification shall submit the fee specified in R3-7-103 and the following information ~~to the Commission~~ on a form obtained from the Commission Department:
1. Full name;
  2. ~~Applicator license number;~~ certification number, if any;
  3. ~~Qualifying party license~~ QA certification number, if any;
  4. ~~Physical Home~~ address;
  5. Mailing address, if different from the ~~physical~~ home address;
  6. Telephone number;
  7. ~~Electronic mail~~ E-mail address, if any;
  8. Date of birth;
  9. Social Security number;
  10. ~~A statement whether the applicant has ever been convicted of a felony or a misdemeanor and if the answer is yes, submit:~~
    - a. ~~A completed Criminal Conviction Supplement form that includes information regarding the charge, date, jurisdiction and disposition of conviction, and current status; and~~
    - b. ~~A copy of documents pertaining to each conviction including court orders and police, probation, and pre-sentence reports;~~
  11. ~~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;
  12. ~~11.~~ Name of employer, if any;
  13. ~~12.~~ Employer's business license number, if applicable;
  14. ~~13.~~ Employer's telephone number, if applicable;
  15. ~~14.~~ License category Certification categories for which application is made; and
  16. ~~15.~~ The applicant's dated signature affirming that the information provided is true and correct.
- C. ~~In addition to the form required under subsection (B), an applicant shall submit:~~
1. ~~The fee specified in R4-29-105;~~
  2. ~~Evidence of the hours of practical experience required under A.R.S. § 32-2314(C)(2) in each category for which the applicant seeks licensure. Evidence that is acceptable to the Commission includes:~~
    - a. ~~A completed Verification of Practical Experience form that is signed by a business or qualifying party licensee or another person with first hand knowledge of the applicant's experience and notarized;~~
    - b. ~~Payroll records, invoices, route sheets, or calendars;~~
    - c. ~~Letters from persons with first hand knowledge of the applicant's experience; and~~
    - d. ~~An official transcript from an educational institution at which the applicant completed relevant course work;~~
  3. ~~A complete set of fingerprints; and~~
  4. ~~The fingerprint processing fee.~~
- D. ~~The Commission shall send a written notice to an applicant for a qualifying party license regarding the date and time that the applicant is to appear at a Commission meeting for an evaluation of the applicant's practical experience and to be authorized to schedule and take the licensing examination described under R4-29-205. The applicant shall appear as noticed.~~

- ~~E. The Commission shall issue an inactive license to an applicant who meets all of the qualifications in A.R.S. § 32-2314 and this Chapter and passes the licensing examination. Before working as the qualifying party of a licensed business, the licensee shall activate the license.~~
- ~~F. An active qualifying party license authorizes the licensee to qualify one licensed business until December 31. A qualifying party licensee may qualify the one licensed business in each category in which the qualifying party is licensed.~~
- ~~G. If a qualifying party applicant whose application is closed under R4-29-107(B)(3) or (C) submits a new application under subsections (B) and (C) within one year after the prior application closed, the Commission shall not require the applicant to appear before the Commission as described in subsection (D) unless the applicant was convicted of a felony or misdemeanor during the time between applications.~~
- C. Experience. An applicant shall possess one of the following qualifications:**
1. Certification as an applicator for 24 months within the five years preceding the application in the category applied for.
  2. Certification as an applicator for 12 months within the five 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 experience in the business of pest management, in another State where licensure was not required, within the five years preceding application directly related to the category applied for.
- D. A QA shall be of good moral character. A conviction for a felony or a misdemeanor involving moral turpitude may demonstrate a lack of good moral character.**
- E. Department review.**
1. After notification by the Department that the applicant is eligible for certification, the applicant may schedule and take the certification examinations described under R3-7-212.
  2. If the Department determines there may be cause to deny certification to an applicant, the Department 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 R3-7-212 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, and
  3. Renewed for all certification categories for the same renewal period.
- H. 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.**

**R3-7-205. Qualifying Party Registration; Temporary Qualifying Party Registration**

- A. An applicant for registration as a QP shall submit the fee specified in R3-7-103 and the following information on a form obtained from the Department:**
1. Name;
  2. QA certification number;
  3. Home address;
  4. Mailing address, if different from the home address;

5. E-mail address;
  6. Date of birth;
  7. Social Security number;
  8. Telephone number;
  9. Certification categories to be registered;
  10. Name, and license number if applicable, of the business, political subdivision, or registered private owner for which the applicant will act as the QP; and
  11. 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, political subdivision, or registered private owner may register as a temporary QP if the QP has become disassociated with the business licensee, political subdivision, or registered private owner 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 R3-7-103 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, political subdivision, registered private owner, or former QP indicating that the former QP has become disassociated with the business licensee, political subdivision, or registered private owner; and
  4. A written statement signed by the business licensee, political subdivision, or registered private owner that:
    - a. The business licensee, political subdivision, or registered private owner 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, political subdivision, or registered private owner wants the certified applicator to act as a temporary QP.
- E.** A business licensee, political subdivision, or registered private owner shall not use a temporary QP to qualify the business, political subdivision, or registered private owner 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.
  3. A QP or temporary QP may only register to qualify one business licensee, political subdivision, or registered private owner except as provided in subsection (F)(4).
  4. A QP for political subdivisions shall separately register as a QP for each political subdivision served, but may not register as a QP for more than one political subdivision without approval from the director pursuant to R3-7-402(C).

**~~R4-29-213, R3-7-206.~~ Branch Office Registration; Branch Supervisor Registration**

- A.** A business licensee ~~that wishes to~~ may not do business from a branch office ~~shall register unless the branch office and a branch supervisor are registered with the Commission Department before doing any business from the branch office.~~

- B.** To register a branch office, the business licensee shall ~~complete a form, that is available on the Commission's web site, and provide~~ submit the fee specified in R3-7-103 and the following information on a form obtained from the Department:
1. About the business:
    - a. Name;
    - b. License number;
    - c. Telephone and fax numbers;
    - d. Physical address;
    - e. Mailing address, if different from physical address; and
    - f. ~~Electronic mail~~ E-mail address, if any; and
    - g. Chemical storage address; and
  2. About the branch office:
    - a. Name of ~~manager;~~ branch supervisor;
    - b. ~~Manager's applicator license~~ Branch supervisor's applicator certification number;
    - c. Telephone and fax numbers;
    - d. Physical address;
    - e. Mailing address, if different from physical address;
    - f. ~~Electronic mail~~ E-mail address, if any; and
    - g. Chemical storage address; and
    - h. ~~The pest management categories in which the branch office will do business;~~
  3. ~~About the qualifying party:~~
    - a. ~~Name;~~
    - b. ~~Date of birth;~~
    - c. ~~Mailing address;~~
    - d. ~~Telephone number;~~
    - e. ~~Electronic mail address, if any; and~~
    - f. ~~Qualifying party license number; and~~
  4. ~~The dated signature of an authorized representative of the licensed business licensee.~~
- C.** ~~In addition to the form required under subsection (B), the business licensee shall submit the fee required under R4-29-105.~~
- ~~D.C.~~** ~~A branch office shall be owned by the business licensee.~~ A branch office shall do business in the name of the licensed business licensee only.
- D.** To register as a branch supervisor, the applicant shall submit the fee specified in R3-7-103 and the following information on a form obtained from the Department:
1. Name;
  2. Applicator certification number;
  3. Home address;
  4. Mailing address, if different from the home address;
  5. E-mail address;
  6. Telephone number;
  7. Name of employer;
  8. Employer's business license number;
  9. Employer's telephone number;
  10. Address of branch office where the applicant will be the supervisor; and
  11. Dated signature of the applicant affirming that the information provided is true and correct.
- 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.

**~~R4-29-207. — Renewing an Applicator, Qualifying Party, or Business License~~**

- ~~A. The Commission shall mail a renewal form to a licensee at the licensee's address of record, provide access to a downloadable renewal form, or provide access to online renewal. Timely license renewal is the responsibility of the licensee. Failure to receive notice of renewal does not justify failure to renew.~~
- ~~B. If a licensee's renewal application is not administratively complete before the license expiration date, the Commission shall require the licensee to pay the penalty prescribed at R4-29-105(B).~~
- ~~C. Renewal applications are due as follows:~~
- ~~1. For an applicator license, May 1;~~
  - ~~2. For a qualifying party license, December 1; and~~
  - ~~3. For a business license, December 1.~~
- ~~D. To renew an applicator or qualifying party license, the licensee shall:~~
- ~~1. Submit the following information to the Commission on a completed renewal form:~~
    - ~~a. A change in mailing address, if any;~~
    - ~~b. Electronic mail address, if any;~~
    - ~~c. Telephone number;~~
    - ~~d. For a qualifying party, a statement whether the licensee wants to renew or inactivate each category in which the licensee is licensed. An applicator license cannot be inactivated by category but only in whole;~~
    - ~~e. Name of employer;~~
    - ~~f. Name of business for which the qualifying party provides qualification;~~
    - ~~g. A statement whether the licensee has ever been convicted of a felony or a misdemeanor and if the answer is yes, a statement whether all felony convictions have been reviewed and voted on by the Commission and if the answer is no:~~
      - ~~i. A completed Criminal Conviction Supplement form that includes information regarding the charge, date, jurisdiction and disposition of conviction, and current status;~~
      - ~~ii. A copy of documents pertaining to each conviction including court orders and police, probation, and pre-sentence reports;~~
      - ~~iii. A complete set of fingerprints; and~~
      - ~~iv. The fee for fingerprint processing;~~
    - ~~h. A statement whether the licensee 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, date, jurisdiction taking the action, nature of the action, and explanation of the circumstances; and~~
    - ~~i. The licensee's dated signature affirming that the licensee complied with the continuing education requirement under R4-29-215. If the licensee is renewing a license in inactive status, no continuing education is required; and~~
  - ~~2. Submit the fee required under R4-29-105.~~
- ~~E. To renew a business license, the licensee shall:~~
- ~~1. Submit the following information to the Commission on a completed renewal form:~~
    - ~~a. A change in mailing address, if any;~~
    - ~~b. Electronic mail address, if any;~~
    - ~~c. Telephone number;~~
    - ~~d. A statement whether the licensee wants to renew an active or inactive license;~~
    - ~~e. Name of the qualifying party in each category in which the business provides structural pest control services;~~
    - ~~f. A statement that the licensee maintains the insurance or surety bond required by A.R.S. § 32-2313; and~~
    - ~~g. The dated signature of the authorized representative of the business; and~~
  - ~~2. Submit the fee required under R4-29-105.~~

- ~~F. If the Commission determines there may be cause to deny a renewal, the Commission shall send a written notice to the applicant specifying the date and time for the applicant to appear at a Commission meeting and answer questions.~~
- ~~G. An applicator, qualifying party, or business licensee that fails to submit a timely and complete renewal application shall not provide pest management services until the Commission provides written notice of the Commission's decision to grant or deny renewal.~~
- ~~H. The Commission shall not renew a license that is expired for more than 30 days. The former licensee may apply for licensure as a new applicant.~~

**~~R4-29-208. — Obtaining a Temporary Qualifying Party License~~**

- ~~A. A licensed applicator who is employed by a business licensee may apply for a renewable, temporary qualifying party license if the qualifying party, who is not a temporary qualifying party, of the business has disassociated from the business within the last 45 days.~~
- ~~B. A temporary qualifying party applicant shall submit the following information to the Commission on a form obtained from the Commission:
 
  - ~~1. About the business licensee:
 
    - ~~a. Business name;~~
    - ~~b. Business license number;~~
    - ~~c. Physical address;~~
    - ~~d. Mailing address, if different from the physical address;~~
    - ~~e. Telephone number; and~~
    - ~~f. Fax number;~~~~
  - ~~2. About the licensed applicator:
 
    - ~~a. Full name;~~
    - ~~b. Applicator license number;~~
    - ~~c. Physical address;~~
    - ~~d. Mailing address, if different from the physical address;~~
    - ~~e. Telephone number;~~
    - ~~f. Electronic mail address, if any;~~
    - ~~g. Fax number;~~
    - ~~h. A statement whether the applicant has ever been convicted of a felony or a misdemeanor and if the answer is yes, a statement whether all felony convictions have been reviewed and voted on by the Commission and if the answer is no:
 
      - ~~i. A completed Criminal Conviction Supplement form that includes information regarding the charge, date, jurisdiction and disposition of conviction, and current status;~~
      - ~~ii. A copy of documents pertaining to each conviction including court orders and police, probation, and pre-sentence reports;~~
      - ~~iii. A complete set of fingerprints; and~~
      - ~~iv. The fee for fingerprint processing;~~~~
    - ~~i. 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;~~
    - ~~j. License category for which application is made; and~~
    - ~~k. The applicant's dated signature affirming that the information provided is true and correct.~~~~~~
- ~~C. In addition to the form required under subsection (B), an applicant shall submit:
 
  - ~~1. The fee specified in R4-29-105;~~
  - ~~2. A written notice of disassociation from the qualifying party who previously qualified the business;~~
  - ~~3. A written request from the business licensee that an applicator licensed in the category in which the disassociating qualifying party qualified the business be granted a temporary qualifying party license. The Commission shall not issue a temporary qualifying party license to an applicator to~~~~

- ~~qualify a business in a category different from the category in which the disassociating qualifying party qualified the business;~~
- ~~4. A written statement from the business licensee that the business has not operated since the disassociation in the category for which the disassociated qualifying party qualified the business; and~~
  - ~~5. A written description of how the temporary qualifying party will:
 
    - ~~a. Manage the pest management services provided by the business,~~
    - ~~b. Supervise the pest management services provided by the business, and~~
    - ~~c. Train and supervise all licensed and unlicensed applicators employed by the business.~~~~
- ~~D. The Commission shall issue a temporary qualifying party license to an applicant who is qualified under A.R.S. § 32-2314 and this Chapter. The temporary qualifying party license authorizes the licensee to qualify a licensed business for 60 days in each category in which the temporary qualifying party is licensed.~~
- ~~E. If a temporary qualifying party license expires, the business licensee qualified by the temporary qualifying party licensee shall not perform pest management services in the category for which the temporary qualifying party qualified the business.~~

### **R3-7-207. Private Owner Registration**

- A. A person who owns a residential property that is occupied by another person or who owns or occupies a commercial property may register as a private owner.**
- B. A registered private owner and the owner's employees may apply pesticides at the property covered by the registration without a business license. The private owner and the owner's employees shall comply with all other applicable requirements in this Chapter, including applicator certification and QP registration.**
- C. To register as a private owner, the applicant shall submit the fee specified in R3-7-103 and the following information on a form obtained from the Department:**
- 1. Applicant's name;**
  - 2. Applicant's physical address and mailing address, if different from physical address;**
  - 3. Applicant's telephone and fax numbers;**
  - 4. Applicant's e-mail address;**
  - 5. Chemical storage address;**
  - 6. Name of QP;**
  - 7. Address of property covered by the registration;**
  - 8. Identification of property as commercial or residential;**
  - 9. For commercial property, identification of whether applicant is the owner or occupant;**
  - 10. Proof that the applicant is the owner or occupant of the property covered by the registration;**
  - 11. Proof of the financial security required by A.R.S. § 3-3512; and**
  - 12. The dated signature of applicant certifying the information provided.**
- D. Private owner registration 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.**

### **R3-7-208. Applicator Registration**

- A. Every applicator of a business licensee, political subdivision, or registered private owner shall be registered with the Department as an applicator for that business licensee, political subdivision, or registered private owner before providing pest management services for the business licensee, political subdivision, or registered private owner. This requirement is in addition to applicator certification requirements.**
- B. To register an applicator, a person shall submit the fee specified in R3-7-103 and the following information about the applicator on a form obtained from the Department:**
- 1. Full name;**

2. Home address;
  3. Mailing address, if different from the home address;
  4. E-mail address;
  5. Date of birth;
  6. Social Security number;
  7. Telephone number;
  8. Name, and license number if applicable, of the business licensee, political subdivision, or registered private owner;
  9. If an uncertified applicator, information and documentation concerning lawful presence required by A.R.S. § 41-1080;
  10. For applicators of a business licensee, identification of the primary or branch office where the applicator's pest management records will be kept; and
  11. Dated signature of the applicant affirming that the information provided is true and correct.
- C.** There is no fee to register an applicator of a political subdivision.
- D.** An applicator shall be at least 18 years of age.
- E.** Applicator registration is valid from the date the Department receives all the information required under subsection (B) and the registration fee.
- F.** Applicator registration is non-transferable and expires on May 31.
- G.** A business licensee and QP are jointly responsible for ensuring compliance with this Section.
- H.** The director shall assess a business licensee with a \$150 civil penalty for each unregistered applicator.

**R3-7-209. License, Certification and Registration Renewal**

- A.** An application to renew a business license, applicator or QA certification, or qualifying party, branch office, branch supervisor, private owner, 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 Department:
1. All renewals:
    - a. A change in mailing address, if any;
    - b. E-mail address, if any;
    - 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. 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. § 3-3512.
  3. Applicator and QA certification:
    - a. Name of employer;
    - 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 R3-7-103 for each year of renewal.
- D.** 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 R3-7-103 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:
  - a. Has satisfied the CEU requirements, and
  - b. Submits a complete renewal application, including the renewal fee, and the late fee by June 30.
3. A license, certification, or registration that has been expired for more than one year may not be renewed. The former licensee may apply as a new applicant.
4. Notwithstanding subsections (D)(1)-(3), an applicant who fails to renew because the applicant is on active military duty may apply for renewal within one year of honorable separation from active military duty without paying a late fee.

**E. 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 the renewal has been approved or in the case of denial or new limits on the license, certification, or registration until the last day for seeking review of the Department 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 Department has approved the renewal application. A business, branch office, or applicator with an expired license, registration, or certification may not provide pest management services or otherwise engage in the business of pest management. A qualifying party with an expired registration may not qualify a business licensee, political subdivision, or registered private owner. A branch supervisor with an expired registration may not supervise a branch office.

**F. CEU requirements.**

1. The Department shall not renew a certification unless, prior to the expiration of the current certification, the applicator obtains the CEUs required by R3-7-214.
2. Examination exception. An applicator who fails to complete the CEUs required for renewal may renew a certification, prior to expiration, for one year by submitting the completed application, including the renewal fee, and retaking and passing the applicable certification examinations.

**~~R4-29-210. — Inactivating or Activating an Applicator License~~**

- ~~A. To place a valid, active applicator license on inactive status, the licensee shall submit the following information to the Commission on a form obtained from the Commission:~~
- ~~1. Name;~~
  - ~~2. Applicator license number;~~
  - ~~3. Physical address;~~
  - ~~4. Mailing address, if different from the physical address;~~
  - ~~5. Electronic mail address, if any;~~
  - ~~6. Date of birth;~~
  - ~~7. Social Security number;~~
  - ~~8. Telephone number; and~~
  - ~~9. Dated signature of the licensee affirming that:~~
    - ~~a. The information provided is true and correct; and~~
    - ~~b. The licensee shall not perform pest management services in any category while the license is on inactive status.~~

- ~~B. An inactive license expires on May 31 unless renewed. To renew an inactive license, the licensee shall comply with the renewal provisions at R4-29-207(C) and (D). There is no continuing education requirement to renew an inactive applicator license.~~
- ~~C. To activate an inactive applicator license, the licensee shall submit to the Commission:~~
- ~~1. The following information on a form obtained from the Commission:
 
    - ~~a. Name;~~
    - ~~b. Applicator license number;~~
    - ~~c. Categories in which the licensee is licensed;~~
    - ~~d. Physical address;~~
    - ~~e. Mailing address, if different from the physical address;~~
    - ~~f. Electronic mail address, if any;~~
    - ~~g. Date of birth;~~
    - ~~h. Social Security number;~~
    - ~~i. Telephone number;~~
    - ~~j. A statement whether the applicant has ever been convicted of a felony or a misdemeanor and if the answer is yes, a statement whether all convictions have been reviewed by the Commission and if the answer is no, submit:
 
      - ~~i. A completed Criminal Conviction Supplement form that includes information regarding the charge, date, jurisdiction and disposition of conviction, and current status;~~
      - ~~ii. A copy of documents pertaining to each conviction including court orders and police, probation, and pre-sentence reports;~~
      - ~~iii. A complete set of fingerprints; and~~
      - ~~iv. The fee for fingerprint processing;~~~~
    - ~~k. A statement whether the applicant has ever had a license or permit to practice structural pest control denied, revoked, or suspended and if the answer is yes, date, jurisdiction taking the action, nature of the action, and explanation of the circumstances;~~
    - ~~l. Name of employer;~~
    - ~~m. Employer's business license number;~~
    - ~~n. Employer's telephone number; and~~
    - ~~o. Dated signature of the licensee affirming that the information provided is true and correct;~~~~
  - ~~2. The fee required under R4-29-105; and~~
  - ~~3. Evidence described at R4-29-215(C) of completing six units of continuing education.~~
- ~~D. If the Commission determines there may be cause to deny activating an applicator license, the Commission shall send a written notice to the applicant specifying the date and time for the applicant to appear at a Commission meeting and answer questions.~~

**~~R4-29-214. R3-7-210. Change in a Business Licensee~~**

- ~~A. If a sole proprietor business licensee dies or becomes disabled, the spouse of the sole proprietor business licensee may apply to the Commission to have the business license transferred to the spouse. The Commission shall transfer the business license to the spouse of the dead or disabled sole proprietor business licensee if the spouse agrees to fulfill all the responsibilities of a business licensee and to honor all customer warranties provided by the business.~~
- ~~B. Except as provided in subsection (A), a business licensee shall stop providing pest management services and apply for a new business license immediately after the owner of a sole proprietorship changes.~~
- A. Except as otherwise provided in this section, any change in the majority ownership of a licensed business requires a new business license.
- B. **Notwithstanding** subsection (A), a business license may be transferred to a new majority owner upon approval of the Department if the new majority owner:

1. Submits an application for a new business license, including the prescribed fee, pursuant to R3-7-202;
  2. Keeps the same business name as the prior owner; and
  3. Agrees to honor all customer contracts and warranties provided by the former business licensee.
- C.** Transfer to spouse. If only one individual owns a licensed business, whether as a sole proprietor or a company, the business license may be transferred to the spouse of the owner upon approval of the Department. Upon application by the spouse to transfer a business license, the Department shall transfer the business license to the spouse without a fee if:
1. The spouse agrees to fulfill all the responsibilities of a business licensee and to honor all customer contracts and warranties provided by the business, and
  2. Either the spouse submits written consent of the current owner or verification that the current owner has died.
- D.** When a business license is transferred under subsections (B) or (C), the new licensee shall be responsible for any disciplinary action taken by the Department as a result of violations of this Chapter or A.R.S. Title 3, Chapter 35 by the former licensee.
- E.** If, through a change in the majority ownership, a licensed business's office becomes a branch office of another licensed business, the new majority owner shall notify the Department and comply with R3-7-206.
- F.** A business licensee shall report any change in the principals of the business to the Department 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.
- ~~C.G.~~** If a business licensee changes the name ~~or form~~ of the business, the licensee shall provide the following information on a Business Name ~~or Entity~~ Change Application submitted to the Commission ~~within 30 days of Department~~ prior to the change:
1. Business ownership status;
  2. Name of business entity;
  3. Physical address of business entity;
  4. Mailing address of business entity, if different from the physical address;
  5. Current business name;
  6. Business license number;
  7. Telephone number;
  8. Fax number;
  9. Physical address of business;
  10. Mailing address of business, if different from the physical address;
  11. ~~Electronic mail~~ E-mail address, if any;
  12. Chemical storage address of business;
  13. ~~New name requested, if any; requested;~~
  14. ~~Reason for name change, if applicable;~~
  15. Copy of the Registered Trade Name Certificate showing the new name or amended Articles of Organization or Incorporation; and
  - 16;15. Dated signature of the authorized representative of the business licensee affirming that the information provided is true and correct.

[NOTE: Subsections A-D were reordered, but not materially changed.]

**~~R4-29-211. Inactivating or Activating a Qualifying Party License~~**

- ~~A.~~** To place a valid, active qualifying party license on inactive status, the licensee shall submit the following information to the Commission on a form obtained from the Commission:
1. ~~Name;~~
  2. ~~Qualifying party license number;~~
  3. ~~Physical address;~~

4. ~~Mailing address, if different from the physical address;~~
  5. ~~Electronic mail address;~~
  6. ~~Date of birth;~~
  7. ~~Social Security number;~~
  8. ~~Telephone number;~~
  9. ~~The license categories to be inactivated;~~
  10. ~~Employer's name and telephone number; and~~
  11. ~~Dated signature of the licensee affirming that:
 
    - a. ~~The information provided is true and correct; and~~
    - b. ~~The licensee shall not act to qualify a business in an inactive category without activating the license in that category.~~~~
- ~~**B.** An inactive qualifying party license expires on December 31 unless renewed. To renew an inactive license, the licensee shall comply with the renewal provisions at R4-29-207(C) and (D). There is no continuing education requirement to renew an inactive qualifying party license.~~
- ~~**C.** To activate an inactive qualifying party license and qualify a new business, the qualifying party licensee and the new business applicant shall:~~
1. ~~Comply with R4-29-206,~~
  2. ~~Submit both the fee required to activate a qualifying party license and apply for a business license, and~~
  3. ~~Submit evidence described at R4-29-215(C) of the qualifying party completing six units of continuing education.~~
- ~~**D.** To activate an inactive qualifying party license and qualify an existing business, the qualifying party licensee and the business licensee shall:~~
1. ~~Comply with R4-29-206,~~
  2. ~~Submit the fee required to activate a qualifying party license, and~~
  3. ~~Submit evidence described at R4-29-215(C) of the qualifying party completing six units of continuing education.~~
- ~~**E.** If the Commission determines there may be cause to deny activating a qualifying party license, the Commission shall send a written notice to the applicant specifying the date and time for the applicant to appear at a Commission meeting and answer questions.~~

**R4-29-212, R3-7-211. Certification Broadening an Applicator or Qualifying Party License**

- ~~**A.** To broaden an applicator license, the licensed applicator certification, the applicant shall:~~
1. ~~Submit to the Commission the license application form described in **R4-29-203 R3-7-203** and indicate on the form application the category in which broadening is sought,~~
  2. ~~Submit the fee required under R4-29-105(A)(1)(b), R3-7-103, and~~
  3. ~~Take and pass the licensing certification examination described in R4-29-205 for the specific category in which broadening is sought.~~
- ~~**B.** A qualifying party QA is eligible to broaden the qualifying party license a QA certification only if the qualifying party holds an applicator license QA has a valid applicator certification in the category in which broadening is sought.~~
- ~~**C.** To broaden a qualifying party license, the licensed qualifying party QA certification, the QA shall:~~
1. ~~Submit to the Commission the license application form described in **R4-29-204 R3-7-204** and indicate on the form application the category in which broadening is sought,~~
  2. ~~Submit the fee required under R4-29-105(A)(2)(b), R3-7-103,~~
  3. ~~Submit the evidence of experience required under R4-29-204(C)(2) **R3-7-204(C)** for the category in which broadening is sought, sought except as provided in subsection (D) of this section, and~~
  4. ~~Appear at a Commission meeting for an evaluation of the qualifying party's practical experience for the category in which broadening is sought, and~~

5. Take and pass the licensing certification examination ~~described in R4-29-205~~ for the specific category in which broadening is sought.
- ~~D. If a qualifying party whose application for license broadening is closed under R4-29-107(B)(3) or (C) submits a new application under subsection (C) within one year after the prior application closed, the Commission shall not require the applicant to appear before the Commission as described in subsection (C)(4) unless the applicant was convicted of a felony or misdemeanor during the time between applications.~~
- D.** Experience exemptions. A QA may become certified without meeting the experience requirement of R3-7-204(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 management, ornamental and turf, or right-of-way.
  2. Wood-destroying organisms if the individual has QA certification in the industrial and institutional category.

**R4-29-205, R3-7-212. Licensing Certification Examination for an Applicator or Qualifying Party Applicant**

- A. ~~Under A.R.S. §§ 32-2312(C) and 32-2314(C), taking and passing an examination is a condition for licensure as an applicator or qualifying party.~~
- B.** ~~An applicant who has received notice from the Commission that the applicant is approved to take the licensing examination~~ **for applicator certification or QA certification** shall make arrangements to take the ~~examination~~ certification examinations by contacting the ~~Commission Department~~ or the examination service or testing vendor with which the ~~Commission Department~~ has contracted.
- ~~C. To assist an applicant to prepare for the licensing examination, the Commission shall maintain a list of study materials on its web site and may provide an examination training class. An applicant may also take an examination training class from a private vendor.~~
- ~~D. The licensing examination measures knowledge and understanding of both general and category-specific information. To be licensed, an applicant shall score at least 75 percent on the general standards (“core”) examination and the category specific examination for each category in which the applicant seeks licensure.~~
- E.B.** Both the **The** core and category-specific licensing examination for an applicator and qualifying party 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.
- ~~F. The Commission or the examination service or testing vendor shall provide immediate, written notice to an applicant regarding whether the applicant passed a licensing examination.~~
- C.** 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.
- G.D.** An applicant shall not take the same examination more than once on the same day who fails an examination may not retake the examination for at least seven days or more than three times in a 12-month period.
- E.** 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.

~~H.F.~~ The ~~Commission Department~~ shall ~~immediately close void the examination score and deny the~~ application of an applicant that the ~~Commission Department~~ determines cheated on an examination. ~~The applicant may not reapply for one year.~~

~~I.~~ If an application is closed under subsection (H), the score received on the examination is void.

**R3-7-213. Reciprocity**

Notwithstanding the examination requirements in R3-7-203(C), R3-7-204(F), and R3-7-212, the director may waive the examination requirements in whole or in part for an individual who is certified as an applicator pursuant to Chapter 3, Article 2 or by another state.

**R4-29-215, R3-7-214. Continuing Education Requirement for an Applicator or Qualifying Party**

~~A.~~ A certified applicator or qualifying party shall who is not a QA shall, during the current certification period, obtain six units of continuing education within the 13 months before a license renewal application is submitted under R4-29-207 CEUs in order to renew the certification for one year and 12 CEUs in order to renew for two years.

~~B.~~ Continuing education units used to renew an applicator license may be used to renew the applicator's qualifying party license if the continuing education units were obtained within 13 months before the qualifying party license renewal application is submitted. Continuing education units used to renew a qualifying party license may be used to renew the qualifying party's applicator license if the continuing education units were obtained within 13 months before the applicator license renewal application is submitted.

~~B.~~ A QA shall, during the current certification period, obtain 12 CEUs in order to renew the certification for one year and 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).

~~C.D.~~ To document attendance at a continuing education course, an applicator or qualifying party shall obtain a verification of attendance from the continuing education provider that includes:

1. The applicator's or qualifying party's name; name,
2. The applicator's or qualifying party's license number; certification number,
3. The name of the continuing education; education course,
4. The name of the continuing education provider; provider,
5. The date of the continuing education; education course, and
6. The number of continuing education units obtained.

~~D.E.~~ An applicator and qualifying party shall maintain a verification of attendance for ~~one year~~ two years and make the verification of attendance at a continuing education available for review by the ~~Commission Department~~ upon request.

~~E.~~ An applicator or qualifying party may earn one unit of continuing education each year for attending a regularly scheduled meeting of the Commission in its entirety. To ensure receipt of a verification of attendance, an applicator or qualifying party shall contact the Commission staff before attending a Commission meeting and sign the meeting sign-in sheet.

~~F.~~ An applicator or qualifying party 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.

~~G.~~ No CEU credit will be earned by an attendee of a continuing education course who does not complete the course.

**R4-29-216, R3-7-215. Requirements for Approval of Continuing Education Approval**

~~A.~~ Only continuing education courses approved by the ~~Commission Department~~ may be used to satisfy the continuing education requirement in ~~R4-29-215~~ R3-7-214. The ~~Commission Department~~ shall approve a continuing education course only if ~~it~~ the course addresses:

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; ~~or~~
12. Integrated pest management; or
- ~~12,13.~~ Licensee responsibilities.

~~**B.** An applicator, qualifying party, or continuing education provider may apply to the Commission for approval of continuing education.~~

~~**C.B.** A person applying for approval of continuing education shall submit the following to the Commission: A person who wishes to have the Department determine whether a course qualifies for CEU credit shall submit the following information to the Department:~~

- ~~1. A continuing education approval application form, obtained from the Commission, that provides the following information:~~
  - ~~a.~~ Type of continuing education listed under subsection (A);
  - ~~b.~~ 2. Name of continuing education provider;
  - ~~c.~~ 3. Address and telephone number of continuing education provider;
  - ~~d.~~ Topic of continuing education;
  - ~~e.~~ Pest management category of continuing education;
  - ~~f.~~ Date, time, and location of the continuing education, if known at the time of the application. If this information is not known at the time of application, the person applying for approval of the continuing education shall submit this information when it is known;
  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. Fees charged for attending the course;
  8. Date and location of each session;
  9. Whether the course is open to the public;
  - ~~g.~~ 10. Number of continuing education units sought;
  - ~~h.~~ 11. Previous continuing education number, if any; **and**
  - ~~i.~~ Level and type of instruction;
  - ~~j.~~ Description of learning activities;
  - ~~k.~~ Frequency at which the continuing education will be offered;
  - l. Method of proof of attendance in addition to on-line reporting; and**
  - ~~m.~~ 12. Dated signature of applicant;
- ~~2. An instructor application or resume that includes information about the instructor's education and experience relevant to pest management;~~
- ~~3. An outline of the subject matter to be covered in the continuing education that demonstrates the continuing education will address at least one of the topics identified in subsection (A);~~
- ~~4. A copy of any material that will be used or provided to those who attend;~~
- ~~5. A copy of an examination, if any, used to measure learning; and~~
- ~~6. A copy of promotional materials, if any.~~

**D.C.** The provider of an approved continuing education course shall:

1. Provide a verification of attendance that meets the requirements of ~~R4-29-215(C)~~ R3-7-214(D) to each individual who completes the ~~continuing education; course,~~

2. Enter attendance information using the ~~Commission's Department's~~ on-line continuing education reporting tool within 10 days after the date of the continuing ~~education;~~ education course, and
  3. Maintain a copy of the verification of attendance ~~or~~ and original sign-in sheet that lists the attendees' names and ~~license certification~~ numbers for two years.
- E.D.** Unless otherwise indicated in the notice of approval, the ~~Commission's Department's~~ approval of a continuing education course is valid for two years.
- F.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 ~~(C)~~ (B).
- G.F.** The provider of an approved continuing education course shall provide notice and updated information to the ~~Commission Department~~ within 10 days after the subject matter or instructor of the ~~approved continuing education course~~ changes.
- H.G.** To evaluate the effectiveness of a continuing education course, the ~~Commission Department~~ may monitor an approved continuing education course at no cost. Upon request by the ~~Commission Department~~, a continuing education provider shall provide the ~~Commission Department~~ with the date and time that ~~approved continuing education the course~~ will be provided.
- I.H.** The ~~Commission Department~~ shall revoke its approval of a continuing education course if the ~~Commission Department~~ determines that the ~~continuing education 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 Commission's statutes and this Chapter~~ or A.R.S. Title 3, Chapter 35.
- I.** The Department 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 Department modifies the number of CEUs earned, the Department shall send a letter of modification to the course organizer, who shall be required to inform all individuals who attended the course.

**ARTICLE 3. APPLICATOR DUTIES AND RESPONSIBILITIES PEST MANAGEMENT****~~R4-29-304, R3-7-301.~~ Using Pesticides and Devices**

- A.** An applicator shall use only a pesticide that is currently registered for use by ~~both the EPA and the Arizona Department of Agriculture.~~
- 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 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 ~~licensed~~, certified or working under the immediate supervision of a ~~licensee~~ licensed applicator certified in the category for which the restricted-use pesticide is applicable.
- F.** ~~Unless consistent with the label and labeling, an applicator shall not apply a granulated pesticide that bears the statement "Keep out of the reach of children" in a manner that leaves exposed granules on a patio, step, porch, sidewalk, driveway, or floor.~~
- G.** ~~An applicator shall clean a pesticide spill in accordance with the pesticide label and labeling 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 directions.~~
- H.G.** An applicator shall apply a pesticide at a rate provided by a Special Local Need registration issued by the ~~Arizona Department of Agriculture~~ and the pesticide labeling only if the applicator has both the Special Local Need registration and labeling in the applicator's possession at the time of application.
- I.H.** If information regarding provision of a particular pest management service is not available on the pesticide label or labeling or addressed in the ~~Commission's~~ Department'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.
- J.I.** ~~If there is a conflict between any provision in this Section and labeling instructions or a local ordinance, an applicator shall follow the more specific instruction.~~

**~~R4-29-306. R3-7-302.~~ 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 and properly labeled.
- C. An applicator shall ensure that a service container bears a durable and legible label with the following information:
  1. The name, address, and telephone number of the business licensee;
  2. The common chemical or trade name of the principal active ingredients;
  3. The EPA registration number;
  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 ~~an~~ approved 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 ~~the same room or common air space where a manner~~ which food, beverage, feed, drugs, cosmetics, eating utensils, or tobacco products ~~are stored~~ 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 residential structure or in the 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 in a locked storage space while the pesticide container is transported on a service vehicle.

**~~R4-29-606. R3-7-303.~~ Storing Pesticides and Devices Pesticide and Device Storage Area**

- A. A business ~~licensee~~ licensee, registered private owner, 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~~ licensee, registered private owner, 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~~ licensee, registered private owner, 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~~ licensee, registered private owner, 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~~ licensee, registered private owner, or political subdivision shall provide the following in or immediately adjacent to the storage area 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. ~~First aid kit that includes the supplies listed in R4 29 607(6);~~
  4. Emergency medical information including the telephone number of the state or local poison control center;
  5. ~~4.~~ Material capable of absorbing a spill or leak of at least one gallon;
  6. ~~5.~~ Specimen label and MSDS for each pesticide stored in the area; and
  7. ~~6.~~ Washing facilities that include fresh water, soap, and towels.

**~~R4-29-607, R3-7-304.~~ Equipping a Service Vehicle**

A business ~~licensee~~ licensee, registered private owner, 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. ~~A first aid kit that contains the following:~~
  - a. ~~Antiseptic cleansing wipes, soap and water, or skin sanitizer;~~
  - b. ~~Clean, uncontaminated, non-latex gloves;~~
  - c. ~~Adhesive bandages, gauze, and tape;~~
  - d. ~~Disposable towels;~~
  - e. ~~First aid guide; and~~
  - f. ~~Emergency telephone numbers including the telephone number of the state or local poison control center;~~
7. ~~6.~~ At least one gallon of clean, drinkable water for each individual using the service vehicle at one time;
8. ~~7.~~ Uncontaminated change of clothing;
9. ~~8.~~ Specimen label and MSDS for each pesticide on the service vehicle; and
10. ~~9.~~ A locking storage space designed to prevent a pesticide container from being damaged while in transit.

**~~R4-29-302, R3-7-305.~~ Providing Notice to Customers**

- A. ~~An~~ 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. ~~Identifies the pesticide used;~~
  2. ~~Provides all information required by the label or labeling;~~
  3. ~~Provides all information required by local ordinance; and~~
  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 pesticide applied;
  7. Percent active ingredient in the pesticide as applied;
  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
- 4.9. ~~Includes the following~~ 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 ~~Commission~~ Department] at [business licensee’s telephone number].”
- B. An applicator who provides a pest management service at a school shall comply with the notification requirements in A.R.S. § ~~32-2307~~ 3-3521.

**~~R4-29-303. R3-7-306. Performing a Wood-destroying Insect Inspection~~**

- A. Only an applicator ~~licensed in both categories B-2 and B-8~~ certified in the category of wood-destroying organism management or wood-destroying insect inspection and who has received the training required under A.R.S. § ~~32-2324(A)~~ 3-3524(A) may perform a wood-destroying insect inspection or complete a WDIIR.
- B. An applicator ~~performing~~ completing a ~~wood-destroying insect inspection~~ WDIIR shall inspect all areas of a structure that are visible or accessible at the time of the inspection.
- C. An applicator ~~performing~~ completing a ~~wood-destroying insect inspection~~ 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.
- D. An applicator ~~performing~~ completing a ~~wood-destroying insect inspection~~ 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 ~~on or near~~ at or below grade, the existing earth level is considered grade level;
  2. Inaccessible sub-area such as an area with less than 18 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; or structure.
  - ~~6. Insufficient ventilation. Ventilation is insufficient when there are fewer than two areas to permit cross ventilation and prevent excessive moisture.~~
- 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.

**R3-7-307. Wood-Destroying Insect Inspectors**

- A. An applicator certified only in the category of wood-destroying insect inspection and who is licensed as a home inspector by the Arizona Board of Technical Registration may conduct wood-destroying insect inspections and complete WDIIRs without a business license or QP.
- B. An applicator who conducts wood-destroying insect inspections or completes WDIIRs under subsection (A) shall:
1. Comply with all applicable business licensee and QP recordkeeping requirements;
  2. Not make recommendations, estimates, bids or contracts for treatment or use pesticides or devices for pest management; and
  3. Not pay or receive, directly or indirectly, in full or in part, a commission or compensation as a referral or finder's fee.

**~~R4-29-305~~, R3-7-308. Performing Wood-destroying Insect Control Management**

- A. An applicator shall not perform wood-destroying insect ~~control~~ management or fumigation unless the applicator is ~~licensed in Category B2 or B4~~, certified in the category of wood-destroying organism management or fumigation, respectively, or working under the immediate supervision of an applicator ~~or qualifying party~~ who is ~~licensed in Category B2 or B4~~, certified in the category of wood-destroying organism management or fumigation respectively.
- B. An applicator shall not perform wood-destroying ~~insect control~~ organism management until the business licensee, private owner, or political subdivision that employs the applicator ensures that:
1. A wood-destroying insect inspection is performed under ~~R4-29-303~~ R3-7-306 by a ~~licensed certified~~ qualified meeting the training requirement under A.R.S. § ~~32-2323(E)~~, 3-3523(E),
  2. A treatment proposal is prepared on a form approved by the ~~Commission~~ Department and contains the information required under A.R.S. § ~~32-2323(B)~~ 3-3523(B) and (C), and
  3. The treatment proposal is delivered to the person requesting the proposal or treatment.
- C. An applicator shall apply a termiticide only in the quantity, strength, ~~and~~ dosage, and ~~in the~~ manner prescribed on the termiticide label unless otherwise specified by this Chapter or a ~~Commission~~ Department 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 the termiticide label requires more, an applicator shall treat all critical areas during a ~~pretreatment, including the final grade portion of a pretreatment,~~ pretreatment at a rate of four gallons of chemical preparation per 10 linear feet 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.

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. ~~License~~ Certification number of applicator or, if not ~~licensed, certified,~~ the name and ~~license~~ certification number of the applicator or ~~qualifying party~~ 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 INCOMPLETE."

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."
  9. ~~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.~~
- 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 a new-construction 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) through (D)(9) 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.
  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 after all grading and other construction-related soil disturbance is complete, but within twelve months of the original pretreatment or new-construction treatment.
  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. 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. If the critical areas of a structure received neither a pretreatment nor a new-construction treatment, an applicator shall treat all critical areas visible at the time of post-construction treatment before issuing a builder's warranty regarding ~~subterranean termite~~ **wood-destroying insect** treatment. An area is critical at the time of a post-construction treatment if it is an area listed in subsection (D)(1)(b), a change of grade, or a crack greater than 1/16th of an inch.
3. 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 unfinished basement, enclosed porch, garage, or workshop, with a material that is nonporous and non-cellulose.

~~G.H.~~ An applicator who performs a ~~pretreatment or~~ **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.

**R4-29-608, R3-7-309. Providing Termite Treatment Wood-Destroying Insect Management 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 performs a ~~pretreatment or new construction treatment~~ shall establish vertical barriers at the exterior of foundation walls in stem wall construction or the exterior of grade beam in monolithic construction after all grading and other construction related soil disturbance is complete. This final grade treatment, which may be completed after construction, is part of either the ~~pretreatment or new construction treatment~~.
- ~~C.B.~~ A business licensee that provides a **termite treatment wood-destroying insect treatment** warranty shall ensure that the effective date of the warranty is the date on which treatment begins.
- ~~D.C.~~ If ~~subterranean termites~~ **wood-destroying insects** occur in or on a residential or commercial structure within ~~five~~ **three** years after a business licensee first performs a pretreatment or new-construction treatment of the structure, the business licensee shall re-treat the structure free of charge in accordance with the label specifications of a termiticide available for use. If ~~subterranean termites~~ **wood-destroying insects** occur in or on an addition that does not abut the slab of a residential or commercial structure within ~~five~~ **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 ~~category B2 or B8~~ **wood-destroying insect treatment**.
- ~~E.D.~~ If ~~subterranean termites~~ **wood-destroying insects** occur a third time on the exterior of a one or two unit residential structure within ~~five~~ **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 wood-destroying insect** activity originates and that is not livable and not a garage;
  2. For the purpose of this subsection and subsection ~~(F); (E);~~:
    - a. A first occurrence means the first time evidence of ~~subterranean termites~~ **wood-destroying insects** exists after a pretreatment or new-construction treatment;
    - b. A second occurrence means evidence of ~~subterranean termites~~ **wood-destroying insects** 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 wood-destroying insects 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.
- F.E.** If subterranean termites wood-destroying insects occur a third time on the interior of a one or two unit residential structure within five 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 wood-destroying insect activity originates and that is livable or a garage.
- G.F.** A business licensee that performs a re-treatment under subsection (C) or (D) or (E) or a post-construction treatment under subsection (F) (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.
- H.G.** If a business licensee goes to a structure to perform a re-treatment under subsection (C) or (D) or (E) or a post-construction treatment under subsection (F) (E) and determines there is no evidence of subterranean termites wood-destroying insects, the business licensee may charge the consumer a reasonable amount for the expenses incurred in making the trip.
- I.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.
- J.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 Commission's Department'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.

**[NOTE: Subsection B is incorporated at 308(F).]**

#### **R4-29-605.R3-7-310. Business Management**

- A. Financial responsibility.**
1. A business licensee and registered private owner shall maintain the financial responsibility required by A.R.S. § 32-2313 3-3512 and this Chapter; Chapter.
  2. A business licensee and registered private owner shall ensure that the required financial responsibility covers all pest management activities provided from the primary business office and each branch office; and office.
  3. If there is an interruption in the financial responsibility of a business licensee or registered private owner, the business licensee or registered private owner 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 Commission Department 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 Commission Department, 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 ~~Commission~~ Department issues the license or issues a business license change ~~under R4 29 214~~ 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.
  - ~~C. Notice to Commission of an incident. A business licensee shall determine whether a qualifying party that qualifies the business licensee complied with R4 29 504(I). If the business licensee determines that the qualifying party has yet to comply with R4 29 504(I), the business licensee shall provide written notice to the Commission 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:
 
    - 1. ~~Death or illness of an individual or animal;~~
    - 2. ~~Contamination of food, feed, drugs, or water supply;~~
    - 3. ~~Contamination of a structure that results in the hospitalization of an occupant or evacuation of the structure; or~~
    - 4. ~~Contamination of the environment that results in evacuation of the area.~~~~
  - ~~D. A business licensee shall not allow an unlicensed applicator to apply a pesticide for more than 90 days of employment. A business licensee shall not allow a licensed applicator to apply a pesticide in a category for which the applicator is not licensed for more than 30 days.~~
- [NOTE: (C) is incorporated at 504; (D) is incorporated at 401(G)]**

## ARTICLE 4. SUPERVISION

### **R4-29-502, R3-7-401. Supervising an Applicator**

- A.** ~~A qualifying party shall ensure that every applicator, whether licensed or unlicensed, is trained and equipped to comply with all of the duties and responsibilities required under the Commission's statutes, this Chapter, and label and labeling directions.~~
- B.** ~~A qualifying party shall provide the supervision necessary for an applicator, whether licensed or unlicensed, to comply with all of the duties and responsibilities required under the Commission's statutes, this Chapter, and label and labeling directions.~~
- A.** A QP, business licensee, and registered private owner shall ensure that an applicator receives the training, equipment, and supervision that the applicator requires to comply fully with the Department'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 qualifying party QP shall ensure that the use, application, storage, or disposal of a pesticide is performed or supervised by an individual licensed certified in the a category applicable to the pesticide being used, applied, stored, or disposed.~~
- D.** ~~A qualifying party QP shall ensure that immediate supervision, which requires supervision by a licensed certified applicator who is physically present, is provided when an unlicensed uncertified applicator applies a pesticide for wood-destroying insect control, provides a fumigation service, or applies a restricted use pesticide performs pest management services in the wood-destroying organism, aquatic, or fumigation category, uses a restricted-use pesticide, or uses a pesticide under an experimental use permit. A qualifying party QP shall ensure that a licensed certified applicator provides immediate supervision to only one unlicensed applicator at a time not more than:~~
1. Five uncertified applicators at a time applying a restricted-use pesticide or applying a pesticide under the wood-destroying organism management category; or
  2. Two uncertified applicators at a time applying a pesticide in the aquatic or fumigation category or under an experimental use permit.
- E.** ~~In circumstances other than those described in subsection (D), a qualifying party QP shall ensure that direct supervision, which does not require a supervising licensed certified applicator to be physically present, is provided. A qualifying party QP shall ensure that a licensed certified applicator providing direct supervision considers the potential danger to the public or environment if the unlicensed uncertified applicator misuses a pesticide. A qualifying party QP shall ensure that a licensed certified applicator providing direct supervision instructs the unlicensed 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 Department'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, registered private owner and political subdivision shall not allow an uncertified applicator to apply a pesticide for more than 90 days after the applicator is registered.

### **R4-29-503, R3-7-402. Qualifying a Business License Business, Registered Private Owner, or Political Subdivision**

- A.** A business licensee, registered private owner, or political subdivision shall employ a QP in each category of pest management in which the business licensee, registered private owner, or political subdivision provides pest management services. A business licensee, registered private owner, or political subdivision may employ multiple QPs.

- B.** A ~~qualifying party shall~~ QP may not qualify only more than one business licensee licensee, registered private owner, or political subdivision at a time.
- C.** Notwithstanding subsection (B), the director may allow a QP to qualify more than one political subdivision if the director believes that the number of applicators, pest management needs, and distance of the political subdivisions will not hinder the QP's ability to comply with R3-7-403.
- D.** A ~~qualifying party QP~~ may only ~~qualify the one business licensee~~ a business licensee, registered private owner, or political subdivision in each category the categories of pest management in which the ~~qualifying party has an active license~~ QP is registered.
- [NOTE: New subsections (E)-(G) have been moved into R3-7-403.]*

#### **R4-29-504. R3-7-403. Qualifying Party Management**

- A.** ~~A qualifying party shall ensure that an applicator employed by the business licensee, whether licensed or unlicensed, receives the supervision and training that the applicator requires to comply fully with the Commission's statutes and this Chapter and label and labeling directions.~~
- B.** ~~A qualifying party who supervises the use, application, storage, or disposal of a pesticide shall hold an applicator license in the category applicable to the pesticide being used, applied, stored, or disposed.~~
- C.** ~~A qualifying party shall not allow an unlicensed applicator to apply a pesticide for more than 90 days of employment. A qualifying party shall not allow a licensed applicator to apply a pesticide in a category for which the applicator is not licensed for more than 30 days.~~
- D.** ~~A qualifying party shall ensure that an applicator employed by the business licensee has the protective clothing, safety supplies, and equipment specified by the label or labeling of each product used by the applicator and by the Commission's statutes and this Chapter. The qualifying party shall ensure that the applicator is instructed regarding how to use, maintain, clean, and store the protective clothing, safety supplies, and equipment.~~
- E.** ~~A qualifying party shall be readily available to an applicator employed by the business licensee while the applicator provides pest management services.~~
- F.A.** ~~To be active in the management of the licensed business that the qualifying party is qualifying, a~~ A qualifying party QP shall be physically present at the primary business office at least once every 30 14 days and at each branch office at least once every quarter 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 ~~Commission's Department's~~ Department's statutes and rules;
  3. Review the training, supervision, and equipping of applicators employed by the ~~business licensee licensee, registered private owner, or political subdivision~~ to determine whether the training, supervision, and equipping is sufficient to enable the applicators to comply with labels, labeling, and the ~~Commission's Department's~~ Department's statutes and rules;
  4. Review personnel records to determine whether an applicator employed by the ~~business licensee licensee, registered private owner, or political subdivision~~ is ~~licensed registered and certified~~ in all applicable categories within the time-frames specified by ~~A.R.S. § 32-2312~~ R3-7-201;
  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 ~~(F)(4)~~ (E)(1) through ~~(F)(5)~~ (E)(5) are performed is corrected.
- G.B.** ~~A qualifying party QP shall develop a written plan that specifies how the duties and responsibilities of the qualifying party QP are to be fulfilled if the qualifying party QP is absent or unavailable for any reason. The qualifying party QP shall ensure that the plan is implemented when the qualifying party QP is absent or unavailable.~~

~~H.C.~~ A ~~qualifying party QP~~ shall not delegate the responsibility to be physically present at least every ~~30-14~~ days at the primary business office of the ~~licensed business the qualifying party is qualifying and at least every quarter at branch offices~~ unless the ~~qualifying party QP~~ submits written documentation to the ~~Commission Department~~ from a licensed medical or mental health care professional that indicates the licensed medical or mental health care professional is treating the ~~qualifying party QP~~ and is of the opinion that the ~~qualifying party QP~~ is unable to fulfill the responsibility to be physically present at least every 30 days as required.

~~I.~~ ~~Notice to Commission of an incident.~~ A ~~qualifying party~~ shall determine whether the business licensee ~~qualified by the qualifying party complied with R4 29 605(C).~~ If the ~~qualifying party~~ determines that the business licensee has yet to comply with R4 29 605(C), the ~~qualifying party~~ shall provide written notice to the Commission 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:

- ~~1. Death or illness of an individual or animal;~~
- ~~2. Contamination of food, feed, drugs, or water supply;~~
- ~~3. Contamination of a structure that results in the hospitalization of an occupant or evacuation of the structure; or~~
- ~~4. Contamination of the environment that results in evacuation of the area.~~

~~D.~~ A QP shall:

- ~~1. Be active in the management of all pest management related activities of the business licensee, registered private owner, or political subdivision.~~
- ~~2. During normal business hours, be readily available to the applicators of the business licensee, registered private owner, or political subdivision.~~
- ~~3. Ensure that a business licensee or registered private owner maintains current proof of financial security.~~

~~E.~~ A temporary QP has the same duties and responsibilities as a regular QP.

~~[NOTE: Subsection (I) has been incorporated into R3-7-504.]~~

#### **R3-7-404. 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 employees.
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 R3-7-201(C) still applies.
3. The branch supervisor is not responsible for ensuring that the business licensee maintains current proof of financial security.

#### **R4-29-603, R3-7-405. Supervision of Qualifying Party**

A business licensee, registered private owner, or **political subdivision** shall ensure that a ~~qualifying party QP~~ of the business licensee, registered private owner, or **political subdivision** receives the ~~supervision and training~~ training, equipment, and supervision that the ~~qualifying party QP~~ requires to comply fully with the ~~Commission's Department's~~ statutes and rules and label and labeling directions.

## ARTICLE 5. RECORDKEEPING AND REPORTING

### ~~R4-29-307, R3-7-501.~~ **Applicator Recordkeeping**

- A. An applicator shall ~~timely~~ make all records required by law and provide the records to the business licensee licensee, private owner, or political subdivision that employs the applicator within five business days. ~~Under A.R.S. § 32-2321(B)(2), making a false or fraudulent record or report is grounds for disciplinary action.~~
- 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 of service;
  4. Target pest or purpose of service;
  5. Trade name or common name of pesticide applied;
  6. EPA registration number of any ~~restricted-use~~ pesticide applied;
  7. Percent active ingredient in the pesticide as applied;
  8. Amount of pesticide applied in volume of granular material, volume of liquid mixture, or number of traps; and
  - 9-8. Name and license certification number of the applicator or if the applicator is ~~unlicensed~~ uncertified, name of the ~~unlicensed~~ uncertified applicator and the name and license 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 or common 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 ~~restricted-use~~ 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 or common name of pesticide;
  3. EPA registration number of pesticide;
  4. Quantity of pesticide disposed;
  5. Name of the active ingredient in the pesticide disposed;
  6. ~~Percent active ingredient in the pesticide disposed,~~
  - 7-6. ~~Method of disposal,~~
  - 8-7. ~~Location and type of disposal site or service; and~~
  - 9-8. 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 wood-destroying insect inspection shall:
1. Complete a WDIIR, using a form approved by the ~~Commission~~ Department. A trademark or logo may be placed on the WDIIR if it does not alter the format or substance of the ~~Commission-approved~~ Department-approved form;
  2. Submit an original WDIIR to the ~~business licensee~~ QP or branch supervisor within seven days after completing the wood-destroying insect inspection;
  3. Submit a supplemental WDIIR to the ~~business licensee~~ 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 ~~another state or a~~ federal agency, complete another WDHR inspection form in addition to but not instead of the ~~Commission-approved~~ Department-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. 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;
    - 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 ~~control~~ 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 license 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 ~~insect~~ organism treatment proposal. An applicator who is qualified under A.R.S. § ~~32-2323(B)~~ 3-3523(B) and (E) shall complete a wood-destroying ~~insect~~ organism treatment proposal using a form approved by the ~~Commission~~ Department and provide a copy of the proposal to the person requesting the proposal or treatment and the ~~business licensee~~ QP.
- ~~**G.** Upon written request by the Commission, an applicator shall make the records required under this Section available for review by the Commission. The applicator from whom records are requested shall make the records available to the Commission within 24 hours or by a later date specified by the Commission. The applicator shall make the records available at the Commission office by hand delivery, electronic mail, mail, or fax. The applicator shall be available to interpret the submitted records if requested by the Commission.~~
- ~~**H.** If an applicator cannot timely comply with a request made under subsection (G), the applicator shall immediately provide written notice to the Commission, indicate the reason for noncompliance, and request greater specificity regarding the information to be made available or additional time in which to comply.~~
- ~~**I.** The Commission shall:~~
- ~~1. Modify the request made under subsection (G) if the Commission determines that the request lacks specificity necessary for a reasonable person to understand what is requested, or~~

2. ~~Provide additional time to respond to the request made under subsection (G) if the Commission determines the information requires more time to obtain and the request for more time is not solely for delay.~~

~~J. Under A.R.S. § 32-2321(B), failure to comply with this Section is grounds for disciplinary action.~~

**~~R4-29-505, R3-7-502. Qualifying Party Recordkeeping~~**

- A. In addition to ensuring that the records required under ~~R4-29-307~~ **R3-7-501** are made, a qualifying party QP shall ensure that complete records are made and maintained of the training, supervision, and equipping provided to an applicator. ~~Under A.R.S. § 32-2321(B)(2), making a false or fraudulent record or report is grounds for disciplinary action.~~
- B. ~~Upon written request by the Commission, a qualifying party shall make the records required under this Section available for review by the Commission. The qualifying party from whom records are requested shall make the records available to the Commission within 24 hours or by a later date specified by the Commission. The qualifying party shall make the records available at the Commission office by hand delivery, electronic mail, mail, or fax. The qualifying party shall be available to interpret the submitted records if requested by the Commission.~~
- C. ~~If a qualifying party cannot timely comply with a request made under subsection (B), the qualifying party shall immediately provide written notice to the Commission, indicate the reason for noncompliance, and request greater specificity regarding the information to be made available or additional time in which to comply.~~
- D. ~~The Commission shall:~~
1. ~~Modify the request made under subsection (B) if the Commission determines that the request lacks specificity necessary for a reasonable person to understand what is requested, or~~
  2. ~~Provide additional time to respond to the request made under subsection (B) if the Commission determines the information requires more time to obtain and the request for more time is not solely for delay.~~
- E. ~~Under A.R.S. § 32-2321(B), failure to comply with this Section is grounds for disciplinary action.~~
- 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 after the applicator's employment ending date.

**~~R4-29-609, R3-7-503. Business Licensee, Registered Private Owner, and Political Subdivision Recordkeeping and Retention~~**

- A. In addition to ensuring that the records required under ~~R4-29-307 and R4-29-505~~ **R3-7-501 and R3-7-502** are made and maintained, a business licensee licensee, registered private owner, and political subdivision shall make and maintain records of the following:
1. The specimen label and MSDS for each registered pesticide currently used by an applicator employed by the business licensee licensee, registered private owner, or political subdivision;
  2. The financial responsibility required under R4-29-605(A); R3-7-310(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 ~~or common 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 ~~Commission~~ Department as required under ~~R4-29-504(I) or R4-29-605(C)~~ R3-7-504;
  6. A pest management service provided to a customer, including a service provided under a warranty;
  7. The evidence of customer refusal of a re-treatment or post-construction treatment required under ~~R4-29-608(J)~~ R3-7-309(J);
  8. Written inspection reports;
  9. ~~Customer~~ Business licensee contracts for pest management services; and
  10. Personnel records including for each employee of the business ~~licensee~~; licensee, registered private owner, or political subdivision:
    - a. Date of hire;
    - b. Date on which pest management services are first performed;
    - c. Copy of license certification issued by the ~~Commission~~ Department;
    - d. Training and continuing education received;
    - e. Supervision received;
    - f. Protective clothing, safety supplies, and equipment issued to employee;
    - g. Name of supervisor; ~~and~~
    - h. Employment ending ~~date~~; date; and
    - i. W-2 tax records.
- B.** A business ~~licensee~~ licensee, registered private owner, 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~~ licensee, registered private owner, or political subdivision. The business ~~licensee~~ licensee, registered private owner, or political subdivision 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 ~~R4-29-307(C)~~ R3-7-501(C) and (D), three years from the date of purchase or disposal ~~if the pesticide is not used in wood destroying insect control and five years if the pesticide is used in wood destroying insect control~~;
  4. Records under subsection (A)(4), as long as the service vehicle or trailer is owned by the business ~~licensee~~ licensee, registered private owner, 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), three years except five years for a pest management service involving wood-destroying ~~insect control~~ organism management or wood-destroying insect ~~or~~ fungi inspection;
  7. Records under subsection (A)(7), five years;
  8. Records under subsections (A)(8) and (A)(9), three years from the date on the inspection report or customer contract;
  9. Records under subsection (A)(10), three years after the employment ending date;
  10. WDIIRs completed under subsection (C), five years. The business licensee shall consecutively number the WDIIRs and:
    - a. Maintain them in consecutive order; or
    - b. Maintain them in a different order and maintain a list of the WDIIRs in consecutive order that includes the date of the inspection and the heading under which each WDIIR is filed; and
  11. 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 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, registered private owner, or political subdivision shall:
1. Submit to the ~~Commission Department~~ a TARF, using a form approved by the ~~Commission Department~~, within 30 days of completing a ~~termite 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 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 final grade~~ treatment unless it is necessary to re-treat a disturbed continuous chemical barrier;
  2. Include the fee ~~specified under R4-29-105(D)~~ with each TARF and, if applicable, the penalty required under ~~R4-29-105(E)~~ ~~R3-7-103~~;
  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 Final grade~~ treatment;
    - d. First corrective ~~termite wood-destroying insect~~ treatment at a site; and
    - e. Wood-destroying insect inspection.
  4. Not submit a TARF after completing the ~~following: first~~
    - a. ~~First~~ corrective ~~termite wood-destroying insect~~ treatment at a site if the business licensee:
      - ~~i.a.~~ Performed a pretreatment or new-construction treatment at the site,
      - ~~ii.b.~~ Filed a TARF regarding the pretreatment or new-construction treatment, and
      - ~~iii.c.~~ Performs the first corrective treatment under ~~R4-29-608(D)~~ ~~R3-7-309(D)~~ or under a ~~warranty; or warranty.~~
    - b. ~~Pretreatment or new-construction treatment of an addition that abuts the slab of an originally treated structure if the business licensee:~~
      - ~~i.~~ ~~Performed the pretreatment or new-construction treatment of the main structure,~~
      - ~~ii.~~ ~~Filed a TARF regarding the pretreatment or new-construction treatment,~~
      - ~~iii.~~ ~~Has the structure under warranty, and~~
      - ~~iv.~~ ~~Treats the abutting addition under the terms of the site warranty.~~
  5. Include the information required under A.R.S. § ~~32-2304(A)(13)~~ ~~3-3522~~ and the following on a TARF:
    - a. License number of the licensed business that performed the work;
    - b. ~~License number Name~~ of the ~~qualifying party QP~~ that ~~qualifies the licensed business in category B2 or B8, as applicable~~;
    - c. For a wood-destroying insect inspection, indicate whether:
      - i. There was evidence of infestation, conditions conducive to infestation, or damage present;
      - ii. ~~Treatment 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 ~~post-construction preventative 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.
- ~~E. If the Commission requests a record from a business licensee as a result of the Commission determining there is an emergency endangering the health or safety of an individual, animal, or the environment, the business licensee shall provide the record to the Commission within one hour.~~
- ~~F. Upon written request by the Commission, a business licensee shall make the records required under this Section available for review by the Commission. The business licensee from whom records are requested shall make the records available to the Commission within 24 hours or by a later date specified by the Commission. The business licensee shall make the records available at the Commission office by hand delivery, electronic mail or fax. The business licensee shall be available to interpret the submitted records if requested by the Commission.~~
- ~~G. If a business licensee cannot timely comply with a request made under subsection (F), the business licensee shall immediately provide written notice to the Commission, indicate the reason for noncompliance, and request greater specificity regarding the information to be made available or additional time in which to comply.~~
- ~~H. The Commission shall:
 
  - 1. Modify the request made under subsection (F) if the Commission determines that the request lacks specificity necessary for a reasonable person to understand what is requested, or
  - 2. Provide additional time to respond to the request made under subsection (F) if the Commission determines the information requires more time to obtain and the request for more time is not solely for delay.~~
- ~~I. Under A.R.S. § 32-2321(B), failure to comply with this Section is grounds for disciplinary action.~~

### **R3-7-504. Reporting Incidents and Bulk Releases**

#### **A. Notice to Department of an incident.**

- 1. A business licensee, registered private owner, and political subdivision shall provide written notice to the Department 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, registered private owner, or political subdivision:
  - a. Death or illness of an individual or non-target animal;
  - 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, registered private owner, or political subdivision 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 Department within the time-frame specified in subsection (A)(1).

#### **B. Notice to Department of a bulk release.**

- 1. A business licensee, registered private owner, or political subdivision shall notify the Department 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, registered private owner, or political subdivision 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.

*[NOTE: The contents of this rule originated from R3-7-310 and R3-7-403.]*

**R3-7-505. 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, the QP shall submit the following information to the Department within 30 days after the application:
  1. The county of use.
  2. The name of product used and the EPA registration number, and
  3. The amount applied.
- B. For the purposes of this section, “soil-applied pesticide” means a pesticide intended for application to or injection into the soil by ground based application equipment or by chemigation, or the label of the pesticide requires or recommends that the application be followed within seventy-two hours by flood or furrow irrigation.

**ARTICLE 5. QUALIFYING PARTY DUTIES AND RESPONSIBILITIES**

**R4-29-501. — Compliance with Applicator Duties and Responsibilities**

A qualifying party shall comply with every provision in Article 3 regarding applicator duties and responsibilities.

[NOTE: Incorporated into R3-7-104(D)]

**ARTICLE 6. BUSINESS LICENSEE DUTIES AND RESPONSIBILITIES**

**R4-29-601. — Compliance with Applicator Duties and Responsibilities**

A business licensee shall comply with every provision in Article 3 regarding applicator duties and responsibilities. A business licensee shall ensure that an applicator employed by the business licensee, whether licensed or unlicensed, receives the supervision and training that the applicator requires to comply fully with the Commission's statutes and rules and label and labeling directions.

[NOTE: Incorporated into R3-7-104(D) & R3-7-401(A)]

**R4-29-602. Reserved**

**R4-29-604. — Qualifying Party Required**

A business licensee shall employ a qualifying party in each category of pest management in which the business licensee provides services. A business licensee may employ multiple qualifying parties. To qualify a business in a category of pest management, a qualifying party shall have an active qualifying party license in the pest management category. A qualifying party may qualify a business in every pest management category in which the qualifying party is licensed.

[NOTE: Incorporated into R3-7-402]

**ARTICLE 7. ARTICLE 6. INSPECTIONS; INVESTIGATIONS; COMPLAINTS;  
DISCIPLINARY PROCEDURES**

**R4-29-701. — General Provisions**

- ~~A. A party to a proceeding involving the Commission may be self represented or represented by an attorney licensed in Arizona.~~
- ~~B. If a party to a proceeding involving the Commission wishes to be represented by an attorney licensed in a state other than Arizona, the party shall ensure that the attorney is approved in advance to appear pro hac vice by the Arizona Supreme Court.~~
- ~~C. If a party to a proceeding involving the Commission will be represented by an attorney, the party shall ensure that the attorney provides the Commission with written notice of intent to appear.~~
- ~~D. The Commission shall serve a notice of complaint or a notice of hearing on the individual or entity that is the subject of the matter being noticed by personal delivery or first class, certified mail with a return receipt requested to the address of record with the Commission. The Commission shall serve all other documents by personal delivery or first class mail.~~
- ~~E. If an attorney submits the notice required under subsection (C), the Commission shall make service of all notices and documents as described in subsection (D) on the attorney.~~
- ~~F. Service by the Commission is complete on the date of personal delivery, the date on a return receipt, or five days after a first class mail postmark date.~~
- ~~G. To ensure timely receipt of all notices and documents served, a party to a proceeding involving the Commission shall provide written notice to the Commission of a change in address.~~

**R4-29-702. — Inspections, Investigations, and Complaints**

- ~~A. To monitor compliance with the Commission's statutes and this Chapter and to determine whether pest management services are being provided in safe and effective manner, the Commission may conduct an inspection, with or without notice to a licensee, of:
 
  - ~~1. The licensee's office, including a branch office;~~
  - ~~2. The licensee's service vehicle or trailer; or~~
  - ~~3. The licensee while engaged in providing pest management services.~~~~
- ~~B. Following an inspection conducted under subsection (A), the Commission shall provide a report to the inspected licensee that notes whether corrective action is required and, if so, the date by which the licensee is to complete the corrective action.~~
- ~~C. If corrective action is required following an inspection, the licensee shall provide written notice to the Commission, by the date specified in the inspection report, that the corrective action is complete. If the licensee fails to complete the corrective action and provide the written notice required by this subsection, the Commission shall open an inquiry or file a complaint against the licensee.~~
- ~~D. An individual or entity shall not refuse to attend, testify, or produce evidence sought by the Commission in an investigation or proceeding instituted by or involving the Commission unless the testimony or evidence is privileged under the U.S. or Arizona constitution or otherwise protected by law and the individual or entity asserts the privilege or protection before testifying or producing the evidence. If an individual or entity asserts the privilege against self incrimination, the Commission may, with written approval of the attorney general, issue a written order or apply to an appropriate court for an order compelling the testimony or production of evidence.~~
- ~~E. Testimony or evidence compelled under subsection (D) is not admissible or usable in any proceeding except one involving a charge of perjury, false swearing, tampering with evidence, or another offense committed in connection with the testimony or production of evidence.~~
- ~~F. If the Commission provides notice that it has filed a complaint against an individual or entity, the individual or entity shall submit to the Commission a written response that addresses the allegations in the complaint within 20 days of the date of the notice.~~

- ~~G. The license of a licensee who is provided written notice of a pending investigation or complaint does not expire even if the licensee fails to renew timely. The Commission shall place the license on non-disciplinary suspension until the investigation is complete or the complaint is adjudicated.~~

**~~R4-29-703. — Settlement Conferences~~**

- ~~A. If the Commission determines that it is in the best interest of the state, the Commission shall designate one or more individuals to conduct a settlement conference to negotiate a proposed resolution with an individual or entity against whom the Commission has filed a complaint.~~
- ~~B. The Commission shall conduct a settlement conference informally. The Commission shall not place a witness under oath at a settlement conference and shall not issue a subpoena for attendance.~~
- ~~C. The Commission shall not make an audio, video, or stenographic recording of a settlement conference. The Commission may make a general written record of a settlement conference.~~
- ~~D. A party to a settlement conference shall not disclose to the Commission a settlement offer that does not result in a proposed resolution.~~
- ~~E. A party to a settlement conference shall not introduce into evidence at a formal hearing a statement made at the settlement conference unless all parties agree to the introduction.~~
- ~~F. Following a settlement conference, the Commission shall accept, reject, or modify the proposed resolution negotiated by participants in the settlement conference. If the Commission rejects a proposed resolution involving a licensee, the Commission shall dismiss the matter, conduct further investigation, renegotiate a proposed resolution, or send the matter to formal hearing. If the Commission rejects a proposed resolution involving an unlicensed individual or entity, the Commission shall dismiss the matter, conduct further investigation, renegotiate a proposed resolution, send the matter to formal hearing, or impose discipline as allowed by law.~~

**~~R4-29-704. — Consent Agreements~~**

- ~~A. After a settlement conference, the Commission may impose disciplinary action in a consent agreement and order. To determine the disciplinary action that is appropriate, the Commission shall consider the following:~~
- ~~1. Prior violation resulting in discipline;~~
  - ~~2. Dishonest or self-serving motive;~~
  - ~~3. Amount of experience as a licensee;~~
  - ~~4. Bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the Commission;~~
  - ~~5. Submission of false evidence, false statement, or other deceptive practice during the investigative or disciplinary process;~~
  - ~~6. Refusal to acknowledge wrongful nature of violation;~~
  - ~~7. Likelihood that a similar violation will occur again;~~
  - ~~8. Degree of harm resulting from the violation; and~~
  - ~~9. Whether harm resulting from the violation was cured.~~
- ~~B. Although the Commission may use evidence of a prior violation resulting in discipline to determine disciplinary action in a current matter, the Commission shall not use evidence of a prior violation as evidence of a violation in a current matter.~~
- ~~C. The Commission shall ensure that a consent agreement includes the following:~~
- ~~1. General nature of complaint;~~
  - ~~2. Citation to statutes and rules alleged to be violated;~~
  - ~~3. Disciplinary action to be taken against the individual or entity complained about;~~
  - ~~4. Effective date of the disciplinary action if different from the date of the consent agreement;~~
  - ~~5. Corrective action to be taken by the individual or entity complained about; and~~
  - ~~6. Date by which the corrective action is to be complete.~~
- ~~D. For a consent agreement to be effective, the Commission chairperson or the chairperson's designee and the individual or entity complained about shall sign the consent agreement.~~

- ~~E. If an individual or entity complained about refuses to sign a consent agreement, the Commission shall:~~
- ~~1. Send the matter for formal hearing if the individual or entity is a licensee; or~~
  - ~~2. Issue a decision and order if the individual or entity is unlicensed.~~
- ~~F. By signing a consent agreement under subsection (D), an individual or entity waives the right to a formal hearing, rehearing, or judicial review of the findings of fact, conclusions of law, or order contained in the consent agreement.~~

**~~R4-29-705. — Hearing Procedures~~**

- ~~A. The Commission shall conduct all hearings in accordance with A.R.S. Title 41, Chapter 6, Article 10 and the rules established by the Office of Administrative Hearings.~~
- ~~B. If the Commission denies a license to an applicant, the applicant may file with the Commission a written request for a hearing within 30 days after service of the notice of denial. The applicant shall state in the request for hearing the applicant's name, address and telephone number, and the reasons why the applicant believes the Commission's decision to deny the applicant's license was incorrect. At a hearing regarding a license denial, the applicant has the burden of proving that the applicant is qualified to be licensed in accordance with the Commission's statutes and this Chapter, and shall limit the applicant's evidence presented to that which was originally presented to the Commission for its determination on the application.~~
- ~~C. If the Commission serves a complaint and notice of hearing on a licensee, the licensee may file a written answer with the Commission within 20 days after service of the complaint and notice of hearing. The licensee shall state in the answer the licensee's name, address and telephone number, and a response to the allegations contained in the complaint and notice of hearing. If the licensee does not timely file a written answer, the Commission shall deem the allegations in the complaint admitted by default. The Commission shall serve a notice of default on the licensee stating that the allegations in the complaint shall be deemed admitted 10 days after service of the notice of default. If the licensee does not respond within 10 days after the notice of default is served, the Commission may take disciplinary action without conducting a hearing. If the licensee responds within 10 days after the notice of default is served, the Commission shall continue with the disciplinary process.~~
- ~~D. A party that wants the Commission to issue a subpoena to compel the appearance of a witness at a hearing or the production of documentary evidence shall submit a written application to the Commission. The party that applies for a subpoena shall serve the subpoena.~~

**~~R4-29-706. — Review or Rehearing of a Commission Decision~~**

- ~~A. The Commission shall provide for a rehearing and review of its decisions under A.R.S. Title 41, Chapter 6, Article 10 and the rules established by the Office of Administrative Hearings.~~
- ~~B. Except as provided in subsection (J), a party is required to file a motion for rehearing or review of a decision of the Commission to exhaust the party's administrative remedies.~~
- ~~C. A party may amend a motion for rehearing or review at any time before the Commission rules on the motion.~~
- ~~D. The Commission may grant a rehearing or review for any of the following reasons materially affecting a party's rights:~~
- ~~1. Irregularity in the proceedings or an order or abuse of discretion that deprived the moving party of a fair hearing;~~
  - ~~2. Misconduct by the Commission, its staff, an administrative law judge, or the prevailing party;~~
  - ~~3. Accident or surprise that could not have been prevented by ordinary prudence;~~
  - ~~4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;~~
  - ~~5. Excessive penalty;~~
  - ~~6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings;~~

- ~~7. The Commission's decision is the result of passion or prejudice; or~~
- ~~8. The findings of fact or decision is not justified by the evidence or is contrary to law.~~
- ~~E. The Commission may affirm or modify a decision or grant a rehearing to all or any of the parties on all or part of the issues for any of the reasons in subsection (D). The Commission shall specify the particular grounds for any order modifying a decision or granting a rehearing.~~
- ~~F. When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits.~~
- ~~G. Not later than 10 days after the date of a decision, after giving parties notice and an opportunity to be heard, the Commission may grant a rehearing or review on its own initiative for any reason for which it might have granted relief on motion of a party. The Commission may grant a motion for rehearing or review, timely served, for a reason not stated in the motion.~~
- ~~H. If a rehearing is granted, the Commission shall hold the rehearing within 60 days after the date on the order granting the rehearing.~~
- ~~I. The Commission may extend all time limits listed in this Section upon a showing of good cause. A party demonstrates good cause by showing that an extension of time will:
 
  - ~~1. Further administrative convenience, expedition, or economy; or~~
  - ~~2. Not cause undue prejudice to any party.~~~~
- ~~J. If the Commission makes a specific finding that a particular decision needs to be effective immediately to preserve the public peace, health, or safety and that a review or rehearing of the decision is impracticable, unnecessary, or contrary to the public interest, the Commission shall issue the decision as a final decision without an opportunity for rehearing or review.~~

**R4-29-707. — Judicial Review of Commission Order**

- ~~A. Except as provided in R4-29-706(J), a Commission order is final on the expiration of time for filing a motion for review or rehearing under R4-29-706 or on denial of a motion for review or rehearing, whichever is later.~~
- ~~B. A party that has exhausted the party's administrative remedies may appeal a final order of the Commission under A.R.S. Title 12, Chapter 7, Article 6.~~

**R4-29-708. — Disciplinary Action**

- ~~A. Following entry of a final order that a licensed or unlicensed individual or entity violated the Commission's statutes or this Chapter, the Commission shall impose discipline as allowed by A.R.S. §§ 32-2304, 32-2321, 32-2327, and 32-2329. In considering the discipline to impose, the Commission shall consider the factors identified in R4-29-704.~~
- ~~B. The Commission shall place a licensee on probation, as allowed by A.R.S. § 32-2321, if the Commission determines that probation will benefit the licensee or protect the public or environment. The Commission shall define probation requirements that benefit the licensee or protect the public or environment, which may include:
 
  - ~~1. Reporting by or monitoring of the licensee, or~~
  - ~~2. Participating in educational activities other than those required by the Commission's statutes or this Chapter.~~~~
- ~~C. The Commission shall impose a civil penalty on a licensee, as allowed by A.R.S. § 32-2321, for failure to file or late filing of a TARF if:
 
  - ~~1. The licensee has a prior violation of the same type; and~~
  - ~~2. The number of TARFs not filed or filed late equals or exceeds 10 percent of the TARFs that the licensee filed in the previous 12 months.~~~~

**R3-7-601. Inspection of Licensee Records**

- A. Upon written request by the Department for the production of records, an applicator, QP, branch supervisor, business licensee, registered private owner, or political subdivision shall:
1. Make the records required under this Chapter available for review by the Department within 24 hours or by a later date specified by the Department.
  2. Make the records available at the Department unless another location is agreed upon.
  3. Be available to interpret the submitted records if requested by the Department.
- B. If a person cannot timely comply with a request made under subsection (A), the person shall immediately provide written notice to the Department, 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 Department requests a record from a business licensee, registered private owner, 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, registered private owner, or political subdivision shall provide the record to the Department within one hour.
- D. An applicator or branch supervisor is only responsible for producing records within the applicator's or branch supervisor's control.

**R4-29-301.R3-7-602. Compliance with Commission Department Monitoring**

- ~~A. For the purpose of monitoring the provision pest management services, the Commission may make If the Department 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 that is at least 24 hours from the time of the request.~~
- ~~B. The date, the applicator from whom information is requested under subsection (A) shall make the information available to the Commission within 24 hours after the request is made. The applicator may make the information available at the Commission office by hand delivery or fax or at another location acceptable to the Commission in a manner prescribed by the Department.~~
- ~~C.B. If an applicator cannot timely comply with a request made under subsection (A), the applicator shall immediately provide written notice to the Commission, Department, indicate the reason for noncompliance, and request greater specificity regarding the information to be made available or additional time in which to comply.~~
- ~~D. The Commission shall:~~
- ~~1. Modify the request made under subsection (A) if the Commission determines that the request lacks specificity necessary for a reasonable person to understand what is requested, or~~
  - ~~2. Provide additional time to respond to the request made under subsection (A) if the Commission determines the information requires more time to obtain and the request for more time is not solely for delay.~~
- ~~E. Under A.R.S. § 32-2321(B), failure to comply with this Section is grounds for disciplinary action.~~

**R3-7-603. Corrective Work Orders**

- A. If a Department issues a corrective work order requiring a licensee to remedy deficiencies in treatment or to comply with this Chapter or A.R.S. Title 3, Chapter 35, the licensee shall notify the Department 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 Department of the completion is a separate ground for disciplinary action.
- D. A corrective work order issued by the Department is not subject to A.R.S. § 41-1009(E)-(F) unless the Department indicates in the order that timely compliance with the order will result in no disciplinary action being taken for a deficiency or violation.

**R3-7-604. 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.

**R3-7-605. 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 Department shall waive the right to a formal hearing, rehearing, or judicial review of the matters contained in the consent agreement.

**R3-7-606. Penalties**

A. For each violation, the Director shall assess a civil penalty 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 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. *To Be Announced*

**OPM Task Force Rule Renumbering Table**

<b>CURRENT</b>	<b>PROPOSED</b>	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Article 1</b>		<b>Article 5</b>	
R4-29-101	R3-7-101	R4-29-501	R3-7-104(D)
R4-29-102	R3-7-102	R4-29-502	R3-7-401
R4-29-103	-	R4-29-503	R3-7-402
R4-29-104	-	R4-29-504	R3-7-403; R3-7-504
R4-29-105	R3-7-103	R4-29-505	R3-7-502
R4-29-106	R3-7-104	-	R3-7-404
R4-29-107	R3-7-105	-	R3-7-505
<b>Article 2</b>		<b>Article 6</b>	
R4-29-201	R3-7-201	R4-29-601	R3-7-104(D); R3-7-401(A)
R4-29-202	-	R4-29-602 (none)	-
R4-29-203	R3-7-203	R4-29-603	R3-7-405
R4-29-204	R3-7-204	R4-29-604	R3-7-402
R4-29-205	R3-7-212	R4-29-605	R3-7-310; R3-7-401(G); R3-7-504
R4-29-206	R3-7-202	R4-29-606	R3-7-303
R4-29-207	-	R4-29-607	R3-7-304
R4-29-208	-	R4-29-608	R3-7-309
R4-29-209 (none)	-	R4-29-609	R3-7-503
R4-29-210	-	<b>Article 7</b>	
R4-29-211	-	R4-29-701	-
R4-29-212	R3-7-211	R4-29-702	-
R4-29-213	R3-7-206	R4-29-703	-
R4-29-214	R3-7-210	R4-29-704	-
R4-29-215	R3-7-214	R4-29-705	-
R4-29-216	R3-7-215	R4-29-706	-
-	R3-7-205	R4-29-707	-
-	R3-7-207	R4-29-708	-
-	R3-7-208	-	R3-7-601
-	R3-7-209	-	R3-7-602
-	R3-7-213	-	R3-7-603
<b>Article 3</b>		-	R3-7-604
R4-29-301	R3-7-702	-	R3-7-605
R4-29-302	R3-7-305	-	R3-7-606
R4-29-303	R3-7-306		
R4-29-304	R3-7-301		
R4-29-305	R3-7-308		
R4-29-306	R3-7-302		
R4-29-307	R3-7-501		
-	R3-7-307		