



Replacement Check List

For rules filed within the
1st Quarter
January 1 - March 31, 2016

THE ARIZONA ADMINISTRATIVE CODE

Within the stated calendar quarter, this Chapter contains all rules made, amended, repealed, renumbered, and recodified; or rules that have expired or were terminated due to an agency being eliminated under sunset law. These rules were either certified by the Governor's Regulatory Review Council or the Attorney General's Office; or exempt from the rulemaking process, and filed with the Office of the Secretary of State. Refer to the historical notes for more information. Please note that some rules you are about to remove may still be in effect after the publication date of this Supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

Title 3. Agriculture

Chapter 3. Department of Agriculture - Environmental Services Division

Supplement Release Quarter: 16-1

Sections, Parts, Exhibits, Tables or Appendices modified

R3-3-208

REMOVE Supp. 14-3
Pages: 1 - 50

REPLACE with Supp. 16-1
Pages: 1 - 51

The agency's contact person who can answer questions about rules in Supp. 16-1:

Department of Agriculture - Environmental Services Division

Name: Jack Peterson

Address: 1688 W. Adams, Phoenix, AZ 85007

Telephone: (602) 542-3575

Fax: (602) 542-0466

E-mail: jpeterson@azda.gov

Disclaimer: Please be advised the person listed is the contact of record as submitted in the rulemaking package for this supplement. The contact and other information may have changed and is provided as a public courtesy.

PUBLISHER

**Arizona Department of State
Office of the Secretary of State, Public Services Division**

PREFACE

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

Scott Cancelosi, Director
PUBLIC SERVICES DIVISION
March 31, 2016

RULES

A.R.S. § 41-1001(17) states: “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions. Virtually everything in your life is affected in some way by rules published in the Arizona Administrative Code, from the quality of air you breathe to the licensing of your dentist. This chapter is one of more than 230 in the Code compiled in 21 Titles.

ADMINISTRATIVE CODE SUPPLEMENTS

Rules filed by an agency to be published in the Administrative Code are updated quarterly. Supplement release dates are printed on the footers of each chapter:

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2016 is cited as Supp. 16-1.

HOW TO USE THE CODE

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

ARTICLES AND SECTIONS

Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering system separated into subsections.

HISTORICAL NOTES AND EFFECTIVE DATES

Historical notes inform the user when the last time a Section was updated in the Administrative Code. Be aware, since the Office publishes each quarter by entire chapters, not all Sections are updated by an agency in a supplement release. Many times just one Section or a few Sections may be updated in the entire chapter.

ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

Arizona Session Law references in the introduction of a chapter can be found at the Secretary of State’s website, www.azsos.gov/services/legislative-filings.

EXEMPTIONS FROM THE APA

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

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

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

In the Administrative Code the Office includes editor’s notes at the beginning of a chapter indicating that certain rulemaking Sections were made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

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

EXEMPTIONS AND PAPER COLOR

If you are researching rules and come across rescinded chapters on a different paper color, this is because the agency filed a Notice of Exempt Rulemaking. At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

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Public Services managing rules editor, Rhonda Paschal, assisted with the editing of this chapter.

TITLE 3. AGRICULTURE

CHAPTER 3. DEPARTMENT OF AGRICULTURE - ENVIRONMENTAL SERVICES DIVISION

Authority: A.R.S. §§ 3-341 et seq. and 3-3101 et seq.

Title 3, Chapter 3, Article 1, Section R3-3-101 renumbered from Title 3, Chapter 10, Article 1, Section R3-10-101; Title 3, Chapter 3, Article 2, Sections R3-3-201 through R3-3-212 renumbered from Title 3, Chapter 10, Article 2, Sections R3-10-201 through R3-10-212; Title 3, Chapter 3, Article 3, Sections R3-3-301 through R3-3-314 renumbered from Title 3, Chapter 10, Article 2, Sections R3-10-301 through R3-10-314; Title 3, Chapter 3, Article 4, Sections R3-3-401 through R3-3-404 renumbered from Title 3, Chapter 10, Article 4, Sections R3-10-401 through R3-10-404; Title 3, Chapter 3, Article 5, Sections R3-3-501 through R3-3-506 renumbered from Title 3, Chapter 10, Article 5, Sections R3-10-501 through R3-10-506; Title 3, Chapter 3, Article 6, Sections R3-3-601 through R3-3-617 renumbered from Title 3, Chapter 10, Article 6, Sections R3-10-601 through R3-10-617; Title 3, Chapter 3, Article 7, Sections R3-3-701 through R3-3-712 renumbered from Title 3, Chapter 3, Article 1, Sections R3-3-01 through R3-3-12; Title 3, Chapter 3, Article 8, Sections R3-3-801 through R3-3-812 renumbered from Title 3, Chapter 3, Article 2, Sections R3-3-21 through R3-3-32; Title 3, Chapter 3, Article 9, Sections R3-3-901 through R3-3-916 renumbered to Title 3, Chapter 3, Article 3, Sections R3-3-41 through R3-3-56 (Supp. 91-4).

New Sections R3-10-101, R3-10-201 through R3-10-212, R3-10-301 through R3-10-306, R3-10-308 through R3-10-312, R3-10-401 through R3-10-403, R3-10-501 through R3-10-505, and R3-10-601 through R3-10-617 adopted effective November 20, 1987.

Former Sections R3-10-01, R3-10-03, R3-10-20 through R3-10-25, R3-10-40 through R3-10-42, R3-10-42.01, R3-10-43 through R3-10-62, R3-10-64 through R3-10-66, R3-10-70, R3-10-71, R3-10-73 through R3-10-75, R3-10-77 through R3-10-87, R3-10-89, and R3-10-91 repealed effective November 20, 1987.

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ARTICLE 10. AGRICULTURAL SAFETY

(Authority: A.R.S. § 3-3101 et seq.)

Title 3, Chapter 8, Article 2, Sections R3-8-201 through R3-8-208 renumbered to Title 3, Chapter 3, Article 10, Sections R3-3-1001 through R3-3-1008 (Supp. 91-4).

New Article 7 adopted effective July 13, 1989. (Supp. 89-3).

Article 2, consisting of Sections R3-2-201 through R3-8-208, transferred from the Industrial Commission, Title 4, Chapter 13, Article 7, Sections R4-13-701 through R4-13-708, pursuant to Laws 1990, Ch. 374, § 445 (Supp. 91-3).

Laws 1981, Ch. 149, effective January 1, 1982, provided for the transfer of the Office of Fire Marshal from the Industrial Commission to the Department of Emergency and Military Affairs, Division of Emergency Services (Supp. 82-2).

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ARTICLE 1. GENERAL PROVISIONS**R3-3-101. Definitions**

In addition to the definitions in A.R.S. §§ 3-341 and 3-361, the following terms apply to Articles 1 through 5 of this Chapter:

“Acute toxicity” means adverse physiological effects that result from a single dose or single exposure to a chemical; or any poisonous effect produced by a single dose or single exposure to a chemical within a short period of time, usually less than 96 hours.

“Adulterate” means to change a pesticide so that:

- Its strength or purity falls below the standard of quality stated on the labeling under which it is sold,
- Any substance has been substituted wholly or in part for the pesticide, or
- Any constituent of the pesticide has been wholly or in part abstracted.

“Agricultural aircraft pilot” means any individual licensed by the Department who pilots an agricultural aircraft to apply a pesticide.

“Agricultural commodity” means any plant, animal, plant product, or animal product produced for commercial or research purposes.

“Agricultural establishment” means any farm, forest, nursery, or greenhouse.

“Agricultural purpose” means use of a pesticide on an agricultural commodity. It excludes the sale or use of pesticides, in properly labeled packages or containers, for either of the following:

- Home use, or
- Use in swimming pools or spas.

“Aircraft” means any mechanism used in flight, excluding a remote-controlled mechanism.

“ALJ” means an individual or the Director who sits as an administrative law judge, who conducts administrative hearings in a contested case or an appealable agency action, and who makes decisions regarding the contested case or appealable agency action. A.R.S. § 41-1092(1)

“Animal” means all vertebrate and invertebrate species, including, but not limited to, humans and other mammals, birds, fish and shellfish. A.R.S. § 3-341(3)

“Application site” means the specific location, crop, object, or field to which a pesticide is or is intended to be applied.

“Applicator” means any individual who applies, or causes to have applied, any pesticide on an agricultural establishment or golf course.

“Authorized activities” means, for compliance with A.R.S. § 3-365(D), any organized activities scheduled at a school or child care facility that use the school or child care facility or the school or child care grounds and for which the sponsors or organizers of the activity have received the written approval of a responsible administrative official of the school or child care facility.

“Buffer zone” means an area of land that allows pesticide deposition and residues to decline to a level that poses a reasonable certainty of no harm to a defined area.

“Bulk release” means the release of any pesticide or mixture of pesticides that poses a potential risk to property, human health, or the environment in volumes greater than those prescribed by the pesticide label for the application site. A pesticide dripping from a spray nozzle or minor splashing during mixing is not a bulk release.

“Certified applicator” means any individual who is certified by the Department to use or supervise the use of any restricted use pesticide or to use any pesticide on a golf course.

“CEU” means continuing education unit.

“Child care facility” means any facility in which child care is regularly provided for compensation for five or more children not related to the proprietor and is licensed as a child care facility by the Arizona Department of Health Services. A.R.S. § 36-881(3). Child care facilities are commonly known as day care centers.

“Commercial applicator” means a certified applicator (whether or not the applicator is a private applicator with respect to some uses) who uses or supervises the use of a restricted use pesticide for any purpose or on any property other than property owned or controlled by:

- The applicator;
- The applicator’s employer; or
- Another person, if the application is performed without compensation, other than trading of personal services between producers of agricultural commodities.

“Contamination” means a concentration of pesticide sufficient to violate state or federal water, soil, food, feed, or air contamination standards, except if legally applied.

“Continued pesticide application” means the continuance of an interrupted application of the same pesticide to the same application site within the same section, township, and range within the same reporting period.

“Custom application equipment” means aircraft, remote-controlled equipment, and ground equipment used for pesticide application by a custom applicator.

“Custom applicator” means any person, except a person regulated by the OPM, who applies pesticides for hire or by aircraft.

“Defoliation” means killing or artificially accelerating the drying of plant tissue with or without causing abscission.

“Device” means any instrument or contrivance that is intended to be used for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life, other than a human being and a bacterium, virus, or other microorganism on or in a living human being or other living animal. Device does not include firearms, mechanical traps, or equipment used for the application of pesticides if the application equipment is sold separately.

“Diluent” means any substance added to a pesticide before application to reduce the concentration of the active ingredient in the mixture.

“Direct release” means to apply a pesticide outside the boundaries of an application site, at the time of application, while the valve controlling the normal flow of pesticide from the application device is in the open position and the application device is not within the confines of the application site. Direct release does not mean the drift or discharge of a pesticide caused by a mechanical malfunction of the application device that is beyond the control of the operator. Direct release does not mean a release caused by accident, or done to avoid an accident that would have resulted in greater harm than that caused by the pesticide release.

“Disposal” means discarding a pesticide or pesticide container that results in the deposit, dumping, burning, or placing of the container or unused pesticide on land or into the air or water.

“Drift” means the physical movement of pesticide through the air at the time of a pesticide application from the application

site to any area outside the boundaries of the application site. Drift does not include movement of a pesticide or associated degradation compounds to any area outside the boundaries of an application site if the movement is caused by erosion, run off, migration, volatility, or windblown soil particles that occur after application, unless specifically addressed on the pesticide label with respect to drift control requirements.

“EPA” means the United States Environmental Protection Agency.

“Experimental use permit” means a permit issued by the EPA, or the Department pursuant to A.R.S. § 3-350.01, to a person for the purpose of experimentation, which includes the accumulation of information necessary for the registration of a pesticide.

“Exposure” means the inhalation or ingestion of a pesticide, or eye or skin contact with a pesticide.

“Family member” means spouse, child, sibling, parent, grandparent, grandchild, stepparent, or stepchild.

“FFDCA” means the Federal Food, Drug and Cosmetic Act, as amended.

“FIFRA” means the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. § 136 et seq.

“Fumigant” means a substance or mixture of substances that produces gas vapor or smoke intended to control a pest in stored agricultural commodities or to control burrowing rodents.

“Golf applicator” means a certified applicator who uses a pesticide for the maintenance of a golf course that is owned or controlled by the applicator or the applicator’s employer.

“Health care institution” means any institution that provides medical services, nursing services, health screening services, and other health-related services, and is licensed by the Arizona Department of Health Services.

“Highly toxic pesticide” means a pesticide with an acute oral LD₅₀ of 50 milligrams per kilogram of body weight or less, dermal LD₅₀ of 200 milligrams per kilogram of body weight or less, or inhalation LD₅₀ of 0.2 milligrams per liter of air or less, and the label bears the signal words “danger” and “poison” and shows a skull and crossbones.

“Individual” means a human being.

“*Insect*” means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class *insecta*, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, and flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes and wood lice. A.R.S. § 3-341(14)

“Integrated Pest Management” or “IPM” means a sustainable approach to managing pests that uses any combination of biological, chemical, cultural, genetic, manual, or mechanical tools or techniques in a way that minimizes health, environmental, and economic risks.

“*Label*” means the written, printed or graphic matter on, or attached to, the pesticide or device, or the immediate container thereof, and the outside container or wrapper of the retail package, if there is any, of the pesticide or device. A.R.S. § 3-341(15)

“*Labeling*” means all labels and other written, printed or graphic matter:

Upon the pesticide or device or any of its containers or wrappers.

Accompanying the pesticide or device at any time.

To which reference is made on the label or in literature accompanying the pesticide or device, except when accurate, non-misleading reference is made to current official publications of the United States departments of agriculture or interior; the United States public health service, state experiment stations, state agricultural colleges or other similar federal institutions or official agencies of the state or other states authorized by law to conduct research in the field of pesticides. A.R.S. § 3-341(16).

“LD₅₀” means a single dose of pesticide that will kill at least 50 percent of laboratory test animals as determined by an EPA- approved procedure.

“Livestock” means clovenhoofed animals, horses, mules, or asses.

“OPM” means the Office of Pest Management.

“PCA” or “agricultural pest control advisor” means any individual licensed by the Department who, as a requirement of, or incidental to, the individual’s employment or occupation:

Offers a written recommendation to a regulated grower or to any public or private agency concerning the control of any agricultural pest,

Claims to be an authority or general advisor on any agricultural pest or pest condition, or

Claims to be an authority or general advisor to a regulated grower on any agricultural pest.

“*Person*” means any individual, partnership, association, corporation or organized group of persons whether incorporated or not. A.R.S. § 3-341(19)

“*Pest*” means:

Any weed, insect, vertebrate pest, nematode, fungus, virus, bacteria or other pathogenic organisms.

Any other form of terrestrial or aquatic plant or animal life, except virus, bacteria or other microorganism on or in living humans or other living animals, which the director declares to be a pest for the purpose of enforcement of this Article. A.R.S. § 3-341(20)

“*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, weeds, rodents, predatory animals or any form of plant or animal life which is, or which the director may declare to be, a pest which may infest or be detrimental to vegetation, humans, animals or households or which may be present in any environment. A.R.S. § 3-361(6)

“Pesticide container” means any container with an interior surface that is in direct contact with a pesticide.

“*Pesticide use*” means the sale, processing, storing, transporting, handling or applying of a pesticide and disposal of pesticide containers. A.R.S. § 3-361(7)

“Private applicator” means a certified applicator who uses or supervises the use of a restricted use pesticide for producing an agricultural commodity on property owned or controlled by:

The applicator;

The applicator’s employer; or

Another person, if the pesticide is applied without compensation, other than trading of personal services between producers of agricultural commodities.

“Property boundary” means the legal boundary of the land on which a child care facility, health care institution, residence, or school sits, unless another boundary is established by a written agreement with the owner of the child care facility, health care institution, residence, or school. Under a written agreement,

the parties shall not establish a boundary that is less than ten feet from the child care facility, health care institution, residence, or school.

“Ready-to-use” means a registered pesticide, in the manufacturer’s original container, that does not require dilution by the end user.

“Regulated grower” means a person who acquires or purchases pesticides or contracts for the application of pesticides to agricultural commodities, onto an agricultural establishment, or onto a golf course as a part of the person’s normal course of employment or activity as an owner, lessee, sublessee, sharecropper, or manager of the land to which the pesticide is applied.

“Reporting period” means no later than the Thursday following the calendar week in which an application is completed.

“Residence” means a dwelling place where one or more individuals are living.

“Responsible individual” means an individual at a seller’s location who has passed the core examination prescribed in R3-3-202 and is designated by the seller under R3-3-203.

“Restricted use pesticide” means a pesticide classified as such by the EPA. A.R.S. § 3-361(8).

“School” means a public institution 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. A.R.S. § 15-101(19). School includes a private institution with membership in the North Central Association of Colleges and Schools serving students in kindergarten programs or any combination of grades one through twelve.

“Seller” means any person selling or offering for sale a restricted use pesticide or other type of pesticide intended to be used for an agricultural purpose.

“Service container” means a container used to temporarily hold, store, or transport a pesticide concentrate or a registered, ready-to-use pesticide other than the original labeled container, measuring device, or application device.

“Small scale test” means a test using a pesticide on land or water acreage as described at 40 CFR 172.3(c)(1) or (2).

“Spot application” means a treatment in an area other than a greenhouse or nursery operation that is restricted to an area of a field that is less than the entire field.

“Tag” means a custom application equipment license issued by the Department to a custom applicator licensee.

“Triple rinse” means to flush out a container at least three times, each time using a volume of water, or other diluent as specified on the label, equal to a minimum of 10 percent of the container’s capacity or a procedure allowed by the label that produces equivalent or better results.

“Unreasonable adverse effect” means any unreasonable risk to a human being or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide, or a human dietary risk from residues that result from a use of a pesticide in or on any food as documented by the Department through its investigation.

“Weed” means any plant which grows where not wanted. A.R.S. § 3-341(24)

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-101 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by exempt rulemaking at 19 A.A.R. 3130, effective September 16, 2013 (Supp. 13-3).

R3-3-102. Licensing Time-frames

- A. Overall time-frame. The Department shall issue or deny a license within the overall time-frames listed in Table 1 after receipt of the complete application. The overall time-frame is the total of the number of days provided for the administrative completeness review and the substantive review.
- B. Administrative completeness review.
 - 1. The administrative completeness review time-frame established in Table 1 begins on the date the Department receives the application. The Department shall notify the applicant in writing within the administrative completeness review time-frame whether the application or request is incomplete. The notice shall specify what information is missing. If the Department does not provide notice to the applicant within the administrative completeness review time-frame, the Department considers the application complete.
 - 2. An applicant with an incomplete license application shall supply the missing information within the completion request period established in Table 1. The administrative completeness review time-frame is suspended from the date the Department mails the notice of missing information to the applicant until the date the Department receives the information.
 - 3. If the applicant fails to submit the missing information before the expiration of the completion request period, the Department shall close the file, unless the applicant requests an extension. An applicant whose file has been closed may obtain a license by submitting a new application.
- C. Substantive review. The substantive review time-frame established in Table 1 shall begin after the application is administratively complete.
 - 1. If the Department makes a comprehensive written request for additional information, the applicant shall submit the additional information identified by the request within the additional information period provided in Table 1. The substantive review time-frame is suspended from the date of the Department request until the information is received by the Department. If the applicant fails to provide the information identified in the written request within the additional information period, the Department shall deny the license.
 - 2. The Department shall issue a written notice granting or denying a license within the substantive review time-frame. If the application is denied, the Department shall send the applicant written notice explaining the reason for the denial with citations to supporting statutes or rules, the applicant’s right to seek a fair hearing, and the time period in which the applicant may appeal the denial.

Historical Note

Adopted effective October 8, 1998 (Supp. 98-4).

Table 1. Time-frames (Calendar Days)

License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time-frame

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Regulated Grower Permit	A.R.S. § 3-363	14	14	56	14	70
Seller Permit	A.R.S. § 3-363	14	14	56	14	70
Agricultural Aircraft Pilot License	A.R.S. § 3-363	14	14	56	14	70
Custom Applicator License	A.R.S. § 3-363	14	14	63	14	77
Application Equipment Tag	A.R.S. § 3-363	14	14	56	14	70
Agricultural Pest Control Advisor (PCA) License	A.R.S. § 3-363	14	14	63	14	77
Commercial Applicator Certification (PUC)	A.R.S. § 3-363	14	14	63	14	77
Private Applicator Certification (PUP)	A.R.S. § 3-363	14	14	63	14	77
Private Fumigation Certification	A.R.S. § 3-363	14	14	63	14	77
Golf Applicator Certification (PUG)	A.R.S. § 3-363	14	14	63	14	77
Experimental Use Permit	A.R.S. § 3-350.01	14	14	28	14	42
Pesticide Registration	A.R.S. § 3-351	14	14	91	14	105
License to Manufacture or Distribute Commercial Feed	A.R.S. § 3-2609	14	14	42	14	56
Commercial Fertilizer License Specialty Fertilizer Registration	A.R.S. § 3-272	14 14	14 14	42 56	14 14	56 70
Agricultural Safety Trainer Certification	A.R.S. § 3-3125	28	14	28	14	56
ARIZONA NATIVE PLANTS						
Notice of Intent Confirmation Notice of Intent	A.R.S. § 3-904	14	14	14	14	28
• Salvage Assessed Native Plant Permits	A.R.S. § 3-906	14	14	14	14	28
• Salvage Restricted Native Plant Permits		14	14	14	14	28
• Scientific Permits		14	14	14	14	28
Movement Permits	A.R.S. § 3-906	14	14	14	14	28
Annual Permits for Harvest-Restricted Native Plants	A.R.S. § 3-907	14	14	14	14	28

Historical Note

Adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 10 A.A.R. 2663, effective June 8, 2004 (Supp. 04-2). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1). Amended by exempt rulemaking at 19 A.A.R. 3130, effective September 16, 2013 (Supp. 13-3).

ARTICLE 2. PERMITS, LICENSES, AND CERTIFICATION**R3-3-201. Regulated Grower Permit; Fee**

- A.** A regulated grower shall not order, purchase, take delivery of, use, or recommend the use of any pesticide for an agricultural purpose or golf course without a valid regulated grower permit, issued by the Department.
- B.** A person applying for a regulated grower permit, initial or renewal, shall provide the following information on a form obtained from the Department:
1. Name, signature, and social security or employer's identification number of the applicant;
 2. Date of the permit application;
 3. Name, address, e-mail address, if applicable, and daytime telephone number of the company or farm where the applicant may be reached;
 4. Permit renewal period; and
 5. Sections, townships, ranges, and acres of the land where pesticides may be applied.
- C.** The applicant shall submit the completed application to the Department accompanied by a \$20 fee for each year or portion of the year during which the permit is valid.
- D.** A regulated grower permit is not transferable, expires on December 31, and is valid for one or two years depending on the renewal period selected by the applicant.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).
Amended by final rulemaking at 10 A.A.R. 276, effective
March 6, 2004 (Supp. 04-1). Amended by exempt
rulemaking at 19 A.A.R. 3130, effective September 16,
2013 (Supp. 13-3).

R3-3-202. Core Examination

- A.** In addition to other requirements prescribed by this Article, an individual seeking any of the following shall obtain a score of at least 75 percent on a written core examination administered by the Department:
1. Designation as a responsible individual;
 2. An initial license as:
 - a. An agricultural aircraft pilot;
 - b. A custom applicator;
 - c. An agricultural pest control advisor; or
 3. An initial certification as:
 - a. A private applicator;
 - b. A commercial applicator; or
 - c. A golf applicator.
- B.** The Department shall administer examinations by appointment at every Environmental Services Division office. The Department shall ensure that the examination tests the knowledge and understanding of the following subjects that are described in more detail at Appendix A, subsections (A) and (C):
1. Pesticide use, safety, and toxicity;
 2. Pesticide labels and labeling;
 3. Pesticide terminology;
 4. Common causes of accidents;
 5. Necessity for protective equipment;
 6. Poisoning symptoms;
 7. Practical first aid; and
 8. Statutes and rules relating to the sale, application, and use of pesticides.
- C.** An individual who fails the examination may retake the examination no more than three times in a 12-month period and shall not retake an examination until at least seven days have elapsed from the date of the last examination.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-201 (Supp. 91-4). Former Section R3-3-202 renumbered to R3-3-203; new R3-3-202 made by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by exempt rulemaking at 19 A.A.R. 3130, effective September 16, 2013 (Supp. 13-3).

R3-3-203. Seller Permit; Fee; Responsible Individual

- A.** A person shall not act as a seller without a valid seller permit, issued by the Department.
- B.** A seller shall obtain a seller permit for each physical location where the seller sells or offers for sale any restricted use pesticide or pesticide for an agricultural purpose within the state.
- C.** A person applying for a seller permit, initial or renewal, shall provide the following information on a form obtained from the Department:
1. Name and signature of the responsible individual, and license number, if applicable;
 2. Date of the permit application;
 3. Name, physical address, mailing address, e-mail address, if applicable, and daytime telephone number of the location selling a restricted use pesticide or a pesticide for an agricultural purpose;
 4. Permit renewal period;

5. Name, e-mail address, and daytime telephone number of the Arizona contact for each out-of-state seller, if applicable;
 6. Address where records required to be maintained under R3-3-401 will be kept;
 7. Whether the applicant has had a similar license, permit, or certification revoked, suspended, or denied in this or any other jurisdiction during the three years before the date of application; and
 8. If applicable, the number of the license or certificate of the responsible individual, and current seller permit number.
- D.** The applicant shall submit the completed application to the Department accompanied by a \$100 fee for each year or portion of the year during which the permit is valid.
- E.** A seller permit is not transferable, expires on December 31, and is valid for one or two years, depending on the permit renewal period selected by the applicant. The Department shall not renew a seller permit unless the seller is in compliance with the provisions established in subsection (F), if applicable.
- F.** A seller shall designate a different responsible individual for each physical location in this state that sells or offers for sale any restricted use pesticide.
1. If a responsible individual terminates employment at an assigned location, the seller shall designate another responsible individual within 30 calendar days and notify the Department of the replacement.
 2. For a responsible individual who is not a commercial applicator or a PCA:
 - a. The core examination expires December 31, unless the initial examination is passed in the last quarter of a calendar year, in which case the expiration is December 31 of the following year; and
 - b. The responsible individual shall retake and pass the core examination every year, unless the responsible individual completes three CEUs annually before the renewal date.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-203 (Supp. 91-4). Former Section R3-3-203 renumbered to R3-3-204; new R3-3-203 renumbered from R3-3-202 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

R3-3-204. Agricultural Aircraft Pilot License; Examination; Fee; Renewal

- A.** An individual shall not act as an agricultural aircraft pilot without:
1. A valid agricultural aircraft pilot license issued under this Section, and
 2. A valid commercial applicator certification issued under R3-3-208.
- B.** The Department shall not issue or renew an agricultural aircraft pilot license, and an existing agricultural aircraft pilot license is invalid unless the applicant or license holder has a valid commercial pilot's certificate issued by the Federal Aviation Administration and a valid commercial applicator certification.
- C.** An individual applying for an agricultural aircraft pilot license, initial or renewal, shall provide the following information on a form obtained from the Department:
1. Name, social security number, and signature of the applicant;
 2. Date of application;

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3. Address, e-mail address, if applicable, and daytime telephone number of the applicant;
 4. License renewal period;
 5. Name, physical address, mailing address, e-mail address, if applicable, and daytime telephone number of the applicant's employer, if applicable;
 6. Copy of the applicant's commercial pilot certificate issued by the Federal Aviation Administration, if not previously filed with the Department;
 7. Applicant's commercial applicator certification number; and
 8. Whether the applicant has had a similar certification or license revoked, suspended, or denied in this or any other jurisdiction during the three years before the date of application and the nature of the violation.
- D.** The applicant shall submit the completed application to the Department, accompanied by a \$50 fee for each year or portion of the year during which the license is valid.
- E.** An agricultural aircraft pilot license is not transferable, expires on December 31, and is valid for one or two years depending on the renewal period selected by the applicant.
- F.** Examinations.
1. The Department shall administer examinations by appointment at every Environmental Services Division office. In addition to the core examination required in R3-3-202, an applicant shall demonstrate knowledge and understanding of the following by scoring at least 75 percent on the written examination administered by the Department:
 - a. Safe flight and application procedures, including steps to be taken before starting a pesticide application, such as survey of the area to be treated, and considering the possible hazards to public health;
 - b. Calibration of aerial application equipment; and
 - c. Operation and application in the vicinity of schools, child care facilities, health care institutions, and residences.
 2. An individual who fails the examination may retake it no more than three times in a 12-month period and shall not retake an examination until at least seven days have elapsed from the date of the last examination.
- G.** Renewal; expired license.
1. An applicant may renew an expired license without retaking the written examinations in subsection (F) under the following conditions:
 - a. The applicant submits the completed application and fee within 30 days after the expiration date, and
 - b. The applicant does not provide any pesticide-related service after the date the license expired until the date the renewal is effective.
 2. All other applicants for renewal shall retake the written examinations prescribed in subsection (F).
- Historical Note**
- Adopted effective November 20, 1987 (Supp. 87-4).
 Renumbered from R3-10-204 (Supp. 91-4). Former Section R3-3-204 renumbered to R3-3-205; new R3-3-204 renumbered from R3-3-203 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).
- R3-3-205. Custom Applicator License; Examination; Fee; Renewal**
- A.** A person shall not act as a custom applicator without a valid custom applicator license issued by the Department.
- B.** A person applying for a custom applicator license, initial or renewal, shall provide the following information on a form obtained from the Department:
1. Name and signature of the applicant;
 2. Date of the license application;
 3. Name, physical address, mailing address, e-mail address, if applicable, and daytime telephone number of the business under subsection (C);
 4. Tax identification number of the business;
 5. License renewal period;
 6. Whether the application is for ground or air custom application, or both;
 7. Names and current certification numbers of the commercial applicators employed by the business, as prescribed in subsection (C)(1);
 8. Evidence of insurance coverage, showing the name of the insurance carrier, policy number, policy term, policy limits, and any applicable exclusions; and
 9. Whether the applicant has had a similar license revoked, suspended, or denied in this or any other jurisdiction during the last three years, and the nature of the violation.
- C.** The Department shall not issue or renew a custom applicator license and an existing custom applicator license is invalid unless the applicant or license holder:
1. Is a commercial applicator or employs at least one individual who is certified as a commercial applicator under R3-3-208;
 2. Maintains or the business that employs the applicator or license holder maintains public liability, drift, and property damage insurance coverage with an aggregate amount of at least \$300,000 during the licensing period. The applicant or license holder shall provide evidence of insurance coverage to the Department upon initial application, for each renewal, or upon request of the Department; and
 3. Files with the Department a copy of the commercial applicator's valid Federal Aviation Administration commercial agricultural aircraft operator's certificate, if using aircraft. If not already on file with the Department, an applicant or license holder shall submit a copy of the certificate with the completed application form.
- D.** A custom applicator license holder may:
1. Temporarily relinquish a custom applicator license if the custom applicator:
 - a. Advises the Department of termination of the insurance prescribed in subsection (C)(2), and the effective date of termination; and
 - b. Ceases to act as a custom applicator on the termination date.
 2. Reinstate the custom applicator license within the same licensing time period, without again paying the fee as prescribed in subsection (E), if the custom applicator:
 - a. Purchases insurance as prescribed in subsection (C)(2), and
 - b. Notifies the Department of the effective date of the insurance.
- E.** The applicant shall submit the completed application to the Department, accompanied by a \$100 fee for each year, or portion of the year during which the license is valid.
- F.** A custom applicator license is not transferable, expires on December 31, and is valid for one or two years, depending on the renewal period selected by the applicant.
- G.** Examinations.
1. The Department shall administer examinations by appointment at every Environmental Services Division office. In addition to the core examination required in R3-3-202, an applicant shall demonstrate knowledge and understanding of the following by scoring at least 75 per-

cent on the written examination administered by the Department:

- a. Calibration of application equipment;
 - b. Aerial application procedures, if applicable; and
 - c. Ground application procedures, if applicable.
2. An individual who fails the examination may retake it no more than three times in a 12-month period and shall not retake an examination until at least seven days have elapsed from the date of the last examination.

H. Renewal; expired license.

1. An applicant may renew an expired license without retaking the written examinations in subsection (G) under the following conditions:
 - a. The applicant submits the completed application and fee within 30 days after the expiration date, and
 - b. The applicant does not provide any pesticide-related service after the date the license expired until the date the renewal is effective.
2. All other applicants for renewal shall retake the written examinations prescribed in subsection (G).

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-205 (Supp. 91-4). Former Section R3-3-205 renumbered to R3-3-206; new R3-3-205 renumbered from R3-3-204 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

R3-3-206. Tag; Fee

- A. A custom applicator shall not use custom application equipment unless the equipment has a valid tag. The custom applicator licensee shall place and maintain a valid tag so that it is prominently displayed on the pesticide application equipment.
- B. A person applying for a tag shall provide the following information on a form obtained from the Department:
 1. Name and signature of the applicant;
 2. Date of the application;
 3. Address, e-mail address, if applicable, and daytime telephone number of the applicant;
 4. Name, physical address, mailing address, e-mail address, if applicable, and daytime telephone number of the business, if applicable; and
 5. Manufacturer, make, model and serial number, and if an aircraft, the aircraft registration number (“N” number) of the application equipment.
- C. The Department shall not issue or renew a tag and an existing tag is invalid if the custom applicator license is invalid.
- D. An applicant shall submit the completed application to the Department, accompanied by a \$25 fee for each piece of equipment, for each year or portion of the year during which the tag is valid.
- E. A tag expires on December 31, and is valid for the same time period as the custom applicator license.
- F. A custom applicator licensee shall not transfer a tag except as follows:
 1. If a licensed piece of equipment is destroyed, rendered unusable, or transferred out of the state, the custom applicator licensee may transfer the tag to another piece of equipment.
 2. If a licensed piece of equipment is leased, sold, or traded, the custom applicator licensee shall transfer the tag with the equipment to the lessee or new owner.
 3. Before transferring a tag, the custom applicator licensee shall notify the Department that the tag is being transferred and identify the person to whom the tag is being

transferred or identify the piece of equipment to which the tag is being transferred, or the tag is invalid.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-206 (Supp. 91-4). Former Section R3-3-206 renumbered to R3-3-207; new R3-3-206 renumbered from R3-3-205 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

R3-3-207. Agricultural Pest Control Advisor License; Examination; Fee; Renewal; Exemption

- A. An individual shall not act as a PCA without a valid PCA license issued by the Department. To advise in any of the categories listed in subsection (I), a PCA shall pass the specific examination associated with the category.
- B. An individual applying for a PCA license shall provide the following information on a form obtained from the Department:
 1. The applicant's name, address, e-mail address, daytime telephone number, social security number, and signature;
 2. Date of the application;
 3. License renewal period;
 4. Name, physical address, mailing address, e-mail address, and daytime telephone number of the applicant's employer, if applicable;
 5. Examinations that the applicant has passed by category; and
 6. Whether the applicant has had a similar license revoked, suspended, or denied in this or any other jurisdiction during the last three years, and the nature of the violation resulting in the revocation, suspension, or denial.
- C. An individual applying for a PCA license, except an individual who holds or has held a PCA license in this state within the previous five years shall meet one of the following five sets of qualifications:
 1. College degree.
 - a. Possess a bachelor's degree (B.A. or B.S.), master's degree or doctorate degree in any subject; and
 - b. Have completed 42 semester hours (63 quarter units) of college-level curricula as specified in subsection (D).
 2. Master's degree in a biological science.
 - a. Possess a master's degree in a biological science;
 - b. Have 12 months of work experience related to a core area listed in subsection (D); and
 - c. Have a letter from the institution, a faculty member, or a supervisor where the individual obtained the work experience certifying the time spent and describing the type of experience obtained by the individual.
 3. Doctorate degree in a biological science.
 - a. Possess a doctorate degree in a biological science; and either
 - b. Meet the qualifications in subsection (C)(2)(b) and (C)(2)(c); or
 - c. Have a letter of recommendation from the faculty member that supervised the dissertation or the division head of the discipline.
 4. Other education with unlicensed experience.
 - a. Have completed 42 semester hours (63 quarter units) of college-level curricula as specified in subsection (D);
 - b. Have 24 months of work experience related to a core area listed in subsection (D); and
 - c. Have a letter from the institution, a faculty member, or a supervisor where the individual obtained the

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work experience certifying the time spent and describing the type of experience obtained by the individual.

- 5. Other education with licensed experience.
 - a. Be currently licensed as a pest control advisor (PCA) or equivalent in another state; and
 - b. Have completed 42 semester hours (63 quarter units) of college-level curricula as specified in subsection (D), except that each year of verifiable licensed experience under subsection (C)(5)(a) within the previous 5 years qualifies for two semester hours up to 10 hours. The semester hours based on licensed experience do not reduce the minimum hours required from each individual core area.
 - c. The applicant shall provide proof of the equivalency of a license from another state.

D. The 42 semester hours (63 quarter units) of college-level curricula specified in subsection (C) shall come from the core areas shown in the following table, with at least the minimum indicated hours (or units) coming from each individual core area. A single course shall not count toward the minimum hours of more than one core area. At least one course from the pest management systems and methods core area shall emphasize integrated pest management principles.

Core Area	Examples of Subjects	Sem. Hours	Qtr. Units
Physical, biological, and earth sciences, and mathematics	Inorganic chemistry; organic chemistry; biochemistry; plant biology or botany; general ecology; biology; genetics; plant physiology; zoology; post-algebra mathematics	12	18
Crop health	Soils and irrigation; vegetation management or weed science; plant pathology; entomology; plant nutrition or fertility; nematology; vertebrate management	6	9
Pest management systems and methods	Applied courses in entomology, plant pathology, vegetation management or weed science, and other pest management disciplines; pesticides or use of pesticides; pest control equipment systems; alternative cropping systems; sustainable or organic agricultural systems; biological control	3	4.5

Production systems	Horticulture; viticulture; forestry; agronomy; crop, vegetable, fruit or animal sciences; other production systems (e.g., wildlife production, cattle production)	3	4.5
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- E. Alternative curricula credits.
 - 1. A current crop advisor certificate issued by the American Society of Agronomy qualifies for three semester hours in one of the following core areas: physical, biological and earth sciences and mathematics; crop health; or production systems.
 - 2. Non-traditional courses such as a senior project, an internship, cooperative work experience, independent study, a dissertation or a thesis qualify for three semester hours in one of the core areas of crop health, pest management systems and methods, or production systems, as applicable.
 - 3. For applicants with a bachelor's, master's, or doctorate degree, at least one year of full-time related work experience qualifies for three semester hours in one of the core areas of pest management systems and methods or production systems, as applicable.
- F. In addition to the information required by subsection (B), an applicant shall submit to the Department:
 - 1. An official transcript verifying the courses completed and the degrees granted to the applicant.
 - 2. Documentation verifying alternative curricula relied on under subsection (E). Documentation of subsection (E)(2) and (E)(3) shall include a letter certifying completion and describing the activity from the institution, a faculty member or supervisor.
 - 3. If applicable, the letter required for licensure under subsection (C).
 - 4. A \$50 fee.
- G. A PCA license is not transferable, expires on December 31, and is:
 - 1. Issued for up to one year as an initial license;
 - 2. Renewed every one or two years, depending on the renewal period selected by the applicant; and
 - 3. Renewed for all categories of license under subsection (I) for the same renewal period.
- H. Renewal.
 - 1. The continuing education requirement in subsection (H)(5) is not applicable to an individual who passes the examination prescribed in subsection (I) and who applies for a PCA license between October 1 and December 31 of the test year.
 - 2. Upon renewal, a PCA license is valid for one or two years, depending on the renewal period selected by the applicant, provided the applicant meets the criteria prescribed under subsection (H).
 - 3. An applicant shall submit the completed application, accompanied by a \$50 fee for each licensing year or portion of the year during which the license is valid.
 - 4. Renewal; expired license.
 - a. An applicant may renew an expired license without retaking the written examinations under subsection (I) provided the applicant:
 - i. Complies with the CEU requirements in subsection (H)(5),
 - ii. Submits a completed application and fee within 30 days after the expiration date, and

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- iii. Does not provide any pest control-related service from the date the license expired until the date the renewal is effective.
 - b. All other applicants for renewal shall retake the applicable written examinations prescribed in subsection (I).
 - 5. The Department shall not renew a PCA license unless, before the expiration of the current license, the licensee completes 15 CEUs for each year of the renewal period or passes any applicable examination prescribed in subsection (I). The licensee shall complete CEU credit during the calendar years the current license is in effect. CEUs earned that are in excess of the requirements do not carry forward for use with future renewals.
 - 6. To obtain credit, the applicant shall provide the Department with documentation of completion of the CEU course.
- I. Examinations.**
1. The Department shall administer examinations by appointment at every Environmental Services Division office. In addition to the core examination required in R3-3-202, an applicant shall demonstrate knowledge and understanding of integrated pest management in any of the following categories by scoring at least 75 percent on a written examination:
 - a. Weed control,
 - b. Invertebrate control,
 - c. Nematode control,
 - d. Plant pathogen control,
 - e. Vertebrate pest control,
 - f. Plant growth regulators, or
 - g. Defoliation.
 2. An individual who fails the examination may retake it no more than two times in a 12-month period and shall not retake an examination until at least seven days have elapsed from the date of the last examination.
- J. Exemption.** An individual operating in an official capacity for a college or university, providing recommendations in a not-for-profit capacity, or merely furnishing information concerning general and labeling usage of a registered pesticide is not considered an authority or general advisor for the purposes of this Chapter.
- Historical Note**
- Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-207 (Supp. 91-4). Former Section R3-3-207 repealed; new R3-3-207 renumbered from R3-3-206 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 19 A.A.R. 3855, effective January 28, 2014 (Supp. 13-4).
- R3-3-208. Applicator Certification; Examination; Fee; Renewal**
- A.** An individual shall not act as a private applicator, golf applicator, or commercial applicator unless the individual is certified by the Department.
 - B.** Application. An individual applying for either commercial, golf, or private applicator certification shall pay the applicable fee and submit a completed application to the Department containing the following information on a form obtained from the Department:
 1. The applicant's name, address, e-mail address if applicable, daytime telephone number, Social Security number, and signature;
 2. Date of the application;
 3. Name, physical address, mailing address, e-mail address, if applicable, and daytime telephone number of the applicant's employer, if applicable;
 4. Whether the application is for a commercial, golf, or private applicator certification;
 5. If applicable, an indication the applicant seeks private applicator fumigation certification;
 6. If applicable, an indication the applicant seeks golf applicator aquatic certification;
 7. For commercial certification, the categories in which the applicant seeks to be certified;
 8. Whether the applicant has had a similar certification revoked, suspended, or denied in this or any other jurisdiction during the last three years, and the nature of the violation; and
 9. Certification renewal period.
 - C.** Private applicator fumigation certification.
 1. Fumigation certification requires certification as a private applicator, a golf applicator, or a commercial applicator.
 2. Fumigation certification allows a private applicator or a commercial applicator acting as a private applicator to use, apply, or supervise the use or application of a fumigant to an on-farm raw agricultural commodity or on-farm burrowing rodent problem.
 3. Fumigation certification allows a golf applicator to use and apply a fumigant to a golf course burrowing rodent problem.
 - D.** Golf applicator aquatic certification allows a golf applicator to use or apply an aquatic pesticide to a body of water on a golf course to control an aquatic pest problem.
 - E.** Golf restricted use pesticide certification allows a golf applicator to use or apply restricted use pesticides to an ornamental and turf area of a golf course.
 - F.** Examinations. The Department shall administer examinations by appointment at every Environmental Services Division office. An applicant shall achieve a passing score of 75 percent in the applicable subject area in order to receive initial certification.
 1. Commercial applicator certification (PUC). In addition to the core examination required by R3-3-202, an applicant shall demonstrate knowledge and understanding of the subjects listed in Appendix A, subsection (B) for each commercial certification category sought.
 2. Commercial certification categories. An individual may apply for commercial applicator certification in any of the following categories:
 - a. Agricultural pest control;
 - b. Forest pest control;
 - c. Seed-treatment;
 - d. Aquatic pest control;
 - e. Right-of-way pest control;
 - f. Public health pest control;
 - g. Regulatory pest control: M-44 or rodent, if a government employee; or
 - h. Demonstration and research pest control.
 3. Private applicator (PUP) and golf applicator (PUG) certification. An applicant shall demonstrate knowledge and understanding of the core examination subjects listed in R3-3-202.
 4. Fumigation certification. An applicant seeking private applicator fumigation certification shall also pass a separate fumigation examination.
 5. Aquatic certification. An applicant seeking aquatic certification shall also pass a separate aquatics examination.
 6. An individual who fails an examination may retake it no more than three times in a 12-month period, and shall not

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retake an examination until at least seven days have elapsed from the date of the last examination.

G. Fee.

1. An applicant for private or commercial certification shall pay a \$50 fee per year of certification.
2. An applicant for golf certification shall pay a \$100 fee per year of certification.

H. Applicator certification is not transferable, expires on December 31, and is:

1. Issued for the remainder of the calendar year as an initial certification;
2. Renewed for one or two years, depending on the renewal period selected by the applicant; and
3. Renewed for all categories of certification for the same renewal period.

I. Renewal.

1. An applicant for renewal of an applicator certification shall select a one or two-year renewal period.
2. An applicant shall submit the completed application accompanied by the applicable fee for a one-year renewal or double the fee for a two-year renewal.
3. CEU requirements.
 - a. The Department shall not renew a private applicator or golf applicator certification unless, prior to the expiration of the current certification, the applicator completes three CEUs for each year of the renewal period.
 - b. The Department shall not renew a commercial applicator certification unless, prior to expiration of the current certification, the applicator completes six CEUs for each year of the renewal period.
 - c. The Department shall not renew a fumigation certification unless, prior to the expiration of the current certification, the applicant qualifies to renew the applicant's private, golf, or commercial applicator certification under this subsection and completes three additional CEUs per year of the renewal period.
 - d. The Department shall not renew an aquatic certification unless, prior to the expiration of the current certification, the applicant qualifies to renew the applicant's golf applicator certification under this subsection and completes three additional CEUs per year of the renewal period. The three additional CEUs per year may also be used to simultaneously satisfy the three additional CEUs per year requirement in subsection (H)(3)(c).
 - e. An applicator shall complete CEU credit while the current certification period is in effect. CEU credits earned in excess of the requirements do not carry forward for use in subsequent renewals.
 - f. To obtain credit, the applicant shall provide the Department with documentation of completion of the CEU course.
 - g. The CEU requirements are not applicable to an individual renewing an initial certification issued between October 1 and December 31.
4. 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 accompanied by the applicable fee and retaking and passing the applicable certification examination prescribed in this Section.

J. Renewal; expired certification.

1. An applicant may renew an expired certification without retaking the written examinations provided the applicant:

- a. Has satisfied the CEU requirements,
 - b. Submits a completed application and fee within 30 days after the expiration date, and
 - c. Does not provide any pesticide-related service from the date the certification expired until the date the renewal is effective.
2. All other applicants for renewal shall complete the requirements for initial certification, including retaking and passing the written examinations prescribed in this Section.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-208 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by final rulemaking at 18 A.A.R. 2481, effective November 10, 2012 (Supp. 12-3). Amended by exempt rulemaking at 19 A.A.R. 3130, effective September 16, 2013 (Supp. 13-3). Amended by final rulemaking at 22 A.A.R. 367, effective April 5, 2016 (Supp. 16-1).

R3-3-209. License and Fee Exemptions

- A.** A person who applies pesticides in buildings or for structural pest control purposes is not required to apply for or possess any license or certification from the Department.
- B.** A person who sells, offers for sale, delivers, or offers for delivery a general use pesticide, to be used for private, noncommercial use in or around the home or a person who sells general use pesticides for swimming pool or spa maintenance is not required to apply for or possess a seller's permit from the Department.
- C.** A state, federal, or other governmental employee who makes pest control recommendations or applies or supervises the use of restricted use pesticides while engaged in the performance of official duties shall meet the requirements of this Article, but is not required to pay a fee for either a PCA license or a commercial applicator certification.
- D.** A person who only furnishes information concerning label requirements governing a registered pesticide is not required to apply for or possess a PCA license from the Department.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-209 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

R3-3-210. Additional Grounds for Revocation, Suspension, or Denial of a License, Permit, or Certification

- A.** The Director has the authority to deny, or after an administrative hearing, suspend or revoke a license, permit, or certification of any person who:
 1. Fails to demonstrate sufficient reliability, expertise, integrity, and competence in engaging in pesticide use;
 2. Submits an inaccurate application for a license, permit, or certification; or
 3. Has had a similar license, permit, or certification revoked, suspended, or denied in this or any other jurisdiction during the three years before the date of application.
- B.** Upon notice of a denial, the applicant may request, in writing, that the Director provide an administrative hearing under A.R.S. Title 41, Chapter 6, Article 10 to appeal the denial of the license, permit, or certification.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-210 (Supp. 91-4). Former Sec-

tion R3-3-210 repealed; new R3-3-210 renumbered from R3-3-211 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

R3-3-211. CEU Course Approval; Subject Approval

- A.** CEU course approval.
1. A person who wishes to have the Department determine whether a course qualifies for CEU credit shall submit the following information to the Department:
 - a. Name, address, e-mail address, if applicable, and telephone number of the course's sponsor;
 - b. Signature of the sponsor or the sponsor's representative;
 - c. Course outline, listing the subjects and indicating the amount of time allocated for each subject;
 - d. Brief description of the information covered within each subject;
 - e. Brief biography of the presenter, demonstrating the presenter's qualifications;
 - f. Fees charged for attending the course;
 - g. Date and location of each session; and
 - h. Whether the course is open to the public.
 2. A person who requires prior notification of the number of CEUs that can be earned by completing an approved course before it is held shall submit the information required in subsection (A)(1) to the Department at least 14 business days before the course is held.
 3. 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 requested to inform all individuals who attended the course.
- B.** Subject approval. The Department shall grant one hour of CEU credit for every 50 minutes of actual instruction in an approved program relating to agricultural pest control or any of the following subjects:
1. Those listed in R3-3-208(F)(1),
 2. IPM, or
 3. Any other pesticide or pesticide use subject approved by the Associate Director.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-211 (Supp. 91-4). Former Section R3-3-211 renumbered to R3-3-210; new R3-3-211 renumbered from R3-3-212 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

R3-3-212. Experimental Use Permit

- A.** Small scale pesticide testing. For a person exempted by Section 5 of FIFRA or 40 CFR 172.3 from the requirement of a federal experimental use permit the following apply:
1. The person shall, in addition to meeting the requirements in R3-3-303, provide to the Associate Director a statement of purpose and an affidavit verifying that the pesticide will be applied to an application site that does not exceed the total area described in 40 CFR 172.3(c); and
 2. If testing on the grounds of a college or university agricultural center or campus, or company-owned research facility, the testing is exempt from subsection (A)(1) and the reporting requirements in R3-3-303.
- B.** A person engaged in a small scale test, except a person exempt under subsection (A)(2), shall comply with the requirements prescribed in R3-3-302, if applicable.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-212 (Supp. 91-4). Former Section R3-3-212 renumbered to R3-3-211; new R3-3-212 made by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

Appendix A. - Testing Categories

TESTING CATEGORIES

- A.** Commercial Applicator Certification, 40 CFR 171.4(b)(i)-(viii).
1. Label & labeling comprehension.
 - a. The general format and terminology of pesticide labels and labeling;
 - b. The understanding of instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labels;
 - c. Classification of the product, general or restricted; and
 - d. Necessity for use consistent with the label.
 2. Safety. Factors including:
 - a. Pesticide toxicity and hazard to man and common exposure routes;
 - b. Common types and causes of pesticide accidents;
 - c. Precautions necessary to guard against injury to applicators and other individuals in or near treated areas;
 - d. Need for and use of protective clothing and equipment;
 - e. Symptoms of pesticide poisoning;
 - f. First aid and other procedures to be followed in case of a pesticide accident; and
 - g. Proper identification, storage, transport, handling, mixing procedures and disposal methods for pesticides and used pesticide containers, including precautions to be taken to prevent children from having access to pesticides and pesticide containers.
 3. Environment. The potential environmental consequences of the use and misuse of pesticides as may be influenced by such factors as:
 - a. Weather and other climatic conditions;
 - b. Types of terrain, soil or other substrate;
 - c. Presence of fish, wildlife and other non-target organisms; and
 - d. Drainage patterns.
 4. Pests. Factors such as:
 - a. Common features of pest organisms and characteristics of damage needed for pest recognition;
 - b. Recognition of relevant pests; and
 - c. Pest development and biology as it may be relevant to problem identification and control.
 5. Pesticides. Factors such as:
 - a. Types of pesticides;
 - b. Types of formulations;
 - c. Compatibility, synergism, persistence and animal and plant toxicity of the formulations;
 - d. Hazards and residues associated with use;
 - e. Factors which influence effectiveness or lead to such problems as resistance to pesticides; and
 - f. Dilution procedures.
 6. Equipment. Factors including:
 - a. Types of equipment and advantages and limitations of each type; and
 - b. Uses, maintenance and calibration.
 7. Application techniques. Factors including:
 - a. Methods of procedure used to apply various formulations of pesticides, solutions, and gases, together

- with a knowledge of which technique of application to use in a given situation;
- b. Relationship of discharge and placement of pesticides to proper use, unnecessary use, and misuse; and
 - c. Prevention of drift and pesticide loss into the environment.
8. Laws and regulations. Applicable State and Federal laws and regulations.
- B. Commercial Certification Categories, 40 CFR 171.4(c)(1) through (6) and (8) through (10).**
1. Agricultural pest control.
 - a. Plant. Applicators must demonstrate practical knowledge of crops grown and the specific pests of those crops on which they may be using restricted use pesticides. The importance of such competency is amplified by the extensive areas involved, the quantities of pesticides needed, and the ultimate use of many commodities as food and feed. Practical knowledge is required concerning soil and water problems, pre-harvest intervals, re-entry intervals, phytotoxicity, and potential for environmental contamination, non-target injury and community problems resulting from the use of restricted use pesticides in agricultural areas.
 - b. Animal. Applicators applying pesticides directly to animals must demonstrate practical knowledge of such animals and their associated pests. A practical knowledge is also required concerning specific pesticide toxicity and residue potential, since host animals will frequently be used for food. Further, the applicator must know the relative hazards associated with such factors as formulation, application techniques, age of animals, stress and extent of treatment.
 2. Forest pest control. Applicators shall demonstrate practical knowledge of types of forests, forest nurseries, and seed production in this state and the pests involved. They shall possess practical knowledge of the cyclic occurrence of certain pests and specific population dynamics as a basis for programming pesticide applications. A practical knowledge is required of the relative biotic agents and their vulnerability to the pesticides to be applied. Because forest stands may be large and frequently include natural aquatic habitats and harbor wildlife, the consequences of pesticide use may be difficult to assess. The applicator must therefore demonstrate practical knowledge of control methods which will minimize the possibility of secondary problems such as unintended effects on wildlife. Proper use of specialized equipment must be demonstrated, especially as it may relate to meteorological factors and adjacent land use.
 3. Seed-treatment. Applicators shall demonstrate practical knowledge of types of seeds that require chemical protection against pests and factors such as seed coloration, carriers, and surface active agents which influence pesticide binding and may affect germination. They must demonstrate practical knowledge of hazards associated with handling, sorting and mixing, and misuse of treated seed such as introduction of treated seed into food and feed channels, as well as proper disposal of unused treated seeds.
 4. Aquatic pest control. Applicators shall demonstrate practical knowledge of the secondary effects which can be caused by improper application rates, incorrect formulations, and faulty application of restricted use pesticides used in this category. They shall demonstrate practical knowledge of various water use situations and the potential of downstream effects. Further, they must have practical knowledge concerning potential pesticide effects on plants, fish, birds, beneficial insects and other organisms which may be present in aquatic environments. These applicators shall demonstrate practical knowledge of the principles of limited area application.
5. Right-of-way pest control. Applicators shall demonstrate practical knowledge of a wide variety of environments, since rights-of-way can traverse many different terrains, including waterways. They shall demonstrate practical knowledge of problems on runoff, drift, and excessive foliage destruction and ability to recognize target organisms. They shall also demonstrate practical knowledge of the nature of herbicides and the need for containment of these pesticides within the right-of-way area, and the impact of their application activities in the adjacent areas and communities.
 6. Public health pest control. Applicators shall demonstrate practical knowledge of vector-disease transmission as it relates to and influences application programs. A wide variety of pests is involved, and it is essential that they be known and recognized, and appropriate life cycles and habitats be understood as a basis for control strategy. These applicators shall have practical knowledge of a great variety of environments ranging from streams to those conditions found in buildings. They shall also have practical knowledge of the importance and employment of such non-chemical control methods as sanitation, waste disposal, and drainage.
 7. Regulatory pest control. Applicators shall demonstrate practical knowledge of regulated pests, applicable laws relating to quarantine and other regulation of pests, and the potential impact on the environment of restricted use pesticides used in suppression and eradication programs. They shall demonstrate knowledge of factors influencing introduction, spread, and population dynamics of relevant pests. Their knowledge shall extend beyond that required by their immediate duties, since their services are frequently required in other areas of the country where emergency measures are invoked to control regulated pests and where individual judgments must be made in new situations.
 8. Demonstration and research pest control. Persons demonstrating the safe and effective use of pesticides to other applicators and the public will be expected to meet comprehensive standards reflecting a broad spectrum of pesticide uses. Many different pest problems situations will be encountered in the course of activities associated with demonstration, and practical knowledge of problems, pests, and population levels occurring in each demonstration situation is required. Further, they shall demonstrate an understanding of a pesticide-organism interaction and the importance of integrating pesticide use with other control methods. In general, it would be expected that applicators doing demonstration pest control work possess a practical knowledge of all of the standards detailed in (G)(1). In addition, they shall meet the specific standards required for subsections (c)(1) through (7) of this subsection as may be applicable to their particular activity.
- C. Private Certification, 40 CFR 171.5(a)(1) through (5).**
1. Recognize common pests to be controlled and damage caused by them.

2. Read and understand the label and labeling information, including the common name of pesticides the applicator applied; pest(s) to be controlled, timing and methods of application; safety precautions; any pre-harvest or re-entry restrictions; and any specific disposal procedures.
3. Apply pesticides in accordance with label instructions and warnings, including the ability to prepare the proper concentration of pesticide to be used under particular circumstances taking into account such factors as area to be covered, speed at which application equipment will be driven, and the quantity dispersed in a given period of operation.
4. Recognize local environmental situations that must be considered during application to avoid contamination.
5. Recognize poisoning symptoms and procedures to follow in case of a pesticide accident.

Historical Note

New Appendix made by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Appendix A subsection (B) CFR citation corrected from 40 CFR.4 to 40 CFR 171.4 at the request of the Department, Office File No. M09-448, filed December 8, 2009 (Supp. 09-4).

ARTICLE 3. PESTICIDE USE, SALES, AND EQUIPMENT

R3-3-301. General

- A. A person shall not use, apply, or instruct another to apply a pesticide in a manner or for a use inconsistent with the pesticide labeling except that:
1. A pesticide may be applied at a dosage, concentration, or frequency less than that specified on the pesticide labeling unless the labeling specifically prohibits deviation from the specified dosage, concentration, or frequency.
 2. A pesticide may be applied against any target pest not specified on the labeling if the application is to an application site specified on the pesticide labeling, unless the labeling specifically prohibits use against the pest.
 3. A pesticide may be applied by any method of application not prohibited by the pesticide labeling unless the labeling specifically states that the pesticide may be applied only by the methods specified on the labeling.
 4. A pesticide may be mixed with a fertilizer if the labeling does not prohibit the mixture.
 5. A pesticide may be used in any manner that is consistent with Sections 5, 18, or 24 of FIFRA.
- B. A person shall not use, apply, or store or instruct another to use, apply, or store a pesticide unless the pesticide is:
1. Registered with the Department and the EPA, or
 2. Previously registered with the Department and the EPA and cancelled or suspended by the EPA with a current end-use provision in effect.
- C. Subsection (B) does not apply to a:
1. Pesticide registrant that temporarily stores pesticides produced for shipment out of the state;
 2. Person who has applied for registration or exemption in this state; or
 3. Person who is acting under an experimental use permit on the grounds of a college or university agricultural center or campus, or a company-owned research facility.
- D. A person shall not allow drift that causes any unreasonable adverse effect.
- E. A person shall not cause the direct release of a pesticide and an individual shall not instruct an applicator in a manner to cause the direct release of a pesticide causing any unreasonable adverse effect.
- F. Regulated grower responsibility.

1. After a pesticide is applied to a field on an agricultural establishment, the regulated grower shall not harvest a crop from the field, or permit livestock to graze in the field in violation of any provision of the pesticide labeling.
 2. Before a pesticide application, a regulated grower shall ensure that all individuals and livestock subject to the regulated grower's control are outside the application site.
- G. Emergency pest control measures. A person acting under a government-sponsored emergency program, shall not apply, cause, or authorize another to apply or cause a pesticide to come into contact with an individual, animal, or property outside the boundaries of the application site.
- H. If possible when applying pesticides by aircraft, a pilot shall fly crosswind, unless an obstacle does not permit it, and shall begin the application at the downwind side of the field so that the pesticide is dispersed on the return swathe.
- I. A person shall not apply a highly toxic pesticide, other than a pesticide registered by the EPA for ultra low volume application, in a volume that is less than one gallon per acre in the final spray form. The content of that gallon shall be at least 50 percent water.
- J. A buffer zone may receive direct application or drift of pesticides as permitted by law.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-301 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

R3-3-302. Form 1080; Requirement for Written Recommendation

- A. A PCA or regulated grower shall provide the following information, as applicable, in writing on a Form 1080, sign the form, and provide a copy to the custom applicator before each pesticide application that is to be made by a custom applicator:
1. Name and permit number of the seller;
 2. Date the recommendation is written;
 3. Name and permit number of the regulated grower upon whose application site the pesticide will be applied;
 4. County where the application site is located;
 5. Pest conditions present;
 6. Whether the application site is within a pesticide management area under R3-3-304;
 7. Anticipated date of harvest;
 8. Restricted entry interval;
 9. Label days to harvest;
 10. Date recommended for the pesticide application;
 11. Specific application site being treated;
 12. Township, range, and section of the application site;
 13. Number of acres or application sites in each section being treated;
 14. Additional field description, if any;
 15. Brand name and EPA registration number of the pesticide to be applied or number of the pesticide regulated under Section 18 of FIFRA to be applied;
 16. Rate and unit of measure per acre or dilution per 100 gallons;
 17. Total quantity of pesticide concentrate to be applied;
 18. Total acres to be treated and total volume per acre or total number of application sites to be treated;
 19. Whether the application includes an active ingredient that appears on the Arizona Department of Environmental Quality groundwater protection list and is soil-applied as defined in A.A.C. R18-6-101;

20. Whether a supplemental label is required;
 21. Method of pesticide application;
 22. Label restrictions or special instructions, if any;
 23. Name of the custom applicator making the application;
 24. Anticipated pesticide delivery location; and
 25. Signature and credential number of the regulated grower or PCA making the recommendation.
- B.** A custom applicator shall not apply a pesticide unless the custom applicator has received a signed copy of the recommendation from the PCA or the regulated grower on the Form 1080 before the application. The custom applicator shall apply the pesticide according to the recommendation on the Form 1080 unless the recommendation conflicts with the pesticide label or labeling, in which case the custom applicator shall note these deviations on the Form 1080 and apply the pesticide according to the pesticide label or labeling, or as provided in R3-3-301(A).
- C.** Before the application of a pesticide recommended by a PCA, the PCA shall notify the regulated grower, or the regulated grower's representative, of the scheduled application date. If the application date or time changes from that scheduled with the regulated grower, the custom applicator shall notify the regulated grower of the revised date and time of the application.
- D.** After completing the application, the custom applicator shall sign the pesticide application report portion of Form 1080 to verify that the pesticide was applied according to the recommendation and provide the following information in writing on the form:
1. Date and time of each application;
 2. Date and time of the first and last spot application and a general description of the location, if applicable;
 3. Wind direction and velocity;
 4. Tag number, if applicable;
 5. Name and credential number of the grower or custom applicator business;
 6. Signature and credential number of the applicator; or name of the application equipment operator, and if a restricted use pesticide is applied, the signature and credential number of the certified applicator; and
 7. Any deviation from the recommendation.
- E.** Reporting shall be as prescribed in R3-3-404.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).
 Renumbered from R3-10-302 (Supp. 91-4). Section repealed; new Section made by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

R3-3-303. Experimental Use

- A.** A person supervising application of a pesticide under a federal experimental use permit shall provide the Department with the following information in writing at least five days before application of the experimental use pesticide:
1. A copy of the EPA-approved experimental use permit, as required by Section 5 of FIFRA;
 2. Name, address, e-mail address, if applicable, and daytime telephone number of the supervising technical individual for the experimental use;
 3. Application site to be treated, the location of the application site, the quantity of the commodity or the area of land to be treated, and the number of structures, if any;
 4. Total amount of active ingredient to be applied in this state;
 5. Rate of formulation applied per unit of measure;
 6. Method of application;
7. Time period during which the application will be made; and
 8. Any special experimental use permit condition as determined by the Department or by the EPA.
- B.** If any information provided under subsection (A) changes, the person supervising the pesticide application under a federal experimental use permit shall notify the Department at least 24 hours before the application of the experimental use pesticide. If the notification of change is given verbally, the person supervising the pesticide application under a federal experimental use permit shall provide the Department with written confirmation within 15 days after the date of the change.
- C.** At least 24 hours before the application, the supervising technical individual shall provide the Department with the following information:
1. Name, address, e-mail address, if applicable, and daytime telephone number of the regulated grower and PCA, or the qualifying party if it is a structural pest control application, that are involved in the application of the experimental use pesticide;
 2. County, section, township, range, and field description, if needed, of the intended application site, or the street address if it is a structural pest control application as defined in A.R.S. § 32-2301(20);
 3. Name, address, e-mail address, if applicable, and telephone number of the applicator applying the pesticide; and
 4. Date and time of the intended application.
- D.** An applicator shall not apply an experimental use pesticide in a manner other than that specified by the experimental use permit or other Department-approved labeling that is provided to the applicator. The applicator shall ensure that the labeling is at the application site when the application occurs.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).
 Renumbered from R3-10-303 (Supp. 91-4). Section repealed; new Section renumbered from R3-3-306 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

R3-3-304. Pesticide Management Areas; Criteria for Designation

- A.** The Associate Director shall annually publish a list of all locations within the state that are designated as pesticide management areas under A.R.S. § 3-366. The list is available at every Environmental Services Division office.
- B.** The Director shall designate a location as a pesticide management area if all of the following evaluation criteria are met:
1. The distance between the application site and the property boundary of any residence, school, child care facility, or health care institution is less than 1/4 mile;
 2. A pesticide is applied by aircraft;
 3. A pesticide complained about under subsection (B)(4) is highly toxic or odoriferous; and
 4. The Department receives complaints alleging pesticide misuse within a 12-month period from at least five or five percent, whichever is greater, of the residences located less than 1/4 mile from the application site or a complaint from any school, child care facility, or health care institution located less than 1/4 mile from the application site.
- C.** If, upon a written request from a person, or upon the Department's initiative, the Director determines that a pesticide management area no longer meets all of the criteria listed in subsection (B), the Director may remove the pesticide management area from the Department's annual list.

- D. A person may petition the Department at any time to add or delete an area to or from the list of pesticide management areas. The petitioner shall address all of the criteria listed in subsection (B). The Director shall make a decision on each petition no later than 90 days from the date the petition was submitted.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-304 (Supp. 91-4). Section repealed; new Section renumbered from R3-3-308 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

R3-3-305. Pesticide Sales

- A. A seller shall not sell, offer for sale, deliver, or offer for delivery any restricted use pesticide or pesticide for an agricultural purpose without determining that the pesticide will be used by a person who:
1. Has a valid certification or regulated grower permit issued by the Department or OPM for use of the pesticide, or
 2. Works under the direct supervision of a person who has a valid certification or regulated grower permit issued by the Department or OPM for the use of the pesticide.
- B. If a pesticide is sold for an agricultural purpose, the seller shall write the permit numbers of the seller and regulated grower on each sale and delivery ticket or invoice, and on each pesticide container or carton. If a pallet is delivered to an individual purchaser, the seller may write the seller and regulated grower numbers on the outside of the shrink-wrapped pallet.
- C. A seller shall register with the Department the name and address of each salesperson and PCA employed for the purpose of selling pesticides in this state.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-305 (Supp. 91-4). Section repealed; new Section renumbered from R3-3-309 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by exempt rulemaking at 19 A.A.R. 3130, effective September 16, 2013 (Supp. 13-3).

R3-3-306. Receipt of Restricted Use Pesticides by Noncertified Persons

- A. A person shall not sell, offer for sale, deliver, or offer for delivery a restricted use pesticide to a person other than a certified applicator without having first obtained written documentation from a certified applicator or a noncertified recipient that the material is to be applied by or under the supervision of a certified applicator.
- B. The seller shall obtain one of the following types of written documentation to satisfy the requirement in subsection (A):
1. A photocopy or fax of the certificate issued to the certified applicator who will be applying or supervising application of the restricted use pesticide and:
 - a. A statement signed by the certified applicator, authorizing and identifying the noncertified individual to purchase or receive the restricted use pesticide for the certified applicator; or
 - b. A copy of a signed contract or agreement, authorizing and identifying the noncertified person to receive the restricted use pesticide for the certified applicator; or
 2. A form on file with the seller that contains the following information:

- a. Name of any individual authorized to receive the restricted use pesticides for the certified applicator;
- b. Relationship of an authorized individual to the certified applicator (partner, employee, co-worker, or family member);
- c. List of the restricted use pesticides an authorized individual is allowed to receive, specifying the:
 - i. Trade name; and
 - ii. EPA registration number; or
 - iii. State special local need registration number issued by the Department; or
 - iv. Emergency exemption number, issued by the EPA under Section 18 of FIFRA, if applicable;
- d. Signature of the authorized individual and the date signed; and
- e. Certified applicator's signature, work address, work phone number, certification number, and certification categories (private fumigation or commercial and one or more of the following: agricultural pest, seed-treatment, right-of-way, forestry, aquatic, regulatory, or public health).

- C. A seller shall request proof of identification from any noncertified individual accepting restricted use pesticides on behalf of a certified applicator if the individual is unknown to the seller.
- D. A noncertified individual who receives a restricted use pesticide on behalf of a certified applicator shall sign all sale documents for restricted use pesticides.
- E. If, at the time of the sale of the restricted use pesticide, the noncertified individual receiving the pesticide satisfies the requirements of subsection (B) by presenting a signed statement, contract, or agreement, the seller shall maintain on file a copy of the signed statement, contract, or agreement.
- F. The seller shall retain records of all sales or deliveries made and maintain the documents required by this Section for at least two years from the date of sale.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-306 (Supp. 91-4). Former Section R3-3-306 renumbered to R3-3-303; new R3-3-306 renumbered from R3-3-310 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

R3-3-307. Aircraft and Agricultural Aircraft Pilots

- A. A person shall not operate an aircraft to apply pesticides in this state unless the aircraft has a valid Federal Aviation Administration airworthiness certificate and a valid tag issued under R3-3-206.
- B. A custom applicator shall not permit an individual who does not hold a valid agricultural aircraft pilot license and a valid commercial applicator certification to apply pesticides by aircraft.

Historical Note

Adopted effective January 17, 1989 (Supp. 89-1).
Renumbered from R3-10-307 (Supp. 91-4). Former Section R3-3-307 repealed; new R3-3-307 renumbered from R3-3-312 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

R3-3-308. Pesticide Containers and Pesticides; Storage and Disposal

- A. Each person storing pesticides or non-triple rinsed pesticide containers shall:
1. Provide a secure, well-ventilated storage location;
 2. Verify that the containers are nonleaking and closed if not in use; and

3. Conspicuously post a sign at the entrance to the storage area warning others that pesticides are stored inside.
- B.** A person shall not place misleading wording or markings on a service container that are not related to the pesticide in the container.
- C.** A person using a service container to store or transport a pesticide concentrate or registered ready-to-use pesticide, shall place a durable and legible label or tag on the service container that lists:
1. Name, e-mail address, if applicable, and telephone number of the applicator or custom applicator using the pesticide;
 2. Brand or trade name of the pesticide;
 3. EPA registration number;
 4. Name and percentage of the active ingredient;
 5. Dilution, if any, in the service container;
 6. EPA-assigned signal word (danger, warning, or caution) for the registered label; and
 7. The phrase “KEEP OUT OF REACH OF CHILDREN.”
- D.** A person shall not store or transport any pesticide in a container that has been used for food, feed, beverages, drugs, or cosmetics, or, because of shape, size, or marking is identified with food, feed, beverages, drugs, or cosmetics.
- E.** A person shall not dump, negligently store, or leave unattended any pesticide, service container, or pesticide container or part of a container, at any place or under any condition that will create a hazard to an individual, an animal, or property.
- F.** A person shall not dispose of any pesticide or pesticide container except according to label directions and all applicable laws.
- G.** Before a person disposes of any pesticide container, the person shall ensure that the following steps are taken:
1. After emptying each pesticide container other than a pressurized container, a paper bag, or a container designed for reuse with the same pesticide and described in R3-3-309, the container is triple rinsed and:
 - a. The rinsate is not discharged into the environment unless the discharge is performed according to label directions, and applicable laws;
 - b. The rinsate is placed into a service container or the application equipment for use on an application site, or the rinsate is disposed as allowed by the label;
 - c. Each container is punctured or crushed after it is triple rinsed to render the container incapable of holding any material; and
 2. A pesticide container that is a combustible bag or package is thoroughly emptied and either:
 - a. Folded and tied into bundles or otherwise secured, or
 - b. Enclosed securely in a secondary container that is labeled as containing pesticide residue.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-308 (Supp. 91-4). Former Section R3-3-308 renumbered to R3-3-304; new R3-3-308 renumbered from R3-3-313 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

R3-3-309. Returnable, Reusable, Recyclable, and Reconditionable Pesticide Containers

- A.** A pesticide container, as defined in R3-3-101, labeled as a returnable, reusable container, or for which the label contains provisions for recycling or reconditioning, may be shipped according to label directions to a dealer, distributor, formula-

tor, or a reconditioning or recycling facility that is operated in accordance with applicable laws.

- B.** If a pesticide container is being held for shipment under subsection (A), the person holding the container shall, immediately after use, place it in a secure environment, inaccessible for any use other than shipment according to label directions.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-309 (Supp. 91-4). Former Section R3-3-309 renumbered to R3-3-305; new R3-3-309 renumbered from R3-3-314 and amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

R3-3-310. Fumigation Use

- A.** An individual shall not perform a fumigation unless the individual is a certified fumigant applicator or a certified fumigant applicator is physically present in the immediate vicinity supervising the individual performing the fumigation.
- B.** An individual storing, handling, or applying a fumigant shall follow all label requirements. If the label does not specify warning requirements, the individual shall comply with the following provisions:
1. Before the fumigation begins, warning signs shall be posted in visible locations on or in the immediate vicinity of all entrances to and on every side of the space or area being fumigated.
 2. Warning signs shall be printed in red on white background and shall:
 - a. State the English and Spanish words “DANGER/ PELIGRO”;
 - b. Contain a skull and crossbones symbol if shown on the product label;
 - c. State “Area or commodity under fumigation. DO NOT ENTER/NO ENTRE”;
 - d. State the name of the fumigant, the date and time the fumigant was injected, and the name, e-mail address, if applicable, and telephone number of the certified applicator.
- C.** A certified fumigant applicator who engages in or who supervises another in the fumigation process shall ensure that the label requirements are followed, including requirements relating to the use of personal protective equipment and posting required warning signs.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-310 (Supp. 91-4). Former Section R3-3-310 renumbered to R3-3-306; new R3-3-310 made by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

R3-3-311. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-311 (Supp. 91-4). Section repealed by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

R3-3-312. Renumbered**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-312 (Supp. 91-4). Section renumbered to R3-3-307 by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

R3-3-313. Renumbered**Historical Note**

Adopted effective January 17, 1989 (Supp. 89-1). Renumbered from R3-10-313 (Supp. 91-4). Section renumbered to R3-3-308 by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

R3-3-314. Renumbered**Historical Note**

Adopted effective January 17, 1989 (Supp. 89-1). Renumbered from R3-10-314 (Supp. 91-4). Section renumbered to R3-3-309 by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

ARTICLE 4. RECORDKEEPING AND REPORTING**R3-3-401. Pesticide Seller Records**

- A.** A seller of any restricted use pesticide, device, or any pesticide sold for an agricultural purpose shall maintain all records showing the receipt, sale, delivery, or other disposition of the pesticide or device sold for at least two years from the date of sale. If a seller intends to change the location of the records, the seller shall file a signed statement with the Department before the move stating the new address.
- B.** When any pesticide for agricultural purposes, or a restricted use pesticide regulated by the OPM, is sold, delivered, or otherwise disposed of, a seller shall maintain the following records and information:
1. Bill of lading or other similar record of the receipt of the pesticide at the selling establishment;
 2. Seller's dated sales receipt, delivery receipt, or invoice of the transaction, delivery, or other disposition of the pesticide;
 3. Name and address of the purchaser;
 4. Regulated grower permit number, or the OPM license number of the purchaser, if applicable;
 5. State special local need registration number issued under Section 24 of FIFRA, if applicable;
 6. Emergency exemption permit number granted by the EPA under Section 18 of FIFRA, if applicable;
 7. Experimental use permit number, if applicable;
 8. Pesticide brand name and the EPA registration number; and
 9. Quantity of the pesticide sold to the purchaser.
- C.** In addition to the information required in subsection (B), when a restricted use pesticide is sold, delivered, or otherwise disposed of for use by a certified applicator, a seller shall maintain records that contain the following information:
1. Name and address of the residence or principal place of business of each person to whom the restricted use pesticide is sold, delivered, or otherwise disposed of, and any records required under R3-3-306;
 2. Certified applicator's name, address, certification number, and the expiration date of the applicator's certification; and
 3. Categories in which the applicator is certified, if applicable.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-401 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by exempt rulemaking at 19 A.A.R. 3130, effective September 16, 2013 (Supp. 13-3).

R3-3-402. Private and Golf Applicator Records; Restricted Use Pesticide

- A.** Following an application to a field on an agricultural establishment of a restricted use pesticide, a pesticide registered under Section 18 of FIFRA, or an experimental use permitted pesticide, a private applicator shall complete an application record on a form approved by the Department, that includes the following:
1. Name of the private applicator and the applicator's certification number;
 2. Name and permit number of the seller;
 3. Name of the pesticide applied and its EPA registration number;
 4. Date and time of application;
 5. Name of regulated grower;
 6. Method of application;
 7. Crop name and the number of acres treated with the pesticide;
 8. Rate per acre of the active ingredient or formulation of the pesticide;
 9. Total volume of pesticide used per acre; and
 10. County, range, township, and section of the field that received the application.
- B.** Following an application to a non-field of a restricted use pesticide, a pesticide registered under Section 18 of FIFRA, or an experimental use permitted pesticide, a private applicator or golf applicator shall complete an application record on a form approved by the Department, that includes the following:
1. The information requested under subsection (A)(1) through (A)(6);
 2. Item treated;
 3. Rate per item treated;
 4. Total volume used in the application; and
 5. Application site location by county, range, township, and section, or by physical address.
- C.** A private applicator and golf applicator shall retain records required by this Section for at least two years from the date of the private application.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-402 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by exempt rulemaking at 19 A.A.R. 3130, effective September 16, 2013 (Supp. 13-3).

R3-3-403. Bulk Release Report

- A.** An applicator 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 applicator shall immediately report the release to the Arizona Department of Public Safety Duty Office.
- B.** Within 30 days after a bulk release, the applicator shall provide a written report to the Department listing all details of the release, including:
1. Location and cause of the release;
 2. Disposition of the pesticide released;
 3. Measures taken to contain the bulk release;
 4. Name and EPA registration number of the pesticide released;
 5. Name, e-mail address, if applicable, and telephone number of the applicator's contact person;
 6. Date and time of the release;
 7. Specific environment into which the release occurred;
 8. Known human exposure to the pesticide, if observed; and

9. Estimated amount of pesticide or pesticide mixture released.

2004 (Supp. 04-1).

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-403 (Supp. 91-4). Amended by
final rulemaking at 10 A.A.R. 276, effective March 6,
2004 (Supp. 04-1).

R3-3-404. Form 1080; Reports to the Department

- A. A custom applicator shall submit to the Department, by mail or fax, a completed and signed Form 1080, as prescribed in R3-3-302.
- B. A regulated grower shall submit to the Department, by mail or fax, a completed and signed Form 1080, as prescribed in R3-3-302, for application of a pesticide containing an active ingredient that appears on the Arizona Department of Environmental Quality groundwater protection list, and is soil-applied, as defined in A.A.C. R18-6-101.
- C. A custom applicator or regulated grower may report continued pesticide applications and spot applications within the same reporting period on a single Form 1080.
- D. A custom applicator or a regulated grower shall submit the Form 1080 to the Department during the reporting period.
- E. A PCA or custom applicator shall retain a copy of each Form 1080 for at least two years from the date of the application.

Historical Note

Adopted effective January 17, 1989 (Supp. 89-1).
Renumbered from R3-10-404 (Supp. 91-4). Section
repealed; new Section made by final rulemaking at 10
A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

R3-3-405. Disposal Records; Agricultural Pesticide Concentrate

An applicator shall maintain the following information for two years:

1. EPA registration number, product name, active ingredient, and amount of agricultural pesticide concentrate disposed of;
2. Date of disposal;
3. Method of disposal; and
4. Specific location of the disposal site, or name of licensed disposal contractor.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 276,
effective March 6, 2004 (Supp. 04-1).

ARTICLE 5. NONEXCLUSIVE LISTS OF SERIOUS, NONSERIOUS, AND DE MINIMIS VIOLATIONS

R3-3-501. Serious Violations

The following is a nonexclusive list of acts that are serious violations if exposure to the pesticide produces a substantial probability that death or serious physical harm could result, unless the violator did not, and could not with the exercise of reasonable diligence, as documented in the investigative record, know of such safety or human health risk, in which case the violation is nonserious:

1. Storing a pesticide or pesticide container improperly,
2. Dumping or disposing a pesticide or pesticide container in violation of this Chapter,
3. Leaving a pesticide or pesticide container unattended,
4. Spraying or applying a pesticide in a manner inconsistent with labeling instructions, or
5. Adulterating a pesticide.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-501 (Supp. 91-4). Amended by
final rulemaking at 10 A.A.R. 276, effective March 6,

R3-3-502. Nonserious Violations

- A. General violations. The following is a nonexclusive list of acts that are nonserious violations if the violation has a direct or immediate relationship to safety, health, or property damage, but does not constitute a de minimis violation or a serious violation, unless the violator did not, and could not with the exercise of reasonable diligence, know of such safety, health, or property damage risk in which case the violation is de minimis. A person shall not:
1. Improperly store, dump, or leave unattended any pesticide, pesticide container or part of a pesticide container, or service container.
 2. Make a false statement or misrepresentation in an application for a permit, license, or certification, or a permit, license, or certification renewal.
 3. Falsify any records or reports required to be made under Articles 2 through 4 of this Chapter.
 4. Operate an aircraft or ground equipment in a faulty, careless, or negligent manner during the application of a pesticide.
 5. Apply or instruct another to apply a pesticide so that it comes into contact with:
 - a. An individual;
 - b. An animal; or
 - c. Property, other than the application site being treated.
 6. Use, apply, or instruct another to apply a pesticide in a manner or for a use inconsistent with its pesticide label or labeling except as provided by R3-3-301(A).
 7. Use, sell, apply, store, or instruct another to use, sell, apply, or store a pesticide:
 - a. That is not registered with the Department and the EPA, or
 - b. Outside the EPA authorized end-use provision if previously registered with the Department and the EPA and cancelled or suspended by the EPA.
 8. Fail to provide accurate or approved labeling when registering a pesticide.
- B. Seller violations. A seller shall not:
1. Sell pesticides without a valid seller's permit issued by the Department,
 2. Provide a pesticide to a regulated grower who does not have a valid permit,
 3. Fail to maintain records required under Articles 2 through 4 of this Chapter,
 4. Fail to maintain complete sales records of restricted use pesticides required under Articles 3 and 4 of this Chapter,
 5. Adulterate a pesticide,
 6. Make false or misleading claims about a pesticide to any person,
 7. Modify a label or labeling without proper authorization, or
 8. Provide a pesticide to an unauthorized person.
- C. PCA violations. A PCA shall not:
1. Act as a PCA without a valid agricultural pest control advisor license issued by the Department,
 2. Make a false or fraudulent statement in any written recommendation about the use of a pesticide,
 3. Make a recommendation regarding the use of a pesticide in a specific category in which the individual is not licensed, or
 4. Make a written recommendation for the use of a pesticide in a manner inconsistent with its pesticide label or the exceptions as provided in R3-3-301(A).

- D.** Agricultural aircraft pilot violations. A pilot shall not apply a pesticide by aircraft without a valid agricultural aircraft pilot license issued by the Department.
- E.** Custom applicator violations. A custom applicator shall not:
1. Allow application equipment to be operated in a careless or reckless manner during the application of a pesticide,
 2. Make a custom application without a valid custom applicator's license issued by the Department,
 3. Make a custom application of a restricted use pesticide without a valid commercial applicator certification issued by the Department,
 4. Allow an aircraft to be operated during the application of a pesticide by an individual who does not have a valid agricultural aircraft pilot license issued by the Department, or
 5. Apply a pesticide without a written Form 1080 as prescribed in R3-3-302(A).
- F.** Regulated grower violations. A regulated grower shall not:
1. Purchase, apply, or use a pesticide without a valid regulated grower's permit issued by the Department;
 2. Apply a restricted use pesticide without being a commercial applicator, private applicator, or restricted use pesticide certified golf applicator;
 3. Apply any pesticide on a golf course without being a golf applicator; or
 4. Allow a pesticide application on a golf course without having the proper protective equipment required by the label available to the applicator.
- G.** Certified applicator violations. A certified applicator shall not:
1. Allow the unsupervised application of a restricted use pesticide,
 2. Fail to maintain complete records required under Articles 2 through 4 of this Chapter, or
 3. Use a restricted use pesticide without a valid commercial applicator, private applicator, or golf applicator restricted use pesticide certification issued by the Department.
- H.** Exemptions. The following incidents are not pesticide use violations under this Section:
1. Exposure of an individual involved in the application who is wearing proper protective clothing and equipment;
 2. Exposure of an unknown trespassing individual, animal, or property that the applicator, working in a prudent manner, could not anticipate being at the application site; or
 3. Exposure of a person, animal, or property if the application is made according to a government-sponsored emergency program.
3. Fails to maintain complete records as required under Articles 2 through 4 of this Chapter.
- C.** Custom applicator violations. It is a de minimis violation if a custom applicator:
1. Fails to maintain complete records required under Articles 2 through 4 of this Chapter, or
 2. Fails to file reports as required under Articles 3 and 4 of this Chapter.
- D.** Regulated grower violations. It is a de minimis violation if a regulated grower:
1. Fails to maintain complete records as required under Articles 2 through 4 of this Chapter; or
 2. Fails to file reports as required under Article 4 of this Chapter including whether the application includes a pesticide containing an active ingredient that appears on the Arizona Department of Environmental Quality ground-water protection list, and is soil-applied, as defined in A.A.C. R18-6-101.
- E.** Certified applicator violations. A certified applicator shall not fail to file reports as required under Articles 3 and 4 of this Chapter.
- F.** A third de minimis violation of the same or similar type from among those listed in subsections (A) through (E) in a three-year period is a nonserious violation.
- G.** Exemptions. The following incidents are not a violation under this Section:
1. Exposure of an individual involved in the application who is wearing proper protective clothing and equipment;
 2. Exposure of an unknown trespassing individual, animal, or property that the applicator, working in a prudent manner, could not anticipate being at the application site; or
 3. Exposure of a person, animal, or property if the application is made according to a government-sponsored emergency program.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-503 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

R3-3-504. Mitigation

- A.** A violation listed in R3-3-501 is a nonserious violation if:
1. The violator did not, and could not with the exercise of reasonable diligence, know of the safety or human health risk involved; or
 2. The release is done to avoid an accident that would have resulted in greater harm than that caused by the pesticide release or is caused by mechanical malfunction beyond the control of the operator.
- B.** A violation listed in R3-3-502 is a de minimis violation if:
1. The violator did not, and could not with the exercise of reasonable diligence, know of the safety, health, or property damage risk involved; or
 2. The release is done to avoid an accident that would have resulted in greater harm than that caused by the pesticide release or is caused by mechanical malfunction beyond the control of the operator.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-504 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

R3-3-505. Unlisted Violations

- A.** The Department shall classify a violation of Articles 2 through 4 of this Chapter or of A.R.S. Title 3, Chapter 2, Article 6 that

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-502 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1). Amended by exempt rulemaking at 19 A.A.R. 3130, effective September 16, 2013 (Supp. 13-3).

R3-3-503. De minimis Violations

- A.** Seller violations. It is a de minimis violation if a seller:
1. Fails to record seller and regulated grower permit numbers on containers, cartons, and delivery tickets;
 2. Fails to register the seller's representatives; or
 3. Fails to maintain complete records as required under Articles 2 through 4 of this Chapter.
- B.** PCA violations. It is a de minimis violation if a PCA:
1. Fails to put recommendations in writing as prescribed at R3-3-302(A),
 2. Fails to provide complete information required on written recommendations under R3-3-302, or

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is not listed in R3-3-501, R3-3-502, or R3-3-503 as a serious, nonserious, or de minimis violation depending upon the specific factual circumstances surrounding the violation.

- B. A third de minimis violation of the same or similar type in a three-year period is a nonserious violation.

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4).
 Renumbered from R3-10-505 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

R3-3-506. Penalty and Fine Point System

A. The ALJ shall assess points, as applicable, against a violator for the violation of each pesticide rule or statute, or the Associate Director shall assess points, as applicable, for the violation of each pesticide rule or statute upon entering into a negotiated settlement as a result of an informal settlement conference under A.R.S. § 41-1092.06, in accordance with the following point system. From each of subsections (A)(1) through (6), one choice shall be selected, unless otherwise appropriate, based upon supporting evidence in the record of the proceeding before the ALJ or Associate Director. Points shall be totaled for the violation of each pesticide rule or statute.

1. Health effects.
 - a. No evidence of human exposure to pesticides and no evidence of the substantial probability of human exposure to pesticides. 0
 - b. Substantial probability of human exposure to pesticides but treatment not required by a physician, nurse, paramedic, or physician’s assistant. 5-10
 - c. Evidence of human exposure to pesticides but treatment not required by a physician, nurse, paramedic, or physician’s assistant. 11-20
 - d. Human exposure to pesticides that required treatment by a physician, nurse, paramedic, or physician’s assistant, but which did not result in pesticide poisoning. 21-30
 - e. Human exposure to pesticides that required either hospitalization for less than 12 hours or treatment as an outpatient for five consecutive days or less by a physician, nurse, paramedic, or physician’s assistant for pesticide poisoning. 31-45
 - f. Human exposure to pesticides that required either hospitalization for 12 hours or longer, or treatment as an outpatient for more than five consecutive days by a physician, nurse, paramedic, or physician’s assistant for pesticide poisoning. 46-100
 - g. Human exposure to pesticides resulting in death from pesticide poisoning (serious violation unless otherwise documented in the investigative record). 101-180
2. Environmental consequences and property damage. (Select one or more as evidence indicates.)
 - a. No evidence of substantial probability of environmental or property damage. 0
 - b. Substantial probability of water contamination. 5-10

- c. Evidence of water source contamination. 11-20
- d. Substantial probability of soil contamination causing economic damage. 5-10
- e. Evidence of soil contamination causing economic damage. 11-20
- f. Substantial probability of nontarget bird kills. 5-10
- g. Evidence of nontarget bird kills. 11-20
- h. Substantial probability of nontarget fish kills. 5-10
- i. Evidence of nontarget fish kills. 11-20
- j. Nontarget kills involving game or furbearing animals as defined by A.R.S. § 17-101(B). 10-20
- k. Any property damage (nonserious violation only under A.R.S. § 3-361(4)). 10-20
- l. Air contamination causing official evacuation by federal, state, or local authorities. 10-20
- m. Killing one or more threatened or endangered species. 15-20
- n. Killing one or more domestic animals. 15-20
3. Culpability
 - a. Knowing. Knew or reasonably should have known by reasonable diligence of the prohibitions or restrictions that are the basis of the misconduct cited. 5-10
 - b. Willfully. Actual knowledge of the prohibitions or restrictions but engages in misconduct. 20-50
4. Prior violations or citations. Violations or citations within three years from the date the violation was committed. (Select one or more as evidence indicates.)

Prior violation history	Current violation	Current violation
	Non-serious	Serious
None	0	0
One or more De minimis	5	0
One Nonserious	10	5
One Nonserious, same or substantially similar to current violation	20	10
Two Nonserious	30	15
Two Nonserious, same or substantially similar to current violation	40	20
Three Nonserious	60	30
Three Nonserious, same or substantially similar to current violation	70	35
Additional Nonserious: same or substantially similar to current violation, points per each additional violation beyond three	10	5
One Serious	20	10

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One Serious, same or substantially similar to current violation	40	20
Two Serious	60	30
Two Serious, same or substantially similar to current violation	80	40
Three Serious	120	60
Three Serious, same or substantially similar to current violation	140	70
Additional Serious: same or substantially similar to current violation, points per violation	20	10

5. The length of time a violation has been allowed to continue by the violator after notification by the Department.
 - a. Less than one day. 0
 - b. One day but less than one week. 1-10
 - c. One week but less than one month. 11-20
 - d. One month but less than two months. 21-30
 - e. Two months or more. 31-40
6. Wrongfulness of conduct
 - a. Conduct resulting in a violation that does not cause any immediate damage to public health, safety, or property. 4-5
 - b. Conduct resulting in a violation that the evidence establishes may have a substantial probability of an immediate effect upon public health, safety, or property. 6-8
 - c. Conduct resulting in a violation that the evidence establishes had an immediate effect upon public health, safety, or property, but does not fall within subsection (6)(e). 9-10
 - d. Conduct causing the substantial probability of serious physical injury, hospitalization, or sustained medical treatment for an individual, or degrading the pre-existing environmental quality of the air, water, or soil so as to cause a substantial probability of a threat to the public health, safety, or property. 20-35
 - e. Conduct resulting in serious physical injury, hospitalization, or sustained medical treatment for an individual, or degrading the pre-existing environmental quality of the air, water, or soil so as to cause a substantial probability of a threat to the public health, safety, or property. 36-50
- B. The ALJ or Associate Director, after determining points pursuant to subsection (A) shall assess a fine or penalty, or fine and penalty, for each violation in accordance with the following schedules:
 1. Nonserious violation as defined under A.R.S. § 3-361.
 - a. 53 points or less. A fine of \$50 to \$150; a penalty of one to three months' probation, with a condition of violating probation being one to three hours of continuing education.
 - b. 54 to 107 points. A fine of \$151 to \$300; a penalty of four to six months' probation with a condition of

- violating probation being one to 10 days' suspension.
- c. 108 points or more. A fine of \$301 to \$500; a penalty of seven to 12 months' probation with a condition of violating probation being 15 to 30 days' suspension or revocation for a period of up to one year.
2. Serious violation as defined under A.R.S. § 3-361.
 - a. 46 points or less. A fine of \$1,000 to \$2,000; a penalty of one to three months' probation with a condition of violating probation being five to 10 days' suspension for a nonserious violation or 15 to 30 days' suspension for a serious violation.
 - b. 47 to 93 points. A fine of \$2,001 to \$5,000; a penalty of four to six months' probation with a condition of violating probation being 15 to 30 days' suspension for a nonserious violation and 31 to 90 days' suspension for a serious violation.
 - c. 94 points or more. A fine of \$5,001 to \$10,000; a penalty of probation for seven to 12 months with a condition of violating probation being two to four months' suspension for a nonserious violation and four to 12 months' suspension for a serious violation, or revocation for the remainder of the license year and an additional period of one to three years.
3. The first de minimis violation is not considered a violation of probation.

Historical Note

Adopted effective September 13, 1989 (Supp. 89-3). Renumbered from R3-10-506 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

ARTICLE 6. REPEALED

R3-3-601. Repealed

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-601 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-602. Repealed

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-602 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-603. Repealed

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-603 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-604. Repealed

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-604 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-605. Repealed

Historical Note

Adopted effective November 20, 1987 (Supp. 87-4). Renumbered from R3-10-605 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-606. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-606 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-607. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-607 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-608. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-608 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-609. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-609 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-610. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-610 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-611. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-611 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-612. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-612 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-613. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-613 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-614. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-614 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-615. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-615 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-616. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-616 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-617. Repealed**Historical Note**

Adopted effective November 20, 1987 (Supp. 87-4).
Renumbered from R3-10-617 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

ARTICLE 7. PESTICIDE**R3-3-701. Definitions**

In addition to the definitions in A.R.S. § 3-341, the following terms apply to this Article:

1. "Discontinuation" means when the registrant is no longer distributing a pesticide into Arizona.
2. "Pest" means, in addition to the pests declared in A.R.S. § 3-341(20), all birds, mammals, reptiles, amphibians, fish, slugs, snails, crayfish, roots, and plant parts.
3. "Official sample" means any sample of pesticide taken by the Associate Director, or the Associate Director's agent, and designated as official.

Historical Note

Former rule 1; Former Section R3-3-01 repealed, new Section R3-3-01 adopted effective January 18, 1978 (Supp. 78-1). Amended effective December 29, 1978 (Supp. 78-6). Section R3-3-701 renumbered from R3-3-01 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-702. Pesticide Registration; Fee

- A.** Registration. Any person registering a pesticide shall provide the following documents and information on a form provided by the Department with a nonrefundable \$100 fee for each pesticide, for each year of the registration:
1. The name, address, telephone number, and signature of the applicant;
 2. The name and address of the company appearing on the label;
 3. The Social Security number or tax identification number;
 4. The date of the application;
 5. The brand and name of the pesticide being registered;
 6. The EPA registration number of the pesticide if applicable;
 7. The analytical methods for any analyses of residues for the active ingredients of the pesticide, if requested by the Department;
 8. The toxicological and safety data, if requested by the Department;
 9. The name and telephone number of the person providing the toxicological and safety data;
 10. Two pesticide labels for any pesticide not previously registered;
 11. The material safety data sheet for each pesticide; and
 12. The license time-period option.
- B.** A pesticide registration is nontransferable, expires on December 31, and shall, at the option of the applicant, be valid for one or two years.
- C.** If an applicant elects a two-year pesticide registration, any additional pesticide registered during that two-year registration shall have the same registration end-date as any other pesticide currently registered by that applicant with the Department.
- D.** Notwithstanding subsection (A), during fiscal years 2015 and 2016, a person registering a pesticide or renewing a pesticide registration shall pay a \$110 fee for each pesticide for each year of registration.

Historical Note

Former rule II; Former Section R3-3-02 renumbered and amended as Section R3-3-01, former Sections R3-3-11 and R3-3-12 renumbered and amended as Section R3-3-02 effective January 18, 1978 (Supp. 78-1). Amended subsection (C) effective January 1, 1979, subsection (D) effective January 1, 1982 (Supp. 78-6). Editorial corrections, subsection (B), paragraphs (6) through (9) (Supp. 79-6). Amended by deleting subsection (D) effective March 5, 1982 (Supp. 82-2). Section R3-3-702 renumbered from R3-3-02 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2). New Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4). Amended by exempt rulemaking at 16 A.A.R. 1334, effective June 29, 2010 (Supp. 10-2).

Amended by exempt rulemaking at 17 A.A.R. 1759, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 20 A.A.R. 2452, effective July 24, 2014 (Supp. 14-3).

R3-3-703. General Provisions

- A. Discontinued pesticides. In addition to the requirements for discontinued pesticides established in A.R.S. § 3-351(K), any person holding a pesticide found in the channels of trade following the three-year discontinuation period shall be responsible to register or dispose of the pesticide.
- B. Sampling.
 - 1. The Associate Director, or the Associate Director's agent, may sample, inspect, and analyze any pesticide distributed within the state to determine whether the pesticide is

in compliance with the provisions of this Article and laws pertaining to this Article, or if a complaint has been filed with the Department.

- 2. The analytical results of pesticide formulations as listed on a label shall comply with the allowed deviations listed in R3-3-704(B).
- 3. The results of an official analyses of any pesticide not in compliance with the allowed deviations listed in R3-3-704(B) shall be sent to the Associate Director, to the registrant, or other responsible person. Upon request, and within 30 days, the Associate Director shall provide the registrant or other responsible person a portion of the noncompliant pesticide sample.
- C. Prohibited acts. No person shall purchase a pesticide to repackage the pesticide for distribution and sale without relabeling the repackaged container and complying with the provisions of the Act.

Historical Note

Section R3-3-703 renumbered from R3-3-03 (Supp. 91-4). New Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-704. Labels

- A. Within two weeks of a pesticide label revision, a registrant shall provide the Department with two pesticide labels that have been revised since the pesticide was originally registered.
- B. The Associate Director may request a copy of a pesticide label if the label on file is older than three years.

ALLOWED DEVIATIONS OF ANALYTICAL RESULTS FROM LABEL CLAIMS FOR ACTIVE INGREDIENTS IN PESTICIDE FORMULATIONS

Claim %	HCV ⁽¹⁾ %	HSD ⁽²⁾	Allowed Deviations for “uniform” ⁽³⁾ samples		Allowed Deviations for “non-uniform” ⁽⁴⁾ samples	
			Claim - 3HSD	Claim + 6HSD	Claim - 4HSD	Claim + 8HSD
0.001	11.31	0.00011	0.00066	0.00168	0.00055	0.00191
0.005	8.88	0.00044	0.0037	0.0077	0.0032	0.0086
0.008	8.27	0.00066	0.0060	0.0120	0.0054	0.0133
0.01	8.00	0.00080	0.0076	0.0148	0.0068	0.0164
0.03	6.78	0.0020	0.024	0.042	0.022	0.046
0.06	6.11	0.0037	0.049	0.082	0.045	0.089
0.10	5.66	0.0057	0.083	0.13	0.077	0.145
0.40	4.59	0.018	0.34	0.51	0.33	0.55
0.80	4.14	0.033	0.70	1.00	0.67	1.06
1.0	4.00	0.040	0.88	1.24	0.84	1.32
2.0	3.60	0.072	1.78	2.43	1.71	2.58
4.0	3.25	0.13	3.61	4.78	3.48	5.04
6.0	3.05	0.18	5.45	7.10	5.27	7.47
10.0	2.83	0.28	9.15	11.70	8.87	12.26
15.0	2.66	0.40	13.80	17.39	13.40	18.19
20.0	2.55	0.51	18.47	23.06	17.96	24.08
25.0	2.46	0.62	23.15	28.70	22.54	29.93
30.0	2.40	0.72	27.84	34.32	27.12	35.75
35.0	2.34	0.82	32.54	39.92	31.72	41.56
40.0	2.30	0.92	37.25	45.51	36.33	47.35
45.0	2.26	1.01	41.96	51.09	40.94	53.12
50.0	2.22	1.11	46.67	56.66	45.56	58.88
60.0	2.16	1.30	56.11	67.78	54.82	70.37
70.0	2.11	1.48	65.57	78.86	64.09	81.82
80.0	2.07	1.65	75.04	89.93	73.38	93.24
90.0	2.03	1.83	84.51	100.97	82.68	104.63

(1) HCV(%) = Horwitz Coefficients of Variation = $2 (1 - 0.5 \log (\text{claim \%}/100))$

(2) HSD = Horwitz Standard Deviation = $(\text{Claim \%}) \text{HCV \%}/100$

(3) “Uniform” samples are homogeneous products which can be analyzed by established procedures. In most cases, validated analytical methods are available for these samples.

(4) “Non-uniform” samples are non-homogeneous samples or products which are difficult to sample or subsample. These products may not be uniformly mixed or packaged and include some special formulations like natural products. These types of samples include fertilizer containing pesticides, pesticides in pressurized containers, strips, plastic bands, collars, grain and other carriers. Natural product formulations such as rotenone and pyrethrin are also included in this group. When it is necessary to use methods which are not validated for accuracy, precision, and reproducibility in a specific matrix, the “non-uniform” guidelines may be used for allowed deviations. States may use judgment in placing a sample into the “uniform” or “non-uniform” category.

Historical Note

Former rule IV; Former Section R3-3-04 renumbered and amended as Section R3-3-01 effective January 18, 1978 (Supp. 78-1). Section R3-3-704 renumbered from R3-3-04 (Supp. 91-4). New Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-705. Renumbered

Historical Note

Former rule V; Repealed effective January 18, 1978 (Supp. 78-1). Section R3-3-705 renumbered from R3-3-05 (Supp. 91-4).

R3-3-707. Renumbered

Historical Note

Section R3-3-707 renumbered from R3-3-07 (Supp. 91-4).

R3-3-706. Renumbered

Historical Note

Former rule VI; Repealed effective January 18, 1978 (Supp. 78-1). Section R3-3-706 renumbered from R3-3-06 (Supp. 91-4).

R3-3-708. Renumbered

Historical Note

Former rule VIII; Repealed effective January 18, 1978 (Supp. 78-1). Section R3-3-708 renumbered from R3-3-08 (Supp. 91-4).

R3-3-709. Renumbered**Historical Note**

Former Administrative rule 1; Repealed effective January 18, 1978 (Supp. 78-1). Section R3-3-709 renumbered from R3-3-09 (Supp. 91-4).

R3-3-710. Renumbered**Historical Note**

Section R3-3-710 renumbered from R3-3-10 (Supp. 91-4).

R3-3-711. Renumbered**Historical Note**

Adopted effective November 30, 1977 (Supp. 77-6). Former Section R3-3-11 renumbered and amended as Section R3-3-02 effective January 18, 1978 (Supp. 78-1). Section R3-3-711 renumbered from R3-3-11 (Supp. 91-4).

R3-3-712. Renumbered**Historical Note**

Adopted effective November 30, 1977 (Supp. 77-6). Former Section R3-3-12 renumbered and amended as Section R3-3-02 effective January 18, 1978 (Supp. 78-1). Section R3-3-712 renumbered from R3-3-12 (Supp. 91-4).

ARTICLE 8. FERTILIZER MATERIALS**R3-3-801. Definitions**

In addition to terms and definitions in the Official Publication, which is incorporated by reference, on file with the Secretary of State, and does not include any later amendments, and the definitions in A.R.S. § 3-262, the following term applies to this Article:

“Official Publication” means the Official Publication of the Association of American Plant Food Control Officials, amended 1999. Copies may be purchased from NC Dept. of Agriculture, 4000 Reedy Creek Road, Raleigh, NC 27607-6468.

Historical Note

Former rule I; Former Section R3-3-21 repealed, former Section R3-3-24 renumbered and amended as Section R3-3-21 effective January 12, 1978 (Supp. 78-1). Amended effective March 23, 1979 (Supp. 79-2). Section R3-3-801 renumbered from R3-3-21 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-802. Licensure; Specialty Fertilizer Registration; Fees

A. Commercial fertilizer license. Any person applying for a commercial fertilizer license, under A.R.S. § 3-272, to manufacture or distribute commercial fertilizer, shall provide the following information on the license application provided by the Department with a nonrefundable fee of \$125 for each year of the license:

1. The following information on the license application provided by the Department:
2. The name, title, and signature of the applicant;
3. The date of the application;
4. The distributor or manufacturer name, mailing address, telephone, and facsimile number;
5. The Social Security number or tax identification number;
6. The physical location, telephone, and facsimile number of the distributor or manufacturer, if different than subsection (A)(4);

7. The name, address, telephone, and facsimile number of the distributor or manufacturer where inspection fees are paid, if different than subsection (A)(4); and
8. The license time-period option.

B. A commercial fertilizer license is nontransferable, expires on June 30, and shall, at the option of the applicant, be valid for one or two years.

C. Specialty fertilizer registration.

1. Any manufacturer or distributor whose name appears on a specialty fertilizer label shall provide the following information to the Department with a nonrefundable fee of \$50 per brand and grade of specialty fertilizer for each year of the registration:
 - a. The name, address, telephone number, and signature of the applicant;
 - b. The name and address of the company on the label;
 - c. The date of the application;
 - d. The grade, brand, and name of the specialty fertilizer;
 - e. The current specialty fertilizer label; and
 - f. The registration time-period option.
2. A specialty fertilizer registration is nontransferable, expires on June 30, and shall, at the option of the applicant, be valid for one or two years.
3. If an applicant elects a two-year specialty fertilizer registration, any additional fertilizer registered during that two-year registration shall have the same registration end-date as other fertilizer currently registered by that applicant with the Department.

D. During fiscal year 2011, notwithstanding subsection (C)(1), the nonrefundable fee per brand and grade of specialty fertilizer is \$40.

Historical Note

Former rule II; Former Section R3-3-22 repealed, former Section R3-3-25 renumbered and amended as Section R3-3-22 effective January 12, 1978 (Supp. 78-1). Section R3-3-802 renumbered from R3-3-22 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4). Amended by exempt rulemaking at 16 A.A.R. 2026, effective September 21, 2010 (Supp. 10-3).

R3-3-803. Tonnage Reports; Inspection Fee

A. Quarterly tonnage reports and inspection fee.

1. The inspection fee for all commercial fertilizers, including specialty fertilizers, sold or distributed in Arizona is 25¢ per ton. The tonnage shall be rounded to the nearest whole ton.
2. Any applicant applying for and receiving a new license after March 15, June 15, September 15, or December 15 is not required to file a quarterly tonnage report for the quarter in which the license application is issued. Any commercial fertilizer distributed in the final two weeks of the initial application quarter shall be included on the next full quarterly report. Any person who distributed commercial fertilizer without a license as required under A.R.S. § 3-2009 shall pay all past due inspection fees and late penalties before a license is issued.
3. Any licensee not estimating annual tonnage shall file the following information on a quarterly statement provided by the Department no later than the last day of January, April, July, and October of each year for the preceding calendar quarter and pay the inspection fees and any penalties, if applicable:
 - a. If the inspection fee is being passed on to the purchaser:

- i. The assigned number and name of the currently licensed company;
 - ii. The commercial fertilizer by code or grade;
 - iii. The amount of commercial fertilizer in whole tons;
 - iv. The name, title, telephone number, and signature of the licensee or the licensee's authorized representative; and
 - v. The date of the report.
- b. If the licensee pays tonnage fees for the distribution of a commercial fertilizer:
- i. The grade;
 - ii. The amount of commercial fertilizer distribution by county;
 - iii. If the commercial fertilizer is dry, whether it is a bulk agricultural product, a bagged agricultural product, or a non-agricultural product;
 - iv. If the commercial fertilizer is liquid, whether it is an agricultural or non-agricultural product;
 - v. The name, title, telephone number, and signature of the licensee or the licensee's authorized representative; and
 - vi. The date of the report.
- B. Estimated tonnage report.** A licensee may estimate the annual fertilizer material tonnage if it is 400 tons or less per year and the licensee does not pass the inspection fee responsibility to the purchaser.
- 1. The licensee shall submit the estimated annual commercial fertilizer tonnage report to the Department with the annual inspection fee no later than July 31 of each year. The tonnage report shall contain:
 - a. The estimated tonnage of commercial fertilizer to be distributed;
 - b. The grade;
 - c. The amount of distribution by county;
 - d. If the commercial fertilizer is dry, whether it is a bulk agricultural product, a bagged agricultural product, or a non-agricultural product;
 - e. If the commercial fertilizer is liquid, whether it is an agricultural or non-agricultural product;
 - f. The name, title, telephone number, and signature of the licensee or the licensee's authorized representative; and
 - g. The date of the report.
 - 2. The licensee shall pay at least \$8 per year. Adjustments for overestimates or underestimates for a licensee with 400 tons or less of actual tonnage sales shall be made on the next year's estimating form. Adjustments of underestimates of licensees with actual tonnage sales more than 400 tons shall be made no later than July 31 of each year.
 - 3. The licensee shall verify the accuracy of the previous year's tonnage estimates to actual tonnage sales and submit the tonnage verification no later than July 31 of each year.
 - 4. Overestimation of tonnage.
 - a. The Department shall not refund any inspection fee based on an overestimation if the licensee does not re-license in the subsequent year;
 - b. If a licensee applies for a license in the subsequent year, the Department shall apply any overestimation to the subsequent year's tonnage fees.
- C.** During fiscal year 2011, notwithstanding subsection (A)(1), the inspection fee for all commercial fertilizers, including specialty fertilizers, sold or distributed in Arizona is \$0.10 per ton. The tonnage must be rounded to the nearest whole ton.

Historical Note

Former rule III; Former Section R3-3-23 repealed, former Section R3-3-32 renumbered as Section R3-3-23 effective January 12, 1978 (Supp. 78-1). Amended effective March 23, 1979 (Supp. 79-2). Section R3-3-803 renumbered from R3-3-23 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2). New Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4). Amended by exempt rulemaking at 16 A.A.R. 2026, effective September 21, 2010 (Supp. 10-3).

R3-3-804. General Provisions

- A. Labeling.**
- 1. The grade numbers for primary nutrients that accompany the brand name of a commercial fertilizer shall be listed on the label in the following order: total nitrogen, available phosphate, and soluble potash. Other guaranteed nutrient values shall not be included with the grade numbers unless:
 - a. The guaranteed nutrient value follows the grade number;
 - b. The guaranteed nutrient value is immediately preceded with the name of the claimed nutrient to which it refers in the guaranteed analysis; and
 - c. The name printed on the label is as prominent as the numbers.
 - 2. The materials from which claimed nutrients are derived shall be listed on the label.
 - 3. No grade is required for fertilizer materials that claim no primary plant nutrient (i.e., 0-0-0).
 - 4. All guaranteed nutrients, except phosphate and potash, shall be stated in terms of elements.
 - 5. The label shall include the brand name of a fertilizer. Misleading or confusing numerals shall not be used in the brand name on the label.
 - 6. Fertilizer material not defined in the Official Publication may be used as fertilizer material if a definition or other method of analysis and agronomic data for fertilizer material is approved by the Associate Director.
- B. Claims and misleading statements.**
- 1. Any nutrient claimed as a fertilizer material shall be accompanied by a minimum guarantee for the nutrient. An ingredient shall not be claimed as a nutrient unless a laboratory method of analysis approved by the Associate Director exists for the nutrient.
 - 2. Scientific data supporting the claim of improved efficacy or increased productivity shall be made available for inspection to the Associate Director upon request.
 - 3. If the name of a fertilizer material is used as part of a fertilizer brand name, such as blood, bone or fish, the guaranteed nutrients shall be derived from or supplied entirely by the named fertilizer material.
 - 4. Fertilizer material subject to this Article and applicable laws shall not bear false or misleading statements.
- C. Deficiencies.**
- 1. The value of a nutrient deficiency in a fertilizer material shall take into account total value of all nutrients at the guaranteed level and the price of the fertilizer material at the time of sale.
 - 2. A deficiency in an official sample of mixed fertilizer resulting from non-uniformity is not distinguishable from a deficiency due to actual plant nutrient shortage and is subject to official action.
- D.** All investigational allowances shall be conducted as prescribed in the Official Publication, which is incorporated by reference, on file with the Office of the Secretary of State, and does not include any later amendments or editions.

- E. Leased fertilizer material storage containers shall be clearly labeled with the following:
1. Grade numbers;
 2. Brand name, if applicable; and
 3. The statement, "Leased by (Name and address of lessor) to (Name and address of lessee)."
- C. During fiscal year 2011, notwithstanding subsection (A)(1), the inspection fee for all commercial fertilizers, including specialty fertilizers, sold or distributed in Arizona is \$0.10 per ton. The tonnage must be rounded to the nearest whole ton.

Historical Note

Former rule IV; Former Section R3-3-24 renumbered and amended as Section R3-3-21, new Section R3-3-24 adopted effective January 12, 1978 (Supp. 78-1). Section R3-3-804 renumbered from R3-3-24 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2). New Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-805. Repealed**Historical Note**

Former rule V; Former Section R3-3-25 renumbered and amended as Section R3-3-22, new Section R3-3-25 adopted effective January 12, 1978 (Supp. 78-1). Section R3-3-805 renumbered from R3-3-25 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-806. Repealed**Historical Note**

Former rule VI; Former Section R3-3-26 repealed, new Section R3-3-26 adopted effective January 12, 1978 (Supp. 78-1). Section R3-3-806 renumbered from R3-3-26 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-807. Repealed**Historical Note**

Former rule VII; Former Section R3-3-27 repealed, new Section R3-3-27 adopted effective January 12, 1978 (Supp. 78-1). Section R3-3-807 renumbered from R3-3-27 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-808. Repealed**Historical Note**

Former rule VIII; Former Section R3-3-28 repealed effective January 12, 1978 (Supp. 78-1). New Section R3-3-28 adopted effective March 23, 1979 (Supp. 79-2). Section R3-3-808 renumbered from R3-3-28 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-809. Repealed**Historical Note**

Former rule IX; Former Section R3-3-29 repealed effective January 12, 1978 (Supp. 1). New Section R3-3-29 adopted effective March 23, 1979 (Supp. 79-2). Section R3-3-809 renumbered from R3-3-29 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-810. Repealed**Historical Note**

Former rule X; Former Section R3-3-30 repealed effective January 12, 1978 (Supp. 78-1). New Section R3-3-30

adopted effective March 23, 1979 (Supp. 79-2). Section R3-3-810 renumbered from R3-3-30 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-811. Repealed**Historical Note**

Former Administrative rule 1; Amended effective December 14, 1979 (Supp. 79-6). Section R3-3-811 renumbered from R3-3-31 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-812. Renumbered**Historical Note**

Adopted effective August 31, 1977 (Supp. 77-4). Former Section R3-3-32 renumbered as Section R3-3-23 effective January 12, 1978 (Supp. 78-1). Section R3-3-812 renumbered from R3-3-32 (Supp. 91-4).

ARTICLE 9. COMMERCIAL FEED**R3-3-901. Definitions**

In addition to the feed ingredient definitions and feed terms in the Official Publication, which is incorporated by reference, on file with the Secretary of State, and does not contain any later amendments or editions, and the definitions in A.R.S. § 3-2601, the following terms apply to this Article:

1. "Commercial feed" means all materials, except whole seeds unmixed or physically altered entire unmixed seeds, that are distributed for use as feed or for mixing in feed. Commercial feed includes raw agricultural commodities distributed for use as feed or for mixing in feed when the commodities are adulterated within the meaning of section 3-2611. A.R.S. § 3-2601(2)
2. "Lot" means any distinct, describable, and measurable quantity that contains no more than 100 tons.
3. "Official Publication" means the Official Publication of the Association of American Feed Control Officials, effective January 1, 1999. Copies may be purchased from the Assistant Secretary/Treasurer, P.O. Box 478, Oxford, IN 47971.

Historical Note

Former rule I; Former Section R3-3-41 renumbered and amended as Section R3-3-42, new Section R3-3-41 adopted effective January 12, 1978 (Supp. 78-1). Amended effective April 13, 1978 (Supp. 78-2). Amended effective February 3, 1981 (Supp. 81-1). Section R3-3-901 renumbered from R3-3-41 (Supp. 91-4). Amended by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-902. Licensure; Fee; Ammoniation

- A. Any person applying for a commercial feed license, under A.R.S. § 3-2609, to manufacture or distribute commercial feed shall provide the following information and a nonrefundable fee of \$10 for each year of the license:
1. A copy of the label of each commercial feed product intended for distribution within the state or not already filed by the applicant with the Department; and
 2. The following information on the license application provided by the Department:
 - a. The name, title, and signature of the applicant;
 - b. The distributor or manufacturer name, mailing address, telephone, and facsimile number;
 - c. The social security number or tax identification number;

- d. The date of the application;
 - e. The physical location, telephone, and facsimile number of the distributor or manufacturer, if different than subsection (A)(2)(b);
 - f. The name, address, telephone, and facsimile number of the distributor or manufacturer where inspection fees are paid, if different than subsection (A)(2)(b); and
 - g. The license time-period option.
- B.** A commercial feed license is nontransferable, expires on June 30, and shall, at the option of the applicant, be valid for one or two years.
- C.** Ammoniation. Any person who ammoniates feed or feed material for distribution or sale shall obtain a commercial feed license and is responsible for all testing, labeling, or other requirements pertaining to commercial feed, unless the feed is ammoniated on the premises of the person using the ammoniated feed.

Historical Note

Former rule II; Former Section R3-3-42 renumbered and amended as Section R3-3-43, former Section R3-3-41 renumbered and amended as Section R3-3-42 effective January 12, 1978 (Supp. 78-1). Section R3-3-902 renumbered from R3-3-42 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-903. Tonnage Reports; Inspection Fee

- A.** Quarterly tonnage report and inspection fee.
1. The inspection fee for all commercial feed sold or distributed in Arizona is 20¢ per ton. The tonnage shall be rounded to the nearest whole ton.
 2. Any applicant applying for and receiving a new license after March 15, June 15, September 15, or December 15 is not required to file a quarterly tonnage report for the quarter in which the license application is issued. Any commercial feed distributed in the final two weeks of the initial application quarter shall be included on the next full quarterly report. Any person who distributed commercial feed without a license as required under A.R.S. § 3-2609 shall pay all past due inspection fees and late penalties before a license is issued.
 3. Any licensee not estimating annual tonnage shall file the following information on a quarterly statement provided by the Department no later than the last day of January, April, July, and October of each year for the preceding calendar quarter and pay the inspection fees and any penalties, if applicable:
 - a. If the inspection fee is being passed on to the purchaser:
 - i. The assigned number and name of the currently licensed company;
 - ii. The amount of commercial feed in whole tons and by type, indicating whether the commercial feed is bagged or bulk;
 - iii. The name, title, telephone number, and signature of the licensee or the licensee's authorized representative; and
 - iv. The date of the report.
 - b. If the licensee pays a tonnage fee for the distribution of a commercial feed:
 - i. The amount of commercial feed in whole tons and by type, indicating whether the commercial feed is bagged or bulk;

- ii. The name, title, telephone number, and signature of the licensee or the licensee's authorized representative; and
- iii. The date of the report.

- B.** Estimated tonnage report. A licensee may estimate the annual commercial feed tonnage if it is 400 tons or less per year and the licensee does not pass the inspection fee responsibility to the purchaser.
1. The licensee shall submit the estimated annual commercial feed tonnage report to the Department with the annual inspection fee no later than July 31 of each year. The tonnage report shall contain:
 - a. The estimated tonnage of commercial feed to be distributed;
 - b. The amount of commercial feed in whole tons and by type, indicating whether the commercial feed is bagged or bulk;
 - c. The name, title, telephone number, and signature of the licensee or the licensee's authorized representative; and
 - d. The date of the report.
 2. The licensee shall pay at least \$8 per year. Adjustments for overestimates or underestimates for licensees with 400 tons or less of actual tonnage sales shall be made on the next year's estimating form. Adjustments of underestimates of licensees with actual tonnage sales more than 400 tons shall be made no later than July 31 of each year.
 3. The licensee shall verify the accuracy of the previous year's tonnage estimates to actual tonnage sales and submit the tonnage verification no later than July 31 of each year.
 4. Overestimation of tonnage.
 - a. The Department shall not refund any inspection fee based on an overestimation if the licensee does not re-license in the subsequent year;
 - b. If a licensee applies for a license in the subsequent year, the Department shall apply any overestimation to the subsequent year's tonnage fees.

Historical Note

Former rule III; Former Section R3-3-43 renumbered and amended as Section R3-3-44, former Section R3-3-42 renumbered and amended as Section R3-3-43 effective January 12, 1978 (Supp. 78-1). Amended effective February 3, 1981 (Supp. 81-1). Section R3-3-903 renumbered from R3-3-43 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-904. Milk and Milk Products Decharacterized for Use as Commercial Feed

- A.** A person shall not sell, offer for sale, store, transport, receive, trade or barter, any milk or milk product for commercial feed unless the milk or milk product:
1. Meets Grade A milk standards as specified in A.A.C. R3-2-802;
 2. Is produced as prescribed in A.A.C. R3-2-805; or
 3. Is decharacterized with food coloring approved by the Federal Food, Drug, and Cosmetic Act and the decharacterization:
 - a. Does not affect nutritive value; and
 - b. Matches the color on the Color Requirement card, incorporated by reference and on file with the Office of the Secretary of State. Any person decharacterizing milk and milk products may obtain a Color Requirement card from the Environmental Services

Division Office, Arizona Department of Agriculture, 1688 West Adams, Phoenix, Arizona 85007.

- B.** Labeling. All milk or milk product commercial feed labels shall be approved by the Associate Director before use.
1. The principal display panel of a decharacterized milk or milk product commercial feed container shall prominently state “WARNING - NOT FOR HUMAN CONSUMPTION” in capital letters. The letters shall be at least 1/4 inch on containers of 8 oz. or less and at least 1/2 inch on all other containers.
 2. The container label shall also bear the statement “This product has not been pasteurized and may contain harmful bacteria” in letters at least 1/8 inch in height.
- C.** Milk or milk products intended for commercial feed shall not be displayed, sold, or stored at premises where food is sold or prepared for human consumption, unless it meets Grade A standards or is decharacterized and clearly identified “Not for Human Consumption.”

Historical Note

Former rule IV; Former Section R3-3-44 repealed, former Section R3-3-43 renumbered and amended as Section R3-3-44 effective January 12, 1978 (Supp. 78-1). Amended effective February 3, 1981 (Supp. 81-1). Amended effective July 20, 1984 (Supp. 84-4). Section R3-3-904 renumbered from R3-3-44 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-905. Labeling; Precautionary Statements

- A.** Ingredient statement.
1. Each ingredient or collective term for the grouping of ingredients not defined in the Official Publication shall be a common name.
 2. All labels for commercial feed and customer-formula feed containing cottonseed or a cottonseed product shall separately list the ingredients in the ingredient statement in addition to any collective term listed.
- B.** Labeling and expression of guarantees.
1. All labeling and expression of guarantees shall comply with the commercial feed-labeling guide, medicated commercial feed labeling, and expression of guarantees requirements prescribed in the Official Publication, which is incorporated by reference, on file with the Office of the Secretary of State, and does not include any later amendments or editions.
 2. The label shall include the brand or product name, and shall indicate the intended use of the feed. The label shall not contain any false or misleading statements.
 3. Directions for use and precautionary statements.
 - a. All labeling of whole cottonseed, commercial feed, and customer-formula feed containing any additive (including drugs, special purpose additives, or non-nutritive additives) shall clearly state its safe and effective use. The directions shall not require special knowledge of the purpose and use of the feed.
 - b. Directions for use and precautionary statements shall be provided for feed containing non-protein nitrogen as specified in R3-3-906.
 - c. All whole cottonseed or commercial feed, and customer-formula feed delivered to the consumer shall be accompanied by an accurate label, invoice, weight ticket or other documentation approved by the Department. The documentation shall be left with the consumer and shall contain the following:

- i. “This feed contains 20 or less ppb aflatoxin and may be fed to any animal;” or
 - ii. “WARNING: This feed contains more than 20 ppb but not more than 300 ppb aflatoxin and shall not be fed to lactating animals whose milk is intended for human consumption.”
- d.** A distributor of whole cottonseed or cottonseed product intended for further processing, planting seed, or for any other purpose approved by the Director, shall document in writing to the Department that:
- i. The lot of whole cottonseed or cottonseed product will not be used as commercial feed until the lot is tested and compliant with all state laws; and
 - ii. The documentation prescribed in subsection (B)(3)(c) is not required.
- e.** The distributor shall maintain the documentation for one year.
- f.** The lot of whole cottonseed or cottonseed product shall be labeled as follows: “WARNING: This material has not been tested for aflatoxin and shall not be distributed for feed or fed to any animal until tested and brought into full compliance with all state laws.”

Historical Note

Former rule V; Former Section R3-3-45 repealed, new Section R3-3-45 adopted effective January 12, 1978 (Supp. 78-1). Amended effective February 3, 1981 (Supp. 81-1). Amended effective July 20, 1984 (Supp. 84-4). Section R3-3-905 renumbered from R3-3-45 (Supp. 91-4). Amended by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-906. Non-protein Nitrogen

- A.** Urea and other non-protein nitrogen products are acceptable ingredients in commercial feed for ruminant animals as a source of equivalent crude protein.
1. If commercial feed contains more than 8.75% of equivalent crude protein from all forms of non-protein nitrogen or if the equivalent crude protein from all forms of non-protein nitrogen exceeds 1/3 of the total crude protein, the label shall include directions for the safe use of the feed and the following precautionary statement: “Caution: Use as Directed.”
 2. The directions for use and the precautionary statement shall be printed and placed on the label so that an ordinary person under customary conditions of purchase and use can read and understand the directions.
- B.** Non-protein nitrogen products are acceptable ingredients in commercial feeds distributed to non-ruminant animals as a source of nutrients other than equivalent crude protein. The maximum equivalent crude protein from non-protein nitrogen sources in non-ruminant rations shall not exceed 1.25% of the total daily ration.
- C.** A medicated feed label shall contain feeding directions or precautionary statements, or both, with sufficient information to ensure that the feed is properly used.

Historical Note

Former rule VI; Former Section R3-3-46 repealed, new Section R3-3-46 adopted effective January 12, 1978 (Supp. 78-1). Amended effective January 29, 1979 (Supp. 79-1). Amended effective February 3, 1981 (Supp. 81-1). Amended effective July 20, 1984 (Supp. 84-4). Section R3-3-906 renumbered from R3-3-46 (Supp. 91-4). Amended by final rulemaking at 5 A.A.R. 4419, effective

November 3, 1999 (Supp. 99-4).

R3-3-907. Repealed

Historical Note

Former rule VII; Former Section R3-3-47 repealed, former Section R3-3-54 renumbered as Section R3-3-47 effective January 12, 1978 (Supp. 78-1). Amended by adding subsection (F) effective July 20, 1984 (Supp. 84-4). Section R3-3-907 renumbered from R3-3-47 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-908. Repealed

Historical Note

Former rule VIII; Former Section R3-3-48 repealed, new Section R3-3-48 adopted effective January 12, 1978 (Supp. 78-1). Amended for spelling correction, subsection (E), effective January 29, 1979 (Supp. 79-1). Amended by adding subsection (J) effective July 20, 1984 (Supp. 84-4). Section R3-3-908 renumbered from R3-3-48 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

R3-3-909. Repealed

Historical Note

Former rule IX; Former Section R3-3-49 repealed, new Section R3-3-49 adopted effective Jan. 12, 1978 (Supp. 78-1). Amended by adding subsection (D) effective February 3, 1981 (Supp. 81-1). Amended effective July 20, 1984 (Supp. 84-4). Section R3-3-909 renumbered from R3-3-49 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-910. Drug and Feed Additives

A. Drug and feed additive approval.

1. Before a label is approved by the Associate Director for commercial feed containing additives (including drugs, other special purpose additives, or non-nutritive additives), the distributor may be required to submit evidence demonstrating the safety and efficacy of the commercial feed when used according to the label directions if the material is not recognized as a commercial feed.
2. If a complaint has been filed with the Department, the distributor may be required to submit evidence demonstrating the safety and efficacy of the commercial feed when used according to the label directions.

B. Evidence of safety and efficacy of a commercial feed may be:

1. If the commercial feed containing additives conforms to the requirements of "Food Additives Permitted in Feed and Drinking" in the Official Publication, which is incorporated by reference, on file with the Office of the Secretary of State, and does not include any later amendments or editions; or
2. If the commercial feed is a substance generally recognized as safe and is defined in the Official Publication or listed as a "Substances Generally Recognized as Safe in Animal Feeds" in the Official Publication, which is incorporated by reference, on file with the Office of the Secretary of State, and does not include any later amendments or editions.

Historical Note

Former rule X; Former Section R3-3-50 repealed, new Section 3-3-50 adopted effective January 12, 1978 (Supp. 78-1). Amended effective July 20, 1984 (Supp. 84-4). Section R3-3-910 renumbered from R3-3-50 (Supp. 91-4). Amended by final rulemaking at 5 A.A.R. 4419, effective

November 3, 1999 (Supp. 99-4).

R3-3-911. Repealed

Historical Note

Former rule XI: Former Section R3-3-51 repealed, new Section R3-3-51 adopted effective January 12, 1978 (Supp. 78-1). Amended effective July 20, 1984 (Supp. 84-4). Section R3-3-911 renumbered from R3-3-51 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

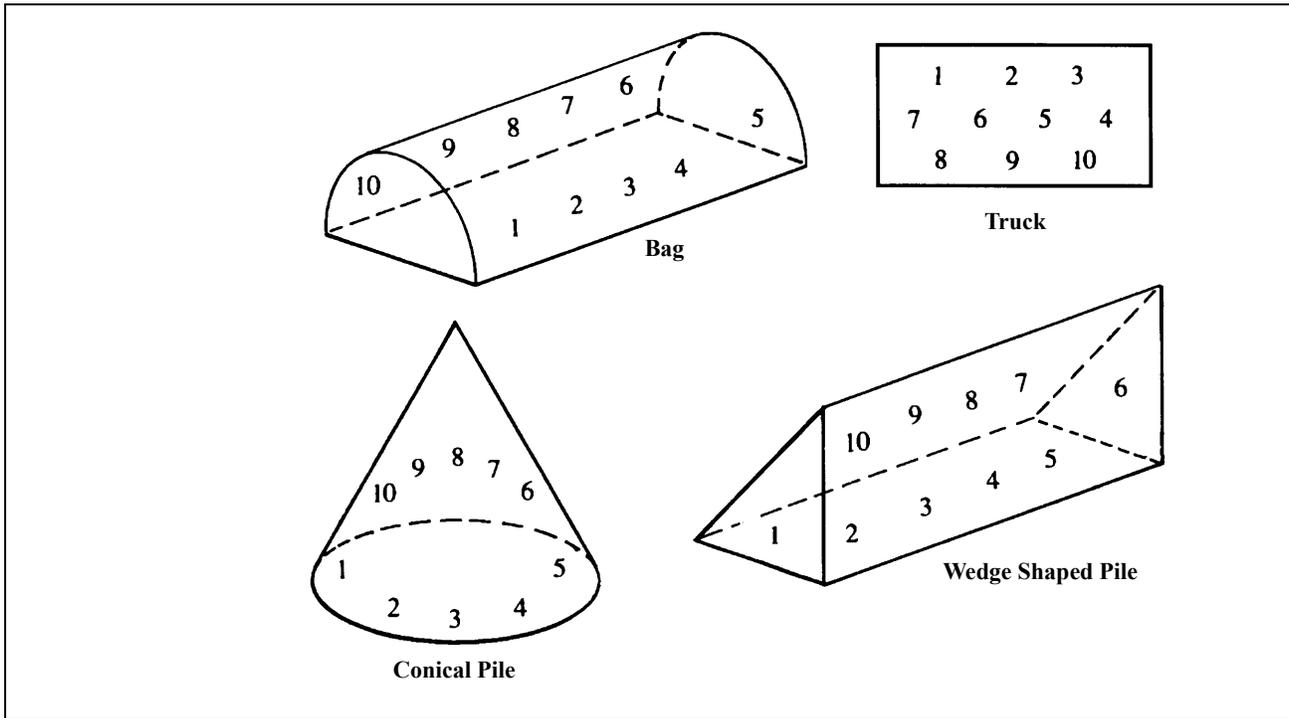
R3-3-912. Repealed

Historical Note

Former rule XII: Former Section R3-3-52 repealed. New Section R3-3-52 adopted effective January 12, 1978 (Supp. 78-1). Section R3-3-912 renumbered from R3-3-52 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-913. Sampling Methods

- A. Sampling commercial feed.** The methods of sampling commercial feed shall comply with the procedures established in 4.1.01, Official Method 965.16 Sampling of Animal Feed, in the "Official Methods of Analysis of AOAC International," 16th Edition, 1997, which is incorporated by reference, on file with the Office of the Secretary of State, and does not include any later amendments or editions of the incorporated matter. Copies may be purchased from AOAC International, 481 North Frederick Avenue, Suite 500, Gaithersburg, Maryland 20877-2417.
- B. Sampling whole cottonseed.**
 1. Sample size - A gross sample not less than 30 pounds shall be taken from a lot. The gross sample shall consist of not less than 10 probes evenly spaced or 10 stream sample passes taken following the procedure prescribed in subsection (B)(4)(b).
 2. Sample container - The sample container shall consist of a clean cloth, burlap, or paper or plastic mesh bags. The sample shall be delivered to the laboratory within 48 hours (excluding weekends and holidays), stored in a dry, well-aerated location, and the results of the analysis reported by a certified laboratory within five working days from receipt of sample.
 3. Sampling equipment. Sampling equipment includes:
 - a. Scale, graduated in one-half pound increments, and any of the following:
 - b. Corkscrew trier, approximately 50 inches in length and capable of taking at least a three-pound sample,
 - c. Pneumatic probe sampler such as the "Probe-a-Vac" pneumatic sampler,
 - d. Stream sampler: A container at least 8 inches x 5 inches x 5 1/2 inches attached to a pole that enables the sampler to pass the container through falling streams of cottonseed,
 - e. Automatic stream samplers or other sampling equipment if scientific data documenting its ability to obtain a representative sample is approved by the Associate Director,
 - f. Shop-vac 1.5 hp vacuum system capable of holding 12 gallons, modified to hold a 15 ft. length of vacuum hose attached to a 13 ft. length of 3/4 inch PVC pipe.
 4. Sampling procedure.
 - a. If a corkscrew trier or Probe-a-Vac sampler is used, at least 10 evenly spaced probes shall be taken per lot. The probed samples shall be taken according to the following patterns:



The probes shall penetrate at least 50 inches, and at least two of the 10 probes per sample shall reach the bottom of the lot being sampled. The probe shall be inserted at an angle perpendicular to the face of the lot.

- b. If a shop-vac system is used, at least 15 evenly spaced probes shall be taken per lot. The sampling patterns specified in subsection (B)(4)(a) shall be modified to allow for the additional samples.
- c. Stream samples shall be taken while the cottonseed is being discharged, if there is a uniform discharge flow over a set period of time. The sample shall consist of at least 10 evenly timed and spaced passes through the discharge flow, resulting in the sample size specified in subsection (B)(1).
- d. The gross sample shall be weighed to the nearest 1/2 pound but shall not be reduced in size. If any gross sample does not meet the minimum 30 pound weight, that gross sample shall be discarded and the sampling procedure repeated from the beginning. If the shop-vac gross sample is not at least 10 pounds, the sample shall be discarded and the sampling procedure repeated from the beginning.
- e. The Associate Director shall approve any modified sampling procedure if scientific data is provided that documents that representative samples will be obtained through the modified sampling procedure.

Historical Note

Former Administrative Rule 1. Former Section R3-3-53 repealed effective January 12, 1978 (Supp. 78-1). New Section R3-3-53 adopted as an emergency effective October 10, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). Amended as an emergency effective October 11, 1978, pursuant to A. R. S. § 41-1003,

valid for only 90 days (Supp. 78-5). New Section R3-3-53 adopted effective February 3, 1981 (Supp. 81-1). Amended effective July 20, 1984 (Supp. 84-4). Section R3-3-913 renumbered from R3-3-53 (Supp. 91-4). Patterns omitted in Supp. 98-4 under subsection (C)(4)(a) have been corrected to reflect filed rules (Supp. 99-1). Amended by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-914. Repealed

Historical Note

Adopted effective August 31, 1977 (Supp. 77-4). Former Section R3-3-54 renumbered as Section R3-3-47 effective January 12, 1978 (Supp. 78-1). New Section R3-3-54 adopted as an emergency effective October 10, 1978, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 78-5). New Section R3-3-54 adopted effective February 3, 1981 (Supp. 81-1). Amended effective July 20, 1984 (Supp. 84-4). Section R3-3-914 renumbered from R3-3-54 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-915. Repealed

Historical Note

Adopted effective December 14, 1979 (Supp. 79-6). Section R3-3-915 renumbered from R3-3-55 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

R3-3-916. Repealed

Historical Note

Adopted effective July 20, 1994 (Supp. 84-4). Section R3-3-916 renumbered from R3-3-56 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 4419, effective November 3, 1999 (Supp. 99-4).

ARTICLE 10. AGRICULTURAL SAFETY**R3-3-1001. Definitions**

In addition to the definitions set forth in A.R.S. § 3-3101 the following terms apply to this Article:

1. “Agricultural emergency” means a sudden occurrence or set of circumstances that:
 - a. An agricultural employer could not have anticipated and over which the agricultural employer has no control,
 - b. Requires entry into a treated area during a restricted-entry interval, and
 - c. No alternative practices would prevent or mitigate a substantial economic loss.
2. “Agricultural employer” means any person, including a farm labor contractor, who hires or contracts for the services of workers for any type of compensation, to perform activities related to the production of agricultural plants, or any person who is an owner of, or is responsible for, the management or condition of an agricultural establishment that uses agricultural workers.
3. “Agricultural establishment” means any farm, forest, nursery, or greenhouse using pesticide products that are required by label to be used in accordance with the federal worker protection standards. An establishment is exempt from the requirements of this Article if the establishment uses only products that do not have a federal worker protection statement on the label.
4. “Agricultural plant” means any plant grown or maintained for commercial or research purposes and includes:
 - a. Food, feed, and fiber plants;
 - b. Trees;
 - c. Turfgrass;
 - d. Flowers, shrubs;
 - e. Ornamentals; and
 - f. Seedlings.
5. “Chemigation” means the application of pesticides through irrigation systems.
6. “Consultation” means an on-site visit by, or a response to an inquiry from, the Agricultural Consulting and Training program personnel, pursuant to A.R.S. § 3-109.01, to review agricultural practices and obtain documented non-regulatory advice to help ensure compliance with the issues addressed.
7. “*De minimis violation*” means a condition or practice which, although undesirable, has no direct or immediate relationship to safety or health (A.R.S. § 3-3101(2)).
8. “Early entry” means any worker or handler entering a treated area after a pesticide is applied to a location on the agricultural establishment and before the expiration of the restricted-entry interval.
9. “Farm labor contractor” means any person who hires or contracts for the services of workers for any type of compensation, to perform activities related to the production of agricultural plants, but does not own or is not responsible for, the management or condition of an agricultural establishment.
10. “Flagger” means a person who indicates an aircraft spray swath width from the ground.
11. “Gravity based penalty” means an unadjusted penalty calculated for each violation, or combined or grouped violations, by adding the gravity factor to the other penalty factors.
12. “Handler” means any person, including a self-employed person:
 - a. Who is employed for any type of compensation by an agricultural establishment or commercial pesticide handling establishment to which this Article applies and who does any of the following:
 - i. Mixing, loading, transferring, or applying pesticides;
 - ii. Disposing of pesticides, or non-triple rinsed or equivalent pesticide containers;
 - iii. Handling open containers of pesticides;
 - iv. Acting as a flagger;
 - v. Cleaning, adjusting, handling, or repairing any part of mixing, loading, or application equipment that may contain pesticide residue;
 - vi. Assisting with the application of pesticides;
 - vii. Entering a greenhouse or other enclosed area after the pesticide application and before either the inhalation exposure level listed in the labeling is reached or any of the ventilation criteria in R3-3-1002 or in the labeling has been met to operate ventilation equipment, adjust or remove coverings used in fumigation, or monitor air levels.
 - viii. Entering a treated area outdoors after pesticide application of any soil fumigant to adjust or remove soil coverings.
 - ix. Performing tasks as a pest control advisor during any pesticide application.
 - b. The term handler does not include:
 - i. Any person who handles only pesticide containers that are emptied or cleaned according to pesticide product labeling instructions or, in the absence of labeling instructions, are triple-rinsed or its equivalent;
 - ii. Any person who handles only pesticide containers that are unopened; or
 - iii. Any person who repairs, cleans, or adjusts the pesticide application equipment at an equipment maintenance facility, after the equipment is decontaminated, and is not an employee of the handler employer.
13. “Handler employer” means any person who is self-employed as a handler or who employs a handler, for any type of compensation.
14. “*Nonserious violation*” means a condition or practice in a place of employment which does not constitute a serious violation but which violates a standard or rule and has a direct or immediate relationship to safety or health, unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the condition or practice (A.R.S. § 3-3101(6)).
15. “Personal protective equipment” means devices and apparel that are worn to protect the body from contact with pesticides or pesticide residues, including coveralls, chemical-resistant suits, chemical-resistant gloves, chemical-resistant footwear, respiratory protection devices, chemical-resistant aprons, chemical-resistant headgear, and protective eyewear.
16. “Pest control advisor” means a crop advisor, as defined in 40 CFR 170, who assesses pest numbers or damage, pesticide distributions, or the status or requirements to sustain the agricultural plants. The term does not include a person who performs hand-labor tasks or handling activities.
17. “Pesticide” means:
 - (a) any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest.

- (b) any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant (A.R.S. § 3-341(21)).
18. "Restricted-entry interval" means the time after the completion of a pesticide application during which entry into a treated area is restricted as indicated by the pesticide product label.
 19. "Restricted use pesticide" means a pesticide classified as such by the United States Environmental Protection Agency (A.R.S. § 3-361(8)).
 20. "Serious violation" means a condition or practice in a place of agricultural employment which violates a standard or rule or section 3-3104, subsection (A) and produces a substantial probability that death or serious physical harm could result, unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of such condition or practice (A.R.S. § 3-3101(10)).
 21. "Substantial economic loss" means a loss in yield greater than expected based on the experience and fluctuations of crop yields in previous years. Only losses caused by an agricultural emergency specific to the affected site and geographic area are considered. The contribution of mismanagement is not considered in determining the loss.
 22. "Treated area" means any area to which a pesticide is being directed or has been directed.
 23. "Worker" means any person, including a self-employed person, who is employed for any type of compensation and who performs activities relating to the production of agricultural plants on an agricultural establishment. The requirements of this Article do not apply to any person employed by a commercial pesticide-handling establishment who performs tasks as a pest control advisor.
- a. Certified as an applicator of restricted use pesticides under R3-3-208,
 - b. Holds a current handler card under subsection (D)(4),
 - c. Certified as a trainer under this Section, or
 - d. Certified or licensed as a crop advisor by a program approved in writing by the EPA or the Department.
- B. Training verification.**
1. Handler. The handler employer shall verify, before the handler performs a handling task, that the handler:
 - a. Meets a condition listed in subsection (A)(1); or
 - b. Received pesticide safety training during the last three years, excluding the month in which the training was completed.
 2. Worker. The agricultural employer shall verify that a worker:
 - a. Meets a condition listed in subsection (A)(2); or
 - b. Received pesticide safety training during the last five years before allowing a worker entry into an area:
 - i. To which a pesticide was applied during the last 30 days, or
 - ii. For which a restricted-entry interval for a pesticide was in effect during the last 30 days.
 3. The agricultural employer and the handler employer, or designee, shall verify that a training exemption claimed in subsection (A)(1) or (A)(2) is valid by reviewing the appropriate certificate issued by the Department, the EPA, or an EPA-approved program.
 4. The agricultural employer and the handler employer, or designee, shall visually inspect the handler's or worker's EPA-approved Worker Protection Standard training verification card to verify that the training requirements prescribed in subsections (B)(1) or (B)(2) are met. If the employer believes that a worker or handler training verification card is valid, the verification requirement of subsection (B)(1) or (B)(2) is satisfied.
 5. An EPA-approved Worker Protection Standard training verification card is valid if issued:
 - a. As prescribed in this Section, or
 - b. By a program approved by the Department, and
 - c. Within the time-frames prescribed in subsection (B)(1) or (B)(2).
 6. The agricultural employer shall provide a worker who does not possess the training required in subsection (B)(2) with the pesticide safety information prescribed in subsection (C) and the pesticide safety training prescribed in subsection (D)(1) and (D)(2). The agricultural employer shall provide pesticide safety training to a worker before:
 - a. The worker enters a treated area on an agricultural establishment during a restricted-entry interval to perform early-entry activities; or
 - b. The sixth day that the worker enters an area on the agricultural establishment if a pesticide has been applied within the past 30 days, or a restricted-entry interval for the pesticide has been in effect within the past 30 days.

Historical Note

Adopted effective July 13, 1989 (Supp. 89-3). Section R3-3-1001 renumbered from R3-8-201 (Supp. 91-4). Amended effective March 3, 1995 (Supp. 95-1). Amended effective October 8, 1998 (Supp. 98-4).

R3-3-1002. Worker Protection Standards

Worker protection regulations shall be as prescribed in 40 CFR 170, excluding 40 CFR 170.130 and 170.230, as amended July 1, 2002. This material is incorporated by reference, on file with the Department, and does not include any later amendments or editions.

Historical Note

Adopted effective July 13, 1989 (Supp. 89-3). Section R3-3-1002 renumbered from R3-8-202 (Supp. 91-4). Section repealed, new Section adopted effective March 3, 1995 (Supp. 95-1). R3-3-1002 renumbered to R3-3-1003; new Section R3-3-1002 adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

R3-3-1003. Pesticide Safety Training

A. Training exemptions.

1. Handler. A handler who currently meets one of the following conditions is exempt from the requirements under subsection (D)(1) and (D)(3):
 - a. Certified as an applicator of restricted use pesticides under R3-3-208,
 - b. Certified as a trainer under this Section, or
 - c. Certified or licensed as a crop advisor by a program approved in writing by the EPA or the Department.
2. Worker. A worker who meets one of the following conditions is exempt from the requirements under subsections (C), (D)(1), and (D)(2):

C. Pesticide safety information.

1. The agricultural employer shall provide pesticide safety information to a worker who does not meet the training requirements of subsection (B) before the worker enters an area on an agricultural establishment if, within the last 30 days a pesticide has been applied or a restricted-entry interval for the pesticide has been in effect. The agricultural employer shall provide safety information in a man-

ner that the worker can understand. The safety information shall include the following:

- a. Pesticides may be on or in plants, soil, irrigation water, or drifting from nearby applications;
- b. Workers may prevent pesticides from entering their bodies by:
 - i. Following directions or signs, or both, about keeping out of a treated or restricted area;
 - ii. Washing before eating, drinking, chewing gum or using tobacco products, or using the toilet;
 - iii. Wearing work clothing that protects the body from pesticide residue;
 - iv. Washing or showering with soap and water, shampooing hair, and putting on clean clothing after work;
 - v. Washing work clothes separately from other clothes before wearing; and
 - vi. Washing immediately in the nearest clean water if pesticides are spilled or sprayed on the body, and as soon as possible, showering, shampooing, and changing into clean clothes.

2. The agricultural employer shall document compliance by obtaining the employee's signature or other verifiable means to acknowledge the employee's receipt of the information required in subsection (C)(1).

D. Pesticide safety training. The agricultural employer or handler employer shall ensure that pesticide safety training is provided before the sixth day of entry into a pesticide-treated area. The pesticide safety training program shall be in a language easily understood by a worker or handler, using a translator if necessary. The program shall relate solely to pesticide safety training. Information shall be presented either orally from written material or in an audiovisual manner and shall contain non-technical terms. The trainer shall respond to questions from attendees.

1. General pesticide safety training. The following pesticide safety training shall be presented to either a handler or a worker:
 - a. Hazards of pesticides resulting from toxicity and exposure, including acute and chronic effects, delayed effects, and increased sensitivity;
 - b. Routes by which pesticides can enter the body;
 - c. Signs and symptoms of common types of pesticide poisoning;
 - d. Emergency first aid for pesticide injuries or poisonings;
 - e. How to obtain emergency medical care;
 - f. Routine and emergency body decontamination procedures, including emergency eyeflushing techniques;
 - g. Warnings about taking pesticides or pesticide containers home; and
 - h. How to report violations to the Department, including providing the Department's toll-free pesticide hotline telephone number.
2. Worker training. In addition to the information in subsection (D)(1), a pesticide safety training program for a worker shall include the following:
 - a. Where and in what form pesticides may be encountered during work activities;
 - b. Hazards from chemigation and drift;
 - c. Hazards from pesticide residue on clothing; and
 - d. Requirements of this Article designed to reduce the risks of illness or injury resulting from workers' occupational exposure to pesticides, including:
 - i. Application and entry restrictions,

- ii. Posting of warning signs,
- iii. Oral warning,
- iv. The availability of specific information about applications,
- v. Protection against retaliatory acts, and
- vi. The design of the following warning sign:



3. Handler training. In addition to the information in subsection (D)(1), a pesticide safety training program for a handler shall include the following:
 - a. Format and meaning of information contained on pesticide labels and in labeling, including safety information such as precautionary statements about human health hazards;
 - b. Need for and appropriate use of personal protective equipment;
 - c. Prevention, recognition, and first aid treatment of heat-related illness;
 - d. Safety requirements of handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup;
 - e. Environmental concerns such as drift, runoff, and potential impact on wildlife; and
 - f. Requirements of this Article applicable to handler employers for the protection of handlers and other individuals, including:
 - i. The prohibition against applying pesticides in a manner that will cause contact with workers or other individuals,
 - ii. The requirement to use personal protective equipment,
 - iii. The provisions for training and decontamination, and
 - iv. Protection against retaliatory acts.
4. The trainer shall issue an EPA-approved Worker Protection Standard training verification card to each handler or worker who successfully completes training, and shall maintain a record in indelible ink containing the following information:
 - a. Name and signature of the trained worker or handler;
 - b. Training verification card number;
 - c. Issue and expiration date of the training verification card;
 - d. Social security number or a unique trainer-assigned identification number of the worker or handler;
 - e. Name and signature of the trainer; and
 - f. Address or location of where the training occurred, including city, county, and state.

E. Trainer requirements.

1. A person applying for pesticide safety trainer certification shall:

- a. Complete the Department pesticide safety training program established in subsection (D)(1) through (D)(3); or
 - b. Hold a current PCA license or restricted use certification, issued by the Department for a PCA or certified applicator, as prescribed under R3-3-207 or R3-3-208.
2. An applicant shall submit a signed and dated affidavit to the Department verifying that each worker or handler will be trained according to the requirements of subsection (D). The affidavit shall include the applicant's:
 - a. Name, address, e-mail address, and telephone and fax numbers, as applicable; and
 - b. Social security number.
 3. Trainer certification is:
 - a. Nontransferable; and
 - b. Is valid for three years from the date issued under subsection (E)(1)(a), excluding the month in which the trainer was certified, and is renewable upon completion of the Department pesticide safety training program established in subsection (D)(1) through (D)(3); or
 - c. Is valid initially for one year from the date issued under subsection (E)(1)(b) if the PCA license or restricted use certification remain current, and is renewable for three years upon completion of the pesticide safety training program established in subsection (D)(1) through (D)(3).
 4. A trainer shall maintain the records required in subsection (D)(4) for five years for workers, and three years for handlers, excluding the month in which the verification card was issued.
 5. Upon request by the Department, the trainer shall make available worker and handler records prescribed in subsection (D)(4) for inspection and copying by the Department.
- F.** A trainer shall permit the Assistant Director or designee to enter a place where worker safety training is being presented to observe and question trainers and attendees to determine compliance with the requirements of this Section.
- G.** The Department may suspend, revoke, or deny trainer certification if any of the following occur:
1. Failing to follow the worker and handler training requirements prescribed in subsections (D)(1) through (D)(3);
 2. Failing to issue training verification cards to workers and handlers as prescribed in subsection (D)(4);
 3. Failing to maintain the training information prescribed in subsection (E)(4);
 4. Failing to fulfill the requirements of the affidavit as prescribed in subsection (E)(2); or
 5. Having had a similar certification revoked, suspended, or denied in any jurisdiction within the last three years.

Historical Note

Adopted effective July 13, 1989 (Supp. 89-3). Section R3-3-1003 renumbered from R3-8-203 (Supp. 91-4). R3-3-1003 repealed; new Section R3-3-1003 renumbered from R3-3-1002 and amended effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

R3-3-1004. Notification Requirements for Farm Labor Contractors

- A.** The owner or operator of an agricultural establishment shall provide the farm labor contractor who performs work on that agricultural establishment with:

1. The location of the agricultural establishment's central posting site; and
 2. The restrictions on entering the treated area as specified in 40 CFR 170.120(d), if a treated area is within 1/4 mile of where workers will be working and the treated area is not posted as allowed or required in 40 CFR 170.120(a), (b) and (c).
- B.** The farm labor contractor shall:
1. Post or provide the worker in writing, with the information in 40 CFR 170.122, or shall post or provide the worker in writing, the specific location of the central posting site for each agricultural establishment on which the worker will be working;
 2. Provide the worker with restrictions on entering a treated area as specified in 40 CFR 170.120(d) if the treated area on the agricultural establishment where a worker will be working is within 1/4 mile of where the worker is working, and the treated area and is not posted as allowed or required in 40 CFR 170.120(a), (b) and (c).

Historical Note

Adopted effective July 13, 1989 (Supp. 89-3). Section R3-3-1004 renumbered from R3-8-204 (Supp. 91-4). Amended effective October 8, 1998 (Supp. 98-4).

R3-3-1005. Container Used For Mixing or Applying Pesticides

- A.** All openings on containers used for applying pesticides shall be equipped with covers that prevent splashes and spills.
- B.** All containers shall:
1. Be translucent, or
 2. Have a means to indicate externally the internal liquid level in the container, or
 3. Have a filler hose nozzle that automatically stops the filling operation before the liquid pesticide mixture spills over the top of the container.
- C.** Any employer who mixes or applies any liquid pesticide mixture in a container with a capacity of more than 49 gallons shall have a handler present whenever pesticides are mixed or containers are filled to ensure that the liquid pesticide mixture does not spill over the top of the container.
- D.** Each handler, while mixing pesticides, shall protect the water supply from back-siphoning pesticide mixtures.

Historical Note

Adopted effective July 13, 1989 (Supp. 89-3). Section R3-3-1005 renumbered from R3-8-205 (Supp. 91-4). Section repealed; new Section adopted effective October 8, 1998 (Supp. 98-4).

R3-3-1006. Agricultural Emergency

- A.** Any grower, a group of growers, or designee may request the Assistant Director for an agricultural emergency.
- B.** Possibility of agricultural emergency.
1. If during business hours information is obtained showing that a declaration of an agricultural emergency is necessary, the requesting party shall notify the Department immediately and provide the following information:
 - a. The cause of the emergency,
 - b. The area where the emergency may occur,
 - c. An explanation of why early entry is necessary,
 - d. Why other methods cannot be used to avoid the early entry, and
 - e. The justification that substantial economic loss will occur.
 2. The Assistant Director shall render a decision to the requesting party on whether an agricultural emergency exists within four hours of receiving the information.

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- 3. If a grower or requesting party does not submit the written documentation in subsection (B)(1) or if the Assistant Director questions the validity or adequacy of the written evidence of the emergency, the Assistant Director shall investigate a grower’s entry into the restricted-entry interval area and advise the requesting party of the reasons for the denial of the agricultural emergency.
- 4. If the information in subsection (B)(1) is given orally, the requesting party shall notify the Department immediately and provide the Assistant Director with written evidence of the emergency within five days. The Assistant Director shall, within 10 business days of receipt of the written evidence of the emergency or completion of the investigation, issue a letter to the requesting party confirming or denying the request for an agricultural emergency.

C. Occurrence of agricultural emergency.

- 1. If information is obtained after business hours, or during a weekend or holiday, showing that a declaration of agricultural emergency is necessary, the requesting party shall inform the Department, orally, the next business day following the emergency and provide the following information, in writing, within 72 hours of the emergency or notification:
 - a. The cause of the emergency,
 - b. The area where the emergency occurred,
 - c. A brief explanation of why early entry was necessary,
 - d. Why other methods could not be used to avoid the early entry, and
 - e. The justification that substantial economic loss would have occurred.
- 2. If a grower or requesting party does not submit the written evidence of the emergency in subsection (B)(1) or if the Assistant Director questions whether the written evidence of emergency could have occurred before the emergency, or the validity or adequacy of the written evidence of the emergency, the Assistant Director shall investigate a grower’s entry into the restricted-entry interval area and advise the requesting party of the reasons for the denial.
- 3. The Assistant Director shall within 10 business days of receipt of the evidence of emergency or completion of the investigation issue a letter to the requesting party confirming or denying the request for the agricultural emergency.

Historical Note

Adopted effective July 13, 1989 (Supp. 89-3). Section R3-3-1006 renumbered from R3-8-206 (Supp. 91-4). Section repealed; new Section adopted effective October 8, 1998 (Supp. 98-4).

R3-3-1007. Violations and Civil Penalties

- A. Serious violations. The base penalty for any serious violation is \$500 and no adjustment shall be made for mitigating circumstances. The penalty for a violation in which a person is killed or permanently disabled shall be the maximum allowed in A.R.S. §§ 3-3113 and 3-3114.
- B. Nonserious violations. The Assistant Director shall calculate the base penalty for a nonserious violation and determine the civil penalty amount based on the factors prescribed in A.R.S. § 3-3113(I). If there are contributing or mitigating circumstances, the points may be adjusted, provided the adjustment is documented.

VIOLATION GRAVITY FACTOR
(1 - lowest; 4 - highest)

VIOLATION GRAVITY

Central Posting	1 - 2
Training	1 - 4
Decontamination	1 - 4
Personal Protective Equipment	1 - 4
Pesticide Applications and Notice	1 - 4
Pesticide Application Restrictions	2 - 4
Other Requirements	1 - 4

C. Size-of-business. The Assistant Director shall use:

- 1. The maximum number of employees at any one time during the previous 12 months from the date of notice, including only the Arizona branch offices to determine the size business category; or
- 2. A site-specific employee count, if the violation does not endanger employees at other locations of the business; or
- 3. The number of persons trained by a trainer during the previous 12 months that violate the training provisions of this Section.

SIZE-OF-BUSINESS

Size Category	Number of Employees or Number of People Trained
I	1-10
II	11-75
III	76-150
IV	More than 150

- D. Base penalty. The Assistant Director shall calculate the base penalty for the alleged violation by using the violation gravity factor established in subsection (B) and applying the size-of-business category established in subsection (C).

BASE PENALTY

Gravity Factor	Size Category			
	I	II	III	IV
1	\$250	\$300	\$350	\$400
2	300	350	400	450
3	350	400	450	500
4	500	500	500	500

- E. Combined or group violations. The Assistant Director may combine or group violations.

- 1. Violations may be combined and assessed one penalty if the violation does not cause any immediate danger to public health or safety or damage to property. Example: Eight workers on a harvest crew have received no training and there is no evidence of exposure. This situation may result in only one training penalty being assessed against the employer.
- 2. Violations may be grouped if they have a common element and it is apparent which violation has the highest gravity. The penalty for a grouped violation is assessed on the violation with the highest gravity. The penalty for a grouped violation is assessed pursuant to the appropriate law or rule with the highest gravity. Example: Two crews from the same company are engaged in an improper handling activity and one crew is using a pesticide with a “danger” signal word, (skull and cross bones) while the other crew is using a pesticide with a “warning” signal word. This situation may result in the employer being assessed one penalty based on the penalty for the “danger” (skull and cross bones) violation.

- F. If a decision is not reached in a negotiated settlement, the Director may assess a penalty pursuant to A.R.S. § 3-3114.

Historical Note

Adopted effective July 13, 1989 (Supp. 89-3). Section R3-3-1007 renumbered from R3-8-207 (Supp. 91-4). Section repealed; new Section adopted effective October 8, 1998 (Supp. 98-4).

R3-3-1008. Penalty Adjustments

- A. The Assistant Director shall assign an appropriate number of points for each of the following five factors to increase the base penalty for a serious violation, or increase or decrease the base penalty for a nonserious violation.
1. If the total adjustment points on a nonserious violation is less than 9, the base penalty is reduced; if it is more than 9, the base penalty is increased.
 2. If the total adjustment points on a serious violation is 3 or less, the base penalty shall be imposed; if it is more than 3, the base penalty is increased.
 3. If a violation is a repeated violation, as prescribed in R3-3-1011 for compliance history, a base penalty adjustment factor shall not be used in assessing a penalty.

BASE ADJUSTMENT FACTORS

Pesticide

Signal word danger with skull and crossbones	5
Signal word danger	4
Warning	3
Caution	2
Indirect relation to the violation	1

Harm to Human Health

Actual Injuries or temporary reversible illness resulting in hospitalization or a variable but limited period of disability. (hospital care greater than 8 hours)	9
Actual (doctor care required, less than 8 hours)	6
Minor supportive care only	2 - 4
Consequence potential	1 - 2
No relationship found	0

Compliance History

One or more violations in the previous 12 months	4
One or more violations in the previous 24 months	3
One or more violations in the previous 36 months	1
No violation history	0

Culpability

Knowing or should have known	4
Negligence	2
Neither	0

Good Faith

0 - -2

- B. The Assistant Director may reduce the base penalty for a non-serious violation, as determined in R3-3-1007(C), by as much as 80% depending upon the number of employees or trained persons, good faith, and history of previous violations.

FINAL PENALTY CALCULATION

Number of Points	Nonserious Violation	Serious Violation
	Penalty Adjustment	Penalty Adjustment
3 or below	Base -80%	Base Penalty
4	Base -65%	Base + 10%
5	Base -50%	Base + 20%
6	Base -35%	Base + 30%
7	Base -20%	Base + 40%
8	Base -5%	Base + 50%
9	Base Penalty	Base + 60%
10	Base + 20%	Base + 70%
11	Base + 35%	Base + 80%
12	Base + 50%	Base + 90%
13	Base + 65%	Base + 100%
14	Base + 80%	Base + 100%

15 or more Base + 100% Base + 100%

Example: A business employs 26 people in Town A and 14 people in Town B. In addition, 35 seasonal people are employed during the harvest. The total annual employee positions equal 75. The following violations are found during an inspection: (1) No training for 35 seasonal workers on the harvest crew; (2) No available decontamination supplies; (3) No safety poster at the central posting location; (4) No emergency telephone number posted, and no medical facility location posted at the central posting location; (5) No posted pesticide application information at the central posting location.

Step 1. Use the *Violation Gravity Factor* table to determine the gravity of the violation.

- (1) Training, 1-4 2 points, all 35 workers are combined;
- (2) Decontamination, 1-43 points, no supplies were available within the prescribed distance and it has been 25 days since the most recent application;
- (3) - (5) Central Posting, 1-2 1 point, since the violations concerns the same factor, they are combined. (There is evidence that the old poster blew away and the pesticide application information is kept available in the secretary's desk, but it is not 'readily' available.)

Step 2. Use the *Size of Business* table to determine the size category.

75 employees falls into the size category II;

Step 3. Use the *Base Penalty* table to determine the base penalty. Use column II based on the *Size of Business* determination from step 2.

Violation 1, with a gravity factor of 2, equals a base penalty of \$350;

Violation 2, with a gravity factor of 3, equals a base penalty of \$400;

Violations 3, 4, and 5, with a gravity factor of 1, equals 1 base penalty of \$300.

Step 4. Using the *Base Adjustment Factors* table to calculate the adjustments, if any. In this case, the base adjustments are uniform in all categories except #4, culpability.

Pesticide. It was a indirect relationship because of the timing of the application and when the workers were in the treated area. 1 point.

Harm to Human Health. There was no harm to health and the pesticide had not been applied recently. 1 point.

Compliance History. This farm has no previous violation history. 0 points.

Culpability. The supervisor attended a "train-the-trainer" course two years ago and should have been aware of the requirements of the

worker protection standard. Therefore, for the first two violations the supervisor should have known about the requirements. For the last three violations, the central posting sign was not checked frequently enough to ensure compliance. For violations 1 and 2, 4 points for knowing or should have known; For violations 3, 4, and 5, 2 points for negligence.

Good Faith. The inspector came back five days later and the workers were trained the day of the first inspection, the poster was posted and everything was in compliance. Since the employer corrected the violations quickly. –1 point.

Step 5. Add the points for each violation from Step 4.

Violation 1 1 + 1 + 0 + 4 + –1 = 5

Violation 2 1 + 1 + 0 + 4 + –1 = 5

Violations 3, 4, 5 1 + 1 + 0 + 2 + –1 = 3

Step 6. Using the *Final Penalty Calculation* table to determine the appropriate violation penalty adjustment that corresponds with the base adjustment factor point total. Use the definitions for nonserious or serious violations to determine the appropriate violation penalty adjustment column. In this case, use the nonserious penalty adjustment column.

Violation 1 5 points Base - 50% = 350-175 = \$175

Violation 2 5 points Base - 50% = 400-200 = \$200

Violations

3, 4, 5 3 points Base - 80% = 300-240 = \$60

Adjusted Penalty Total \$435

Historical Note

Adopted effective July 13, 1989 (Supp. 89-3). Section R3-3-1008 renumbered from R3-8-208 (Supp. 91-4). Section repealed; new Section adopted effective October 8, 1998 (Supp. 98-4).

R3-3-1009. Failure to Abate

- A.** The Director shall issue a notification of failure-to-abate an alleged violation if a violation has not been corrected as specified on the citation. Failure-to-abate penalties, pursuant to A.R.S. § 3-3113(E), shall be applied if an employer or handler has not corrected a previous cited violation that is a final order of the Director. When determining the appropriate penalty amount, the Director shall take into consideration a good faith effort to abate the violation.
- B.** If a person does not file a timely notice of contest within the 30-day contest period, the citation and proposed penalties shall be a final order of the Director.
- C.** If a person files a notice of contest pursuant to A.R.S. § 3-3116(A), the period for the abatement shall not begin, as to those violations contested, until the day following the entry of the final order by the Director affirming the citation. If the person contests only the amount of the proposed penalty, the person shall correct the alleged violation within the prescribed abatement period.

Historical Note

Adopted effective October 8, 1998 (Supp. 98-4). Section heading corrected at request of the Department, Office File No. M11-60, filed February 23, 2011 (Supp. 09-4).

R3-3-1010. Calculation of Additional Penalties For Unabated Violations

- A.** The Assistant Director shall calculate a daily penalty for unabated violations if failure to abate a serious or nonserious violation exists at the time of reinspection. That penalty shall

not be less than the penalty for the violation when cited, except as provided in subsection (C).

1. If no penalty was initially proposed, the Assistant Director shall determine a penalty. In no case shall the penalty be more than \$1,000 per day, the maximum allowed by A.R.S. § 3-3113(E).

2. The daily proposed penalty shall be multiplied by the number of calendar days that the violation has continued unabated, except for the following: The number of days unabated shall be counted from the day following the abatement date specified in the final order. It shall include all calendar days between that date and the date of reinspection, excluding the date of reinspection.

- B.** When calculating the additional daily penalty, the Assistant Director shall consider the extent that the violation has been abated, whether the employer has made a good faith effort to correct the violation, and it is beyond the employer's control to abate. Based on these factors, the Assistant Director may reduce or eliminate the daily penalty. Example: If three of five instances have been corrected, the daily proposed penalty (calculated as outlined in subsection (A) without regard to any partial abatement), may be reduced by the percentage of the total violations which have been corrected, in this instance, three of five, or 60%.

Historical Note

Adopted effective October 8, 1998 (Supp. 98-4).

R3-3-1011. Repeated or Willful Violations

- A.** The Assistant Director shall calculate a penalty for each violation classified as serious or nonserious if similar violations are repeated within the last three years from the date of notice.
1. The penalty for a repeated nonserious violation shall be doubled for the first repeated violation and tripled if the violation has been cited twice before, up to the maximum allowed by A.R.S. § 3-3113(A).
2. The penalty for a repeated serious violation shall be multiplied five times for the first repeated violation and seven times if the violation has been cited twice before, up to the maximum allowed by A.R.S. § 3-3113(A).
3. The penalty for a repeated serious violation in which someone is disabled or killed shall be multiplied 10 times for each repeated violation, up to the maximum allowed by A.R.S. § 3-3113(A).
4. A repeated violation having no initial penalty shall be assessed for the first repeated violation as determined by this Article.
5. If the Assistant Director determines, through documentation, that it is appropriate, the penalty may be multiplied by 10, up to the maximum allowed by A.R.S. § 3-3113(A).
- B.** The Assistant Director may adjust the gravity based penalty by a multiplier up to 10 for any willful violation, up to the maximum allowed by A.R.S. § 3-3113(A).
- C.** The Assistant Director shall not allow a reduction for any serious or nonserious willfully repeated violation.

Historical Note

Adopted effective October 8, 1998 (Supp. 98-4).

R3-3-1012. Citation; Posting

An employer shall post a citation prescribed at A.R.S. § 3-3110(C) for three days or until the violation is abated, whichever time period is longer.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 276, effective March 6, 2004 (Supp. 04-1).

ARTICLE 11. ARIZONA NATIVE PLANTS**R3-3-1101. Definitions**

In addition to the definitions in A.R.S. § 3-901, the following terms apply to this Article:

“Agent” means a person authorized to manage, represent, and act for a landowner.

“Certificate of inspection for interstate shipments” means a certificate to transport protected native plants out of the state.

“Conservation” means prevention of exploitation, destruction, or neglect of native plants while helping to ensure continued public use.

“Cord” means a specific type string or small rope issued by the Department for attaching tags and seals to protected native plants.

“Cord of wood” means a measurement of firewood equal to 128 cubic feet.

“Department” means the Arizona Department of Agriculture.

“Destroy” means to cause the death of any protected native plant.

“Harvest restricted native plant permit” means a permit required to remove the by-products, fibers, or wood from a native plant listed in Appendix A, subsection (D).

“Landowner” means a person who holds title to a parcel of land.

“Noncommercial salvage permit” means a permit required for the noncommercial salvage of a highly safeguarded native plant.

“Original growing site” means a place where a plant is growing wild and is rooted to the ground or any property owned by the same landowner where a protected native plant is relocated or transplanted without an original transportation permit.

“Permittee” means any person who is issued a permit by the Department for removing and transporting protected native plants.

“Protected native plant” means any living plant or plant part listed in Appendix A and growing wild in Arizona.

“Protected native plant tag” means a tag issued by the Department to identify the lawful removal of a protected native plant, other than a saguaro cactus, from its original growing site.

“Saguaro tag” means a tag issued by the Department to identify a saguaro cactus being lawfully moved.

“Salvage assessed native plant permit” means a permit required to remove a native plant listed in Appendix A, subsection (C).

“Salvage restricted native plant permit” means a permit required to remove a native plant listed in Appendix A, subsection (B).

“Scientific permit” means a permit required to remove a native plant for a controlled experimental project by a qualified person.

“Securely tie” means to fasten in a tight and secure manner to prevent the removal of tags, seals, or cord for reuse.

“Small Native Plant” means any protected plant eight inches in height or less.

“Survey” means the process by which a parcel of land is examined for the presence of protected native plants. A simple survey determines only whether protected native plants are present. A complete survey establishes the kind and number of each species present.

“Wood receipt” means a receipt issued by the Department to identify the lawful removal of a protected native plant

harvested for fuel, being removed from its original growing site.

Historical Note

New Section recodified from R3-4-601 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

R3-3-1102. Protected Native Plant Destruction by a Private Landowner**A. Notice of intent.**

1. Before a protected native plant is destroyed, the private landowner shall provide the following information to the Department on a form obtained from the Department:
 - a. Name, address, and telephone number of the landowner;
 - b. Name, address, and telephone number of the landowner’s agent, if applicable;
 - c. Valid documentation indicating land ownership, including but not limited to a parcel identification number, tax assessment, or deed;
 - d. Legal description, map, address, or other description of the area, including the number of acres to be cleared, in which the protected native plants subject to the destruction are located;
 - e. Earliest date of plant destruction; and
 - f. Landowner’s intent for the disposal or salvage of protected native plants on the land.
2. A landowner intending to destroy protected native plants on an area of less than one acre may submit the information required in subsection (A)(1) to the Department verbally.

B. A landowner shall not destroy a protected native plant until:

1. The landowner receives a written confirmation notice from the Department, and
2. Notice is given to the Department within the following minimum time periods:
 - a. Twenty days before the plants are destroyed over an area of less than one acre.
 - b. Thirty days before the plants are destroyed over an area of one acre or more but less than 40 acres.
 - c. Sixty days before the plants are destroyed over an area of 40 acres or more.

C. The Department shall provide a salvage operator or other interested person with a copy of a notice of intent submitted under this Section upon receipt of the private landowner’s name, address, telephone number, and payment of an annual \$25 nonrefundable fee.**Historical Note**

New Section recodified from R3-4-602 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

R3-3-1103. Disposal and Salvage of Protected Native Plants by a State Agency**A. A state agency intending to remove or destroy protected native plants shall notify the Department, under A.R.S. § 3-905, and shall propose a method of disposal from the following list:**

1. The plants may be sold at a public auction;
2. The plants may be relocated or transported to a different location on the same property or to another property owned by the state, without obtaining a permit;
3. The plants may be donated to nonprofit organizations as provided in A.R.S. § 3-916;

4. The plants may be donated to another state agency or political subdivision, without obtaining a permit; or
 5. The plants may be salvaged or harvested by a member of the general public or a commercial dealer, if the person holds a permit as provided under A.R.S. § 3-906 or 3-907.
- B.** If the plants are highly safeguarded native plants, they shall first be made available to the holder of a scientific permit or a noncommercial salvage permit.

Historical Note

New Section recodified from R3-4-603 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

R3-3-1104. Protected Native Plant Permits; Tags; Seals; Fees

- A.** A person shall not collect, transport, possess, sell, offer for sale, dispose, or salvage protected native plants unless that person is 18 years of age or older and possesses an appropriate permit.
- B.** An applicant shall submit the following information to the Department on a form obtained from the Department, as applicable:
1. Name, business name, address, telephone number, Social Security number or tax identification number, and signature of the applicant;
 2. Name and number of plants to be removed;
 3. Purpose of the plant removal;
 4. Whether the applicant has a conviction for a violation of a state or federal statute regarding the protection of native plants within the previous five years;
 5. Except for salvage assessed native plants;
 - a. Name, address, telephone number, and signature of the landowner;
 - b. Location of the permitted site and size of acreage;
 - c. Destination address where the plants will be transplanted;
 - d. Legal and physical description of the location of the original growing site; and
 - e. Parcel identification number for the permitted site or other documents proving land ownership.
- C.** Permit fees.
1. A person removing and transporting protected native plants shall submit the following applicable fee to the Department with the permit application:
 - a. Salvage assessed native plant permit, annual use, \$35;
 - b. Harvest restricted native plant permit, annual use, \$35;
 - c. All other native plant permits, one-time use, \$7;
 - d. Certificate of inspection for interstate shipments, \$15.
 2. Exemptions. Protected native plants are exempt from fees if:
 - a. The protected native plants intended for personal use by a landowner are taken from one piece of land owned by the landowner to another piece of land also owned by the landowner, remain on the property of the landowner, and are not sold or offered for sale;
 - b. The protected native plants are collected for scientific purposes; or
 - c. A landowner donates the protected native plant to a scientific, educational, or charitable institution.
- D.** Tag and harvesting fees.

1. Any person obtaining a saguaro tag or other protected native plant tag or receipt shall submit the following applicable fee to the Department at the time a tag is obtained:
 - a. Saguaro, \$8 per plant;
 - b. Trees cut for firewood and listed in the harvest restricted category, \$6 per cord of wood;
 - c. Small native plant, \$.50 per plant;
 - d. Any other protected native plant referenced in A.R.S. § 3-903(B) and (C) and listed in Appendix A, \$6 per plant.
 2. The fee for harvesting *nolina* or *yucca* parts is \$6 per ton. Payment shall be made to the Department in the following manner:
 - a. Unprocessed *nolina* or *yucca* fiber shall be weighed on a state-certified bonded scale; and
 - b. The harvester shall submit payment and weight certificates to the Department no later than the tenth day of the month following each harvest.
- E.** Seal fees. A person obtaining a seal shall submit a \$.15 per plant fee to the Department at the time a seal is obtained.
- F.** Salvage assessed native plant permits and plant tags are valid for the calendar year in which they are issued. The tags expire at the end of the calendar year unless the permit is renewed.

Historical Note

New Section recodified from R3-4-604 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

R3-3-1105. Scientific Permits; Noncommercial Salvage Permits

- A.** Scientific Permit
1. A person shall not collect any highly safeguarded or other protected native plants for a research project unless that person holds a scientific permit.
 2. An applicant shall submit the following information to the Department on a form obtained from the Department:
 - a. Name, address, and telephone number of the company or research facility applying for the permit;
 - b. Name, title and experience of the person conducting the research project;
 - c. Purpose and intent of the research project;
 - d. Controls to be used;
 - e. Variables to be considered;
 - f. Time-frame for the project;
 - g. Anticipated results and plans for publication;
 - h. Reports and recordkeeping that will be used to monitor the project;
 - i. Project funding source;
 - j. Funding of the company or research facility;
 - k. Written authorization from the landowner for collection of the plants;
 1. Date of the application;
 2. Signed affirmation by the applicant that the plants collected will not be sold or used for personal interests; and
 3. Tax identification number, or if applicant is an individual, a Social Security number.
 3. A scientific permit shall be issued if the applicant provides documentation that demonstrates the following:
 - a. A plan, pre-approved by the landowner, to restore the removal site to a natural appearance;
 - b. The removal and movement of the native plants shall be accomplished by a person experienced in native plant removal and transplantation;

- c. The native plants used in the project shall remain accessible to the Department;
 - d. The ecology of the project site is beneficial to the growth of the specific plants in the project if practical;
 - e. Arrangements exist for a suitable permanent planting site for the surviving plants after the project's completion; and
 - f. Description of plant disposition and research hypothesis.
4. A scientific permit is valid for the calendar year in which it is issued.
- B. Noncommercial salvage permit:**
- 1. Highly safeguarded native plants may only be collected for conservation by a person holding a noncommercial salvage permit.
 - 2. An applicant shall submit the following information to the Department, on a form obtained from the Department:
 - a. Name, address, and telephone number of the applicant applying for the permit;
 - b. Proposed relocation site for the plants;
 - c. Written authorization from the landowner for collection of the plants;
 - d. Date of the application; and
 - e. Signed affirmation by the applicant that the plants collected will not be sold or used for personal interests.
 - 3. A noncommercial salvage permit shall be issued if all of the following conditions are met through documentation provided to the Department:
 - a. The native plants used in the project shall be accessible to the Department after transplant, and
 - b. The relocation site is beneficial to the growth of the specific plants in the project.
 - 4. A noncommercial salvage permit is valid only for the transportation and the transplantation of the particular native plant.

Historical Note

New Section recodified from R3-4-605 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

R3-3-1106. Protected Native Plant Survey; Fee

- A.** Upon request, the Department may conduct a native plant survey. Upon completion, the Department shall notify the individual who made the request of:
- 1. The date the survey was performed;
 - 2. The amount of the survey fee payable to the Department;
 - 3. The name of Department personnel performing the survey;
 - 4. Upon payment, the survey results including the names and numbers of protected native plants.
- B.** A person who requests a native plant survey shall pay the survey fee to the Department within 30 days from the date of the notification. The survey fee shall be based on time and travel expenses, except that no fee shall be charged for a determination of whether protected species exist on the land.

Historical Note

New Section recodified from R3-4-606 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

R3-3-1107. Movement Permits; Tags, Seals, and Cord Use

- A.** Any person moving a protected native plant, except a saguaro cactus, previously transplanted from its original growing site in Arizona and transplanting it to another location shall apply to the Department for a Movement Permit. The landowner from where the plant is being moved shall provide the following information on the permit application:
- 1. The name, telephone number, and signature of the landowner;
 - 2. The location of the plant;
 - 3. The name, address, and telephone number of the receiver;
 - 4. The name, address, and telephone number of the carrier;
 - 5. The number, species, and description of the plant being removed;
 - 6. The tax parcel identification number; and
 - 7. The date of the application.
- B.** Any person moving a saguaro cactus over four feet tall previously transplanted from its original growing site in Arizona and transplanting it to another location shall apply to the Department for a Movement Permit. The landowner from where the saguaro cactus is being moved shall provide the following information on the permit application, unless the applicant maintains a record of the original permit or verifies the Department has a record of a previous legal movement of the cactus by the applicant.
- 1. The name, telephone number, and signature of the landowner;
 - 2. The address where the saguaro cactus is located;
 - 3. The name, address, and telephone number of the receiver;
 - 4. The name, address, and telephone number of the carrier;
 - 5. The number, species, and description of the plant being removed;
 - 6. The tax parcel identification number of the property where the saguaro cactus is being moved; and
 - 7. The date of the application.
- C.** Movement of protected native plants obtained outside Arizona.
- 1. Any person moving a protected native plant obtained outside Arizona and transporting and planting it within the state shall declare the protected native plant at the agricultural inspection station nearest the port of entry. The Department shall place the protected native plant under "Warning Hold" to the nearest permitting office.
 - 2. If an agricultural station is not in operation at the port of entry, the person shall declare the protected native plant at the nearest permitting office during normal office hours.
 - 3. After the plants have been declared, the permitting office shall issue a Movement Permit and seal.
- D.** Any person moving protected native plants shall obtain the following seals from the Department and securely attach the appropriate seal to each protected native plant:
- 1. Protected native plant seals identify protected native plants, except saguaro cacti, that will be moved from locations that are not the original growing sites.
 - 2. Imported seals identify all imported protected native plants.
- E.** Tag, seal, and cord attachment.
- 1. A permittee shall attach a tag to each protected native plant taken from its original growing site, using cord provided by the Department, before transport. No other type of rope, string, twine, or wire is allowed.
 - 2. The cord shall be securely tied around the plant, and the tag attached so that it cannot be removed without breaking the seal or cutting the cord.

3. The tag shall be placed directly over the knot in the cord and the ends pressed firmly together sealing the knot so that it cannot be removed for reuse.
4. The protected native plant seal shall be placed directly over the knot and snapped firmly closed, sealing the knot.
5. The imported seal shall be attached directly to the plant.
6. Upon loading the plant, every effort shall be made to allow visibility of the tag during transport.

Historical Note

New Section recodified from R3-4-607 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

R3-3-1108. Recordkeeping; Salvage Assessed and Harvest Restricted Native Plants

- A. Salvage Assessed Native Plants.**
1. A permittee shall maintain a record of each protected native plant removed under an annual permit for two years from the date of each transaction and allow Department inspection of the records during normal business hours. The transaction record shall include the date salvage restricted protected native plants were removed and the permit and tag numbers.
 2. Annually, by January 31, a permittee shall submit to the Department a copy of each transaction record for the prior calendar year.
- B. Harvest Restricted Native Plants.** A permittee shall submit to the Department by the tenth day of each month the transaction records for the previous month, or a written statement that no transactions were conducted for that month.

Historical Note

New Section recodified from R3-4-608 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

R3-3-1109. Arizona Native Plant Law Education

- A.** The Department may schedule seminars and training courses on an as-needed basis.
- B.** In addition to the following fees, charges for printed materials or pamphlets shall be assessed based upon printing and mailing costs:
1. A person attending a seminar or training course on Arizona native plant law shall pay a nonrefundable fee of \$10 to the Department before attending the class.
 2. A person convicted of violating Arizona native plant laws and ordered by a court to attend a native plant educational class shall pay a nonrefundable fee of \$25 to the Department before attending the class. The Department shall provide written confirmation of satisfactory completion to a person ordered by a court to attend a class.

Historical Note

New Section recodified from R3-4-609 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

R3-3-1110. Permit Denial

Upon notice of denial of a permit, an applicant may request, in writing, that the Department provide an administrative hearing under A.R.S. Title 41, Chapter 6, Article 10, to appeal the denial.

Historical Note

New Section recodified from R3-4-610 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by

final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

R3-3-1111. Repealed**Historical Note**

New Section recodified from R3-4-611 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Repealed by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).

Appendix A. Protected Native Plants by Category

- A.** Highly safeguarded native plants as prescribed in A.R.S. § 3-903(B)(1), for which removal is not allowed except as provided in R3-3-1105:

AGAVACEAE Agave Family

- Agave arizonica* Gentry & Weber–Arizona agave
Agave delamateri Hodgson & Slauson
Agave murpheyi Gibson–Hohokam agave
Agave parviflora Torr.–Santa Cruz striped agave, Small-flowered agave
Agave phillipsiana Hodgson
Agave schottii Engelm. var. *treleasei* (Toumey) Kearney & Peebles

APIACEAE Parsley Family. [= Umbelliferae]

- Lilaeopsis schaffneriana* (Schlecht.) Coult. & Rose ssp. *recurva* (A. W. Hill) Affolter–Cienega false rush, Huachuca water umbel.
 Syn.: *Lilaeopsis recurva* A. W. Hill

APOCYNACEAE Dogbane Family

- Amsonia kearneyana* Woods.–Kearney’s bluestar
Cycladenia humilis Benth. var. *jonesii* (Eastw.) Welsh & Atwood–Jones’ cycladenia

ASCLEPIADACEAE Milkweed Family

- Asclepias welschii* N. & P. Holmgren–Welsh’s milkweed

ASTERACEAE Sunflower Family [= Compositae]

- Erigeron lemmonii* Gray–Lemmon fleabane
Erigeron rhizomatus Cronquist–Zuni fleabane
Senecio franciscanus Greene–San Francisco Peaks groundsel
Senecio huachucanus Gray–Huachuca groundsel

BURSERACEAE Torch Wood Family

- Bursera fagaroides* (H.B.K.) Engler–Fragrant bursera

CACTACEAE Cactus Family

- Carnegiea gigantea* (Engelm.) Britt. & Rose–Saguaro: ‘Crested’ or ‘Fan-top’ form
 Syn.: *Cereus giganteus* Engelm.
Coryphantha recurvata (Engelm.) Britt. & Rose–Golden-chested beehive cactus
 Syn.: *Mammillaria recurvata* Engelm.
Coryphantha robbinsorum (W. H. Earle) A. Zimmerman–Cochise pincushion cactus, Robbin’s cory cactus.
 Syn.: *Cochiseia robbinsorum* W.H. Earle
Coryphantha scheeri (Kuntze) L. Benson var. *robustispina* (Schott) L. Benson–Scheer’s strong-spined cory cactus.
 Syn.: *Mammillaria robustispina* Schott

- Echinocactus horizontalonius* Lemaire var. *nicholii*
L. Benson–Nichol’s Turk’s head cactus
- Echinocereus triglochidiatus* Engelm. var. *arizonicus*
(Rose ex Orcutt) L. Benson–Arizona hedgehog
cactus
- Echinomastus erectocentrus* (Coul.) Britt. & Rose
var. *acunensis* (W.T. Marshall) L. Benson–Acuna
cactus
Syn.: *Neolloydia erectocentra* (Coul.) L. Benson
var. *acunensis* (W. T. Marshall) L. Benson
- Pediocactus bradyi* L. Benson–Brady’s pincushion
cactus
- Pediocactus paradinei* B. W. Benson–Paradine
plains cactus
- Pediocactus peeblesianus* (Croizat) L. Benson var.
fickeiseniae L. Benson
- Pediocactus peeblesianus* (Croizat) L. Benson var.
peeblesianus Peebles’ Navajo cactus, Navajo plains
cactus
Syn.: *Navajoa peeblesiana* Croizat
- Pediocactus sileri* (Engelm.) L. Benson–Siler pin-
cushion cactus
Syn.: *Utahia sileri* (Engelm.) Britt. & Rose
- COCHLOSPERMACEAE Cochlospermum Family
Amoreuxia gonzalezii Sprague & Riley
- CYPERACEAE Sedge Family
Carex specuicola J. T. Howell–Navajo sedge
- FABACEAE Pea Family [=Leguminosae]
Astragalus cremnophylax Barneby var. *cremnophylax*
Sentry milk vetch
- Astragalus holmgreniorum* Barneby–Holmgren
milk-vetch
- Dalea tentaculoides* Gentry–Gentry indigo bush
- LENNOACEAE Lennoa Family
Pholisma arenarium Nutt.–Scaly-stemmed sand
plant
- Pholisma sonora* (Torr. ex Gray) Yatskievych–
Sandfood, sandroot
Syn.: *Ammobroma sonora* Torr. ex Gray
- LILIACEAE Lily Family
Allium gooddingii Ownbey–Goodding’s onion
- ORCHIDACEAE Orchid Family
Cypripedium calceolus L. var. *pubescens* (Willd.)
Correll–Yellow lady’s slipper
- Hexalectris warnockii* Ames & Correll–Texas pur-
ple spike
- Spiranthes delitescens* C. Sheviak
- POACEAE Grass Family [=Gramineae]
Puccinellia parishii A.S. Hitchc.–Parish alkali grass
- POLYGONACEAE Buckwheat Family
Rumex orthoneurus Rech. f.
- PSILOTACEAE Psilotum Family
Psilotum nudum (L.) Beauv. Bush Moss, Whisk
Fern
- RANUNCULACEAE Buttercup Family
Cimicifuga arizonica Wats.–Arizona bugbane
- Clematis hirsutissima* Pursh var. *arizonica* (Heller)
Erickson–Arizona leatherflower
- ROSACEAE Rose Family
Purshia subintegra (Kearney) J. Hendrickson–Ari-
zona cliffrose, Burro Creek cliffrose
Syn.: *Cowania subintegra* Kearney
- SALICACEAE Willow Family
Salix arizonica Dorn–Arizona willow
- SCROPHULARIACEAE Figwort Family
Penstemon discolor Keck–Variegated beardtongue
- B.** Salvage restricted native plants as prescribed in A.R.S. § 3-903(B)(2) that require a permit for removal. In addition to the plants listed under Agavaceae, Cactaceae, Liliaceae, and Orchidaceae, all other species in these families are salvage restricted protected native plants:
- AGAVACEAE Agave Family
Agave chrysantha Peebles
- Agave deserti* Engelm. ssp. *simplex* Gentry–Desert
agave
- Agave mckelveyana* Gentry
- Agave palmeri* Engelm.
- Agave parryi* Engelm. var. *couseii* (Engelm. ex
Trel.) Kearney & Peebles
- Agave parryi* Engelm. var. *huachucensis* (Baker)
Little ex L. Benson
Syn.: *Agave huachucensis* Baker
- Agave parryi* Engelm. var. *parryi*
- Agave schottii* Engelm. var. *schottii* – Shindigger
- Agave toumeyana* Trel. ssp. *bella* (Breitung) Gentry
- Agave toumeyana* Trel. ssp. *toumeyana*
- Agave utahensis* Engelm. spp. *kaibabensis* (McKel-
vey) Gentry
Syn.: *Agave kaibabensis* McKelvey
- Agave utahensis* Engelm. var. *utahensis*
- Yucca angustissima* Engelm. var. *angustissima*
- Yucca angustissima* Engelm. var. *kanabensis* (McK-
elvey) Reveal
Syn.: *Yucca kanabensis* McKelvey
- Yucca arizonica* McKelvey
- Yucca baccata* Torr. var. *baccata*–Banana yucca
- Yucca baccata* Torr. var. *vespertina* McKelvey
- Yucca baileyi* Woot. & Standl. var. *intermedia*
(McKelvey) Reveal
Syn.: *Yucca navajoa* Webber
- Yucca brevifolia* Engelm. var. *brevifolia*–Joshua tree
- Yucca brevifolia* Engelm. var. *jaegeriana* McKelvey
- Yucca elata* Engelm. var. *elata*–Soaptree yucca, pal-
milla
- Yucca elata* Engelm. var. *utahensis* (McKelvey)
Reveal
Syn.: *Yucca utahensis* McKelvey
- Yucca elata* Engelm. var. *verdiensis* (McKelvey)
Reveal
Syn.: *Yucca verdiensis* McKelvey
- Yucca harrimaniae* Trel.

- Yucca schidigera* Roetzl.–Mohave yucca, Spanish dagger
Yucca schottii Engelm.–Hairy yucca
Yucca thornberi McKelvey
Yucca whipplei Torr. var. *whipplei*–Our Lord’s candle
 Syn.: *Yucca newberryi* McKelvey
- AMARYLLIDACEAE Amaryllis Family
Zephyranthes longifolia Hemsl.–Plains Rain Lily
- ANACARDIACEAE Sumac Family
Rhus kearneyi Barkley–Kearney Sumac
- ARECACEAE Palm Family [=Palmae]
Washingtonia filifera (Linden ex Andre) H. Wendl–California fan palm
- ASTERACEAE Sunflower Family [=Compositae]
Cirsium parryi (Gray) Petrak ssp. *mogollonicum* Schaak
Cirsium virginensis Welsh–Virgin thistle
Erigeron kuschei Eastw.–Chiricahua fleabane
Erigeron piscaticus Nesom–Fish Creek fleabane
Flaveria macdougalii Theroux, Pinkava & Keil
Perityle ajoensis Todson–Ajo rock daisy
Perityle cochisensis (Niles) Powell–Chiricahua rock daisy
Senecio quaerens Greene–Gila groundsel
- BURSERACEAE Torch-Wood Family
Bursera microphylla Gray–Elephant tree, torote
- CACTACEAE Cactus Family
Carnegiea gigantea (Engelm.) Britt. & Rose–Saguaro
 Syn.: *Cereus giganteus* Engelm.
Coryphantha missouriensis (Sweet) Britt. & Rose
Coryphantha missouriensis (Sweet) Britt. & Rose var. *marstonii* (Clover) L. Benson
Coryphantha scheeri (Kuntze) L. Benson var. *valida* (Engelm.) L. Benson
Coryphantha strobiliformis (Poselger) var. *orcuttii* (Rose) L. Benson
Coryphantha strobiliformis (Poselger) var. *strobiliformis*
Coryphantha vivipara (Nutt.) Britt. & Rose var. *alversonii* (Coult.) L. Benson
Coryphantha vivipara (Nutt.) Britt. & Rose var. *arizonica* (Engelm.) W. T. Marshall
 Syn.: *Mammillaria arizonica* Engelm.
Coryphantha vivipara (Nutt.) Britt. & Rose var. *bisbeeana* (Orcutt) L. Benson
Coryphantha vivipara (Nutt.) Britt. & Rose var. *deserti* (Engelm.) W. T. Marshall
 Syn.: *Mammillaria chlorantha* Engelm.
Coryphantha vivipara (Nutt.) Britt. & Rose var. *rosea* (Clokey) L. Benson
Echinocactus polycephalus Engelm. & Bigel. var. *polycephalus*
Echinocactus polycephalus Engelm. & Bigel. var. *xeranthemoides* Engelm. ex Coult.
- Syn.: *Echinocactus xeranthemoides* Engelm. ex Coult.
Echinocereus engelmannii (Parry ex Engelm.) Lemaire var. *acicularis* L. Benson
Echinocereus engelmannii (Parry ex Engelm.) Lemaire var. *armatus* L. Benson
Echinocereus engelmannii (Parry ex Engelm.) Lemaire var. *chrysocentrus* L. Benson
Echinocereus engelmannii (Parry ex Engelm.) Lemaire var. *engelmannii*
Echinocereus engelmannii (Parry) Lemaire var. *variegatus* (Engelm.) Engelm. ex Rümpler
Echinocereus fasciculatus (Engelm. ex B. D. Jackson) L. Benson var. *fasciculatus*
 Syn.: *Echinocereus fendleri* (Engelm.) Rümpler var. *fasciculatus* (Engelm. ex B. D. Jackson) N. P. Taylor, *Echinocereus fendleri* (Engelm.) Rümpler var. *robusta* L. Benson; *Mammillaria fasciculata* Engelm.
Echinocereus fasciculatus (Engelm. ex B. D. Jackson) L. Benson var. *bonkeriae* (Thornber & Bonker) L. Benson.
 Syn.: *Echinocereus boyce-thompsonii* Orcutt var. *bonkeriae* Peebles; *Echinocereus fendleri* (Engelm.) Rümpler var. *bonkeriae* (Thornber & Bonker) L. Benson
Echinocereus fasciculatus (Engelm. ex B. D. Jackson) L. Benson var. *boyce-thompsonii* (Orcutt) L. Benson
 Syn.: *Echinocereus boyce-thompsonii* Orcutt
Echinocereus fendleri (Engelm.) Rümpler var. *boyce-thompsonii* (Orcutt) L. Benson
Echinocereus fendleri (Engelm.) Rümpler var. *fendleri*
Echinocereus fendleri (Engelm.) Rümpler var. *rectispinus* (Peebles) L. Benson
Echinocereus ledingii Peebles
Echinocereus nicholii (L. Benson) Parfitt.
 Syn.: *Echinocereus engelmannii* (Parry ex Engelm.) Lemaire var. *nicholii* L. Benson
Echinocereus pectinatus (Scheidw.) Engelm. var. *dasyacanthus* (Engelm.) N. P. Taylor
 Syn.: *Echinocereus pectinatus* (Scheidw.) Engelm. var. *neomexicanus* (Coult.) L. Benson
Echinocereus polyacanthus Engelm. (1848) var. *polyacanthus*
Echinocereus pseudopectinatus (N. P. Taylor) N. P. Taylor
 Syn.: *Echinocereus bristolii* W. T. Marshall var. *pseudopectinatus* N. P. Taylor, *Echinocereus pectinatus* (Scheidw.) Engelm. var. *pectinatus sensu* Kearney and Peebles, Arizona Flora, and L. Benson, The Cacti of Arizona and The Cacti of the United States and Canada.
Echinocereus rigidissimus (Engelm.) Hort. F. A. Haage.
 Syn.: *Echinocereus pectinatus* (Scheidw.) Engelm. var. *rigidissimus* (Engelm.) Engelm. ex Rümpler–Rainbow cactus
Echinocereus triglochidiatus Engelm. var. *gonacanthus* (Engelm. & Bigel.) Boiss.

- Echinocereus triglochidiatus* Engelm. var. *melanacanthus* (Engelm.) L. Benson
Syn.: *Mammillaria aggregata* Engelm.
- Echinocereus triglochidiatus* Engelm. var. *mojavensis* (Engelm.) L. Benson
- Echinocereus triglochidiatus* Engelm. var. *neomexicanus* (Standl.) Standl. ex W. T. Marshall.
Syn.: *Echinocereus triglochidiatus* Engelm. var. *polyacanthus* (Engelm. 1859 non 1848) L. Benson
- Echinocereus triglochidiatus* Engelm. var. *triglochidiatus*
- Echinomastus erectocentrus* (Coult.) Britt. & Rose
var. *erectocentrus*
Syn.: *Neolloydia erectocentra* (Coult.) L. Benson
var. *erectocentra*
- Echinomastus intertextus* (Engelm.) Britt. & Rose
Syn.: *Neolloydia intertexta* (Engelm.) L. Benson
- Echinomastus johnsonii* (Parry) Baxter–Beehive cactus
Syn.: *Neolloydia johnsonii* (Parry) L. Benson
- Epithelantha micromeris* (Engelm.) Weber ex Britt. & Rose
- Ferocactus cylindraceus* (Engelm.) Orcutt var. *cylindraceus*–Barrel cactus
Syn.: *Ferocactus acanthodes* (Lemaire) Britt. & Rose var. *acanthodes*
- Ferocactus cylindraceus* (Engelm.) Orcutt var. *eastwoodiae* (Engelm.) N. P. Taylor
Syn.: *Ferocactus acanthodes* (Lemaire) Britt. & Rose var. *eastwoodiae* L. Benson; *Ferocactus eastwoodiae* (L. Benson) L. Benson
- Ferocactus cylindraceus* (Engelm.) Orcutt. var. *lecontei* (Engelm.) H. Bravo
Syn.: *Ferocactus acanthodes* (Lemaire) Britt. & Rose var. *lecontii* (Engelm.) Lindsay; *Ferocactus lecontei* (Engelm.) Britt. & Rose
- Ferocactus emoryi* (Engelm.) Orcutt–Barrel cactus
Syn.: *Ferocactus covillei* Britt. & Rose
- Ferocactus wislizenii* (Engelm.) Britt. & Rose–Barrel cactus
- Lophocereus schottii* (Engelm.) Britt. & Rose–Senita
- Mammillaria grahamii* Engelm. var. *grahamii*
- Mammillaria grahamii* Engelm. var. *oliviae* (Orcutt) L. Benson
Syn.: *Mammillaria oliviae* Orcutt
- Mammillaria heyderi* Mühlenpf. var. *heyderi*
Syn.: *Mammillaria gummifera* Engelm. var. *applanata* (Engelm.) L. Benson
- Mammillaria heyderi* Mühlenpf. var. *macdougalii* (Rose) L. Benson
Syn.: *Mammillaria gummifera* Engelm. var. *macdougalii* (Rose) L. Benson; *Mammillaria macdougalii* Rose
- Mammillaria heyderi* Mühlenpf. var. *meiacantha* (Engelm.) L. Benson
Syn.: *Mammillaria gummifera* Engelm. var. *meiacantha* (Engelm.) L. Benson
- Mammillaria lasiacantha* Engelm.
- Mammillaria mainiae* K. Brand.
- Mammillaria microcarpa* Engelm.
- Mammillaria tetrancistra* Engelm.
- Mammillaria thornberi* Orcutt
- Mammillaria viridiflora* (Britt. & Rose) Bödeker.
Syn.: *Mammillaria oestra* L. Benson
- Mammillaria wrightii* Engelm. var. *wilcoxii* (Toumey ex K. Schumann) W. T. Marshall
Syn.: *Mammillaria wilcoxii* Toumey
- Mammillaria wrightii* Engelm. var. *wrightii*
- Opuntia acanthocarpa* Engelm. & Bigel. var. *acanthocarpa*–Buckhorn cholla
- Opuntia acanthocarpa* Engelm. & Bigel. var. *coloradensis* L. Benson
- Opuntia acanthocarpa* Engelm. & Bigel. var. *major* L. Benson
Syn.: *Opuntia acanthocarpa* Engelm. & Bigel. var. *ramosa* Peebles
- Opuntia acanthocarpa* Engelm. & Bigel. var. *thornberi* (Thornber & Bonker) L. Benson
Syn.: *Opuntia thornberi* Thornber & Bonker
- Opuntia arbuscula* Engelm.–Pencil cholla
- Opuntia basilaris* Engelm. & Bigel. var. *aurea* (Baxter) W. T. Marshall–Yellow beavertail
Syn.: *Opuntia aurea* Baxter
- Opuntia basilaris* Engelm. & Bigel. var. *basilaris*–Beavertail cactus
- Opuntia basilaris* Engelm. & Bigel. var. *longiareolata* (Clover & Jotter) L. Benson
- Opuntia basilaris* Engelm. & Bigel. var. *treleasei* (Coult.) Toumey
- Opuntia bigelovii* Engelm.–Teddy-bear cholla
- Opuntia campii* ined.
- Opuntia canada* Griffiths (*O. phaeacantha* Engelm. var. *laevis* X *major* and *O. gilvescens* Griffiths).
- Opuntia chlorotica* Engelm. & Bigel.–Pancake prickly-pear
- Opuntia clavata* Engelm.–Club cholla
- Opuntia curvospina* Griffiths
- Opuntia echinocarpa* Engelm. & Bigel.–Silver cholla
- Opuntia emoryi* Engelm.–Devil cholla
Syn.: *Opuntia stanlyi* Engelm. ex B. D. Jackson var. *stanlyi*
- Opuntia engelmannii* Salm-Dyck ex Engelm. var. *engelmannii*–Engelmann’s prickly-pear
Syn.: *Opuntia phaeacantha* Engelm. var. *discata* (Griffiths) Benson & Walkington
- Opuntia engelmannii* Salm-Dyck ex Engelm. var. *flavospina* (L. Benson) Parfitt & Pinkava
Syn.: *Opuntia phaeacantha* Engelm. var. *flavispina* L. Benson
- Opuntia erinacea* Engelm. & Bigel. var. *erinacea*–Mohave prickly-pear
- Opuntia erinacea* Engelm. & Bigel. var. *hystricina* (Engelm. & Bigel.) L. Benson
Syn.: *Opuntia hystricina* Engelm. & Bigel.

- Opuntia erinacea* Engelm. & Bigel. var. *ursina* (Weber) Parish–Grizzly bear prickly-pear
Syn.: *Opuntia ursina* Weber
- Opuntia erinacea* Engelm. & Bigel. var. *utahensis* (Engelm.) L. Benson
Syn.: *Opuntia rhodantha* Schum.
- Opuntia fragilis* Nutt. var. *brachyarthra* (Engelm. & Bigel.) Coult.
- Opuntia fragilis* Nutt. var. *fragilis*–Little prickly-pear
- Opuntia fulgida* Engelm. var. *fulgida*–Jumping chain-fruit cholla
- Opuntia fulgida* Engelm. var. *mammillata* (Schott) Coult.
- Opuntia imbricata* (Haw.) DC.–Tree cholla
- Opuntia X kelvinensis* V. & K. Grant pro sp.
Syn.: *Opuntia kelvinensis* V. & K. Grant
- Opuntia kleiniae* DC. var. *tetracantha* (Toumey) W. T. Marshall
Syn.: *Opuntia tetrancistra* Toumey
- Opuntia kunzei* Rose.
Syn.: *Opuntia stanlyi* Engelm. ex B. D. Jackson var. *kunzei* (Rose) L. Benson; *Opuntia kunzei* Rose var. *wrightiana* (E. M. Baxter) Peebles; *Opuntia wrightiana* E. M. Baxter
- Opuntia leptocaulis* DC.–Desert Christmas cactus, Pencil cholla
- Opuntia littoralis* (Engelm.) Cockl. var. *vaseyi* (Coult.) Benson & Walkington
- Opuntia macrocentra* Engelm.–Purple prickly-pear
Syn.: *Opuntia violacea* Engelm. ex B. D. Jackson var. *macrocentra* (Engelm.) L. Benson; *Opuntia violacea* Engelm. ex B. D. Jackson var. *violacea*
- Opuntia macrorrhiza* Engelm. var. *macrorrhiza*–Plains prickly-pear
Syn.: *Opuntia plumbea* Rose
- Opuntia macrorrhiza* Engelm. var. *pottsii* (Salm-Dyck) L. Benson
- Opuntia martiniana* (L. Benson) Parfitt
Syn.: *Opuntia littoralis* (Engelm.) Cockerell var. *martiniana* (L. Benson) L. Benson; *Opuntia macrocentra* Engelm. var. *martiniana* L. Benson
- Opuntia nicholii* L. Benson–Navajo Bridge prickly-pear
- Opuntia parishii* Orcutt.
Syn.: *Opuntia stanlyi* Engelm. ex B. D. Jackson var. *parishii* (Orcutt) L. Benson
- Opuntia phaeacantha* Engelm. var. *laevis* (Coult.) L. Benson
Syn.: *Opuntia laevis* Coult.
- Opuntia phaeacantha* Engelm. var. *major* Engelm.
- Opuntia phaeacantha* Engelm. var. *phaeacantha*
- Opuntia phaeacantha* Engelm. var. *superbospina* (Griffiths) L. Benson
- Opuntia polyacantha* Haw. var. *juniperina* (Engelm.) L. Benson
- Opuntia polyacantha* Haw. var. *rufispina* (Engelm.) L. Benson
- Opuntia polyacantha* Haw. var. *trichophora* (Engelm. & Bigel.) L. Benson
- Opuntia pulchella* Engelm.–Sand cholla
- Opuntia ramosissima* Engelm.–Diamond cholla
- Opuntia santa-rita* (Griffiths & Hare) Rose–Santa Rita prickly-pear
Syn.: *Opuntia violacea* Engelm. ex B. D. Jackson var. *santa-rita* (Griffiths & Hare) L. Benson
- Opuntia spinosior* (Engelm.) Toumey–Cane cholla
- Opuntia versicolor* Engelm.–Staghorn cholla
- Opuntia vivipara* Engelm
- Opuntia whipplei* Engelm. & Bigel. var. *multigeniculata* (Clokey) L. Benson
- Opuntia whipplei* Engelm. & Bigel. var. *whipplei*–Whipple cholla
- Opuntia wigginsii* L. Benson
- Pediocactus papyracanthus* (Engelm.) L. Benson
Grama grass cactus
Syn.: *Toumeyia papyracanthus* (Engelm.) Britt. & Rose
- Pediocactus simpsonii* (Engelm.) Britt & Rose var. *simpsonii*
- Peniocereus greggii* (Engelm.) Britt. & Rose var. *greggii*–Night-blooming cereus
Syn.: *Cereus greggii* Engelm.
- Peniocereus greggii* (Engelm.) Britt & Rose var. *transmontanus*–Queen-of-the-Night
- Peniocereus striatus* (Brandege) Buxbaum.
Syn.: *Neoevansia striata* (Brandege) Sanchez-Mejorada; *Cereus striatus* Brandege; *Wilcoxia diguetii* (Webber) Peebles
- Sclerocactus parviflorus* Clover & Jotter var. *intermedius* (Peebles) Woodruff & L. Benson
Syn.: *Sclerocactus intermedius* Peebles
- Sclerocactus parviflorus* Clover & Jotter var. *parviflorus*
Syn.: *Sclerocactus whipplei* (Engelm. & Bigel.) Britt. & Rose var. *roseus* (Clover) L. Benson
- Sclerocactus pubispinus* (Engelm.) L. Peebles
- Sclerocactus spinosior* (Engelm.) Woodruff & L. Benson
Syn.: *Sclerocactus pubispinus* (Engelm.) L. Benson var. *sileri* L. Benson
- Sclerocactus whipplei* (Engelm. & Bigel.) Britt. & Rose
- Stenocereus thurberi* (Engelm.) F. Buxbaum–Organ pipe cactus
Syn.: *Cereus thurberi* Engelm.; *Lemairocereus thurberi* (Engelm.) Britt. & Rose
- CAMPANULACEAE Bellflower Family
- Lobelia cardinalis* L. ssp. *graminea* (Lam.) McVaugh–Cardinal flower
- Lobelia fenestralis* Cav.–Leafy lobelia
- Lobelia laxiflora* H. B. K. var. *angustifolia* A. DC.
- CAPPARACEAE Cappar Family [=Capparidaceae]
- Cleome multicaulis* DC.–Playa spiderflower
- CHENOPODIACEAE Goosefoot Family
- Atriplex hymenelytra* (Torr.) Wats.

CRASSULACEAE Stonecrop Family

- Dudleya arizonica* (Nutt.) Britt. & Rose
Syn.: *Echeveria pulverulenta* Nutt. ssp. *arizonica* (Rose) Clokey
- Dudleya saxosa* (M.E. Jones) Britt. & Rose ssp. *colomiae* (Rose) Moran
Syn.: *Echeveria collomiae* (Rose) Kearney & Peebles
- Graptopetalum bartramii* Rose
Syn.: *Echeveria bartramii* (Rose) K. & P.
- Graptopetalum bartramii* Rose–Bartram’s stonecrop, Bartram’s live-forever
Syn.: *Echeveria bartramii* (Rose) Kearney & Peebles
- Graptopetalum rusbyi* (Greene) Rose
Syn.: *Echeveria rusbyi* (Greene) Nels. & Macbr.
- Sedum cockerellii* Britt.
- Sedum griffithsii* Rose
- Sedum lanceolatum* Torr.
Syn.: *Sedum stenopetalum* Pursh
- Sedum rhodanthum* Gray
- Sedum stelliforme* Wats.

CROSSOSOMATACEAE Crossosoma Family

- Apacheria chiricahuensis* C. T. Mason–Chiricahua rock flower

CUCURBITACEAE Gourd Family

- Tumamoca macdougalii* Rose–Tumamoc globeberry

EUPHORBIACEAE Spurge Family

- Euphorbia plummerae* Wats.–Woodland spurge
- Sapium biloculare* (Wats.) Pax–Mexican jumping-bean

FABACEAE Pea Family [=Leguminosae]

- Astragalus corbrensis* Gray var. *maguirei* Kearney
- Astragalus cremnophylax* Barneby var. *myriorrhaphis* Barneby–Cliff milk-vetch
- Astragalus hypoxylus* Wats.–Huachuca milk-vetch
- Astragalus nutriosensis* Sanderson–Nutrioso milk-vetch
- Astragalus xiphoides* (Barneby) Barneby–Gladiator milk-vetch
- Cercis occidentalis* Torr.–California redbud
- Errazurizia rotundata* (Woot.) Barneby
Syn.: *Parryella rotundata* Woot.
- Lysiloma microphylla* Benth. var. *thornberi* (Britt. & Rose) Isely–Feather bush
Syn.: *Lysiloma thornberi* Britt. & Rose
- Phaseolus supinus* Wiggins & Rollins

FOUQUIERIACEAE Ocotillo Family

- Fouquieria splendens* Engelm.–Ocotillo, coach-whip, monkey-tail

GENTIANACEAE Gentian Family

- Gentianella wislizenii* (Engelm.) J. Gillett
Syn.: *Gentiana wislizenii* Engelm.

LAMIACEAE Mint Family

- Hedeoma diffusum* Green–Flagstaff pennyroyal
- Salvia dorrii* ssp. *mearnsii*

Trichostema micranthum Gray

LILIACEAE Lily Family

- Allium acuminatum* Hook.
- Allium bigelovii* Wats.
- Allium biseptum* Wats. var. *palmeri* (Wats.) Cronq.
Syn.: *Allium palmeri* Wats.
- Allium cernuum* Roth. var. *neomexicanum* (Rydb.) Macbr.–Nodding onion
- Allium cernuum* Roth. var. *obtusum* Ckll.
- Allium geyeri* Wats. var. *geyeri*
- Allium geyeri* Wats. var. *tenerum* Jones
- Allium kunthii* Don
- Allium macropetalum* Rydb.
- Allium nevadense* Wats. var. *cristatum* (Wats.) Ownbey
- Allium nevadense* Wats. var. *nevadense*
- Allium parishii* Wats.
- Allium plummerae* Wats.
- Allium rhizomatum* Woot. & Standl. Incl.: *Allium glandulosum* Link & Otto *sensu* Kearney & Peebles
- Androstephium breviflorum* Wats.–Funnel-lily
- Calochortus ambiguus* (Jones) Ownbey
- Calochortus aureus* Wats.
Syn.: *Calochortus nuttallii* Torr. & Gray var. *aureus* (Wats.) Ownbey
- Calochortus flexuosus* Wats.–Stragglng mariposa
- Calochortus gunnisonii* Wats.
- Calochortus kennedyi* Porter var. *kennedyi*–Desert mariposa
- Calochortus kennedyi* Porter var. *munzii* Jeps.
- Dichelostemma pulchellum* (Salisbi) Heller var. *pauciflorum* (Torr.) Hoover
- Disporum trachycarpum* (Wats.) Benth. & Hook. var. *subglabrum* Kelso
- Disporum trachycarpum* (Wats.) Benth. & Hook. var. *trachycarpum*
- Echeandia flavescens* (Schultes & Schultes) Cruden
Syn.: *Anthericum torreyi* Baker
- Eremocrinum albomarginatum* Jones
- Fritillaria atropurpurea* Nutt.
- Hesperocallis undulata* Gray–Ajo lily
- Lilium parryi* Wats.–Lemon lily
- Lilium umbellatum* Pursh
- Maianthemum racemosum* (L.) Link. ssp. *amplexicaule* (Nutt.) LaFrankie
Syn.: *Smilacina racemosa* (L.) Desf. var. *amplexicaulis* (Nutt.) Wats.
- Maianthemum racemosum* (L.) Link ssp. *racemosum*–False Solomon’s seal
Syn.: *Smilacina racemosa* (L.) Desf. var. *racemosa*; *Smilacina racemosa* (L.) Desf. var. *cylindrata* Fern.
- Maianthemum stellatum* (L.) Link
Syn.: *Smilacina stellata* (L.) Desf.–Starflower
- Milla biflora* Cav.–Mexican star
- Nothoscordum texanum* Jones

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- Polygonatum cobrense* (Woot. & Standl.) Gates
Streptopus amplexifolius (L.) DC.–Twisted stalk
Triteleia lemmonae (Wats.) Greene
Triteleopsis palmeri (Wats.) Hoover
Veratrum californicum Durand.–False hellebore
Zephyranthes longifolia Hemsl.–Plains rain lily
Zigadenus elegans Pursh–White camas, alkali-grass
Zigadenus paniculatus (Nutt.) Wats.–Sand-corn
Zigadenus virescens (H. B. K.) Macbr.
- MALVACEAE** Mallow Family
Abutilon parishii Wats.–Tucson Indian mallow
Abutilon thurberi Gray–Baboquivari Indian mallow
- NOLINACEAE** Nolina
Dasylirion wheeleri Wats.–Sotol, desert spoon
Nolina bigelovii (Torr.) Wats.–Bigelow's nolina
Nolina microcarpa Wats.–Beargrass, sacahuista
Nolina parryi Wats.–Parry's nolina
Nolina texana Wats. var. *compacta* (Trel.) Johnst.–Bunchgrass
- ONAGRACEAE** Evening Primrose Family
Camissonia exilis (Raven) Raven
- ORCHIDACEAE** Orchid Family
Calypso bulbosa (L.) Oakes var. *americana* (R. Br.) Luer
Coeloglossum viride (L.) Hartmann var. *virescens* (Muhl.) Luer
Syn.: *Habenaria viridis* (L.) R. Br. var. *bracteata* (Muhl.) Gray
Corallorhiza maculata Raf.–Spotted coral root
Corallorhiza striata Lindl.–Striped coral root
Corallorhiza wisteriana Conrad–Spring coral root
Epipactis gigantea Douglas ex Hook.–Giant helleborine
Goodyera oblongifolia Raf.
Goodyera repens (L.) R. Br.
Hexalectris spicata (Walt.) Barnhart–Crested coral root
Listera convallarioides (Swartz) Nutt.–Broad-leaved twayblade
Malaxis corymbosa (S. Wats.) Kuntze
Malaxis ehrenbergii (Reichb. f.) Kuntze
Malaxis macrostachya (Lexarza) Kuntze–Mountain malaxia
Syn.: *Malaxis soulei* L. O. Williams
Malaxis tenuis (S. Wats.) Ames
Platanthera hyperborea (L.) Lindley var. *gracilis* (Lindley) Luer
Syn.: *Habenaria sparsiflora* Wats. var. *laxiflora* (Rydb.) Correll
Platanthera hyperborea (L.) Lindley var. *hyperborea*–Northern green orchid
Syn.: *Habenaria hyperborea* (L.) R. Br.
Platanthera limosa Lindl.–Thurber's bog orchid
Syn.: *Habenaria limosa* (Lindley) Hemsley
Platanthera sparsiflora (Wats.) Schlechter var. *ensifolia* (Rydb.) Luer
Platanthera sparsiflora (Wats.) var. *laxiflora* (Rydb.) Correll
Platanthera sparsiflora (Wats.) Schlechter var. *sparsiflora*–Sparsely-flowered bog orchid
Syn.: *Habenaria sparsiflora* Wats.
Platanthera stricta Lindl.–Slender bog orchid
Syn.: *Habenaria saccata* Greene; *Platanthera saccata* (Greene) Hulten
Platanthera viridis (L.) R. Br. var. *bracteata* (Muhl.) Gray–Long-bracted habenaria
Spiranthes michauxiana (La Llave & Lex.) Hemsl.
Spiranthes parasitica A. Rich. & Gal.
Spiranthes romanzoffiana Cham.–Hooded ladies tresses
- PAPAVERACEAE** Poppy Family
Arctomecon californica Torr. & Frém.–Golden-bear poppy, Yellow-flowered desert poppy
- PINACEAE** Pine Family
Pinus aristata Engelm.–Bristlecone pine
- POLYGONACEAE** Buckwheat Family
Eriogonum apachense Reveal
Eriogonum capillare Small
Eriogonum mortonianum Reveal–Morton's buckwheat
Eriogonum ripleyi J. T. Howell–Ripley's wild buckwheat, Frazier's Well buckwheat
Eriogonum thompsonae Wats. var. *atwoodii* Reveal–Atwood's buckwheat
- PORTULACACEAE** Purslane Family
Talinum humile Greene–Pinos Altos flame flower
Talinum marginatum Greene
Talinum validulum Greene–Tusayan flame flower
- PRIMULACEAE** Primrose Family
Dodecatheon alpinum (Gray) Greene ssp. *majus* H. J. Thompson
Dodecatheon dentatum Hook. ssp. *ellisiae* (Standl.) H. J. Thompson
Dodecatheon pulchellum (Raf.) Merrill
Primula hunnewellii Fern.
Primula rusbyi Greene
Primula specuicola Rydb.
- RANUNCULACEAE** Buttercup Family
Aquilegia caerulea James ssp. *pinetorum* (Tidest.) Payson–Rocky Mountain Columbine
Aquilegia chrysantha Gray
Aquilegia desertorum (Jones) Ckll.–Desert columbine, Mogollon columbine
Aquilegia elegantula Greene
Aquilegia longissima Gray–Long Spur Columbine
Aquilegia micrantha Eastw.
Aquilegia triternata Payson
- ROSACEAE** Rose Family

Rosa stellata Woot.–ssp. *abyssa* A. Phillips Grand Canyon rose
Vauquelinia californica (Torr.) Sarg. ssp. *pauciflora* (Standl.) Hess & Henrickson–Few-flowered Arizona rosewood

SCROPHULARIACEAE Figwort Family

Castilleja mogollonica Pennell
Penstemon albomarginatus Jones
Penstemon bicolor (Brandeg.) Clokey & Keck ssp. *roseus* Clokey & Keck
Penstemon clutei A. Nels.
Penstemon distans N. Holmgren–Mt. Trumbull beardtongue
Penstemon linarioides spp. *maguirei*

SIMAROUBACEAE Simarouba Family

Castela emoryi (Gray) Moran & Felger–Crucifixion thorn
 Syn.: *Holacantha emoryi* Gray

STERCULIACEAE Cacao Family

Fremontodendron californicum (Torr.) Coville–Flannel bush

- C. Salvage assessed native plants as prescribed in A.R.S. § 3-903(B)(3) that require a permit for removal:

BIGNONIACEAE Bignonia Family

Chilopsis linearis (Cav.) Sweet var. *arcuata* Fosberg–Desert-willow
Chilopsis linearis (Cav.) Sweet var. *glutinosa* (Engelm.) Fosberg

FABACEAE Pea Family [=Leguminosae]

Cercidium floridum Benth.–Blue palo verde
Cercidium microphyllum (Torr.) Rose & Johnst.–Foothill palo verde
Olneya tesota Gray–Desert ironwood
Prosopis glandulosa Torr. var. *glandulosa*–Honey mesquite
 Syn.: *Prosopis juliflora* (Swartz) DC. var. *glandulosa* (Torr.) Ckll.
Prosopis glandulosa Torr. var. *torreyana* (Benson) M. C. Johnst.–Western honey mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *torreyana* Benson

Prosopis pubescens Benth.–Screwbean mesquite

Prosopis velutina Woot.–Velvet mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *velutina* (Woot.) Sarg.

Psoralea spinosa (Gray) Barneby–Smoke tree.

Syn.: *Dalea spinosa* Gray

- D. Harvest restricted native plants as prescribed at A.R.S. § 3-903(B)(4) that require a permit to cut or remove the plants for their by-products, fibers, or wood:

AGAVACEAE Agave Family (including Nolinaceae)

Nolina bigelovii (Torr.) Wats.–Bigelow's nolina

Nolina microcarpa Wats.–Beargrass, sacahuista

Nolina parryi Wats.–Parry's nolina

Nolina texana Wats. var. *compacta* (Trel.) Johnst.–Bunchgrass

Yucca baccata Torr. var. *baccata*–Banana yucca

Yucca schidigera Roezl.–Mohave yucca, Spanish dagger

FABACEAE Pea Family [=Leguminosae]

Olneya tesota Gray–Desert ironwood

Prosopis glandulosa Torr. var. *glandulosa*–Honey mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *glandulosa* (Torr.) Ckll.

Prosopis glandulosa Torr. var. *torreyana* (Benson) M. C. Johnst.–Western honey mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *torreyana* Benson

Prosopis pubescens Benth.–Screwbean mesquite

Prosopis velutina Woot.–Velvet mesquite

Syn.: *Prosopis juliflora* (Swartz) DC. var. *velutina* (Woot.) Sarg.

Historical Note

New Section recodified from 3 A.A.C. 4, Article 6 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 811, effective May 3, 2008 (Supp. 08-1).